

Agenda Item No. 6(f)

DERBYSHIRE COUNTY COUNCIL

CABINET

10 September 2020

Report of the Director - Economy, Transport and Environment

**DEVELOPER CONTRIBUTIONS PROTOCOL (HIGHWAYS,
TRANSPORT AND INFRASTRUCTURE)**

(1) **Purpose of Report** To approve the publication of the County Council's revised Developer Contributions Protocol.

(2) **Information and Analysis**

Background

The National Planning Policy Framework states that the purpose of planning system is to contribute to the achievement of sustainable development and cites at a high level, the sustainable development objective of "*meeting the needs of the present without compromising the ability of future generations to meet their own needs.*" The County Council has an important role in achieving sustainable development in Derbyshire, not only as a planning authority in its own right and as a statutory consultee, but also as a provider of much of the physical and social infrastructure that enables economic and social wellbeing and helps deliver sustainable development.

The Developer Contributions Protocol (DCP) was originally published in 2012 and refreshed in 2013. Its purpose is to set out the requirements for, and approach to, the type and level of infrastructure the County Council seeks to secure through planning obligations (or CIL) from applicants/developers in order to mitigate the impacts of development (whether for District/Borough or County Council determination) and make it acceptable in sustainable development terms. A DCP review took place in 2016 and an updated DCP was agreed by Cabinet at its meeting on 20 September 2016 (Minute No. 278/16 refers). This included a commitment to review the DCP every three years, or earlier if triggered by significant policy changes. A further update to the DCP was agreed by Cabinet on 22 February 2018 (Minute No. 59/18 refers) in which the County Council committed to a wholesale review of the DCP to take account of the Government's review of developer contributions and to ensure the DCP became fully inclusive of all relevant County Council service areas that are potentially are impacted by new development.

Over the past three years, the Government has been committed to reviewing developer contributions through two consultations in 2017, followed by the publication of its 'Supporting Housing Delivery through Developer Contributions' in March 2018. The outcome of this latter consultation resulted in Government proposing various changes to the current system of developer contributions through the reform of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). A technical consultation followed on the integration of these changes into the CIL Regulations (published 21 December 2018), to ensure the draft regulations delivered the intended policy changes and did not give rise to unforeseen consequences. The County Council's responses to these consultations were reported to the Cabinet Member Meetings – Highways, Transport and Infrastructure on 20 December 2018 (Minute No.109/18 refers) and 28 February 2019 (Minute No.14/19 refers) respectively.

In summary, the main changes brought in by the revised CIL Regulations are as follows:

- The former Regulation 123 has been deleted, which has two consequences:
 - Regulation 123 controlled pooling with no more than five contributions being able to fund a project/infrastructure. With its deletion, the limit on pooling has been abolished.
 - Section 106 and CIL can now fund the same item of infrastructure.
- Numerous amendments have been included with regard to the operation of CIL and refinements to the calculations. This does not directly concern the County Council as it is not permitted to charge a CIL itself.
- Mandatory annual reporting of Planning Obligations contained within Section 106 agreements has been introduced through the production of an annual Infrastructure Funding Statement.
- Monitoring Fees - In order to support the mandatory reporting requirement and to enable efficient monitoring of agreements, Government has included a section in Regulation 122 which allows local authorities to charge monitoring fees.

The amendments to the CIL Regulations 2010 were approved by the House of Commons in accordance with Section 222(2)(b) of the Planning Act 2008 and came into force on 1 September 2019. Following initial implementation of the Regulations, this has provided the trigger for the wholesale review of the County Council's DCP.

Developer Contribution Review 2020

Work has been ongoing with the relevant County Council departments to ensure the DCP review is fully inclusive of all relevant County Council service areas which are potentially impacted by new development and for which

contributions should be sought in line with the three tests now enshrined in the CIL Regulations.

These tests are that such a contribution is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind.

This DCP review has been particularly necessary to ensure that in relation to the exceptional level of planned growth that is anticipated across Derbyshire over the coming 15 years, the County Council has systematically and sensitively considered the key areas of potential impact and mitigation and that existing Council services/functions are adequately supported to fulfil their responsibilities.

The purpose of the DCP is therefore two-fold:

- To set out clearly the County Council's expectations as to how development will need to mitigate its impact with regard to the infrastructure and services delivered by the County Council. The DCP details the type and level of contributions which may be sought by the County Council when consulted on planning applications, and the methodology which underpins the calculations.
- To support the local planning authorities to incorporate contributions towards infrastructure requirements into their local plans. This is necessary in order to comply with the advice in Planning Practice Guidance, that policies for planning obligations should be set out in plans and examined in public and should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability.

A full draft revised DCP has therefore been developed, which is attached at Appendix A; has due regard to climate change considerations and the Council's Environment and Climate Change Framework that was approved by Cabinet in November 2019 (Minute No. 187/19 refers). This draft DCP also reflects updated procedures, consistent with the revised National Planning Policy Framework (NPPF) and CIL Regulations.

In summary, the headline changes to the DCP by the revised draft DCP include:

- **Highways and Transport:** A complete new section has been added with regard to the County Council's role and responsibilities with regard to Highways.

The Highways Development Control Team represents the County being Statutory Consultee as Local Highway Authority in the planning process, and acts as the interface with all local planning authorities relating to the securing of mitigation and infrastructure affecting the public highway. The planning process normally provides the context in which requirements from new development for physical and financial contributions towards hard engineering improvement measures, public transport services and infrastructure, new streets, pedestrian, cycle and other routes, sustainable travel initiatives, maintenance enhancement are clarified and secured.

Many highway improvements and infrastructure are secured without involving the use of Section 106 Agreements or CIL. They are negotiated and secured by planning conditions requiring the developer to undertake works as part of their development scheme. The works may subsequently be covered by legal agreements between the developers and/or land owners, and the County Council as Highway Authority. These are referred to in Appendix 1 of the revised draft DCP. They involve many new streets, highway improvements and associated commuted maintenance payments to the Council each year.

This section also includes:

- **Travel Plan Monitoring Fees and Travel Plan Bonds:** new section included on Travel Plan Monitoring Fees but with the addition of Travel Plan Bonds to secure the implementation of the Travel Plan.
- **Low Emission Vehicle (EV) Infrastructure:** new section included to recommend that local planning authorities should attach advisory notes to planning permissions to request that developers work with EV infrastructure providers to ensure charging points are incorporated as part of the design of new development.
- **Greenways/Key Cycle Network:** new section included to highlight that opportunities will be sought to influence the design of a development to ensure connectivity, with delivery by either the County Council following agreement of a Section 106 financial contribution or directly by the applicant to the standard required.
- **Public Transport:** new section included to detail contributions for the cost of new or extended bus services and/or related infrastructure. Pedestrian linkages from residential development to schools, potential contributions for school transport and contributions to support sustainable travel measures from developments within 1km of railway stations are also included.
- **Education:** updated to include an enhanced, detailed methodology and justification of the requirements for education contributions, including a change to the pupil yield figures, inclusion of early years' provision and

special educational needs, transport costs in advance of the delivery of a new school, and new school growth funding.

