

# Chichester Local Plan 2014-2029

## A27 Chichester Bypass Mitigation

**DRAFT**

Supplementary Planning Document

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# 1.0 Introduction

- 1.1 The Planning Obligations & Affordable Housing Supplementary Planning Document (SPD) was adopted in 2016. This SPD included the Council's approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass.
- 1.2 In the course of preparing the Chichester Local Plan 2021-2039, the technical evidence base covering the impact of new development in the south of the District on the A27 Chichester Bypass, and the mitigation required to address this, has been updated. This new evidence has demonstrated clearly that the approach to securing development contributions set out within the 2016 SPD is no longer sufficient to address the impact that new development coming forward now and into the future has on the capacity and highway safety of the A27 Chichester Bypass.

## **Purpose, Scope and Status of this Supplementary Planning Document**

- 1.3 The purpose of this new SPD is to respond to the updated evidence base and replace the approach set out within paragraphs 4.46 - 4.54 of the 2016 SPD with a new approach that will appropriately address the impact that current and future development is having on the A27.
- 1.4 On adoption of this SPD, the above paragraphs of the 2016 Planning Obligations & Affordable Housing SPD will be deleted. However, in all other respects, the 2016 SPD will remain operative and should therefore be read alongside this new SPD by applicants and developers seeking planning permission within the District.

## **Relationship with the adopted Chichester Local Plan and the Local Plan Review**

- 1.5 National Planning Guidance states that SPDs should build upon and provide more detailed advice or guidance on policies in an adopted local plan. The 2016 Planning Obligations & Affordable Housing SPD provides guidance on the policies set out within the Chichester Local Plan: Key Policies 2014-2029, which was adopted in 2015.
- 1.6 In the period since the adoption of the 2016 SPD, the council has made significant progress on a Local Plan Review. This has included preparing and consulting on a 'Preferred Approach' Local Plan in the winter of 2018/19 and the publication for representations of the Chichester Local Plan 2021-2039 Proposed Submission (Regulation 19) in February 2023. The new Local Plan will be 'submitted' in the autumn of 2023.
- 1.7 The Local Plan Review is therefore at an advanced stage of preparation and is supported by a suite of updated technical evidence which has highlighted the need for a new approach to A27 mitigation. However, as explained in Section 2 below, the Council is not able to wait for the Local Plan 2021 -2039 to be adopted before reviewing the approach to collecting development contributions for A27 mitigation. Doing so would significantly threaten the delivery of the future planned development that is identified within the new Local Plan. Therefore, as the Local Plan 2021 -2039 has not yet been adopted, this SPD seeks to provide updated guidance on the

application of the policies within the adopted Local Plan: Key Policies 2014-2029, as set out in Section 3 below.

- 1.8 Once the new Local Plan has been adopted, the Council will proceed to review both the 2016 Planning Obligations & Affordable Housing SPD and this A27 Chichester Bypass Mitigation SPD and, if appropriate, will seek to combine these as a single new SPD.

## 2.0 Background

### The need for A27 Chichester Bypass improvements

- 2.1 The A27 is part of the Strategic Road Network and is therefore the responsibility of National Highways. Other roads within the District are the responsibility of West Sussex County Council (WSCC). Road congestion is a major concern for residents and businesses in the District; in particular, congestion around the junctions of the A27 Chichester Bypass. This in turn, leads to congestion on the local road network as drivers seek alternative routes, leading to further traffic-related problems on those alternative routes.
- 2.2 The Local Plan (2014 – 2029) acknowledges that without mitigation, new housing and employment proposed in the Local Plan would increase this congestion further, leading to increased queuing times around the A27 junctions and within Chichester city and a deterioration in highway safety. In response, Policy 8 (Transport and Accessibility) made provision for a coordinated package of improvements to junctions on the A27 Chichester Bypass that will increase road capacity, reduce traffic congestion, improve safety, and improve access to Chichester city from surrounding areas.
- 2.3 The basis for securing funding for A27 improvements to address the impact of the planned development identified over the plan period is set out in Policy 9 (Development and Infrastructure Provision). This explains that the Infrastructure Delivery Plan will be used to identify the timing, type and number of infrastructure requirements to support the objectives and policies of the Local Plan as well as the main funding mechanisms and lead agencies responsible for their delivery. Further, Policy 9 requires that all development, where appropriate, mitigates the impact of the development on existing infrastructure, facilities or services.

