

# **Restormel Borough Council**



## **Planning Guidance Note**

**Planning Obligations and Community  
Infrastructure - January 2004**

**Adopted**

## Restormel Borough Council

### Planning Guidance Note on Section 106 Planning Obligations and Community Infrastructure

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#### **1. Introduction**

- 1.1 Planning obligations were introduced in the Planning & Compensation Act 1991, which amended Section 106 of the Town and Country Planning Act 1990. There are two types of planning obligations:
  - Planning agreements;
  - Unilateral undertakings.
- 1.2 Planning obligations play a significant role in determining the outcome of development. We consider that they should deliver a number of objectives.
- 1.3 They should enhance the quality of development and the wider environment, and ensure that it makes a positive contribution to sustainable development, providing social, economic and environmental benefits to the community as a whole. For instance, they should help to provide an increased supply of affordable housing, the provision of better public spaces and the facilities and infrastructure needed to accommodate growth, or remedy an existing deficiency that would otherwise prevent development.
- 1.4 An effective planning obligation system should also be transparent to all stakeholders in the planning process, including the community. It should provide greater certainty to those contemplating development and enable agreements to be concluded quickly. The system needs to be monitored and accountable to public scrutiny.
- 1.5 A good planning obligation system will promote economic prosperity. It will not impose inappropriate burdens on developers, which would ultimately result in desirable development not taking place.
- 1.6 This document sets out the way in which the Local Planning Authority in Restormel will seek to negotiate planning obligations to achieve the above objectives. It sets out the framework for developer contributions enabling them to be considered at the outset in an open and transparent form. The document will ensure that all stakeholders in the planning process, including the community and service providers, have a clear understanding of what is expected of developers and landowners. It is vital that developers and landowners are aware of what is required at the outset to ensure that schemes are both acceptable in planning terms and financially viable.
- 1.7 The infrastructure and services required to support a development proposal and how it will be met is a material consideration in determining a planning application, as made evident by Policy R3 of the Cornwall Structure Plan - 1997 and Policy 7 of the Restormel Local Plan- 2001, even when there is no directly related planning policy in place. If a development generates a need for additional infrastructure or services, provision will normally be sought.

## **2. The Limitations on Negotiation**

- 2.1 The direct provision of or contribution towards the infrastructure and services

necessary to serve a new development will normally be secured by imposing conditions on a planning permission and/or by the developer entering into a planning obligation. Planning obligations are legally binding and enforceable by the Local Planning Authority.

- 2.2 A planning obligation usually relates to an aspect of development that cannot be secured by imposing a planning condition or by other statutory controls. The obligation should secure measures or contributions to address the likely impact of the proposed development on the physical and social infrastructure of the area. Planning obligations can both improve a development and help it go ahead and in addressing the impacts of the new development on the infrastructure of the area, can be viewed as being locally beneficial.

### **Circular 1/97 planning obligations**

- 2.3 Circular 1/97 is the current key source of government guidance on the use of planning obligations. Planning obligations may be negotiated to provide on- and off-site physical and social infrastructure subject to complying with the tests of the Circular.
- 2.4 Paragraph 7 of the Circular sets out the tests that the Secretary of State expects to be met when entering into planning obligations and these will be respected by the Local Planning Authority. Obligations should be:
- necessary;
  - relevant to planning;
  - directly related to the proposed development;
  - fairly and reasonably related in scale and kind to the proposed development;
  - reasonable in all other aspects.
- 2.5 The Local Planning Authority will continue to expect a high standard of layout, design, external appearance, landscaping and means of access irrespective of the level of developer contributions sought for other services and facilities. The payment of developer contributions should not therefore be offset against the overall quality of the development. Developers should not be expected to pay for facilities, which are needed solely to resolve existing deficiencies unless this would otherwise prevent the development from proceeding, nor should attempts be made to extract excessive contributions from developers.
- 2.6 Sound planning principles will apply at all times - obligations will not be sought simply to extract “planning gain” but to meet the genuine operational costs imposed on the community by new development. Where the infrastructure requirements for a particular development have been clearly identified in Local Plans, Development Briefs or Guidance Notes then developers or landowners will be expected to make the necessary contributions.
- 2.7 Benefits sought from planning obligations can include:

- affordable housing;
- meeting infrastructure costs, especially open space, education, transport, social services and community facilities;
- those required to meet policy objectives, such as the protection of wildlife and reducing the opportunities for crime; and
- measures required making a development take place in an acceptable way, such as agreed phasing or limiting occupancy until mains drainage has been upgraded and brought into use.

### **3. Ground Rules in Restormel for Negotiating Planning Obligations**

- 3.1 To improve the system in terms of fairness, consistency and openness, planning obligations should begin to be based on agreed standards or infrastructure payments set through Central Government guidance, the Development Plan and this Planning Guidance Note. This note will be monitored and updated regularly. This will be applied to most forms of development, although thresholds will be established to reflect the benefits of economies of scale and to ensure the system does not affect planning application determination rates.
- 3.2 In the future, the current system of local plans will be replaced with Local Development Frameworks, where a number of core policies would be introduced including the use of planning obligations.
- 3.3 Although this document sets down the ground rules, the Local Planning Authority will have discretion to determine through negotiations with the developer the type, size and location of development on which a planning obligation would be necessary and the infrastructure payments it would entail. In some cases, it may not be suitable for the Local Planning Authority to pursue planning obligations for example, if the scheme contributes to sustainable development in its own right, i.e. small neighbourhood shops or crèche.