- **Public Health and Adult Social Care:** a new section is included to ensure that in combination with other delivery bodies, health and social care are fully embedded into the planning process, through the quality of design and layout of development. Where appropriate, contributions will be sought to enable the delivery of elements of the Derbyshire Health and Wellbeing Strategy.
- **Waste Services:** a new section is included seeking contributions to improve existing or create new capacity, based on where it is expected that new housing development will generate a need for additional provision.
- **Libraries:** a new section is included seeking contributions from developments which place demand on library services in order to maintain the County Council's statutory responsibility and vision for libraries.
- **Digital Infrastructure:** no changes are proposed from the existing document. Local planning authorities are requested to attach advisory notes to planning permissions to request that developers work with broadband providers to ensure Next Generation Access broadband services are incorporated as part of the design of new development.
- **Employment and Skills:** a new section is included. The County Council will work collaboratively with the district/borough councils to identify where activities or contributions are required to support the development of employment and skills interventions where they are supported by policies in the district/boroughs' respective local plans.
- **Other:** updated section. In some cases, development may result in a need for other mitigating actions and these will be assessed on a case by case basis. Such requirements may relate, but not be limited to, flood and water management, biodiversity, archaeology and the historic environment, landscape character and visual amenity, canals and waterways, and fire and rescue. Contact information is provided for these services.
- **Monitoring Fees:** a new section is included. To ensure that the cost of managing, monitoring and recovering developer contributions does not become a burden on the council tax payer and, in line with CIL Regulation 122 2A, the County Council now requires a contribution for monitoring which will go towards the monitoring of development progress against a variety of triggers, liaising with LPAs, calculation and collection of staged payments, application of indexation, raising invoices, maintaining a

monitoring database and production of the mandatory annual Infrastructure Funding Statement

As approved by Cabinet on 22 February 2018 (Minute No. 59/18 refers), annual indexation will continue to be applied to financial contributions in the DCP to ensure the requested sums keep pace with infrastructure costs inflation. Please note, the latest Building Cost Information Service (BCIS) indexation required for education contributions has been applied for 2020-2021.

A draft DCP was subject to consultation from 17 December 2019 to 24 January 2020, to ensure that stakeholders, including district and borough councils, had an opportunity to provide feedback on the approach of the County Council and to inform the Council where improvements could be made to improve clarity and transparency of the document and proposed process. The feedback received as a result of this consultation has been used to amend the document where appropriate, with the comments and County Council's responses recorded in the table at Appendix B.

The new Planning White Paper, 'Planning for the Future' was published for consultation on 6 August 2020. Within the White Paper is proposed a radical reform of the developer contributions process, including the abolition of Section 106 and CIL and introduction of a new Infrastructure Levy. This is proposed as a fixed proportion of the development value above a threshold with a mandatory, nationally-set rate/rates and collected at the local level. The draft DCP does not take account of the proposals in the White Paper as they are still subject to national consultation and subsequent Parliamentary processes. The DCP will therefore require further updates whenever such changes to the developer contributions system may be enacted.

(3) Financial Considerations As part of the delivery of housing and economic growth, it is important to ensure that appropriate infrastructure is provided to mitigate the impacts that such development brings. The DCP guides the County Council's approach to seeking contributions to mitigate these impacts on communities through the provision of infrastructure and services.

The new draft DCP now presented for approval provides an updated position on the service and infrastructure areas for which contributions may be potentially required from new developments in the County. The recognition of a wider range of areas as potentially requiring funding should have a positive impact on the financial planning for, and delivery of, the services and infrastructure needed to support sustainable development. Issues of economic viability may well continue to impact on the ability of some development proposals mitigate their impacts sufficiently. However, these issues increasingly are expected to be explored and effectively covered as

local plans move forward and are reviewed, rather than coming up for consideration only when the planning application submissions are formulated or determined. .

In general, monetary infrastructure contributions only become due for payment after construction of the development has begun.

(4) **Legal Considerations** The Town and Country Planning Act 1990 (as amended) makes provision for planning obligations to be entered into by landowners under Section 106, which may include commitments to provide or contribute financially to public infrastructure provision. This is the main mechanism, when planning conditions cannot be used, for making acceptable an effect associated with development which is otherwise unacceptable in planning terms. Section 106 obligation requirements can only be taken into account when deciding a planning application, where the three 'tests', in the NPPF and CIL Regulations 2010 (as amended), which are set out in Section 2 (above), will be met.

The DCP cannot now anticipate any eventual changes in legislation which might relate to the proposals in the Planning White Paper of August 2020.

(5) **Social Value Considerations** The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development, with the three overarching objectives for the planning system being: economic, social and environmental.

The social objective is to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a high quality built environment, with accessible services and open spaces that reflect current and future needs and needs and supporting communities health, social and cultural well-being.

The economic objective is to help build a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth, innovation and improved productivity, and by identifying and co-ordinating the provision of infrastructure.

The environmental objective is to contribute to protecting and enhancing our natural , built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

In applying the DCP, the services and infrastructure provided through the County Council are supporting the delivery of sustainable communities via the planning system.

Other considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

(6) **Key Decision** No.

(7) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(8) **Background Papers** Held on file within the Economy, Transport and Environment Department.

(9) **OFFICER'S RECOMMENDATION** That Cabinet approves the draft Developer Contributions Protocol for publication on the County Council's website and used in the assessment of the impact of development on the County Council's services and infrastructure.

Tim Gregory
Director – Economy, Transport and Environment

Derbyshire County Council

Developer Contributions Protocol

Published: xxxxx



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1. Introduction

- 1.1 In its Council Plan 2017-2021, Derbyshire County Council aspires for Derbyshire to have:
 - Resilient and thriving communities where local people work together, in new and dynamic ways with public services
 - Happy, healthy people and families with solid networks of support, who feel safe and in control of their personal circumstances and aspirations
 - A strong diverse and adaptable economy which makes the most of Derbyshire's rich assets and provides meaningful employment opportunities for local people
 - First class public services which enhance the educational, cultural, physical and social environment of Derbyshire and make it a great place to live, visit and work.
- 1.2 In order to achieve these ambitions, Derbyshire County Council needs to ensure that good quality sustainable development supported by the necessary services and infrastructure is delivered to meet the needs of current and future communities.
- 1.3 It is important that development can be delivered without prejudicing important infrastructure and services. Derbyshire County Council is an important statutory consultee in the planning process. By working closely with the District and Borough Councils and the Peak District National Park Authority, where appropriate, the County Council will request that developers fund the cost of any additional infrastructure and services required to support their development.
- 1.4 The purpose of this Protocol is two fold:
 - to set out clearly the County Council's expectations as to how development will need to mitigate its impact with regard to the infrastructure and services delivered by the County Council. This Protocol details the type and level of contributions which may be sought by the County Council when consulted on planning applications, and the methodology which underpins the calculations.
 - to support the Local Planning Authorities to incorporate contributions towards infrastructure requirements into their Local Plans in order to comply with Planning Practice Guidance which requires that planning obligations should be set out in plans and examined in public.
- 1.5 It should be noted however that each development is different and therefore not all the contributions identified within this document would apply to every development.
- 1.6 This Protocol does not specify every form of contribution that may be required. Other infrastructure requirements such as, but not limited to affordable housing,

play and open space, National Forest, River Mease catchment, community facilities and health may be sought by the District and Borough Councils and other public organisations.

