

# **Planning Obligations**

**Supplementary Planning Guidance**

**Adopted 22<sup>nd</sup> April 2003**

**Cheltenham Borough Council**

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# SUPPLEMENTARY PLANNING GUIDANCE

## 1 INTRODUCTION

### 1.1 BACKGROUND

1.1.1 Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) enables local authorities to enter into agreements/ obligations which would remove barriers to development. Circular 1/97 – Planning Obligations, gives advice on the proper use of planning obligations. Planning Policy Guidance note 1 – General Policy and Principles (1997) sets out the policy context of planning obligations.

### 1.2 OBJECTIVE

1.2.1 The key objective of this Supplementary Planning Guidance is to provide a rationale for the Council's approach to planning obligations, which can include financial contributions. The Council currently negotiates the provision of facilities and financial contributions on a site-by-site basis. The Council wishes to increase certainty for developers at the early stages of a development proposal and reduce inconsistencies by providing clear policy framework.

1.2.2 This Supplementary Planning Guidance sets out the circumstances in which planning obligations will be sought.

### 1.3 STATUS OF SUPPLEMENTARY PLANNING GUIDANCE

1.3.1 Supplementary Planning Guidance plays a valuable role in expanding on and assisting local plan policies. Although it does not form part of the local plan, it can be taken into account as a material consideration in the determination of planning applications. It must be consistent with national and regional planning guidance, as well as Cheltenham Borough Local Plan Second Review Revised Deposit Draft (2004).

### 1.4 WHAT IS A PLANNING OBLIGATION?

1.4.1 Planning obligations are provided by legal agreements between a developer and planning, education, highway and other authorities. They are made to ensure that new development is adequately served by infrastructure and facilities such as open space, recreation and leisure facilities, roads, schools, libraries or other community services. They are used when planning conditions, or other arrangements outside the planning system, do not cover, or cannot cope with, the particular situation, enabling a property owner or developer to overcome obstacles which would otherwise prevent planning permission from being granted. Planning obligations place restrictions on a the land subsequent to the issuing of planning permission.

1.4.2 Circular 1/97 indicates that planning obligations should *'be relevant to planning and directly related to the proposed development if they are to influence a decision on a planning application. In addition, they should only be sought where they are **necessary** to make a proposal acceptable in land-use terms.'* They must also be fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.

1.4.3 Whilst benefits in a planning obligation which go beyond these tests will not necessarily be unlawful, they can be given little weight in the determination of a planning application. No planning obligation should be a substitute for good quality development.

- 1.4.4 In Cheltenham, the Borough Council is responsible for affordable housing, public open space and most highway matters (under an agency agreement with the County Council). Gloucestershire County Council is responsible for education, libraries, fire and rescue, social services, cultural facilities, and highway strategy.
- 1.4.5 Developers will be invited, where appropriate, to enter into planning obligations with the Borough Council and/or the County Council for any or all of the following:
- works to provide safe access to a site, to accommodate safely local increases in traffic due to the development, and to discourage the additional traffic from using unsuitable local roads;
  - works within a transport sector to encourage travellers to and from a development to change to a more sustainable means of transport, including park and ride;
  - works, services or incentives to secure improved accessibility to and from a site by all forms of transport, including public transport, cycling and walking;
  - flood defence and mitigation works;
  - an element of affordable or special needs housing;
  - the provision or enhancement of play space which cannot be accommodated on-site;
  - education facilities at nursery, primary and secondary levels
  - community facilities;
  - measures to provide for public safety and security;
  - a contribution to skills analysis and training provision;
  - facilities or measures to offset the loss of or impact on any resource, such as woodland or open space, present on a site prior to development;
  - works to adjacent areas of public realm, including tree planting;
  - public art.
- 1.4.6 This list is not necessarily exclusive, as other issues may arise in relation to particular sites or development proposals.

# SUPPLEMENTARY PLANNING GUIDANCE

## PLANNING OBLIGATIONS

### 2 EDUCATION

#### 2.1 INTRODUCTION

2.1.1 This guidance relates to policy CP 8 in the Cheltenham Borough Local Plan Second Review Revised Deposit Draft (2004). This policy relates to the provision of appropriate infrastructure, facilities and services that may be required to meet the needs arising from new development.

#### 2.2 BACKGROUND

2.2.1 The Borough Council has no statutory responsibility for the provision education facilities. Responsibility for education facilities in Gloucestershire lies with Gloucestershire County Council as Local Education Authority, with the planning function shared with the Learning and Skills Council.