### The 2016 Planning Obligations & Affordable Housing SPD

- 2.4 At the time the Local Plan was adopted, the relevant evidence base included the Transport Study of Strategic Development Options and Sustainable Transport Measures (2013) which identified an indicative package of measures for the six junctions on the Bypass, costing £12.82 million. These measures were identified as being sufficient to mitigate the impact of development proposed in the Local Plan. On this basis, the 2016 Planning Obligations & Affordable Housing SPD had the objective of securing £11.17 million in development contributions over the lifetime of the Local Plan. The remainder of the identified funding had already been secured by the time the 2016 SPD was adopted, specifically for the identified improvement works to Portfield Roundabout and Oving Road junction. Both of these junction improvements have since been completed.
- 2.5 Monitoring has indicated that £3.37 million in contributions has been collected since 2016 from development coming forward in the south of the district in accordance with the 2016 SPD. In addition, there is a further £3.67 million has been secured through signed S106 agreements for developments that have yet to commence or where payment triggers are not yet reached. A further £9.22 million in contributions is also in the process of being secured under the 2016 SPD from the Strategic Development Locations at West of Chichester (Phase 2) and Tangmere, each of which are yet to be

granted planning permission. The combined total of these sums was £16.25 million at August 2023.

- 2.6 Although the 2016 SPD has been successful in securing more than the target level of developer contributions for A27 improvement works, the remaining improvement works to the Fishbourne, Bognor, Stockbridge and Whyke roundabouts have not been possible to deliver. The main reason for this is that the cost of delivering these improvement works has increased very significantly over the past decade, well beyond the level of funding that has been secured through planning contributions under the 2016 SPD.
- 2.7 The Council has continued to press for improvements to the A27 Chichester Bypass to be addressed by central government funding and there has been continual engagement between the Council and National Highways over the past decade seeking to achieve this end. However, in spite of these efforts, no other sources of funding have been made available to address the shortfall from the funding secured through development contributions.

#### **Updated technical evidence**

- 2.8 Evidence produced to inform the emerging Local Plan 2021 -2039 has demonstrated that a number of the Chichester Bypass junctions are already over capacity, even without further planned development<sup>1</sup>. Therefore, in order to address the impact of further cumulative development on an already overburdened A27 Chichester Bypass, a new mitigation package involving improvements to all six of the A27 junctions surrounding Chichester City was designed and has been agreed with National Highways and WSCC.
- 2.9 Taking account of the improvements at Portfield and Oving junctions which have already been funded and completed, the remaining identified improvements involved Bognor, Whyke, Stockbridge and Fishbourne junctions. Work has been undertaken to cost these improvements and this has been subject to review by National Highways and WSCC. Following this work, the latest available cost estimate for the full package of improvements is between £86.14 million and £126.11 million<sup>2</sup>.

#### **Response to the updated evidence base**

- 2.10 Following local plan viability testing, and in light of the absence of any alternative sources of funding, the Council resolved at its meeting in July 2021 that the full package of A27 improvements, described above, is undeliverable. Therefore, the decision was taken to adopt an '*infrastructure constrained*' approach to delivery of the new Local Plan; i.e. one would investigate what level of development could be brought forward with the maximum level of junction mitigation that would be affordable through developer contributions alone.
- 2.11 Working with National Highways and WSCC, the most effective (and financially achievable) solution is to deliver the Fishbourne and Bognor junction improvements alongside a '*Monitor and Manage*' approach, to try to provide additional reductions in

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<sup>1</sup> Section 5 of the Local Plan Transport Assessment (Stantec, January 2023)

<sup>2</sup> Section 9 and Appendix J of the Local Plan Transport Assessment (Stantec, January 2023)

trips on the network through sustainable transport measures and other small-scale local highway network interventions that will be identified through the Monitor and Manage process. This process will be run through a 'Traffic and Infrastructure Management Group' (TIMG) which will be set up, consisting of representatives from the Council, WSCC and National Highways.

- 2.12 The 'infrastructure constrained' approach, which is being taken forward due to the absence of funding for the full A27 mitigation package, anticipates the delivery of Fishbourne junction improvement first, likely to be followed by Bognor junction improvement later in the emerging Plan Period. At present these two junction improvements have a combined cost within a range of up to £43.3 million.