1.7 The areas of infrastructure provision to be covered in this Protocol are the following:

- **Highways and Transportation, including Highways, Sustainable Transport, Greenways and Travel Plans** - Most new developments invariably have some impact on the highway and transport network. As such, to mitigate the impact and to facilitate a move towards more sustainable modes of transport, improvements to the physical infrastructure or existing public transport and sustainable travel services may be required which, depending on individual circumstances may be provided by way of a developer contribution.
- **Education including Early Years, Special Education Needs, Primary, Secondary and Post 16** - In line with the 2019 guidelines published by the Department for Education 'Securing Developer Contributions for Education' developer contributions are sought to ensure the required school places from new housing developments are provided.
- **Public Health and Adult Social Care** - The link between planning and health has been long established. The built and natural environments are major determinants of health and wellbeing. On many issues, there will be overlapping objectives with regard to transport, open space, housing, design and sustainability. Contributions may be sought to provide better outcomes to facilitate health and wellbeing.
- **Waste Services** – Government legislation is focused on the prevention and minimisation of waste, maximising re-use and recycling and diverting waste from landfill. Derbyshire County Council as a Waste Disposal Authority has a statutory duty under the Environmental Protection Act 1990 to offer facilities to local residents where they may deposit their household waste. New developments should be provided with a convenient means of waste management, including access to a Household Waste Recycling Centre (HWRC) offering suitable facilities for re-use, recycling and disposal.
- **Libraries** - Local authorities have a statutory duty under the Public Libraries and Museums Act 1964. A review of County Council Library services has agreed that its library offer would comprise of 25 County Council funded libraries, 20 community run libraries, and a community managed mobile library service. New developments which place demand on library services may require developer contributions to mitigate the impacts of a development on the library service.

- **Broadband** – Contributions are not required, however all developers should look to provide for Next Generation Access broadband infrastructure services as an integral part of the development scheme at the outset.
- **Employment and Skills** – In seeking to delivery economic prosperity across the county, and ensuring training provision meets the demands of a modern economy, the County Council will work collaboratively with the District/Borough Councils to identify on a case by case basis where actions and/or contributions may be sought to support the delivery of employment and skills in line with local plan policy.
- **Other site-specific requirements** - In some cases development may result in a need for other mitigating actions and these will be assessed on a case by case basis. Such requirements may relate, but not be limited to Flood and Water Management, Biodiversity, Archaeology and the Historic Environment, Landscape Character improvements, and Canals and Waterways.

Further information on these requirements can be found in Appendices 1 to 8.

- 1.8 This Developer Contributions Protocol has been subject to consultation from 17th December 2019 to 24th January 2020 and agreed at Cabinet on xxxxx.

2. Background

- 2.1 The National Planning Policy Framework (2019) (NPPF) states that ‘the purpose of the planning system is to contribute to the achievement of sustainable development’¹. The County Council has an important role to play in helping to achieve sustainable development, both as a planning authority in its own right, but also as a provider of the vital physical and social infrastructure to support development.
- 2.2 There are 8 District and Borough Councils across Derbyshire and one National Park Authority. These authorities develop the local plan for their area which sets out local planning policies and identifies how land is used, determining what will be built where and any necessary infrastructure required. Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) and the NPPF. Adopted local plans provide the framework for development across England.
- 2.3 Derbyshire County Council is responsible for the delivery and operation of much of the large scale infrastructure required to support development such as highways, schools, libraries and waste. Derbyshire County Council’s Planning Services works closely with Local Planning Authorities to identify the impact of proposed development and ensure the infrastructure requirements needed to support development are identified through the Local Plan process. Where appropriate Derbyshire County Council will seek developer contributions to mitigate the impact of new development has on its capacity to deliver high quality, sustainable services.
- 2.4 The Developer Contributions Protocol supports many of the elements contained within the County Council’s Environment and Climate Change Framework, approved by Cabinet on 21st November 2019. The Framework will support a co-ordinated approach to reducing carbon emissions, in line with carbon budgets, across all local authorities in Derbyshire and will provide a focal point for wider partnership working. The Framework will also ensure that all pledges set out in the Climate and Carbon Reduction Manifesto are delivered in a co-ordinated way across a range of strategies and plans at a county and district and borough level. A number of strategies and action plans have been or are being developed to underpin the County Council’s approach to addressing climate change.
- 2.5 Figures in the Housing Delivery Test, which measures the extent to which housing completions have met established need, showed that Derbyshire (not including Derby City) in 2018/19 delivered 3,634 new dwellings. This demonstrates the level of additional growth and the demand placed on infrastructure and services.

¹ Paragraph 7 National Planning Policy Framework 2019

2.6 The District and Borough Councils and National Park Authority determine planning applications and following consultation with the County Council ultimately decide what developer contributions can be secured through Section 106 agreements in respect of their own services such as public open space and affordable housing and external infrastructure providers.

3. Developer Contributions – the legal context

- 3.1 Planning obligations are also commonly referred to as ‘section 106’, ‘S106’, as well as ‘developer contributions’. A planning obligation is a legal obligation under Section 106 of the Town and Country Planning Act 1990 and is entered into to mitigate the impacts of a development proposal. Section 106 agreements are most commonly between a local authority and a developer and are attached to a planning permission.
- 3.2 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the 3 statutory tests as set out in the Community Infrastructure Levy (CIL) Regulations 2010 (as amended)² and in paragraph 56 of the NPPF; they are
- necessary to make the development acceptable in planning terms,
 - directly related to the development, and
 - fairly and reasonably related in scale and kind.
- 3.3 Another type of planning obligation is the Community Infrastructure Levy (CIL) which is a planning charge introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. Local authorities can choose to introduce a CIL which is calculated on a £ per square metre (sq.m) basis on new development. CIL is intended to be used to help fund infrastructure to support the development of an area rather than making an individual planning application acceptable in planning terms, which is the purpose of Section 106 Agreements.
- 3.4 In the Government’s recent reform of the Community Infrastructure Regulations, Regulation 123 has been deleted and therefore the restriction imposed since April 2010 on pooling has been lifted. This will allow local authorities to seek Section 106 planning obligations to fund infrastructure to help support and bring forward new housing regardless of how many planning obligations have already contributed towards an item of infrastructure.
- 3.5 The removal of Regulation 123 will also allow local authorities to use both CIL and Section 106 planning obligations to fund the same item of infrastructure to provide authorities greater flexibility to fund infrastructure. The County Council will work proactively with the charging authority to ensure the infrastructure needs are identified and how the infrastructure will be funded.

² Regulation 122 Community Infrastructure Levy Regulations 2010 (as amended)

4. Derbyshire County Council's approach to Planning Obligations

Pre-application

4.1 Pre-application discussions help to speed-up decision making and provide clarity. Paragraphs 39 and 40 of the NPPF encourage developers to engage in discussions and meetings with Local Planning Authorities prior to submitting planning applications.

4.2 Derbyshire County Council, through their Highways Development Control Team, provides a pre-application advice service on Highways and Transportation matters. Please visit the ['How to Make a pre-planning enquiry'](#) webpage for information about what will need to be provided. Requests for advice should be sent via post to:

The Director of Economy, Transport and Environment
Derbyshire County Council
County Hall
Matlock
DE4 3AG

and marked for the attention of the Highways Development Control Team, or emailed to: ETE.DevelopmentControl@derbyshire.gov.uk

4.3 All other pre-application enquiries in relation to Derbyshire County Council planning obligations should, in the first instance, be directed to the Planning Policy and Monitoring Team who will liaise with relevant service colleagues. E-mail enquiries should be directed to planningpolicy@derbyshire.gov.uk.

4.4 The County Council seeks to respond to pre-application enquiries and consultations on planning applications from Local Planning Authorities within 21 days of receipt of the appropriate level of information. The Planning Policy and Monitoring Team, coordinates comments from County Council departments to assess the proposed development and prepare a response. Comments will be copied to the relevant Local Planning Authority.

4.5 At the pre-application stage, unless the Local Planning Authority requests that the enquiry is treated in confidence, any consultations will also be sent to the relevant County Council elected ward member/s for their attention only and in confidence.