2.2.2 Publicly funded education in Cheltenham is provided in four main ways:

- pre-school education through nursery schools, playgroups and in early years settings.
- primary education for 5 to 11 year olds through county, voluntary and foundation schools.
- secondary education for 11 to 16 year olds through selective and comprehensive secondary schools with 4 of these providing post 16 education.
- through Gloucestershire College of Arts and Technology (GLOSCAT) and the University of Gloucestershire.

2.2.3 Provision for pupils with special educational needs is met through 4 special schools.

2.2.4 The effect of the national decline in birth rates will mean generally lower overall primary school rolls and increasing secondary school numbers over the next 10 years. This may not be the case in areas where new housing is developed or by parents exercising preferences for schools. The current national education system means that demand may not be evenly spread throughout the Borough.

#### 2.3 POLICY CONTEXT

##### **Regional Planning Guidance for the South West**

2.3.1 Regional Planning Guidance for the South West (RPG10) sets out a vision for developing the region in a sustainable way. This vision includes the aim of 'meeting societies needs and aspirations' and includes key objectives of:

- meeting peoples requirements for housing, jobs and facilities of good quality and in sufficient measure to provide for all who live and work in the region;
- improving accessibility to jobs and services and ensuring that patterns of future development reduce the need to travel and encourage access by walking cycling and public transport.

##### **Structure Plan**

2.3.2 The Structure Plan for Gloucestershire (1999) seeks to promote sustainable development. Sustainability relates not only to development, but also to the

building of communities, in which demand for facilities and services can be met locally. Policy S.5 states:

**“In providing for development, local authorities will have regard to the need for community facilities, including education....In determining the type, scale and location of development, the adequacy of infrastructure will be taken into account. Provision for development will be made where related infrastructure and community services are in place or will be provided in appropriate phases in an environmentally acceptable way”.**

#### **Cheltenham Borough Local Plan**

2.3.3 Policy CP 8, Cheltenham Borough Local Plan Second Review Revised Deposit Draft states:

**“Development will be permitted only where adequate provision has been made for:**

- **the infrastructure necessary for the development to proceed; and**
- **other public services and facilities, the need for which arises directly from the development.**

**Planning obligations may be sought as a means of securing such provision including any or all of the matters listed in table 6”**

(for table see appendix 1)

## **2.4 CALCULATION OF COSTS**

2.4.1 Gloucestershire County Council as Local Education Authority accepts it is responsible for the delivery and financial implications of the provision of education services. However, new residential development may give rise to increases in population within the age groups of 2 –18, over and above the capacity of existing educational infrastructure. In such cases, the Borough Council in association with Gloucestershire County Council will seek developer contributions. Negotiations will be on a case-by-case basis but to ensure that only the consequences of the proposed development are addressed, but will follow certain procedures and principles.

2.4.2 In large developments it may be appropriate to seek sites or buildings for a new school. In smaller developments cash contributions may be sought for extensions or other improvements to existing schools, or towards the development of a new facility. In either case it may be open to the developer to provide the works rather than the cash contributions

2.4.3 Contributions will usually be sought based on the following pupil products (Current for 2002/03):

In Gloucestershire 100 houses generates

2-5 year olds	4	(pre school)
5-11 year olds	28	(primary)
11-16 year olds	17	(secondary)
16-18 year olds	4	(sixth form)

2.4.4 Contributions will generally be assessed using Department for Education and Skills costs per pupil place, which are updated annually to take account of building costs and inflation. The figures for 2002/03 are:

£5,635 – early years/nursery pupil  
£5,365 – primary pupil

£7,514 – secondary pupil  
£9,746 – sixth form pupils

- 2.4.5 Contributions will be sought unless suitable and adequate places are available in nearby schools. Reduced contributions may be sought even if there are some surplus places e.g. if the distribution of those places is patchy – places in Infant but not Junior. In many cases contributions will increase flexibility and quality of accommodation to enable schools to play a full role in meeting new demand.
- 2.4.6 Contributions may be sought to support safe and sustainable means of travelling to school e.g. pedestrian or cycle paths or public transport.