#### **Viability of a scheme**

- 3.4 As would be expected the requirements of a planning obligation would differ for particular sizes and types of development. Some locations may also attract different infrastructure payments than others.
- 3.5 On rare occasions the requirement to provide or contribute towards the costs of providing infrastructure or services may prevent a development from proceeding by making a scheme not financially viable. Where a developer raises concerns about the financial viability of scheme because of a planning obligation requirement and there cannot be a negotiated settlement, the submission of audited and certified figures to substantiate any problems will be required. These would be considered in confidence by the Local Planning Authority and a decision made as to whether the proposal on balance satisfies the Development Plan policies. Prior to making the determination, the Local Planning Authority

will encourage the exploration of other sources of funding to enable the development to proceed. Generally, schemes will only not be viable where there are abnormal costs associated with the development such as remedial measures to remove contamination or the relocation of an existing use on the site. Standard development costs such as landscaping, archaeological and ecological surveys and related mitigation measures and drainage and flood prevention schemes are not considered abnormal.

- 3.6 Land values need to be realistic and take into account the costs of affordable housing, open space, education facilities and other community infrastructure.
- 3.7 It is accepted that on occasions the demands for developer contributions will be greater than the development is able to bear requiring some degree of prioritisation. Where the Local Plan does not make clear the priorities for the site, the Local Planning Authority will assume that the highest priority is affordable housing. The Development Control Committee will ultimately determine the priorities when considering the planning application.
- 3.8 Infrastructure requirements maybe calculated in a number of ways but the one that will be most often used is based on the number of new dwellings that would be provided.

#### **Financial contributions**

- 3.9 The timing of the payment of financial contributions required within a planning obligation would be negotiated separately as part of the legal agreement. Normally such contributions should be paid on commencement of the development or through phased payments as the development proceeds. The financial contributions will be index linked within the planning obligation to take into account changes in the retail price index.
- 3.10 Payments received by the Borough Council, as a result of agreements with developers, will be used for the purposes specified in the obligation. The payment and any net interest will be reimbursed if it cannot be spent as intended or in the timescale defined in the obligation.
- 3.11 For outline planning applications where the number and size of dwellings or the number of employees/visitors is unknown, a planning obligation should be drawn up to ensure that any required payment towards infrastructure provision will be assessed when the subsequent details of the development are known.

#### **4. Community Infrastructure**

- 4.1 For the purpose of this guidance, the term community is intended to cover the physical and social infrastructure required supporting a new development and mitigating its impact on the community. The areas included are:

- Affordable housing;
- Recreation and open space;
- Education;
- Transport;
- Community and health services.

## **5. Affordable Housing**

- 5.1 Affordable housing is housing for sale or rent which is available at a price sufficiently below levels on the open market to allow local people in need to access housing which would otherwise not be available to them.
- 5.2 A local person is defined as a person that lives or works in the parish or former residents wishing to return. Within the towns of Newquay and St Austell, the term local should be less restrictive because there is a greater range of house types in these areas. The person should live or work within a radius of ten miles of the dwelling or be a former resident wishing to return.
- 5.3 The local person should have lived or worked within the specified area for at least three years within the previous ten years.
- 5.4 A person in need is defined as a person who has an annual income of not more than the average male full time earnings for Cornwall as published in the latest version of the Governments New Earnings in force at the relevant time. Should a couple wish to purchase an affordable home together, the person in need would be the person in that couple who has the higher annual income.

### **Why affordable housing is needed**

- 5.5 A key objective for the Government is to ensure that everyone has the opportunity of a decent home. To help meet this objective, the planning system is expected to provide housing that is genuinely affordable to a wide range of people. Planning Policy Guidance 3 on Housing, which is supplemented by Circular 6/98, makes it clear that ‘a community’s need for a mix of housing types, including affordable housing, is a material planning consideration which should be taken into account in formulating development plan policies and in deciding planning applications involving housing’. Additionally, there is an expectation that new residential schemes should be planned to provide ‘...mixed and inclusive communities, which offer a choice of housing and lifestyle’. (PPG3, Para 10, DTLR). All types of housing should therefore be well integrated and ‘tenure blind’.
- 5.6 Achieving housing opportunities that are safe, secure and affordable for all its residents is a key priority objective of the Borough Council as emphasised in ‘Tomorrow’s Dawn’ the Council’s Corporate Plan and the adopted Local Plan.
- 5.7 The instability of the housing market, manifested in the fluctuations of house prices in other parts of the country, make smooth working of the market

particularly difficult. Many local residents are unable to compete with more wealthy people, including some migrating into Cornwall and others seeking second homes. There is a significant imbalance between the amount of money that the average household in Cornwall is able to raise through a mortgage and the average house price. This situation is accentuated by the shortage of affordable housing that is of a decent standard and provides security of tenure. Although the Local Planning Authority has been endeavouring to raise the level of affordable housing provision through development there is a continuing loss of affordable homes through Right to Buy and Right to Acquire schemes. The Housing Needs Survey is due to report in July 2004 and this is likely to highlight the extent of the problem.

- 5.8 The Council's intention through the adopted Local Plan and the emerging Housing Strategy and Restormel Community Plan is to try to ensure that more affordable housing is provided through the planning system.