### **The need for a revised approach to securing planning obligations**

- 2.13 National Highways considers that the 'baseline' for determining the additional impact on the A27 caused by new development was January 2023. This was the date when the Local Plan Transport Assessment was published, alongside the Proposed Submission Plan. Due to the prospect of only a reduced package of infrastructure improvements being deliverable over the coming Plan Period, the Council has needed to propose a lower level of development within the emerging Local Plan as part of the 'infrastructure constrained approach'. This amounts to a limit of 9,630 dwellings to 2039 in the south of the District. Whilst the precise number of new homes that can be mitigated by the reduced infrastructure package is a matter for the Local Plan Examination, there is already an effective ceiling or cap on new residential development. Therefore, any new dwellings coming forward now within the south of the district, whether permitted by the Council or on Appeal, place a cumulative impact upon the A27, which the proposed reduced level of junction improvements is seeking to address.
- 2.14 As set out above, the latest available cost estimate of the Fishbourne and Bognor junction improvements sits within a range of up to £43.3 million. From this total we deduct the £16.25 million in developer contribution receipts secured under the 2016 SPD. This leaves about £27 million to be funded through further as yet uncommitted development. This will be either identified through the local plan process, or arise from planning permissions for further housing development in the interim.
- 2.15 In order to determine whether securing £27 million in developer contributions would be feasible, local plan viability testing was undertaken to support the Proposed Submission Plan<sup>3</sup>. This tested potential financial contributions for A27 mitigation at various levels ranging from £3,000 to £8,000 per dwelling. The outcome of the viability testing was that the majority of development scenarios across the south of the District were found to be sufficiently viable at a contribution level of up to £8,000 per dwelling.

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<sup>3</sup> Chichester Local Plan 2021-2039: Viability Assessment - Stage 2 (DSP, January 2023)

## 3.0 Policy Framework

### National Policy and Guidance

- 3.1 Section 106 of the Town and Country Planning Act 1990 (as amended) sets out the legislative background against which Planning Obligations may be sought. In addition, Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) restricts the use of Planning Obligations to certain circumstances by setting out the three tests that must be satisfied in order for obligations to be required in respect of development proposals. Under Regulation 122 a Planning Obligation must be:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.
- 3.2 Paragraphs 55 to 58 of the National Planning Policy Framework (NPPF) (2021) set out Government policy in relation to Planning Obligations. Further guidance is provided by the Planning Practice Guidance (PPG). This states that policies for Planning Obligations should be set out in plans and examined in public and that such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability.<sup>4</sup> In the case of the contributions guidance set out within this document, the Local Plan policies underpinning the guidance are set out below. The contributions being sought have been informed by up-to-date infrastructure evidence and by up-to-date and proportionate local plan viability testing. The need for a significant increase in the level of contributions has been highlighted by the infrastructure evidence and by on-going engagement with National Highways and others. The need for a change to the approach, compared to the 2016 SPD, responds to the viability evidence as explained in Section 5 below.
- 3.3 It is acknowledged that the PPG also advises that it is not appropriate for plan-makers to set out new formulaic approaches to Planning Obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. The Council has considered this guidance carefully and is in the process of preparing a new Local Plan which will set out a clear policy basis for seeking A27 mitigation contributions. However, as explained in Section 3 above, the Council must ensure that the cumulative impact on the A27 Chichester Bypass of development coming forward now can be effectively mitigated. The level of contributions being sought through the 2016 SPD is no longer sufficient to fund the necessary infrastructure improvements. Therefore, in the context of the overall 'cap' on development to 2039, if the Council were to wait until the new Local Plan was adopted, there would be a clear risk that the level of contributions required from future development would be even higher than being sought in this SPD and would render the majority of new development unviable. In short, not acting now to secure higher

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<sup>4</sup> PPG Paragraph: 004 Reference ID: 23b-004-20190901.



contributions will threaten the delivery of the development identified within the new Local Plan.

- 3.4 The Council has also considered the guidance within the PPG stating that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area. The Chichester Community Infrastructure Levy (CIL) has been in place since 2016. However, the funding raised through CIL is not sufficient to fund the required A27 mitigations works and, in any case, this funding is required for other essential infrastructure and facilities that are needed to mitigate the impact of development, as set out within the Council's Infrastructure Delivery Plan.

