



Community Infrastructure Levy (CIL) – Background Paper on Historical S.106 Performance

June 2014

1.0 Introduction

- 1.1 The purpose of this document is to provide background information on the use of planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) within Dacorum during the period 2008 to 2014. It provides information on the delivery of affordable housing against the objectives in the Core Strategy and historically against those in the Dacorum Borough Local Plan 1991-2011.
- 1.2 The report supports our submission of the Community Infrastructure Levy Charging Schedule. It indicates that the Council has a good record in delivery of affordable housing and other planning objectives and is indicative of the scale of financial resources that will need to be secured to replace any loss in Section 106 income resulting from the introduction of the CIL Regulations.
- 1.3 The CIL Guidance published by the Government in June 2014 states that a Charging Authority, should be able to explain how their proposed rates will contribute towards the implementation of the relevant plan, and support development across their area. As background evidence to this the charging authority should provide information about the amount of funding collected in recent years through S106 agreements. This should include information on the extent to which their affordable housing and other target have been met. This requirement is substantiated by a reference to paragraph 173 of the National Planning Policy Framework (NPPF).
- 1.4 There is also the requirement to consider other development variables that are likely to impact on the viability of developments, including affordable housing targets and other planning objectives and site mitigations as set out in Local Plans (Paragraph 29).
- 1.5 The Council recognises that its historical performance on Section 106 provides only limited information from which to draw conclusions over the scale of charge that should be applied under CIL. This evidence sits alongside the detailed viability evidence provided by BNP Paribas Real Estate to which greater weight has been applied.

2.0 Evidence

- 2.1 The evidence in this review for past planning obligation packages is informed on the basis of Section 106 contributions being negotiated on a site by site basis and has derived from three main policy sources:
 - (a) The policies and proposals set out in the adopted Dacorum Borough Local Plan (DBLP) 2004 and associated Supplementary Planning Guidance/Documents;
 - (b) The Planning Obligations Supplementary Planning Document (DBC), April 2011; and
 - (c) The Planning Obligations Guidance – Toolkit for Hertfordshire (The Toolkit), produced by Hertfordshire County Council (HCC).
- 2.2 CIL will be the main source of developer contributions towards infrastructure in Dacorum Borough with Section 106 contributions being scaled back to cover affordable housing and site-related mitigation measures. The exception will two large scale developments at land to the west of Hemel Hempstead and land at Spencer's Park which have been identified as zero charging zones within the Council's Charging Schedule and from which the Council will seek to secure a range of new infrastructure items and affordable housing units. This is set out in detail within the Council's Draft Regulation 123 list.

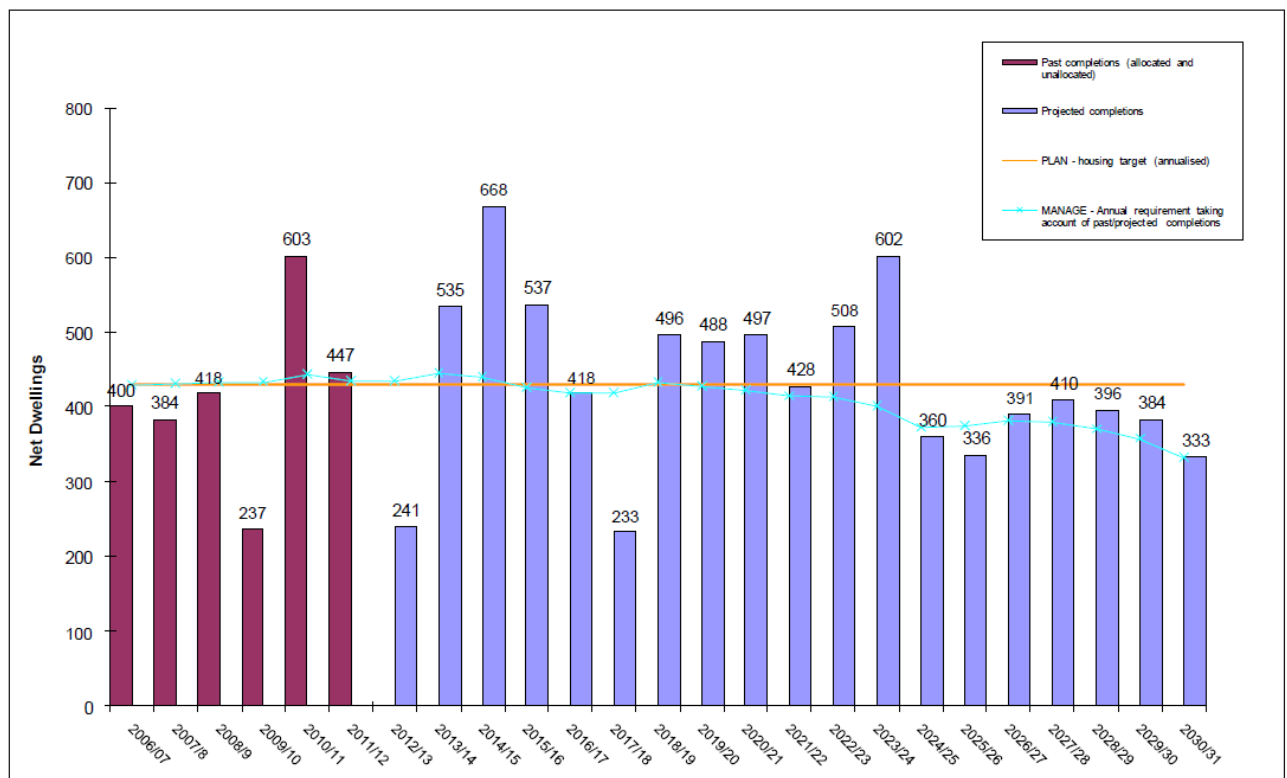
2.3 The judgement on future anticipated developer contributions have been informed by DBC's recently adopted Core Strategy (2013), viability assessments, infrastructure requirements and responses to consultations on CIL.