### **Defining affordable homes**

- 5.9 The term 'affordable homes' embraces all forms of tenure, type and size. Specifically, affordable housing provided through the planning process is defined as:

- Affordable homes for rent normally in conjunction with a Registered Social Landlord or within Housing Corporation rent level guidelines.
- Affordable homes for shared ownership with an expectation that this will be in partnership with a Registered Social Landlord. Typically there would be 25; 50 and 75% shares with the shared owner paying an affordable mortgage and rent payments as defined above. In settlements with a population of less than 3,000, owners would only have the right to acquire a maximum of an 80% share of the property.
- Homebuy or do-it-yourself-shared-ownership schemes with a Registered Social Landlord, which enables housing to be purchased on shared ownership terms and staircase to the freehold.
- Fixed equity schemes - a percentage of the equity to be retained in perpetuity by the owner/developer, Trust or a Registered Social Landlord.
- Low Cost Housing - the Local Plan notes that these homes should not be sold at a price that exceeds a 90% mortgage equivalent to 2.5 times the average male earnings for Cornwall as published in the latest version of the Governments New Earnings Survey. In 2004 this equates to £59,036 for owner occupation and £307 per calendar month for the rented sector based on a 4.84% interest rate and a 10% deposit.
- Private Rented Housing - the rents for these dwellings would be comparable to local Registered Social Landlord rents for an equivalent dwelling. In

perpetuity will apply.

- 5.10 The gap between incomes and house prices is so great that an intermediate market has been created where those that earn above the average wage levels can still not compete on the open market. These people are often the key workers that are required to help society and the local economy function.
- 5.11 Although this housing need is real, it is beyond the bounds of the Local Plan policy and hence this document to meet that need on exception sites. This issue will be addressed within the Local Development Document following an analysis of the results of the Housing Needs Survey. In the meantime, several pilot schemes across the Borough will be investigated to cater for this apparent affordable housing need.
- 5.12 Affordable housing should be distributed evenly amongst open market housing so that it is not possible to distinguish the tenure of the property. They should be complementary to the overall scheme in terms of design, siting and appearance and be built to current Building Regulations standards.

#### **Assessment of housing need**

- 5.13 The proportion of affordable housing to be provided in the Borough is set within the Local Plan and Housing Strategy based upon an assessment of housing, which includes:
- Information from the Borough-wide housing needs survey (due to report in July 2004);
  - Current information held on the housing register;
  - Information from parish surveys or appraisals;
  - Recent availability of affordable housing opportunities throughout the Borough;
  - Number of right-to-buy sales which have taken place in the Borough;
  - Number and type of affordable housing properties throughout the Borough.
- 5.14 The Local Plan and Housing Strategy defines the key towns and villages where additional affordable housing is supported together with a list of priority sites for planned affordable housing.
- 5.15 Government policy is clear that the provision of affordable housing should normally be on site. In order of preference, affordable housing will be provided:
- On-site - unless the site is not within a sustainable location or agreement is reached with the Local Planning Authority for other alternatives.

- Part on-site and part off-site.
- Off-site contribution - this should only be considered in exceptional circumstances. If there is an off-site agreement then the payment to be made will take into account the additional legal and administrative charges (5% of the total cost) that would be incurred. There may also be scope to provide an off-site contribution of land or a combination of land and money.

5.16 If a site is acceptable in planning terms for housing, it should also be acceptable for affordable housing. Developers will be expected to incorporate an element of affordable housing in their proposals. If a developer considers that there are sound planning grounds for not providing affordable housing on a particular site, they should enter into discussions with the Local Planning Authority at the earliest convenient date. A financial contribution will only be acceptable in lieu of on site provision if both the developer and Local Planning Authority agree that this is the preferred approach to providing affordable housing for a particular community.

#### Scale of off-site financial contributions

5.17 To avoid ambiguity and to ensure all developers are treated consistently and to enable developers to assess the likely maximum values of any affordable housing contributions the following formula will be used to assess the scale of contributions:

<b>1</b>		<b>2</b>		<b>3</b>
Quota for affordable housing (%)	<b>X</b>	Total no. of dwellings	=	Number of affordable homes
<b>3</b>		<b>4</b>		<b>5</b>
Number of affordable homes	<b>X</b>	TCI band for 75-80m <sup>2</sup> in TCI Group D1. £83,700 x 70.2% = £58,757	=	Affordable housing contribution

Worked example: A developer is converting an engine house to 60 flats, which will attract a high service charge. The quota for affordable housing in the Borough is 30% plus a 5% administration and legal fee contribution.

<b>1</b>		<b>2</b>		<b>3</b>
30%	<b>X</b>	60	=	18
<b>3</b>		<b>4</b>		<b>5</b>
18	<b>X</b>	£58,757	=	£1,057,626
				+ 5%

				= £1,110,507
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All calculations will be based upon the Housing Corporation's Total Cost Indicators, grant rates, rent caps and administrative allowances circular that are in effect at the time the contribution becomes payable. The figures set out above are effective from 1 April 2004 – 31 March 2005. In the future should the Total Cost Indicators no longer be used as a measurement tool then the level of contribution would need to be agreed between the two parties on a site-specific basis.