4.6 The information provided to developers and district and borough councils by the County Council, once an assessment of a development has been conducted, is for illustrative purposes only and is time-limited.

Planning Applications

- 4.7 At the earliest opportunity, Local Planning Authorities should notify the County Council of any major residential development (where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more). The County Council should be provided with sufficient information to identify the location, and the type and nature of the proposed development (i.e. total gross number of dwellings, dwelling mix and any age related policy restrictions). All correspondence should be sent electronically via email to planningpolicy@derbyshire.gov.uk.
- 4.8 As a Statutory Consultee, the County Council Highways Development Control Team must be consulted by Local Planning Authorities separately on all planning applications which have a potential impact on the County's highway network and transportation infrastructure. The Highway Authority is obligated to provide a substantive response to all consultations within 21 days. The Planning Policy and Monitoring Team (Economy, Transport and Environment Department) and the County Council Highways Development Control Team liaise to ensure that responses made to Local Planning Authorities are broadly consistent. Correspondence for the County Council Highways Development Control Team should be sent to ETE.DevelopmentControl@derbyshire.gov.uk See Appendix 1 for further information.
- 4.9 The County Council will only seek planning obligations where they accord with the CIL Regulations and relevant planning policies. All consultation responses to planning obligations will be in line with this Developer Contributions Protocol.
- 4.10 The County Council's response will advise the Local Planning Authority:
- how the development would impact on strategic infrastructure and services;
 - how planning obligations will assist in mitigating the impact of unacceptable development to make it acceptable in planning terms; and
 - any opportunities to enhance existing or provide new infrastructure and services.

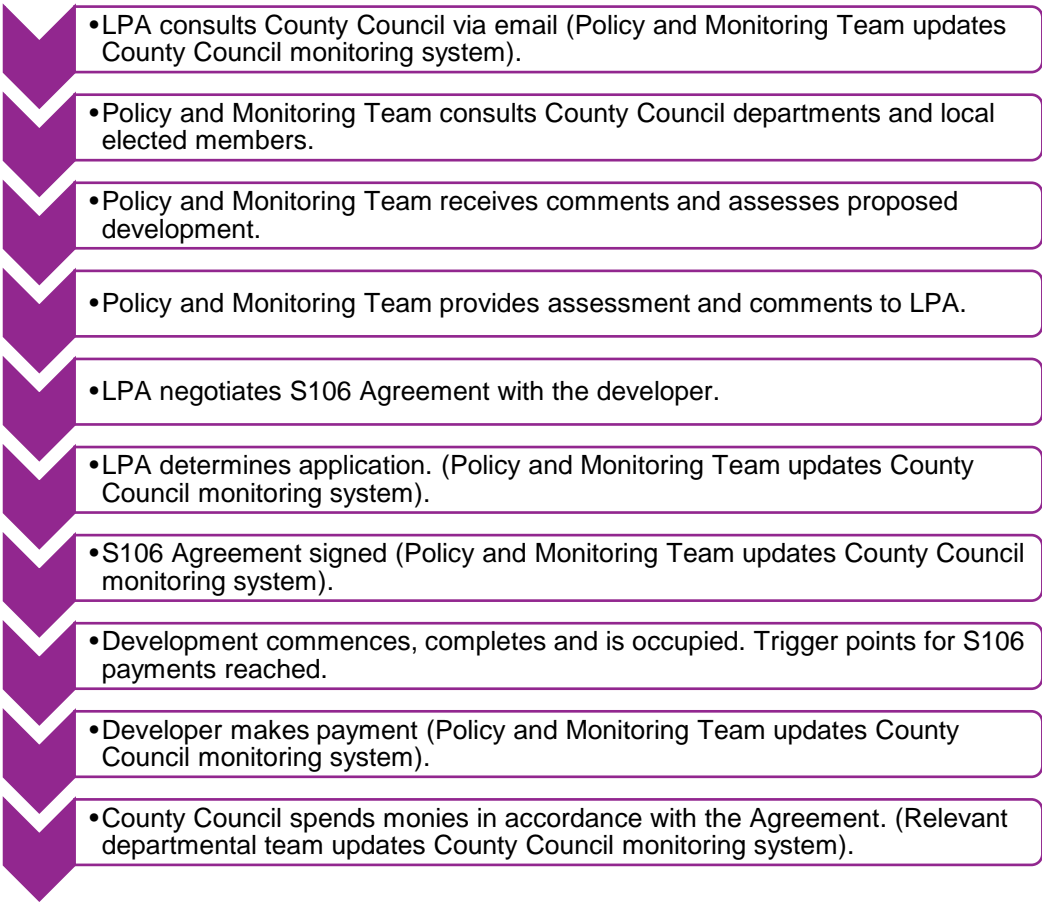
It may be possible to resolve identified impacts through the use of planning conditions.

- 4.11 Where Section 106 contributions are sought, the County Council will provide the necessary evidence to demonstrate that the need identified is due to the impact of the development concerned and that the contributions sought and the projects identified meet the requirements of the CIL Regulations. Planning obligations may seek to secure financial contributions towards improving or expanding existing infrastructure or providing new infrastructure, the direct provision of services, land and buildings, or payments towards ongoing maintenance and service delivery costs.
- 4.12 Where infrastructure and services are provided in conjunction with a neighbouring authority, the County Council will liaise with the appropriate

authority and Section 106 contributions may be secured to mitigate any negative impacts a development may place on the neighbouring authority.

4.13 It remains the responsibility of the Local Planning Authority to consider the County Council’s advice and determine the application, including any decision to seek developer contributions via Section 106 planning obligations. The Local Planning Authority has the ultimate responsibility in determining whether the infrastructure contributions sought are reasonable and accord with the requirements of the CIL Regulations, in addition to balancing the viability of the development against the infrastructure requirements. The Section 106 process is shown in Figure 1 below.

Figure 1 – Consultation process



4.14 Where the local planning authority does not accept the County Council’s request for contributions, the Local Planning Authority should notify the County Council as soon as possible via email prior to the determination of the application. The County Council reserves the right to object to the application, as the lack of developer contributions may render the development unsustainable.

Viability

- 4.15 It is noted that there is an increased use of viability assessments to justify a reduced or nil contributions. This is not just at the initial application stage, but now more often once planning permission is achieved, with developers/agents seeking to renegotiate the planning obligations which made the development acceptable in planning terms. The 2019 NPPF and its associated National Planning Guidance on viability has tried to reduce this practice with fundamental changes at both the plan making and application stages.
- 4.16 The NPPF and accompanying National Planning Guidance on viability has significantly changed the approach to both the use of, and inputs to viability assessments. The role for viability assessments is now primarily at the plan making stage to ensure that policies are realistic. Policy requirements should be set at a level that takes account of affordable housing and infrastructure needs, and allows for the planned types of sites and development to be deliverable, without the need for further viability assessment at the planning application stage. The price paid for land is no longer an input into viability assessments nor a relevant justification for failing to accord with relevant policies in the plan.
- 4.17 Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.
- 4.18 The County Council will continue to work with Local Planning Authorities at the plan making stage to ensure the required infrastructure and services are factored into the viability assessments to ensure that the allocated sites are deliverable.
- 4.19 At the planning application stage the Local Planning Authority should consult the County Council as soon as possible if they have accepted a viability assessment as part of the planning application process. The Local Planning Authority should provide the viability assessment to the County Council along with any independent review commissioned to allow an understanding of the issues. Should it be required the County Council reserves the right to appoint a suitably qualified person to undertake an independent viability review of the documentation.
- 4.20 The County Council also requests that the required contributions as set in their consultation response, or ones subsequently agreed through negotiation, and the reasons why they are necessary are included in the Planning Officer's report and considered by the authority's relevant committee or under delegated powers as appropriate.
- 4.21 The County Council may be flexible to assist developers where schemes are showing marginal viability. For example, there may be scope to collect contributions in instalments or to phase payments later in the development process.