3.0 Housing

3.1 The housing target in Policy CS17 of the Core Strategy sets the level of housing which the Council expects to achieve and exceed. The overall target is to achieve some 10,750 homes over the period 2006-2031. The housing target has recently increased the number of houses expected to be delivered from an annual rate of 360 (under the Dacorum Borough Local Plan 1991-2011) to some 430 net additional dwellings.

3.2 The Council has a good record in delivering its local plan housing requirements as set out in figure 1 below and has recently boosted the housing supply through the delivery of its own new build and affordable housing programme.

Figure 1: Housing Trajectory 2006-2031



4.0 Affordable Housing

4.1 The affordable housing target has changed over the period of this review from a minimum of 20% under the Dacorum Borough Local Plan 1991-2011 to a minimum of 35% under the adopted Core Strategy. The Council produced a Planning Obligations Supplementary Planning Document in 2011 and an Affordable Housing Supplementary Planning Document in 2013. These incorporated a lower threshold under which developers would need to provide Affordable Housing with an emphasis on on-site provision and in the latter case confirmed that the Council would be seeking to increase the totality of the Affordable Housing being provided. The pre-submission versions of the Core Strategy were material considerations in securing higher levels

of affordable housing. Figure 2 displays a summation of this policy in the Affordable Housing Supplementary Planning Document which was adopted alongside the Core Strategy¹.

Figure 2 – Summary of Affordable Housing Position

ON SITE PROVISION	OFF SITE PROVISION
<p>Sites over 0.3ha/10+ units in Hemel Hempstead Sites over 0.16ha/5+ units in the rest of Dacorum</p> <p>35% On-Site Affordable Housing Requirement</p> <ul style="list-style-type: none"> - 75% Affordable Rent 25% Shared Ownership - The Size of the Affordable Units should reflect the overall mix - Affordable Homes should appear the same as the market units - Affordable Units should not be placed in more undesirable areas of sites or be grouped together unnecessarily - Affordable Units should meet HQI standards, a minimum of Code for Sustainable Homes L3 and Lifetime Homes Standards - Disabled adaptations should be explored where need can be shown - No grant is available for s106 schemes - Registered Providers should provide Affordable Units - Registered Providers should have a good track record of management 	<p>Sites under 0.3ha/1-9 units in Hemel Hempstead Sites under 0.16ha/1-4 units in rest of Dacorum</p> <p>35% Off-Site Affordable Housing Requirement</p> <p>Off Site provision is calculated by looking at the cost of re-providing affordable homes on land in the vicinity of development. The approach is shown below:</p> <p><u>Step 1:</u> work out how many affordable housing units would normally be required (Proposed number of dwellings multiplied (x) by the affordable housing percentage of 35%)</p> <p><u>Step 2:</u> work out the land value per unit (Land value ÷ divided (÷) by the proposed number of dwellings)</p> <p><u>Step 3:</u> work out the financial contribution payable (land value per unit multiplied (x) number of affordable units required)</p> <p>WAIVER on <0.16ha AND 4 units or less</p>

4.2 The annual delivery of affordable housing since 2008 has been broadly in line with the current target of 35% with the mix meeting current planning targets of mainly affordable rent (75%) and intermediate (25%). The exception has been the year 2010-2011 where few affordable homes were built. This is thought to be reflective of the challenging economic situation and changes in government policies at this time.

4.3 The average affordable housing delivered yearly from 2008 to 2013 is 109 units or 27% (see figure 3). This figure is skewed by a particularly low performing year in 2010-2011. Without the underperforming year of 2010-2011 the proportion of AH delivered in Dacorum borough has been broadly in line with the level (35%) sought by the policy since 2011. Similarly the mix between Affordable/Social rent and Shared Ownership over this period has generally achieved the target of 75% and 25% (see figure 4).

Figure 3: Gross Affordable Housing (AH) provision, 2008 – 2013

Period	Total Housing	AH Target	AH provision	
			Number	Proportion
2008/09	418	125	148	35.4%
2009/10	237	125	96	35.2%
2010/11	603	125	60	10%
2011/12	447	35%	149	33.3%
2012/2013	290	35%	92	31.7%
Totals	1995	NA	545	NA
Averages	399	NA	109	27%

¹ See DBC affordable housing SPD 2013 for more information.