5.18 The provision of affordable housing can be achieved and financed in a number of ways. The developer, in negotiation with the Local Planning Authority, will be able to consider any of the following options, or a combination of the options below:

- Developers to build and transfer the completed units to a Registered Social Landlord so that the final cost requires no public subsidy.
- Significantly discounted land value - the developer should clearly identify the value of any discount, which if there is a dispute will be referred to local arbitration - the cost of which will be met by the developers. Wherever possible land should be provided at nil cost.
- Significantly discounted package of land and construction costs - the developer should clearly identify the value of any discount which if there is a dispute will be referred to local arbitration - the cost of which will be met by the developers.
- Provision of larger discounts in return for lower quotas for affordable housing - the developer could offer free land, or completed dwellings as a higher capital contribution in return for a lower overall percentage of affordable housing having to be provided on their site. Developers could therefore provide affordable housing in the form of social housing for rent without the need for social housing grant or other public subsidy. This approach would be supported where there would be insufficient social housing grant available to support the affordable housing programme.
- Where a commuted sum would be paid for off-site contributions, it would be used primarily for buying land or supporting the purchase of existing properties suitable for social housing
- Alternatively, the commuted sums will be grouped to ensure that the money is spent on affordable housing in the form of top up grants for Registered Social Landlords.

**When affordable housing will be sought**

5.19 Policy 74 of the Local Plan ensures that for all new sites being developed, a realistic level of affordable housing will be secured in relation to the pattern and scale of need identified.

5.20 On exception sites, promoted by Policy 75 of the Local Plan, all the dwellings would be restricted to affordable homes. Before any scheme on an exception site can be considered evidence must be available from up to date, properly conducted local surveys, which demonstrate the nature and the extent of the demand for affordable housing in the area under consideration (see paragraph 5.13).

5.21 An element of affordable housing will be agreed in residential schemes on both 'allocated' and 'windfall' sites where:

- a housing need exists within the locality; and
- the size of the site meets the following thresholds; in the case of Newquay and St Austell, it should be at least 0.5 hectares or provide 15 dwellings or more and in the other settlements specified in Policies 1 and 3 of the Local Plan it should provide 5 dwellings or more.

5.22 These thresholds more accurately reflect the guidance in Planning Policy Guidance 3 - Housing than Circular 6/98 which is outdated and due for replacement. The threshold figure of 5 dwellings reflects the fact that applications for 15 dwellings or more are rare in the smaller settlements and that developers would still benefit from the economies of scale.

5.23 Affordable housing schemes in rural areas should only be developed where there is sufficient local infrastructure available, which as a guide should include:

- access to a Primary School within 3 miles from the scheme;
- a shop or post office within 1 mile from the scheme; and
- adequate local public transport facilities.

In cases where the access and sustainability requirements are not met, consideration will be given for off-site contributions to facilitate development in more sustainable locations.

5.24 Where in the opinion of the Local Planning Authority the site has been deliberately sub-divided or phased into smaller plots or the number of dwellings has been reduced unrealistically to avoid the appropriate trigger threshold, an element of affordable housing will be sought within the scheme.

5.25 Where appropriate, sites identified for residential development in the Local Plan have an affordable housing target, which will be reviewed at the time a planning application is submitted. As a guide and illustrated in the table below the Local Planning Authority will negotiate for at least 30% of the dwellings to be affordable on all sites, that exceed the thresholds specified in paragraph 5.21.

No. of dwellings proposed	Affordable homes required in Newquay and St Austell		No. of dwellings proposed	Affordable homes required in other Towns and Villages
0-14	0		0-4	0
15	4		5	1
16-18	5		6-8	2
19-21	6		9-11	3
22-25	7		12-15	4
26-28	8		16-18	5
29-31	9		19-21	6
32-33	10		22-25	7

5.26 The type and size of affordable units should reflect the identified housing need of that town, parish or adjoining parishes. It would not be acceptable to only provide one-bedroom units to satisfy the targets at the expense of the identified housing need.

#### **Restricting occupancy**

5.27 To restrict occupancy to a local person in housing need a planning obligation will be used.

5.28 The planning obligation will also include provision for a cascade approach so that if a property is not let or sold to a household from the specified community within a reasonable period (31 days for a rented scheme and 180 days for owner-occupation) it will become available to those in housing need from the parish or adjoining parishes for a further period (31 days for a rented scheme and 180 days for owner-occupation). If the property can still not be let or sold it would become available to those in housing need from Restormel as a whole. If the property cannot be let or sold after a further 90 days then it could be let or sold to those local people in housing need on the intermediate market throughout the Borough of Restormel. For the purposes of this document the person in housing need on the intermediate market is defined as a person who has an annual income of not more than 1.3 times the average male full time earnings for Cornwall as published in the latest version of the Governments New Earnings in force at the relevant time. Where a couple wish to jointly purchase the affordable home, the person in need would be the person in that couple who has the higher annual income. If the property cannot be let or sold after a further 90 days then it could be let or sold on the open market.

5.29 The purpose of the cascade approach is to ensure that affordable homes remain occupied and provides a degree of flexibility to the owner or manager of a property. Should the cascade approach need to be implemented proof would be required that the property has been adequately and genuinely marketed at an

appropriate rent or cost reflecting its restriction before it becomes available to a household in need from a wider area, or is sold on the open market.

- 5.30 In the circumstances that a mortgage company regains possession of the property, they would be entitled to market the property to a person in need from Restormel as a whole at the beginning of the sale process. If the property could not be sold within 270 days then it could be sold on the open market without restriction.
- 5.31 Registered Social Landlords would be entitled to purchase the affordable homes provided that they let or sell parts of the equity of the properties to local people in housing need.

## **6. Recreation and Open Space**

### **Why recreation and open space is needed**

- 6.1 The provision of public open space and facilities for sport and recreation underpins peoples' quality of life. The Council encourages and helps people to use their leisure time constructively by providing and maintaining facilities for public use. This is embodied in the Corporate Plan and Tourism and Leisure Strategy.
- 6.2 PPG 17: Planning for Open Space, Sport and Recreation notes that:  
"Planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space and recreational provision. Local authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local needs" (paragraph 33).