- 4.22 In cases where a Local Planning Authority does not accept or pursue the County Council's request for contributions, the County Council would expect to be notified with the reason/s and provided with an opportunity to address the issue in a timely manner. If the County Council consider a development cannot sustain contributions requested to mitigate its impact, an objection may be lodged to the application on the grounds that the development is unsustainable.
- 4.23 Where viability is proven an issue, the County Council requests that a review mechanism is included in a Section 106 requiring periodic viability assessments throughout the life of the development. Any overage generated, should in consultation with the Local Planning Authority be prioritised, and include infrastructure as identified within the County Council's response to the planning application.

Infrastructure in Advance

- 4.24 The County Council may consider 'forward funding' infrastructure by spending money out of its budget in advance of receiving money from the planning obligation. In these circumstances the County Council would expect developers to provide financial information on the viability of their scheme to the Local Planning Authority. Where the delivery of a named Section 106 project is critical, and the County Council intervenes to deliver such project using public funding, the County Council will then apply the contribution monies once received to offset the amount spent from public funds.

Derbyshire Infrastructure Investment Plan

- 4.25 In the changing landscape of infrastructure funding, local authorities increasingly collaborate in determining priorities for planning, funding and delivering future infrastructure. Minimising the risk of a growing infrastructure deficit in Derbyshire is key to ensuring the continued prosperity and sustainability of the county. In a time of limited local government funding, the Derbyshire Infrastructure Investment Plan (DIIP) provides a new approach to infrastructure planning in the form of a filtering tool to enable the identification and delivery of those projects which provide the greatest economic, social and environmental benefits to Derbyshire. This process will ensure the development of robust cases to support the projects and enable funding bids to be submitted as and when appropriate funding schemes are announced.
- 4.26 The consideration of the priority projects is an iterative process and will be undertaken on an annual basis. Identified projects will feed into a project pipeline process. This annual review also enables the priority list to be reactive to policy and budgetary changes. Match funding may be provided through developer contributions where the infrastructure required is necessary to mitigate the impact of development but contributions sought have not been sufficient to meet the full cost of the development, or where the mitigation forms part of a larger project.

5. Section 106 Legal Agreement Checklist

- 5.1 Where Section 106 planning obligations are to be undertaken, the following checklist should be used when drawing up legal agreements:

Drafting

- 5.2 It is important that the negotiation of planning obligations does not unnecessarily delay the planning process. It is therefore essential that all parties proceed as quickly as possible towards the resolution of obligations in parallel to planning applications. Section 106 Agreements should be prepared in draft form once an assessment of the impacts of the proposed development has been completed, and in advance of any report being submitted to the relevant Local Authority planning committee. Drafting the legal agreement ahead of issuing a delegated decision notice or taking a report to planning committee meetings (and public inquiries) enables all parties to review the provisions and helps to avoid delays in the issuing of a decision once an application has been determined. Section 106 Agreements, however, **should not be** dated before an application has been determined by the Local Planning Committee or the Planning Inspectorate on appeal. See also the penultimate bullet point below about repayment and the requirement for Section 106 Agreements to include a clause that says where funds are committed they should be treated as spent. Where contributions are sought through the provision of a Section 106 agreement, Derbyshire County Council is committed to progressing these matters in a timely manner, at an appropriate pace and without undue delay on the part of Derbyshire County Council.
- 5.3 Where contributions are sought through the provision of a Section 106 agreement, Derbyshire County Council is committed to progressing these matters in a timely manner, at an appropriate pace and without undue delay on the part of Derbyshire County Council.

Signatories

- 5.4 The County Council should be a signatory to Section 106 legal agreements which relate to services which are the responsibility of the County Council. Being a party to the agreement enables the County Council to know if and when contributions are due or should have been paid. As part of the process for preparing the legal agreement, District and Borough Councils should consult the County Council on the content of the draft document. Copies of signed legal agreements should be provided to the County Council's Director of Legal Services, Commissioning, Communities and Policy Department, so that monitoring records can be updated.

Indexation

- 5.5 To ensure the real value of a Section 106 financial contribution is maintained up to the date of payment, the 'principal' sum stated in the Section 106 agreement will need to be index linked. The principal sum will be index inked from this base

date until the date of payment. The appropriate index for each type of contribution is given below. The principal amount in the agreement will remain the same but the additional inflation will be affected by the index fluctuation and contribution amounts paid may vary depending of the value of the index at point of invoicing.

- 5.6 The County Council prefers to index financial contributions to the All in Tender Price Index of Building Cost Information Services (BCIS) published by the Royal Institute of Chartered Surveyors (RICS). This index tracks construction material costs much more accurately than the Retail Price Index (RPI). Where a District or Borough does not subscribe to BCIS, the County Council will provide the information about the level of the uplift of the contribution so the amount payable by the developer can be claimed.

Triggers

- 5.7 Standard trigger points include 'prior to commencement', 'upon occupation', or 'upon completion'. Developers may wish to delay paying financial contributions until income from the sale of a proportion of the dwellings has been received in order to help with cash flow. However, this can mean that the impact on infrastructure and services of households occupying new dwellings is felt before funding is received to mitigate that impact. Payments therefore should be phased for early in the occupation of developments and in fewer larger tranches rather than several smaller ones. However, the County Council is willing to enter into negotiations regarding triggers where viability issues can be demonstrated.

Viability

- 5.8 Please see section 4 above.

Repayment

- 5.9 The County Council requests contributions once the trigger point(s) have been reached. The County Council endeavours to spend contributions as soon as possible and in accordance with the Section 106 Agreement. Cabinet approval is required to authorise the expenditure of funds. This, plus the time it takes to tender and contract the works, can mean that the time limit for repayment is reached. Therefore, Section 106 Agreements should include a clause as follows:

'For the avoidance of doubt, for the purposes of paragraph X of this Schedule, the Contribution shall be deemed to have been committed if the County Council has entered into any contract or given any undertaking (whether enforceable in law or otherwise) the performance or fulfilment of which will require the County Council to expend funds in the future'

If funds are not committed within the time limit specified by the legal agreement the contribution would be returned to the developer. The County Council may alternatively require the funds to be deposited into an Escrow account, which it will draw down once Cabinet has approved the project. All Section 106 agreements should include a clause for the change of project to be agreed via exchange of letters.

Legal fees

5.10 Considering a draft, obtaining instructions, negotiating amendments and executing the agreement requires input from a County Council Legal Services. The County Council will seek to recover legal fees from the developer by using a clause in the Section 106 agreement. At the time of writing the legal fees for a Section 106 agreement or unilateral undertaking is £1,000 for up to ten hours work and thereafter at an hourly rate which is determined dependent upon the member of Legal Services allocated to the case and the complexity.

6. Payment of contributions

- 6.1 Where agreed with the District/Borough Councils, contributions payable in relation to the County Council's clauses will be paid directly to the County Council. Invoices will be issued on request. In other cases, and where the County Council is not a signatory to the agreement, the contributions will be claimed by the District/Borough Council and then forwarded to the County Council.
- 6.2 Where Section 106 agreements contain an interest clause on late payments, and obligations are paid after the trigger has been reached, the County Council would expect that the District/Borough Councils will utilise this clause to recover interest on late payments. Any interest on late payments should be passed to the County Council.
- 6.3 The contribution is received by the County Council's Corporate Finance Team (Capital) and attributed to the relevant service. The County Council's records are updated. The County Council monitors expenditure to ensure that contributions from planning obligations are spent in accordance with the Section 106 Agreement. Where specified in the legal agreement, any contributions that are not spent are returned to the developer.