## 2.5 FURTHER INFORMATION

### Relevant legislation

Town and Country Planning Act 1990

### Guidance

- Circular 1/97 Planning Obligations, Department of the Environment (1997)
- PPG 1 General Policy and Principles, Department of the Environment (1997)
- Gloucestershire Structure Plan Second Review, Gloucestershire County Council (1999)
- Cheltenham Borough Local Plan Second Review Revised Deposit Draft, Cheltenham Borough Council (2004)
- Regional Planning Guidance for the South West (RPG10)

### Useful websites

- [www.planning.odpm.gov.uk](http://www.planning.odpm.gov.uk)
- [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)
- [www.gloscc.gov.uk](http://www.gloscc.gov.uk)

## 2.6 CONTACTS

Principal Development and Planning  
Valuer  
**Gloucestershire County Council**  
Shire Hall  
Gloucester  
GL1 2TG  
**01452 425741**

Assistant Education Officer  
Research and Planning  
**Gloucestershire County Council**  
Shire Hall  
Gloucester  
GL1 2TP  
**01452 426753**

Development Control Manager  
**Cheltenham Borough Council**  
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Promenade  
Cheltenham  
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GL50 1PP  
**01242 774986**

Strategic Land Use Officer  
**Cheltenham Borough Council**  
Municipal Offices  
Promenade  
Cheltenham  
Gloucestershire  
GL50 1PP  
**01242 264382**

## **SUPPLEMENTARY PLANNING GUIDANCE PLANNING OBLIGATIONS**

### **3 COMMUNITY FACILITIES**

#### **3.1 INTRODUCTION**

- 3.1.1 This guidance relates to policy CP 8 in the Cheltenham Borough Local Plan Second Review Revised Deposit Draft (2004). This policy relates to the provision of appropriate infrastructure, facilities and services that may be required to meet the needs arising from new development.

#### **3.2 BACKGROUND**

- 3.2.1 The Borough Council has no statutory responsibility for the provision of community services and facilities; this responsibility lies with Gloucestershire County Council. However, the Council is committed to assisting local communities to improve their quality of life, and will address the need for improved or additional community services and facilities in carrying out its development control function.

#### **3.3 POLICY CONTEXT**

##### **Structure Plan**

- 3.3.1 The Structure Plan for Gloucestershire (1999) seeks to promote sustainable development. Sustainability relates not only to development, but also to the building of communities, in which demand for facilities and services can be met locally. Policy S.5 states:

**“In providing for development, local authorities will have regard to the need for community facilities....In determining the type, scale and location of development, the adequacy of infrastructure will be taken into account. Provision for development will be made where related infrastructure and community services are in place or will be provided in appropriate phases in an environmentally acceptable way”.**

##### **Cheltenham Community Plan**

- 3.3.2 Cheltenham’s Community Plan sets out a vision for Cheltenham in the year 2020 “for a vibrant safe and sustainable town where residents, workers and visitors enjoy the benefits of economic social and environmental well being”. To achieve this vision the plan sets out aims and objectives to address the economic, social and environmental well-being of the town. This Supplementary Planning guidance seeks to support this work.

##### **Cheltenham Borough Local Plan**

- 3.3.3 Policy CP 8, Cheltenham Borough Local Plan Second Review Revised Deposit Draft states:

**“Development will be permitted only where adequate provision has been made for:**

- **the infrastructure necessary for the development to proceed; and**
- **other public services and facilities, the need for which arises directly from the development.**

**Planning obligations may be sought as a means of securing such provision including any or all of the matters listed in table 6”**  
(for table see appendix 1)



### **Cheltenham Cultural Strategy**

- 3.3.4 In June 2002, the Borough Council published Cheltenham's Cultural Strategy (2002 - 2006). Issues addressed by the strategy include; identification of gaps in cultural provision, and improving access to cultural opportunities. Access is considered not only in terms of transport, but also in respect of financial costs, education, and cultural barriers that may contribute to denying opportunities to some sections of the community.

### **3.4 WHAT ARE COMMUNITY FACILITIES?**

- 3.4.1 Community facilities fall within Class D1 of the Town and Country Planning Use Classes Order. Development within this use class provides for the development of land for community use, which does not include a residential use, including;

- Medical and health services
- Crèches and day nurseries
- Education facilities
- Art galleries and museums
- Public libraries
- Public halls and exhibition halls
- Places of worship

### **3.5 CONTRIBUTIONS**

- 3.5.1 Development of land for housing will generate a need for community facilities, this may be in the form of facilities such as new community buildings, extensions to existing buildings, or, information access points.

- 3.5.2 Level of provision and/or contributions sought will be dependent on the size and location of development. Negotiations will inevitably be on a case-by-case basis, however general principles will apply:

- **Development that generates a new or significantly large community:** proposals may be required to provide new buildings and/or facilities to allow the new community to function and develop.
- **Development where the need for community facilities does not require full provision:** proposals may be required to improve/and or extend existing facilities in the locality.
- **Development in an area where community facilities and services are at or near capacity:** proposals may be required to improve/and or extend existing community buildings/facilities.