### **Local Planning Policy**

- 3.5 **Policy 8 (Transport and Accessibility)** of the Chichester Local Plan: Key Policies 2014-2029 states that integrated transport measures will be developed to mitigate the impact of planned development. This will include a coordinated package of improvements to junctions on the A27 Chichester Bypass, that will increase road capacity, reduce traffic congestion, improve safety, and improve access to Chichester city from surrounding areas.
- 3.6 **Policy 9 (Development and Infrastructure Provision)** states that development and infrastructure provision will be coordinated to ensure that growth is supported by the timely provision of adequate infrastructure, facilities and services. The Infrastructure Delivery Plan will be used to identify the timing, type and number of infrastructure requirements to support the objectives and policies of the Plan as well as the main funding mechanisms and lead agencies responsible for their delivery
- 3.7 Policy 9 also states that all development will be required to provide or fund new infrastructure, facilities or services required, both on and off-site and, where appropriate, mitigate the impact of the development on existing infrastructure, facilities or services.

## 4.0 Planning Contributions

### The A27 Chichester Bypass infrastructure to be funded

- 4.1 Section 2 above explained that due to the high costs and the absence of government funding, the full A27 Chichester Bypass mitigation package, involving improvements to Fishbourne, Bognor, Whyke and Stockbridge junctions, was not deliverable. Therefore, the Council has had no option but to propose a reduced mitigation package which will focus on delivering the improvements works to both Fishbourne and Bognor junctions, as described within Section 7 of the Local Plan Transport Assessment (Stantec, January 2023). These junction improvements are also set out within the Infrastructure Delivery Plan and the Infrastructure Business Plan.
- 4.2 The proposed infrastructure works at the Fishbourne and Bognor junctions is a higher specification compared to that originally proposed within the Transport Assessment that supported the adopted Local Plan. This change has been necessary as the original specification no longer sufficiently addresses the capacity problems that have been anticipated at those junctions through the latest modelling work reported in the 2023 Transport Assessment. This means that the costs for delivering these junction improvements has significantly increased compared to what was set out in the 2013 Transport Assessment and the 2016 SPD.

### The cost of the infrastructure works

- 4.3 The revised specification for improvement works at Fishbourne and Bognor junctions has been independently costed, with the most recent information on costs being set out within Section 9 and Appendix J of the Local Plan Transport Assessment (Stantec, January 2023). The latest costs are also set out in the Council's Infrastructure Delivery Plan and the Infrastructure Business Plan.
- 4.4 The assessed costs have been subject to review by both National Highways and West Sussex Council County and are considered robust for the purposes of the preparation of the new Local Plan. The latest available costs are as follows:
- Fishbourne Roundabout with the Terminus Road Link (cost between £9.5 and £12.9 million); and
  - Bognor Road Roundabout with the Vinnetrow Road Link (cost between £19.4 and £30.4 million).
- (Total cost range: £28.9 - £43.3 million.)
- 4.5 These costs will inevitably change over time and prior to the commencement of any construction work, a rigorous assessment and design process would be required that would inform a final projected cost for each of the improvements works. However, that detailed process is not appropriate for the purposes of preparing a local plan or local guidance documents. Therefore, the above costings have been used for the purposes of calculating planning contributions, applying the upper end of the range shown to ensure that the level of funding will be sufficient to deliver the required improvements.

- 4.6 Within Section 5 below, there is also guidance on an appropriate ‘Index-linking’ procedure through which changes in the costs over time will be possible to capture, to the extent that these are impacted by general inflation in the costs of road construction projects.
- 4.7 As at the end of July 2023, £16,251,085 has already been secured towards the A27 mitigation works under the adopted SPD. This comes from development that has already been permitted since 2016 and also from schemes that have a ‘resolution to grant’ and also from the two existing Strategic Development Locations at West of Chichester (phase 2) and Tangmere. This means that an overall target of **£27,068,915** currently remains to be secured from planning contributions collected under this SPD.