Transfer of monies

- 6.4 In certain cases, in particular relating to education and libraries, there may be instances where Section 106 monies will need to be transferred to other organisations, such as Academies or community groups. Where this occurs, the County Council will enter into a legal agreement with the organisation, which sets out the amount, project details and clawback arrangements.

7. Monitoring

- 7.1 The monitoring of planning obligations is a complex and time consuming process due to the variability of Section 106 agreements, and involves the monitoring of development progress against a variety of triggers, liaising with Local Planning Authorities, calculation and collection of staged payments, application of indexation, raising invoices and maintaining a monitoring database. The County Council incurs significant costs, especially in relation to agreements relating to major residential developments with multiple post development triggers.
- 7.2 In addition to the above, the introduction of mandatory reporting on planning obligations through the production of an annual infrastructure funding statement has been introduced through the CIL Regulations.
- 7.3 In order to support the above, paragraph 2A has been inserted into Regulation 122 of the CIL Regulations 2010 (as amended) which asserts that a monitoring contribution does not have to constitute a reason for granting a planning permission. It also sets the parameters for the charging of monitoring fees in that:
- any monitoring fee should be fairly and reasonably relate in scale and kind to the development and
 - should not exceed the authority's estimate of its cost of monitoring the development over the lifetime of that development.
- 7.4 The planning obligations management fee is a standard charge based on estimated annual monitoring time, relating to the administration, monitoring, management and reporting of each planning obligation. Full payment of the monitoring fee will be due on the commencement of the development in the case of a full application, or on commencement of each reserved matters stage in the case of phased developments. For larger developments the fee may be phased across completion of the planning obligation and implementation of development.
- 7.5 It should be noted that any administrative charge will remain *separate* from the Council's legal costs which will remain independently recovered by the Legal Team and from any Travel Plan monitoring fees.

Derbyshire County Council Monitoring Fees

- 7.6 To ensure that the cost of recovering developer contributions does not become a burden on the council tax payer, and in line with CIL Regulation 122 2A the County Council requires a contribution for monitoring.
- 7.7 The County Council's monitoring cost is based on the cumulative number of triggers to be monitored for County Council obligations x £70 (based on 2 hours officer time Grade 12) as this directly relates to the costs involved. Please see worked example below:

EXAMPLE

Highways Contribution: £400,000

3 triggers:

Prior to occupation

Prior to 50% occupation

Prior to 75% occupation

Education contribution: £1.2 million

4 triggers:

Prior to occupation

Prior to 25% occupation

Prior to 50% occupation

Prior to 75% occupation

7 triggers x £70 = £490

The charge will be subject to change annually on 1st April each year and will be indexed against the RPI Index.

Document review

7.7 The Developer Contributions Protocol will be regularly updated to provide current cost information and changes to supporting policies. For example, education cost multipliers will be issued annually and this influences the cost of providing additional school places. The annual review will also take into account the Building Cost Information Service (BCIS) index and any other inflationary impacts particularly associated with construction costs or service provision where there is an implication for developer contributions. Factual updating which does not materially change the document will be made as and when required.

Highways and Transport

All but the most modest of developments will predictably have some impact on the highway or transport network around them as a consequence of the construction itself or its subsequent use. New developments usually generate additional travel journeys.

To minimise impacts on highway safety, help mitigate this increase in demand, and to provide for a sustainable development the response to a planning consultation may include requirements for general highway infrastructure improvements, and may extend to Travel Plan measures, off-site public transport, and cycling and walking interventions.

It is however important to note that any mitigation has to be directly related and proportionately related to the impact and resulting harm of the development itself, rather than pre-existing aspirations for improvement, and be necessary to offset the harm caused. Furthermore, the County Council is not empowered to require mitigation works or contributions to secure 'nil detriment' to the network, only to ensure that any harm or congestion is not significant or severe.

As the Highway Authority, Derbyshire County Council must be consulted as a statutory consultee on any matters, affecting the public highway, this includes Public Rights of Way and the Key Cycle Network (KCN) in addition to more traditional carriageways and footways. New development also provides an opportunity to provide new strategic green infrastructure through the inclusion of Public Rights of Way and KCN within the design of a proposed development scheme provided that the principles described in the above paragraph are adhered to.

The County Council's Highways Development Control Team will advise **separately** on the services and infrastructure items included within Appendix 1 where they provide opportunities for development to contribute to the county's green infrastructure. For further information, developers and Local Planning Authorities should contact the links as provided in the relevant sections below:

1. Highways

- 1.1 Highways and Transport infrastructure requirements will be funded by a range of different mechanisms which will vary depending on site specific circumstances. The vast majority of highways improvements and modifications are secured by planning conditions. These are recommendations made to the Local Planning Authority, requiring highway and transport works to be carried out as part of the development process, usually in advance of development or prior to part of the development being taken into use.

Section 106

- 1.2 Where appropriate developer contributions through a Section 106 agreement may be sought to allow the Highway Authority to use developer funding to carry out improvements to the highway network to accommodate the development. This mechanism can also allow the Highway Authority to seek contributions towards Travel Planning, Public Transport services, sustainable travel and pedestrian and cycle infrastructure as set out in Sections 2 to 5 below, provided that the NPPF planning tests are met.

Section 278

- 1.3 As mentioned in Section 1.1 above, most highway and transport infrastructure improvement is secured by planning conditions. These require the developer to commission or carry out specified highway works. Where highway objections to proposals can be overcome by improvements to the existing highway, a Section 278 agreement of the Highways Act 1980 enables the developer to enter into an Agreement with the Highway Authority to pay for, or undertake such works. These works may include minor highway realignments, provision of footways, roundabouts, traffic signals, right-turning lanes, passing bays and cycle lanes, together with signage, lighting, drainage and other works.
- 1.4 Prior to the commencement of construction, developers are requested to submit full construction drawings for approval and enter into a Section 278 Agreement with a Bond to cover the full road construction. Developers are advised that without such an agreement in place they may not commence any works within the public highway. The ongoing design and construction works are inspected by the County Council's officers and fees are recovered from the developer to offset this activity.

Section 38

- 1.5 Where planning applications for residential development involve the creation of new streets, these should be designed to meet the recommendations contained in the current edition of the Delivering Street and Places Guide produced collaboratively by 6Cs Local Highway Authorities and key stakeholders) and appropriate reference to Manual for Street and Manual for Streets 2. The Highways Development Control service seeks to ensure that designs and planning conditions secure the provision of suitable streets by developers. Where new streets meet the Highway Authority's criteria for adoption as publically maintainable highway in terms of layout and construction), the County Council can enter into a voluntary agreement under Section 38 of the Highways Act 1980 with developers to accept the completed streets as highway assets maintainable by the County Council.
- 1.6 Prior to the commencement of construction, developers are requested to submit full construction drawings for approval and enter into a Section 38 Agreement with a bond to cover the full road construction costs. The ongoing design and construction works are inspected by the County Council's officers and fees are

recovered from the developer to offset this activity. Without such an agreement in place developers can be required to deposit monies with the County Council under the Advance Payments Code to cover the cost of making up the street at some point in the future.

- 1.7 Developers are advised that without such an agreement in place they should not commence any works and any construction undertaken is carried out at their own risk and may prejudice the future adoption of the estate roads concerned.