### **3.6 SUBMITTING AN APPLICATION**

#### **Pre-application discussion**

- 3.6.1 The Borough Council strongly encourages pre-application discussions on the location and type of community services and facilities. Assessment of the need of the community should form an integral part of the planning process. Proposals should where possible be developed in consultation with the community to which new or improved facilities will serve. If need is identified at an early stage of the planning process, this can be provided as part of the development proposals and included in a planning application.

#### **Information to accompany planning applications**

- 3.6.2 Where development proposals include new community facilities these should be clearly indicated on layout plans. Developers should demonstrate that consideration has been given to promoting sustainable development.

### 3.7 FURTHER INFORMATION

#### Relevant legislation

Town and Country Planning Act 1990

#### Guidance

- Circular 1/97 Planning Obligations, Department of the Environment (1997)
- PPG 1 General Policy and Principles, Department of the Environment (1997)
- Gloucestershire Structure Plan Second Review, Gloucestershire County Council (1999)
- Cheltenham Borough Local Plan Second Review Revised Deposit, Cheltenham Borough Council (2004)
- Our Town Our Future, Cheltenham Borough Council (2000)
- Cheltenham Cultural Strategy, Cheltenham Borough Council (2002)

#### Useful websites

- [www.planning.odpm.gov.uk](http://www.planning.odpm.gov.uk)
- [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)
- [www.gloscc.gov.uk](http://www.gloscc.gov.uk)

### 3.8 CONTACTS

Principal Development and Planning  
Valuer  
**Gloucestershire County Council**  
Shire Hall  
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GL1 2TP  
**01452 425741**

Development Control Manager  
**Cheltenham Borough Council**  
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Strategic Land Use Officer  
**Cheltenham Borough Council**  
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GL50 1PP  
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## 4 SUPPLEMENTARY PLANNING GUIDANCE

### 4 SKILLS ANALYSIS

#### 4.1. INTRODUCTION

- 4.1.1. This guidance relates to policy CP 1 in the Cheltenham Borough Local Plan Second Review Revised Deposit Draft (2004).

#### 4.2. BACKGROUND

- 4.2.1. The Borough Council is committed to sustainable development in which the economy of Cheltenham is promoted and the social and environmental well being of the Borough is protected and enhanced.
- 4.2.2. This supplementary planning guidance considers one of the key principles of sustainability, which seeks to enable and support '*social progress which meets the needs of everyone*'.

#### 4.3. POLICY CONTEXT

##### **Government policy**

- 4.3.1. In November 2000 the Government published a White Paper, '*Our Towns and Cities: the future – Delivering an urban renaissance*'. This paper was prepared within the guiding principle that the needs of people should come first in addressing sustainable development, and that development should seek to tackle social exclusion. The White Paper states that:

**“We must make good use of the diverse skills and backgrounds of all people, enabling everyone to fulfil their potential...creating a skilled and flexible labour force is vital if we are to:**

- **respond and adapt to the changing needs of an increasingly sophisticated economy;**
- **encourage companies to come to, and remain in, cities and towns; and**
- **maximise people’s employment opportunities.”**

##### **Regional Planning Guidance for the South West**

- 4.3.2. One of the objectives of Regional Planning Guidance for the South West (RPG10) is to improve the prosperity of the South West. Policy EC1 of RPG10 sets out the broad approach to economic development, which has regard to:

**“Developing the skills and abilities of the region’s people by improving access to training, education and employment opportunities.”**

##### **Structure Plan**

- 4.3.3. Sustainability is the guiding principle of the Gloucestershire Structure Plan, set against the vision of '*Gloucestershire living sustainably*'. This vision includes the objective to:

**“Stimulate economic activity and employment in the County.”**

##### **Cheltenham Community Plan**

- 4.3.4. Cheltenham’s Community Plan sets out a vision for Cheltenham in the year 2020 “for a vibrant safe and sustainable town where residents, workers and visitors enjoy the benefits of economic social and environmental well being”.

To achieve this vision the plan sets out aims and objectives to address the economic, social and environmental well-being of the town. This Supplementary Planning guidance seeks to support this work.

#### **Cheltenham Borough Local Plan**

- 4.3.5. Cheltenham Borough Local Plan sets out land use policies in accordance with the principles of sustainability. In line with the policies of the plan, all development will contribute towards sustainable development, however the degree to which each will contribute will vary according to the nature of development, size and location. Policy CP 1 Cheltenham Borough Local Plan Second Review Revised Deposit Draft states:

**“Development will be permitted only where it takes adequate account of the principles of sustainable development.”** (see appendix 2)

#### **4.4. PLANNING OBLIGATIONS**

- 4.4.1. The local plan sets out a number of ways in which development can contribute to sustainable development, these include:

- Improving access to jobs, housing and services
- providing good accessibility to jobs, services and community facilities
- promoting and enhancing quality of life.