#### **The level of development anticipated**

- 4.8 As the full A27 mitigation package is not affordable, a ‘reduced mitigation package’ is likely to be progressed, given the need to fund the works solely through planning contributions. In the absence of the full mitigation package, the Council has needed to adopt an ‘infrastructure constrained approach’ to planning new homes within the south of the District. This is set out in more detail within the Chichester Local Plan 2021 – 2039: Proposed Submission Plan (February 2023).
- 4.9 As the new Local Plan has not yet be subject to Examination, it is not possible to be clear on exactly how much residential development within the south of the District will be acceptable to 2039 on the basis of the reduced level of mitigation proposed. However, the emerging Local Plan proposes a total level of development amounting to 9,630 dwellings (or an average of 535 per year) for the area south of the National Park.
- 4.10 This effectively places a ceiling or cap on the level of new homes coming forward. But that ‘cap’ does not only apply once the new Local Plan has been adopted. National Highways has indicated that it considers that the ‘baseline’ for assessing the impact on development coming forward on the A27 should start in January 2023, when the Council’s modelling work on traffic impact was published within the Local Plan Transport Assessment. This means that any new dwellings coming forward now within the south of the District, whether planned or otherwise, will count towards the overall ‘cap’ on new homes.
- 4.11 It is important to note that a majority of the 9,630 dwellings referred to above (about 6,000) are already ‘committed’ which means they either have an extant planning permission or a ‘resolution to grant’ planning permission from the Council’s Planning Committee. These homes (which include the two Strategic Development Locations being taken forward from the adopted local plan) will not be impacted by this SPD, although they will have contributed (or will contribute) to the A27 mitigation under the 2016 SPD.
- 4.12 At the time that the Proposed Submission Plan was published, the number of planned new uncommitted dwellings located in the south of the District is 3,551. This number will be updated before this SPD is adopted to ensure it represents an accurate estimate of the total number of dwellings from which this SPD will be able to secure the targeted level of funding.

#### **The impact of development on the A27 Chichester Bypass**

- 4.13 The A27 Chichester Bypass is a key strategic transport corridor for the south of Chichester District. It is frequently used (or crossed over) by all motorists living in this area and it provides the key route to the east and the west from Chichester. The modelling work undertaken to support the new Local Plan has shown that the impact on the A27 of those living within the District represents only a portion of the overall impact, with ‘through traffic’ making up the remainder. Nevertheless, the impact from Chichester’s residents is significant and will be exacerbated by the development coming forward now and over the future Local Plan Period.
- 4.14 The 2016 SPD was adopted soon after the adoption of the current Local Plan. It was therefore possible to assess the proportionate impact of the various developments allocated in the Local Plan by reference to the anticipated number of vehicle trips that would be generated in each case. This was then used to derive a ‘contribution per dwelling’ based on the trip generation modelling as a proxy for the likely impact on the A27 Bypass of each site allocation.
- 4.15 That approach is not possible to take forward in this SPD. One reason for this is that many of the site allocations in the adopted Local Plan have secured planning permission (or a resolution to grant) meaning that the majority of the new development coming forward now is from unallocated sites or from sites that were allocated within neighbourhood plans. Neither of these were included in the modelling that supported the 2016 SPD. A second reason is because much of the development coming forward now is from windfall and speculative schemes, the Council has no certainty of the level of funding that could be secured through planning contributions if these were assessed by reference to anticipated vehicle trip generation. Therefore, this SPD will assess the ‘per dwelling’ contributions based on an equal level of impact for all development sites across the south of Chichester District.

### **Viability testing**

- 4.16 Based on a known target level of infrastructure funding to secure and an overall level of uncommitted new homes that can come forward within ‘infrastructure constrained approach’ it is possible to calculate the per-dwelling contribution level that would secure the necessary funding. Based on the details set out above this would equate to £27,068,915 / 3551 dwellings = £7,623 per dwelling.
- 4.17 Based on this, the Council tested a figure of up to £8,000 per dwelling as part of the Local Plan Viability Assessment – Stage 2 (DSP, January 2023). This testing took account of all of the proposed planning contributions, including those to be secured through Planning Obligations, CIL and also through planning conditions (such as dwelling space standards).
- 4.18 The outcome of the viability testing was that the majority of development scenarios across the south of the District were found to be sufficiently viable at an A27 mitigation contribution level of £8,000 per dwelling, with significant viability ‘headroom’ for most development scenarios, particularly those on greenfield sites. However, at this level of contribution, the scenarios comprising solely of flats on brownfield sites were not viable. This was also true of the scenarios comprising an ‘Extra Care’ scheme and older persons sheltered housing.