Commuted sums

- 1.8 The Highways Authority is entitled to recover the cost of maintaining certain items of new public highway infrastructure which it does not recover from central government funding streams. This can include items such as traffic signals, structures (bridges, walls culverts, embankments and the like), specialist drainage (soakaways, hydrobrakes, sustainable urban drainage systems, flood attenuation systems and the like), landscaping, specialist lighting and street furniture and works not normally of standard construction, layout or provision. Where Section 38 and 278 Agreements include these types of infrastructure, a commuted maintenance sum may be charged to the developer before the Highway Authority will accept the works as a publicly maintainable asset.

Transport Assessment

- 1.9 In addition to the assessment of safe and satisfactory access and design by the highway Development Control team, developments of a sufficient size also require assessment of the local highway and transport network in terms of capacity and sustainable operation. This is usually carried out by means of a Transport Assessment or Statement. The contents of these documents help inform the need for and nature of off-site Highway and Transportation mitigation works of all kinds. Transport Assessments often include a Travel Plan (see Section 2 below) which identifies how the developer intends to reduce reliance upon the private car use and introduce sustainable travel initiatives (see Section 3 below) to limit trip generation. The Transport Assessment can also include the developer's proposals to improve pedestrian and cycle connectivity (see Section 4 below) and manage private car use by the introduction or enhancement of public transport services (see Section 5 below).

- 1.10 For further information contact ETE.DevelopmentControl@derbyshire.gov.uk.

2. Travel Plan Monitoring Fees and Travel Plan Bonds

- 2.1 Travel Plans are long-term management strategies for integrating proposals for sustainable travel into the planning process. Paragraph 111 of the NPPF³ states

³ National Planning Policy Framework 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf

that ‘All developments that will generate significant amounts of movement should be required to provide a travel plan...’

2.2 Where development meets the criteria for the submission of a Travel Plan, a Travel Plan must be submitted as part of the planning application, and accompanied by a transport assessment where appropriate. However, merely requiring a Travel Plan to be submitted as part of the planning process without securing its implementation and objectives negate its impact and providing little or no tangible benefits. The Travel Plan must therefore be included in any signed Section 106 agreement for the development.

Travel Plan monitoring fee

2.3 A financial contribution will be required from the developer towards staff costs incurred by the County Council as part of the associated costs of the travel plan monitoring. The contribution will relate to elements including:

- reviewing the implementation and management of the Travel Plan,
- providing advice on its monitoring and future review,
- travelling to and attending meetings with the development’s travel plan officer, and
- reviewing marketing material and reviewing survey results.

2.4 This contribution is applicable in all cases. The fee also covers the costs incurred by the County Council for the use of its travel plan monitoring software. Other monitoring toolkits are available. The monitoring fee should be included as part of any Section 106 agreement.

2.5 The fees payable for Travel Plan monitoring fees are available on the Derbyshire County Council website, and are summarised below:

Assessment and review of travel plan monitoring for single occupier commercial, single phase of development, up to 199 dwellings	Charge Band A - Up to £1,015.00 per annum
Assessment and review of travel plan monitoring for larger multi-occupancy commercial, multi-phase development, mixed-use, over 200 dwellings	Charge Band B - Up to £3,100.00 per annum

NB. The above figures are subject to indexation.

Travel Plan bond

2.6 The Travel Plan monitoring contribution should be accompanied by a Travel Plan bond payable by the developer to Derbyshire County Council.

2.7 The bond is required to enable travel plan measures to be implemented by the County Council should the identified targets not be achieved by an agreed date, and to provide an incentive to the developer to ensure that the Travel Plan objectives are met. The contribution is secured via a Section 106 agreement, and is payable should the target reduction in number of trips, or single occupant journeys, not be achieved. The bond is payable to the County Council on commencement of works, and is calculated by taking into account three elements, which are:

- The appropriate annual bus ticket for the area in which the development sits;
- The target for reducing the number of trips or single occupant vehicle journeys, and;
- The number of years covered by the Travel Plan (typically five years).

EXAMPLE:

A commercial development in 'Largeville' expects to employ 120 staff, and has agreed a 10% reduction in staff single occupancy car commuting journeys to the site (i.e. reduction in 12 staff journeys). The Travel Plan monitoring period is five years. The appropriate annual bus ticket for Langley Mill is the Trent Barton Land Saver at £1,080 pa.

£ contribution = (£ annual bus ticket x target) x 5

The Travel Plan Bond contribution required is (£1,080 x 12) x 5 = £64,800.

Where targets are partly met, then an equivalent proportion of the contribution is refundable.

If the Travel plan achieves a 5%, i.e. 6 journeys reduction in staff journeys per annum over 5 years, the Bond is refundable as follows:

Original bond deposited = £64,800

Target achieved = (£1,080 x 6) x 5 = £32,400

Bond to be refunded = £64,800 - £32,400 = £32,400.

Bond fee

2.8 A further fee is added to cover the County Council's costs incurred in identifying, developing and implementing any potential measures should the Travel Plan not meet its agreed targets. This fee will be the greater of 5% of the contribution or £1,000.

In the above case,

5% of £64,800 = £3,240.

5% of £32,400 = £1,620.

3. Low Emission Vehicle Infrastructure

- 3.1 Petrol and diesel vehicles have dominated the market for over a century. Transport is the largest sector for UK greenhouse gas emissions (27%), of which road transport accounts for over 90%. Road transport is also one of the biggest contributors to poor air quality in some of the UK's towns and cities.
- 3.2 In response in 2018 the Government launched '[The Road to Zero Strategy](#)' which builds on existing commitments in the Industrial Strategy, the Automotive Sector Deal, the UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations ('the NO2 Plan') and the Clean Growth Strategy to build an environment and an economy fit for the future. The Road to Zero Strategy identifies new measures towards cleaner road transport and is aimed at putting the UK at the forefront of the design and manufacturing of zero emission vehicles, and for all new cars and vans to be effectively zero emission by 2040.
- 3.3 Amongst numerous objectives, the Strategy recognises that current and prospective electric vehicle (EV) drivers need to be able to easily locate and access EV charging infrastructure that is affordable, efficient and reliable. Policy 28 states:
- 'Ensuring the houses we build in the coming years are electric vehicle ready. It is our intention that all new homes, where appropriate, should have a chargepoint available. We plan to consult as soon as possible on introducing a requirement for chargepoint infrastructure for new dwellings in England where appropriate'.*
- 3.4 Reducing emissions from transport in Derbyshire is a key part of the overall approach to tackling climate change and this is a key component of the Derbyshire Environment and Climate Change Framework. Encouraging the take up and use of low emissions vehicles in Derbyshire is a fundamental part of the overall approach to reducing emissions from transport. To support this approach the County Council has developed new Low Emissions Vehicle Infrastructure Strategy for Derbyshire. The expectation is that most low emission vehicle users will choose to charge at home, however the development of a public charging network will provide confidence to use low emission vehicles in Derbyshire.
- 3.5 As such Derbyshire County Council recommend that developers should look to provide EV infrastructure as an integral part of the development scheme at the outset. Local Planning Authorities should attach advisory notes to planning permissions to request that developers work with EV infrastructure providers to ensure charge points are incorporated as part of the design of new development in line with the following recommendations:

- All new dwellings with off road parking (i.e. a driveway) should have an appropriate charge point installed.
- Where dwellings have communal private parking, developers should provide an appropriate number of charge points within this parking area commensurate with the number of dwellings.
- Where new dwellings have no private parking and use on street parking, the developer should work with an appropriate provider to install appropriate on street charging points. This could be through street lighting columns for example – please see Pages 83 to 86 of the Road to Zero Strategy regarding EV charging at home).
- Installation of relevant charging provision in new non-residential buildings.