While PPG3 "Housing" states that:

"...new housing developments should incorporate sufficient provision (of open space and playing fields) where such spaces are not already adequately provided within easy reach of the new housing" (paragraph 53).

- 6.3 Recreation and open space provision within the Borough will need to keep pace with population growth as well as cater for the increasing demand for recreation. The area's popularity as a tourist destination also needs to be reflected within the provision. Planning priorities are to retain existing leisure and recreational facilities and to provide new facilities to meet the needs of new housing proposals and where opportunities exist to resolve deficiencies in past open space provision.
- 6.4 Local plan policy 89 requires that on all residential developments, the Council will seek a planning obligation from developers or impose conditions to either:
- provide within the site an area of open space including suitable children's play areas and equipment to meet the needs of the residents; or

- provide an equivalent commuted sum to enable open space provision in the immediate locality.

There is, however, scope to provide an element of on-site provision and make up the shortfall with an off-site contribution or commuted sum.

### **Defining recreation and open space**

6.5 Although National standards cannot cater for local circumstances, such as different demographic profiles and the extent of the existing built development in the area, they do provide an understandable method of calculating space requirements whilst local standards are formed.

6.6 The Local Plan refers to the National Playing Fields Association's, 'Six Acre Standard' which seeks to provide as a minimum 2.4 hectares (six acres) of playing space per 1000 population. This is split into two categories comprising:

- 1.6 hectares (4 acres) for outdoor sport (pitches, greens, courts, athletic tracks etc) and
- 0.8 (2 acres) for children's play space.

6.7 The children's play spaces are further sub-divided to cater for children of differing ages:

- Landscaped Areas of Play (LAP) are small areas of open space specifically designated and laid out for young children to play close to where they live. Located within a walking time of one minute from home the LAP provides essential play activities for young children in safe locations. The LAP would include demonstrative features (e.g. footprint trail/ model of an animal), for toddlers and usually a seat for an adult. The activity zone should be a minimum of 100 m<sup>2</sup> in area with a buffer zone around it of a minimum of 5 metres depth.
- Local Equipped Areas of Play (LEAP) are an area of open space that is designated and equipped for children of early school age. Such areas need to be within five minutes walking time from home. It would have an activity zone a minimum of 400m<sup>2</sup> in area and have a buffer zone of approximately 20 metres to the nearest dwelling.
- Neighbourhood Equipped Areas of Play (NEAP) are sites that are equipped mainly for older children. They include playground equipment and hard surfaced areas for games such as skateboarding and a rebound wall. They are located within 15 minutes walking time from home and a NEAP is the largest of the three types of play space being a minimum of 1000m<sup>2</sup> with a buffer zone of 30 metres depth.

6.8 In addition to the above, other forms of informal open space are required to help

maintain and improve the quality of life. Policies 93, 94, 95, 96 and 97 of the Local Plan provide the policy context for permitting such open space. Paragraph 10.32 of the Local Plan accepts the standard of provision to be 0.4 hectares (1 acre) per 1000 population.

**Assessment of on-site need**

- 6.9 Recreational land and open space will usually be provided on site where there is an existing deficiency in the area or the projected population increase would justify additional facilities. In the allocation of housing land, the Local Plan has highlighted which residential sites should be linked to the provision of the larger areas of open space. For developments of less than 15 dwellings it may be more appropriate to seek a financial contribution in lieu of the on-site provision to upgrade existing local facilities or be put towards a new centrally located facility.
- 6.10 With new residential developments, on-site provision would usually be required when a minimum site area of 0.4 hectares (1 acre) or 15 open market dwelling units are proposed. Typically, a LAP would be required.
- 6.11 A LEAP would normally be required on site when the site area exceeds 0.8 hectares (2 acres) or 50 open market dwelling units are proposed.
- 6.12 Pitches for outdoor sport and NEAP’s would usually be provided by the Council or Parish Council and be planned as part of the Local Plan process or be part of a comprehensive development. Until such facilities are allocated in the Local Development Document, there would be no justification to contribute towards these facilities at the current time.

**Scale of financial contributions**

- 6.13 Contributions to the provision or improvement of recreation and open space are calculated through two methods; projected population increases (based on the Borough’s average household size of 2.3 per dwelling) and the likely number of dwellings to be provided. These figures are then divided by the capital cost of providing the different types of open space required and maintaining it for 12 years to give a standard figure per dwelling unit. These figures are suitable for negotiation purposes. Where a full application is submitted an accurate figure for the maintenance provision would be able to be provided by the Council’s Parks Officer. Better quality play equipment may be less costly to maintain long term and a well-designed site may reduce the need for large buffer zones that are equally costly to maintain. The calculations at 2003 prices are summarised below:

<b>Cost per dwelling</b>			
	Provision	Maintenance/ Upgrading	Total

LAP	£434	£1137	£1571
LEAP	£680	£469	£1149
Open Space	£180	£168	£348
Total	£1294	£1774	£3068

### **When recreation and open space contributions will be sought**

- 6.14 As noted in paragraph 6.4 all residential development should contribute towards the provision of recreation and open space. However, for administrative purposes proposals that provide less than six dwellings would not be subject to the financial contribution.
- 6.15 Certain types of residential development will not always need to meet the full standard as shown below:

<b>Type of residential development<sup>1</sup></b>	<b>Informal open space</b>	<b>Children's play areas (LAP/LEAP)</b>
Private residential	Full provision	Full provision
Retirement housing <sup>2</sup>	Full provision	No provision
Affordable housing <sup>3</sup>	No provision	No provision
Holiday accommodation (including static caravan sites)	Full provision	Full provision

<sup>1</sup>The open space requirement for other specialist housing will be considered on its merits. For off-site contributions the contribution would be based on providing and maintaining the equipment and land elsewhere.