### **Calculation of planning contributions**

- 4.19 The Council acknowledges the outcomes of the viability testing and also recognises that dwellings do not all have the same impact on the A27. Smaller dwellings generally have fewer occupants who drive and own a car and therefore have a generally smaller impact than is the case with larger dwellings where the larger number of occupants would, on average, own and drive more cars. Therefore, varying the contribution by size of dwelling responds to the need to ensure that the contribution is proportionate to the development and would also respond to the outcomes of the viability testing since brownfield sites in urban areas tend to have a greater number of smaller (apartment) dwellings when compared to typical greenfield development at the urban edge or within rural areas which tends to have a larger number of family-sized houses.
- 4.20 In light of the reasons above, the A27 mitigation contributions will be scaled by size of dwelling, so that larger homes will pay more than the ‘flat rate’ and smaller homes would pay less.
- 4.21 In order to determine an appropriate scale, it is necessary to ensure that the overall funding target (£27 million) remains achievable with a scaled approach, when considered against the range of dwelling sizes that may come forward. It is not possible to predict with certainty what the future size of dwellings will be, but it is possible to look to the past at the average dwelling size that has been completed during the past 10 years. Doing so shows that in the past decade, 46.5% of all dwellings completed in the south of the District were ‘smaller homes’ (1-2 bedrooms) and 53.5% were ‘larger homes’ (3+ bedrooms). This supports the mid-point of the scale being placed at between 2 and 3 bedrooms (in other words at 2.5 bedrooms).
- 4.22 Some guidance on the future mix of dwellings within the District can also be gained from the latest HEDNA (Housing and Economic Development Needs Assessment) which was completed in April 2022 and is available on the Council’s website. The ‘suggested housing mix’ within the HEDNA has been used to look at the possible size of dwellings coming forward in future years, applying the Council’s target for affordable housing as set out within the Proposed Submission Plan. This indicates that, in coming Plan Period, 49.5% of all dwellings in the District could be ‘smaller homes’ (1-2 bedrooms) and 50.5% could be ‘larger homes’ (3+ bedrooms). In summary, the HEDNA suggested mix would entail a 3% increase in smaller homes and the equivalent decrease in larger homes.
- 4.23 Using the approach set out above, a contribution rate of **£3,049.16** per bedroom has been established (£7,623 divided by 2.5). This would then provide the following contribution scale (rounded to the nearest whole £):
- 1-bed = £3,049
  - 2-bed = £6,098
  - 3-bed = £9,147
  - 4+ bed = £12,197
- 4.24 When applied to the anticipated uncommitted dwellings (3,551) within the overall ‘cap’, the total contributions secured would be as set out in the table below. This shows the position both for a future housing mix that reflects the delivery experienced in the past

decade and also a future mix that reflects the recommendations set out in the 2022 HEDNA:

Future housing mix scenario	Total estimated contributions based on 3,551 dwellings	Projected contribution compared to the target funding (£27,068,915)
Mix reflecting past buildout (2013-2022)	£28,167,719	+£1,098,804
Mix reflecting HEDNA recommendation	£27,374,794	+£305,879

- 4.25 The table above shows that under each of the two future housing mix scenarios, the proposed contributions set out above would be sufficient to secure the target level of funding required to deliver the ‘reduced infrastructure package’ comprising improvements to both Fishbourne and Bognor junctions.
- 4.26 Due to the uncertainty on the precise housing mix that will come forward, the Council will monitor the level of funding being secured and if, due to the actual mix coming forward, the funding falls below the required target, this could trigger a review of this SPD.

#### **Development to which the contributions will and will not apply**

- 4.27 The A27 mitigation contributions will apply to any **net increase in new dwellings coming forward in the area to the south of the National Park**. The contribution will be sought from all new dwellings including from affordable homes, retirement homes (such as sheltered housing), from self or custom-build homes and from caravans permitted for permanent occupation as a dwelling.
- 4.28 There are some cases where paying the A27 mitigation contribution would not be sought. The list below is not exhaustive however, and where applicants are in doubt, they are advised to ask about this during pre-application engagement with the Council.

#### Care homes / Extra Care facilities (Use Class C2)

- 4.29 Older and disabled persons care homes (including Extra Care homes) are generally for people who do not own or drive cars and so tend to have a very small or negligible impact on the A27 Chichester Bypass. For private care homes or Extra Care homes where parking spaces are provided for residents (beyond the normal level of visitor parking), the Council will consider applying the A27 mitigation contribution.

#### Purpose-build student accommodation

- 4.30 As with care homes, purpose-built student accommodation does not tend to provide parking spaces for the occupants or allow for the use of cars by students. These types of accommodation tend to be located within urban areas with good access to sustainable modes of travel. For student accommodation schemes where parking

spaces are provided for occupants (beyond an appropriate level of visitor parking), the Council will consider applying the A27 mitigation contribution.

Gypsy and Traveller pitches

- 4.31 The Local Plan Transport Assessment (January 2023) advises that development comprising Gypsy and Traveller pitches has a negligible impact on the A27 Chichester Bypass. In addition, there is no viability evidence to support applying a financial contribution to the delivery of pitches.