- 4.4.2. These aims will be material considerations in the determination of planning applications. The level of provision and/or contributions sought will be dependent on the size and location of development. Negotiations will inevitably be on a case-by-case basis, however general principles will apply:

- a commitment to target employment opportunities for unemployed people (both during construction and after completion);
- the employer's involvement in pre recruitment training;
- the provision of on site recruitment and/or training facilities;
- the provision of funds to support local training and recruitment.

*(Source: Joseph Rowntree Foundation)*

#### **4.5. FURTHER INFORMATION**

##### **Relevant legislation**

Town and Country Planning Act 1990

##### **Guidance**

- Circular 1/97 Planning Obligations, Department of the Environment (1997)
- PPG 1 General Policy and Principles, Department of the Environment (1997)
- Our towns and cities: the future – Delivering an urban renaissance, Department of Transport Local Government and Regions (2000)
- Gloucestershire Structure Plan Second Review, Gloucestershire County Council (1999)
- Cheltenham Borough Local Plan Second Review, Cheltenham Borough Council (2002)
- Our Town Our Future, Cheltenham Borough Council (2000)
- Local jobs from development: The use of planning agreements to target training and employment outcomes, Joseph Rowntree Foundation (2000)

### Useful Websites

- [www.planning.odpm.gov.uk](http://www.planning.odpm.gov.uk)
- [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)
- [www.gloscc.gov.uk](http://www.gloscc.gov.uk)
- [www.jrf.org.uk](http://www.jrf.org.uk)

## 4.6 CONTACTS

4.6.1 The following officers of the Council will be able to offer further advice on the issues set out in this guidance:

Development Control Manager  
**01242 264168**

Strategic Land Use Officer  
**01242 264382**

Economic Development and  
Regeneration Manager  
**01242 235354**

### **MATTERS WHICH MAY BE THE SUBJECT OF PLANNING OBLIGATIONS**

- works to provide safe access to a site, to accommodate safely local increases in traffic due to the development, and to discourage the additional traffic from using unsuitable local roads
- works within a transport sector to encourage travellers to and from a development to change to a more sustainable means of transport, including park and ride
- works, services or incentives to secure improved accessibility to and from a site by all forms of transport, including public transport, cycling and walking
- flood defence and mitigation works
- an element of affordable or special needs housing (SPG)
- the provision or enhancement of play space which cannot be accommodated on site (SPG)
- maintenance of open space
- education facilities at nursery, primary and secondary levels (SPG)
- community facilities (SPG)
- measures to provide for public safety and security (SPG)
- a contribution to skills analysis and training provision (SPG)
- facilities or measures to offset the loss of or impact on any resource, such as woodland or open space, present on a site prior to development
- works to adjacent areas of public realm, including tree planting
- public art (SPG).

### PRINCIPLES OF SUSTAINABLE DEVELOPMENT

#### Effective protection of the environment

- conserving historic and architecturally important buildings, areas and other structures
- conserving green space and trees
- safeguarding attractive landscape
- incorporating trees and other landscape features into development
- protecting and creating wildlife habitats
- reducing the need to travel, especially by car, by:
- ensuring development is in the right location
- promoting mixed use development
- providing facilities to encourage walking, cycling and the use of public transport
- making provision for parking that will not encourage use of the private car
- protecting the quality of water, land and air

#### Prudent use of natural resources

- using brownfield land before greenfield
- utilising the highest density of development consistent with high quality design, the amenity and character of the locality, and acceptable impact on adjoining development
- creating development which is energy-efficient by means of layout, design, construction and landscaping
- use energy from renewable sources, including maximising solar gain
- reusing materials wherever possible or using materials from sustainable sources
- creating buildings and environments which require low maintenance and which have a long-life span or can be readily adapted to alternative future uses

#### Social progress which meets the needs of everyone

- creating attractive urban environments
- ensuring that specific groups of the population are not disadvantaged by development
- reducing disparities in income, access to jobs, housing and services
- providing good accessibility to jobs, services and community facilities
- providing an appropriate mix of housing sizes, types and affordability to meet the needs of all households
- incorporating measures to deter crime
- protecting and improving personal and community health
- promoting and enhancing quality of life

#### Maintenance of high and stable levels of economic growth and employment

- manufacturing and trading in ways which are environmentally and socially benign
- minimising unemployment, including making provision for a diversity of employment
- ensuring good accessibility to, and movement of goods by, businesses
- taking account of and making provision for developments in communications and information technology