<sup>2</sup> Retirement housing is any accommodation in Class C3 where there is an age restriction of over 55 years. The standards do not apply to nursing homes within Class C2.

<sup>3</sup>Affordable housing meets a local need and the occupants of the new houses would already be using the open space in the area. They should therefore be omitted from the calculations.

### **Controlling expenditure**

- 6.16 It is important to be able to demonstrate that any contribution for open space

received in connection with a particular new development will be used to mitigate the impact of that development. The table below sets out the relationship between the type of open space provision and the expenditure resulting from the development:

Type of open space	Approach to expenditure
Informal open space projects	Within 1.5km of the boundaries of the development site if possible or on schemes that will benefit residents across the parish or adjoining parishes.
Children’s play areas (LAP/LEAP)	Within 600m of the boundaries of the development site, or closer if possible, or on schemes that will benefit residents across the parish

6.17 The Council will spend the contributions on providing new facilities or additions to existing facilities. This will include:

- Acquisition of land for play space;
- New playground equipment;
- Safety surfacing;
- Pitch drainage;
- Improvements to pavilions/changing facilities;
- Car parking and access roads;
- Grants to voluntary organisations/Parish Councils.

6.18 As some of the larger projects may require contributions from a number of developments in order to bring them to fruition in some cases an expenditure period of 10 years will be specified in planning obligations to permit sufficient funds to accumulate.

## 7. Education

7.1 Education infrastructure is an integral part of new residential development and is an important element in achieving sustainable communities.

7.2 It is important for landowners and developers to be aware of the effects of their residential development on the County Council’s schools and other educational facilities for which the Local Education Authority or relevant Diocesan bodies are responsible.

7.3 Clearly, some small developments will have no measurable effect on the demands for educational services and others will have no effect at all (e.g. sheltered housing for elderly people). Where the relevant schools are unable to accommodate children likely to arise from a proposed housing development,

contributions will be sought through planning obligations towards the costs of providing the necessary capital infrastructure.

- 7.4 The Director of Education, Libraries and Arts will consider how many additional pupil places the development might be expected to generate and what effect this will have on the accommodation in the schools in the relevant catchment area. Local spare capacity in existing schools will be taken into account and may reduce or even negate the need for contributions. Developers will be expected to help contribute towards the costs of remedying the shortfall in available places produced by the development.
- 7.5 Each development will be examined to assess the impact it would have on the schools in its catchment area. Relevant factors include the size of the dwellings and the extent to which the housing proposed is for the elderly or holiday homes. Affordable homes that will be retained as such in perpetuity will be exempt from contributions because these dwellings are often occupied by local people from within the same education catchment area.
- 7.6 Where a planning application is made for outline planning permission, it is not generally necessary to state the number of dwellings. However, it will be expected that the applicant will enter into a planning obligation incorporating a formula based on the number of dwellings to be applied when further details are submitted.
- 7.7 In relation to proposals for large scale housing developments, that cannot be accommodated through the development of existing schools, the Local Planning Authority will seek to negotiate with landowners and developers to provide a combination of land and/or funds for new primary schools as well as appropriate contributions towards the costs of facilities for secondary education. A requirement for land is usually made explicit in the Local Plan where it is related to an allocated site for housing development.
- 7.8 For smaller scale proposals, it is more likely that contributions will be sought towards the costs of enlarging primary and secondary schools to provide the extra pupil places needed. Where the existing schools are too small to accommodate the projected additional pupil numbers resulting from a development proposal and provided it is practical to extend the sites concerned, the contributions sought from the landowners and developers towards school enlargement costs will include land acquisition, land development and building costs.
- 7.9 The following types of residential development will be excluded from contributing towards education infrastructure:
  - Residential Development of less than 5 dwellings;
  - Specialist residential development to meet the accommodation requirements of the elderly or other special needs clients where children are unlikely to live as part of a household;

- Affordable housing schemes directly provided by Registered Social Landlords or retained as affordable housing on the open market in perpetuity;
- Purely one-bedroom accommodation;
- Holiday homes;
- Replacement of an existing habitable dwelling.

7.10 Payments should be made in line with the planning obligation and the developer will be expected to notify the Local Planning Authority of any "trigger" dates.

- Payment is normally required when development starts or on occupation of a given number of houses (as specified in the S106).
- Payment may be phased but is expected in full prior to the occupation of three-quarters of the development. The Borough Council will collect the relevant payments and pass these in turn to the County Council as Education Authority when the relevant school has been upgraded or a contract has been let to upgrade the school.

7.11 The Chief Land Agent and Valuer of Cornwall County Council in consultation with the Education Department of the same Council determine the cost of education provision and links these back as a rate per relevant dwelling. Currently that rate is £1,100 per dwelling.

## **8. Transportation**

8.1 Key transport objectives for Restormel are set out in the Local Plan. These seek to minimise the need for people to travel by private car; to minimise the adverse effects of transport on the environment; to provide accessibility; and to provide an efficient and safe transport system particularly for vulnerable groups such as cyclists and pedestrians.