Holiday lets

- 4.32 For accommodation (whether a building or caravan) where the planning permission is for short-term holiday lets, it would not be appropriate to apply the contribution as this could result in double-counting the impact on the A27, to the extent that those using the lets may live within the south of the District. In addition, there is no viability evidence to support applying a financial contribution to the delivery of holiday accommodation.

## 5.0 Guidance on Procedures

- 5.1 Where a s106 agreement contains a financial obligation other than for A27 mitigation, applicants are advised to read the Planning Obligations & Affordable Housing SPD (July 2016). The guidance below relates only to those Planning Obligations intended to mitigate the impact of development on the A27 Chichester Bypass.

### **Section 106 Agreements and Section 278 Agreements**

- 5.2 Under the 2016 SPD, where applicants were required to pay A27 mitigation contributions, the Section 106 Agreements required the applicant to enter into a Section 278 Agreement with National Highways. The s278 Agreement was then used to pay the contribution directly to National Highways. However, this practice has recently changed and Chichester District Council will now be collecting and holding the A27 mitigation contributions on National Highways behalf. Therefore, the A27 mitigation contributions will be secured through Planning Obligations, either through a Section 106 Agreement with the Council or a Unilateral Undertaking by the applicant.
- 5.3 The funding collected will be passed, either to National Highways or to their nominated delivery partner, at the time that the initial work on the relevant junction improvement works is due to commence. Any interest payments received on the contributions being held by the Council will be put to use for the same purposes as the collected funds.

### **Trigger Points**

- 5.4 During the s106 negotiation process, trigger points for each Planning Obligation will be agreed upon between the applicant and the Council. There are established trigger points which are suitable for s106 agreements and further guidance on this is provided within the 2016 SPD.
- 5.5 For the A27 mitigation contributions, there is a need to ensure that sufficient funding is available at the point that it is required. This could be some years before a new junction improvement is due to be completed, due to the long lead-in times required for the design and construction work involved in works on the Strategic Road Network. Therefore, the Council will seek payment of the full contribution prior to the commencement of the development.
- 5.6 Exceptions may be made for larger development schemes, where development will be phased over a number of years. In such cases a phased payment of A27 mitigation contributions will be negotiated with the applicant.

### **Monitoring**

- 5.7 The Council starts managing and monitoring each s106 agreement/Unilateral Undertaking from the moment it is signed. This is a complex process and the Council employs a Planning Obligations Monitoring and Implementation Officer dedicated to overseeing this complex programme and ensuring the successful delivery of the Planning Obligations.



- 5.8 Where the payment of A27 mitigation contributions is phased due to the scale or phasing of a large development, the Council may require a monitoring fee to be paid in addition to the contribution, to cover the costs of monitoring the collection of contributions.

#### **Index-linking Contributions**

- 5.9 Financial contributions will be index-linked in order to allow for the fluctuation of prices between the date the agreement is signed and the date the payment is made. This is calculated based on the indexation adjustment of the relevant index, from the date the s106 agreement is signed to the expected date of payment. The additional amount paid on top of the financial contribution adjusts the contribution in accordance with inflation.
- 5.10 The method of indexation for the A27 mitigation contributions will be the **Tender Price Index of Road Construction (ROADCON)** which measures the movement of prices in tenders for road construction contracts in England, Scotland and Wales. This index is published by the Building Cost Information Service (BCIS). In the event that the index shall decrease, the contribution shall not fall below the figure set out in the s106 agreement.

#### **Enforcement of Obligations**

- 5.11 If it is evident that a Planning Obligation is not being complied with, officers will consider instigating enforcement action if other reasonable measures fail to secure payment. Planning Obligations are enforceable by Chichester District Council in the Courts by application for an injunction and for recovery of contributions payable.

#### **Repayment of Contributions**

- 5.12 The mitigation works for the A27 Chichester Bypass will not be able to commence until a sufficient quantum of funding has been collected for any given project. This could take multiple years. It is also the case that the implementation of each of the improvement works projects will have a long lead in time, again measured in years. Therefore, any repayment period negotiated through s106 agreements will be expected to be a minimum of 20 years to avoid undermining the process of funding the improvement works.