Figure 4: Type of Affordable Homes

	Social rented	Intermediate/ Shared ownership/other	Affordable rent	Total
2008/09	92 (62%)	56 (38%)	-	148
2009/10	35 (36%)	61 (63%)	-	96
2010/11	53 (88%)	7 (12%)	-	60
2011/12	90 (60%)	37 (25%)	22 (15%)	149
2012/13	43 (47%)	24 (26%)	25 (27%)	92
Total	313 (57%)	185 (34%)	47 (9%)	545

4.4 Figure 5 provides an indication of the delivery of on-site affordable housing on larger sites. It shows the situation on housing sites allocated in the DBC Local Plan (1991-2011) that meet the following criteria:

- Allocated for development of market housing for 50 units or more;
- Policy states the affordable housing target (%); and
- Site has been developed since 2004, or is under construction, or is subject to a planning application.

4.5 Figure 5 shows that the stated Affordable housing target has been met in most instances. In the case of site H36 on-site provision was unviable; instead officers negotiated a commuted sum payment of £750,000 which will enable DBC to provide the equivalent amount of affordable housing off-site.

Figure 5: Affordable Housing Delivery on Allocated Sites

Site	Target no. dwellings	Target onsite affordable housing	Total dwellings delivered	Affordable dwellings delivered
H2 Gossoms End/Stag Lane	140	33%	150	50 (33%)
H18 Land at North East HH	350	50%	Section 106 under negotiation	
H20 TA Centre, Queensway	60	20%	61	61 (100%)
H36 New Lodge*	50	40%	54	Committed sum (see paragraph 3.5)
H37 Durrants Lane/Shootersway	100	40%	Planning permission refused by committee - 26/06/14	
H38 Buncefield Lane	80	40%	87	26 (30%)
H42 Land at Westwick Farm	50	50%	Planning permission granted for development of part of the site	
TWA3 and TWA4 Land at Manor Estate*	300	33%	325	114 (35%)

*Indicates a scheme currently under construction within Dacorum.

5.0 Summary of Financial Contributions

- 5.1 The Council does not have any specific targets governing the securing of Section 106 contributions from development.
- 5.2 DBC is the delegated authority for administering planning obligations and works alongside HCC in collecting and delivering infrastructure needs in the borough. In recent years, the process of completing Section 106 agreements has been simplified with most being completed as a Unilateral Undertaking by the developer using the model templates produced on our website.
- 5.3 The CIL Regulations (2010) enshrined in law the following 3 requirements that all 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.
- 5.4 The Council negotiates contributions based on the Council's Planning Obligations Supplementary Planning Document (2011) This seeks financial contributions (where on site delivery is not possible) for affordable housing, play areas, playing pitches, allotments, environmental improvements, open spaces and cycling facilities. The HCC priorities for primary and secondary education, libraries infrastructure and highways infrastructure are also supported.
- 5.5 Figure 6 shows that from 2008 to 2013 a total of £3,270,487.61 was received for planning obligations from developments in Dacorum borough. This equates to an annual average of £654,097.52. Of this £1,169,972 was received by DBC for its infrastructure requirements and £2,100,515.61 was received by HCC for its responsibilities.
- 5.6 On average a total of £233,944 has been received in Section 106 contributions. This has varied over time but there is a general trend for increased contributions being received since the introduction of the Planning Obligations Supplementary Planning Document despite economic and market circumstances.

Figure 6 – Annual Planning Obligations received in the Dacorum Borough 2008 - 2013

Year	DBC Received In Year	HCC Received In Year
2008/09	£206,035	£188,940
2009/10	£58,083	£135,348
2010/11	£219,077	£407,640.71
2011/12	£506,569	£459,729.20
2012/13	£180,208	£351,802.04
Totals	£1,169,972	£2,100,515.61
Average	£233,944	£420,103.122

6.0 Future Use of Section 106

- 6.1 In addition to the Statutory requirements for planning obligations, the CIL Regulations 2010 (as amended) will introduce pooling restrictions on the use of planning obligations that will come into force once CIL is adopted (or from 6th April 2015) (whichever is earlier) This does not apply to affordable housing which will continue to be secured via this method but will have significant implications for other forms of infrastructure. The Council has, in its opinion, clearly set out an approach for the future use of Section 106 by the production of an exclusion column in its Regulation 123 list and through the clear indication that such items will be subject to Section 106 agreements.

7.0 Conclusions

- 7.1 The report indicates that Section 106 funds play an important role in the funding of infrastructure within Dacorum; a role that is now likely to require the support of CIL funding.
- 7.2 Furthermore, the report demonstrates how in recent years the Council has continued to see developers provide high levels of Affordable Housing and Section 106 contributions despite difficult economic circumstances. This could be attributed to the relative stability of the Dacorum housing market.
- 7.3 Although the Council recognises that the proposed CIL charges may well further increase the level of financial contribution being sought on individual housing sites, it considers that such proposals will not significantly undermine the delivery of housing and affordable housing throughout the Borough as demonstrated by its viability evidence. A significant reduction in the scale of contributions received from planning obligations is expected to pre 2010/11 levels as a result of the introduction of CIL and this will assist scheme viability.