8.2 The growth in transport can be viewed from two angles, as a measure of economic growth within the economy, or as a measure of inefficiency. As the Country's wealth grows the amount of manufactured goods and services transported increases, as do the number of leisure trips, which all reflect a higher standard of living.

8.3 Transport will continue to grow in the short term and measures are needed to combat congestion and reduce energy consumption, increase access to transport as well as provide the infrastructure for a developing economy.

8.4 New developments will increase existing problems if measures are not taken to control and address them. With no infrastructure improvements at local and

strategic levels, congestion, the reliability of travel by all modes, air quality and safety will undoubtedly get worse. Therefore, it is important that measures be taken to mitigate the additional impact of new developments on the areas transport infrastructure.

- 8.5 In the case of many development schemes, specific works and improvements will be required either on-site or off-site to mitigate the direct impact of the development scheme on the transport network and make the proposed development acceptable. For example, improvements to junctions, provision of traffic lights and pedestrian or toucan crossings, local traffic calming, or the introduction of parking spaces or conversely parking restrictions on surrounding streets. These are normally required to be implemented as part of the development scheme and will usually be done in conjunction with the Local Highway Authority (Cornwall County Council) under highway agreements. A planning condition can be imposed to require the off-site highway works to be completed or a contract let for their completion prior to the development commencing or being brought into use.

### **Travel plans**

- 8.6 In addition to improvements to transport infrastructure, travel plans are an effective way of promoting and co-ordinating travel by means other than having a single occupant in a private car among employees of non-residential developments. Travel plans aim to reduce car usage, increase the use of public transport, walking and cycling, and deliver sustainable transport objectives.
- 8.7 In accordance with paragraph 89 of PPG13, travel plans will normally be required for the following categories and scale of development.
- All major developments comprising employment or services (2500m<sup>2</sup> gross floor space or above), retail (1000m<sup>2</sup> gross floor space or above), leisure (1000m<sup>2</sup> gross floor space or above 1500 seats).
  - Smaller employment, retail, leisure and service development, which would generate significant amounts of travel.
  - New and expanded school development.
  - Where a travel plan would help address a particular local traffic problem associated with a planning application, which might otherwise have to be refused permission on local traffic grounds.
- 8.8 Travel plans are the simplest way of minimising the impact of development on the road system. They can be required through both planning conditions and planning obligations and a development will not be permitted to commence or be brought into use until a travel plan has been agreed and implemented.
- 8.9 A target of travel by sustainable means by a specified date would be set in the planning obligation and this would usually be backed by a contribution to

sustainable transport means in the locality.

## **9. Community and Health Facilities**

9.1 Community facilities are defined as those, which are used for social, caring, cultural and religious purposes. Recreational and educational facilities have been considered previously under sections 6 and 7 respectively. Other community facilities that could be funded through planning obligations include public art, public toilets and floral displays.

9.2 The objectives of policies and proposals in the Local Plan are:

- To promote the retention and improvement of health and social services in the Plan area;
- To support improvements to community facilities particularly in the rural area;
- To ensure new or expanded facilities are well located and accessible to the local population, and thus meet the overall sustainability objectives of the Plan.

9.3 There is no doubt that population increases arising from new developments will increase demand on existing community facilities in the area. While the particular requirements of new very large residential developments can normally be provided within the development, smaller developments and even single dwellings are incrementally contributing to demand on existing facilities.

9.4 The Council's role is limited to supporting and encouraging the retention and development of health care and social services, by ensuring that sufficient land is allocated in the Local Plan to meet any identified requirements and by articulating local peoples' views to other bodies and the Government.

9.5 Community facilities could be funded in the same way that improvements to recreation and open space are funded but at the present time a sound case has not been put forward linking development proposals to stated infrastructure costs. Planning obligations could however be used to provide improvements to community facilities on a site specific and piecemeal basis, depending on the planning merits of each case. The input of the Town and Parish Councils is essential in this respect to ensure that the Local Planning Authority is informed early on in the process about local priorities.

9.6 A further guidance note on Planning Obligations relating to Food, Drink and Public Leisure Businesses is due to be published this year.

## **10. Monitoring and Review of Planning Obligations and Expenditure of Contributions**

10.1 In view of the significance of planning obligations to the development control

process, it is important that the negotiation of obligations and expenditure of any contributions received from developers are carefully monitored in a public and accountable way.

10.2 The following measures are therefore proposed:

- Reports on planning proposals presented to the Development Control Committee for decision (or in delegated reports) will clearly identify the key aspects of any planning obligations recommended by the planning officer or offered by the applicant.
- A copy of each planning obligation will be placed on the public planning register in association with the planning decision notice to which it relates.
- Compilation of an annual report to the Development Control Committee providing details on planning obligation negotiated in the previous year; extant planning obligations where development has not yet commenced; details of expenditure from planning obligations in the previous year; and details of expenditure planned for the coming year.

## **11. Practical Points for Preparing and Completing Planning Obligations**

11.1 The completion of planning obligations is often perceived as a lengthy and time-consuming process that adds delay to the implementation of developments. This Council is keen to ensure that planning obligations are completed as quickly and effectively as possible. Therefore, it proposes the following periods for the completion of planning obligations and will use its best endeavours to meet these targets.

11.2 Minor developments (less than 10 dwellings) - planning obligations relating to these often include standard clauses. It is therefore considered reasonable that they are normally completed within 1 month from the date of approval in principle by either the Development Control Committee or senior officers using delegated authority. At the moment planning agreements cannot be delegated to officer level.