## 6.0 Development Viability

- 6.1 The guidance below is reproduced from paragraphs 3.6 to 3.12 of the 2016 SPD for the convenience of applicants.
- 6.2 In certain circumstances, it may be considered that the viability of a scheme is jeopardised due to site constraints or other factors and that this would justify a reduction in the amount of affordable housing or other planning obligations. It is recommended in such cases that applicants seek pre-application advice from the Local Planning Authority prior to the formal submission of a planning application.
- 6.3 Viability assessments to be submitted as evidence in negotiations must be capable of independent expert verification carried out by a qualified (RICS) surveyor/valuer. Any abnormal or exceptional development costs should be supported with robust and costed specialist reports and technical data.
- 6.4 Where viability is affected by large costs associated with bringing a heritage asset back into beneficial use, any enabling development and/or costs of the repairs will need to be supported with robust and costed specialist reports and technical data, sufficient to enable independent expert verification.
- 6.5 Where required, and at the Council's discretion, independent qualified RICS surveyor/valuers with specialist skills will be appointed by the Council to investigate the whole, or selected elements of submitted viability assessments. Any expenditure incurred by the Council in carrying out external verification of financial viability appraisals and assessing evidence must be reimbursed by the Applicant. Prior to instructing an external report and to ensure value for money and meet due diligence obligations, the Council will either appoint the District Valuer or obtain three cost limited estimates from appropriately qualified valuers/surveyors who are capable of acting on the matter without a conflict of interest, and agree the external expert with the applicant. The applicant will be required to provide a written undertaking to cover the costs before the valuer is appointed. Viability reports will be shared with the applicants.
- 6.6 Where such reports result in conflicts of opinion necessitating additional work and fees, supplementary undertakings to reimburse the Council will be sought. Any disputes between the Council and the applicant will be referred to an independent arbitrator (in accordance with RICS guidance).
- 6.7 Financial viability evidence will usually be required to reflect current day values and costs. Where proposals include phases of development that are expected to come forward over a number of years, assessments will be required to take account of projected changes in the value of development, or costs. Appropriate mechanisms may be required within s106 agreements to address the consequences of such changes over time.

6.8 RICS guidance, Financial Viability in Planning 2012<sup>5</sup> provides more detailed guidance on current approaches to viability assessment in the planning context and appropriate methodologies.

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<sup>5</sup> This has in part been updated through Financial Viability in Planning: Conduct and Reporting (RICS, May 2019).

## 7.0 Glossary

**2016 SPD:** This refers to the Planning Obligations and Affordable Housing Supplementary Planning Document that was adopted by the Council in 2016.

**Community Infrastructure levy (CIL):** A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area. The Council introduced CIL in 2016.

**Infrastructure Delivery Plan (IDP):** This sets out the current planned and required infrastructure, when it will come forward, who will be leading on each aspect and the funding mechanisms and responsibilities required.

**Local Plan: Key Policies (2014-2029):** is the current local plan, adopted in 2015, that provides the policy basis for both the 2016 Planning Obligations and Affordable Housing SPD and this A27 Chichester Bypass Improvements: Planning Obligations SPD.

**Local Plan Review (or Local Plan 2021-2039):** is the emerging local plan that will, on adoption, replace the current local plan. The most recent version of the Local Plan Review is the Chichester Local Plan 2021 – 2039: Proposed Submission (Regulation 19), published in February 2023.

**Material Consideration:** Any factor relevant to the determination of a planning application or appeal, subject to limits set out in planning statute law, government circulars and guidance.

**Mitigation:** is the application of measures to avoid, minimize, or compensate for the adverse effects or harm created by new development.

**National Highways (NH):** Formerly known as ‘Highways England’ is an executive non-departmental public body, sponsored by the Department for Transport. They are responsible for managing the Strategic Road Network, of which the A27 is a part.

**National Planning Policy Framework (NPPF):** The suite of national planning policies to which planning decision makers must have regard in making planning decisions. The Council must also have regard to the NPPF in the preparation of local plans and other local planning documents. The latest version was published in July 2021.

**Planning obligations:** Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal.

**Section 106 Agreements (s106):** are formal planning agreements entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority.

**Section 278 Agreements (s278):** are formal agreements entered into under section 278 of the Highways Act 1980 by a person with an interest in the land and the highways authority. These are often used to secure off-site highways works needed to mitigate the impacts of a development.

**Strategic Road Network (SRN):** is the major road network made up of motorways and trunk roads (including the most significant 'A' roads, such as the A27). They are administered by National Highways (formerly Highways England) which is an executive non-departmental public body, sponsored by the Department for Transport. All other roads in the District are administered by West Sussex County Council.

**Viability Assessment:** An assessment of the financial viability of a development, taking into account a range of different factors such as location, type of site, size of scheme and scale of contributions to infrastructure and facilities.