Major developments - planning obligations relating to these can be more complex and varied. It is therefore proposed that they are normally completed within 3 months from the date of approval in principle by the Development Control Committee.

11.3 If a planning obligation is not completed within the relevant time period, the planning application will be reviewed. If a senior officer considers that there has been an unreasonable delay in completing the planning obligation, a report will be taken to Development Control Committee to consider whether planning permission should be refused in the absence of a completed planning obligation.

11.4 In each case, the applicant will be informed of the time period within which it is intended to complete the planning obligation and advised that the case will be

reviewed if not completed within the specified period.

11.5 To initiate the process of completing a planning obligation as quickly as possible, the Council will aim to forward a draft planning obligation to the applicant or their solicitor prior to the application being determined or on occasion at the pre-application stage.

11.6 To enable the completion of planning obligations to take place quickly and effectively, the following points should be borne in mind:

- Unilateral undertakings submitted with a planning application at the outset can quicken the process enormously and model agreements will be provided to help applicants through the system. A practice note on the submission of unilateral undertakings has been produced and is attached at Appendix A.
- Standard clauses will be used where possible.
- The applicant should notify the planning case officer or the solicitor they intend to use for the completion of the planning obligation as soon as possible.
- The applicant will be required to cover the Council's legal costs relating to the planning obligation.
- As parties with an interest in an application site may need to be party to any planning obligation relating to it, applicants should inform and involve landlords and anyone else with an interest in the land, including mortgage lenders, prior to the submission of an application. If such parties are not involved until the first draft of the planning obligation is produced, this can slow the process down considerably.
- Details of the title to the application site, in the form of copies of the land registry entries if the land is registered or a copy of the deeds if not registered will need to be provided for verification of the interest in the land. Alternatively, a letter from a solicitor agreeing the title deeds would be accepted rather than sight of a certificate in title.
- Where financial contributions to the Council are required they will be index-linked.
- Bonds will be required where the applicant proposes to provide, let or maintain the Community Infrastructure themselves.
- Applicants should submit the Heads of Terms of a proposed planning agreement with the submission of a planning application.

## **12. Statement of Community Involvement**

- 12.1 In preparing the Planning Guidance Note the views of a number of departments, agencies, Council Committee's and individuals have been sought and their comments, whilst being balanced against the overall policy framework set by the Development Plan and Government advice, have helped to form the final adopted document.
- 12.2 PPG12 emphasises that the weight accorded to Planning Guidance Notes as a material consideration in determining a planning application will increase if it has been prepared in consultation with the public and has been the subject of a Council resolution.
- 12.3 Choosing the relevant people and agencies to consult and the best method for obtaining their views is important. Copies of the Draft document were sent to over 80 organisations and individuals.
- 12.4 The Planning Guidance Note was advertised in the Cornish Guardian, while copies of the document were sent to all known stakeholders including Agents, Residents Associations, House Builders, Parish and other District Councils, the County Councils, individuals. The document was also publicised and available on the Council's website.
- 12.5 A consultation period was undertaken between 23<sup>rd</sup> June to 8<sup>th</sup> August in 2003 and meetings with stakeholders and Parish and Borough Council were held during that time.
- 12.6 Subsequent to the receipt of comments on the document, seminars were held with those that offered views on the document to determine a consensus of opinion. The document was revised and reported, with the comments of the interested parties, to the Policy and Scrutiny and Development Control Committees before the Cabinet adopted the document. Following referral to the Full Council this document was formally adopted as Supplementary Planning Guidance on 26 January 2004.

## Appendix A

### **Planning Obligations - Practice Note**

1. Restormel Borough Council is committed to the efficient determination of its planning applications. If approved, your application will require a planning obligation and the purpose of this practice note is to make you aware that the Council is prepared to accept a unilateral undertaking from you should the application be approved and a planning agreement not be necessary. A unilateral undertaking is similar to a normal planning agreement except it is prepared and signed by you as the applicant and any person who has an interest in the land that is the subject matter of the application and is submitted to the Council.
2. The advantage of this procedure to you is that if the terms of the agreement can be

agreed before the committee date and your application is approved then the unilateral undertaking can be submitted and the consent issued in a shorter timescale.

3. If you wish to consider the use of a unilateral undertaking then the contents of this note is intended to assist you. Planning agreements will generally be the most appropriate form of obligation if the Borough and County Council need to be party to the covenants, such as accepting the ownership or maintenance of land.
4. Attached, as appendix one to this note are standard forms of unilateral undertaking and planning agreement. You will need to take this to your solicitor so that it can be completed. It will be necessary for your solicitor to complete the parties to the agreement; it is necessary to include the applicants and any persons with an interest in the application site.
5. The other important part of the document that needs to be completed is the planning obligation that you are to provide to the Council. In connection with your application, the proposed obligation relates to (*insert the specific requirements*).
6. Attached as appendix two is a draft of a proposed obligation for your application and this should be inserted in the document at Schedule 1.
7. Once your Solicitor has drafted the document it should be forwarded to (*nominated officer in legal services*) and your Solicitor should forward details of your title to the application site in form of copies of the land registry entries if the land is registered or a copy of your deeds if the land is not registered.
8. The nominated officer will then consider the documents and seek to agree the document with your solicitor.
9. It should be noted that this process would offer no indication that your application will be approved - that is a decision for the Development Control Committee. You should also be aware that you would be required to meet the reasonable costs of the Council's legal adviser who considers the document.