3.6 For further information please contact richard.lovell@derbyshire.gov.uk.

4. Greenways/Key Cycle Network

- 4.1 Greenways are a series of multi user routes which include traffic-free pathways that connect Derbyshire’s towns and villages and are suitable for walking, cycling, horse riding and disabled access. They provide sustainable and healthy travel routes to schools, work places, shops and local amenities, and opportunities for leisure and tourism. The creation of the Greenways networks also contributes to local economic growth, providing a greater visitor offer, encouraging overnight stays.
- 4.2 The Greenways Strategies for Derbyshire have informed the development of the emerging Key Cycle Network (KCN) which is the upper strategic tier of the wider Derbyshire Cycle Network in line with an aim to provide new infrastructure to deliver the Derbyshire Cycle Plan 2016. This also forms part of the wider D2N2 (Derby, Derbyshire, Nottingham and Nottinghamshire) Local Cycling and Walking Infrastructure Plan (LCWIP) developed in line with the Department for Transport’s technical guidance which reflects the Government’s ambition for cycling in England ‘to make cycling and walking the natural choices for shorter journeys, or as part of a longer journey’. This is also reflected in the County Council’s Local Transport Plan as part of encouraging the healthier and more sustainable travel options.
- 4.3 The KCN project totals 770km with around 396km considered complete and open for use. Additionally the Local Cycle Network (LCN) is as essential to create the connectivity and permeability between neighbourhoods. Both tiers require additional support to establish a fully linked network.
- 4.4 The NPPF (2019) recognises the value of sustainable transport and that ‘applications for development should give priority first to pedestrian and cycle movements both within the scheme and with neighbouring areas’. It also provides strong support for the public rights of way network, setting out that ‘Planning policies and decisions should protect and enhance public rights of way

and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails’.

- 4.5 The Government’s National Design Guide (2019) supports paragraph 130 of the NPPF. The National Design Guide promotes the prioritisation of design for walking and cycling, creating routes that are safe, direct, convenient and accessible for people of all abilities. They should be designed as part of attractive spaces with good sightlines, so that people want to use them.
- 4.6 New development should safeguard existing routes, but also provide an opportunity to improve Greenway connectivity to encourage the use of healthier and more sustainable travel options. Where opportunities arise, the County Council will seek to secure on-site provision within new developments to:
 - provide new sections of the Greenways network,
 - upgrade existing routes to adoptable standards,
 - provide links from the development to an existing Greenway.
- 4.7 Opportunities will be sought to influence the design of a development to ensure the continuous off highway connectivity of the route, the attractive integration of the route into public spaces, and construction to the appropriate specification (design detail and use of materials). Any required improvements may be secured either through a planning condition or by Section 106. Delivery will be either by the County Council following agreement of a Section 106 financial contribution or directly by the applicant to the standard required. Where the asset is adopted, commuted sums will be sought towards their maintenance. Impacts and any potential contributions would be assessed on a case by case basis.

5. Public Transport

Background to bus services in Derbyshire

- 5.1 Bus services are a vital public service playing a major role in the way many people go about their daily lives. Each week over 500,000 passenger journeys are made by bus in Derbyshire across urban and rural areas making it the most frequently used form of public transport in the county. Buses take people to work, school, college, hospital, the shops and a range of other essential services and leisure opportunities all of which help to support the wider economy across the area. Without buses Derbyshire roads would be more congested, the economy weaker, residents more socially isolated and the air quality worse.
- 5.2 Local bus operators provide bus services that they consider commercially viable without external financial support. In addition to these the Transport Act 1985 explains that local transport authorities must ‘secure the provision of such public passenger transport services as the council consider is appropriate to secure to meet any public transport requirements within the county which would not in their

view be met apart from any action taken by them for that purpose'. The Council therefore provides revenue subsidies so additional services above and beyond those provided commercially operate to ensure communities have access to essential services subject to the level of funding available.

5.3 If road networks are not to become completely congested it is essential that bus services start appealing to more people. To do this bus services need to provide a good quality product which not only exceeds existing passenger's expectations but actively appeals to new potential users. The key elements of this according to national and local surveys is a network which is -

- **Attractive**, and reliable, with punctual services, and high quality customer service and infrastructure with vehicles that are modern, well maintained, clean and safe.
- **Available**, with good network coverage, operating periods and frequency which people can easily access and understand.
- **Affordable**, fares that are competitive with car use with a variety of different options giving people flexibility and value for money.

5.4 To make this happen the Derbyshire County Council buses plan has 4 key aims-

- 1) **Improving the overall passenger experience** – high quality customer service, easy to understand information and a clean, safe environment at every stage of the journey.
- 2) **Developing and sustaining a high quality core commercial network** – Ensuring the services most people use on a regular basis are reliable, frequent, attractive and affordable to use.
- 3) **A flexible modernised supported services network** – Providing appropriate ways for people to reach key destinations in areas where demand is more limited
- 4) **Strong partnerships to take forward improvements** - All the various stakeholders with an interest in bus services working together to maximise the benefits for passengers and the wider community.

All of which will help us achieve our overall objective of increasing bus use in Derbyshire which is important because it will help –

- Support sustainable economic growth
- Reduce congestion
- Improve air quality
- Reduce social exclusion
- Support sustainable housing solutions
- Develop sustainable tourism

Meeting expected public transport demand results from proposed new developments

- 5.5 Contributions from developers to the cost of bus services and related infrastructure are an important source of funding to mitigate the impact of new development in an area. This can take two forms:
- a) Local Bus service contributions to provide socially necessary services, including revenue support for services that are forecast to break-even and become commercial in the future. This will include contributions for school bus services where appropriate. See Appendix A to this section for more details.
 - b) Infrastructure contributions to provide bus stop facilities including shelters raised kerbs, information (including real time information) and bus priority measures, including bus stop clearways. Further information about funding for bus infrastructure improvements is shown in Appendix B to this section.
- 5.6 The level of funding contribution requested is subject to the particular characteristics of the development site and is assessed by taking into account each of the factors described in this document. It is in the interests of the developer, in terms of saleability of dwellings, and for potential residents to ensure that the local bus service offers access to key services and has the capacity to accommodate the additional demand generated by their development.
- 5.7 It is the County Council's preference that funds are paid to the County Council, who will manage and co-ordinate provision of the agreed enhancements however this is subject negotiation dependent on the size and scale of the development.

Bus service contribution

- 5.8 The decision to a request a contribution towards the cost of local bus services will relate to the size of the development. For residential developments in excess of 80 dwellings or industrial/employment developments with more than 100 workers on site at the same time the Council will consider whether a bus service contribution should be requested in the light of the prevailing local bus network and any service reviews.
- 5.9 The bus service specification produced for a development relates to the expected additional population arising from the new development and where local quality standards are in place. The service specification will reflect these standards or any emerging standards that may change during the course of the Planning application or service implementation.
- 5.10 Ideally new or enhanced services will be integrated with the existing network of commercial and supported bus routes, to avoid abstraction from them and to maximise the potential for long term viability. It should not be assumed that if a bus service already runs near to a development, that it will be possible or desirable to run it into the development. Such an assumption will not be given

weight when considering a development proposal unless prior discussions with the bus operators and County Council public transport team have taken place and any measures agreed can be secured via a Section 106 agreement.

5.11 The developer will need to provide funding for the new or enhanced service for a minimum of 5 years on a reducing scale allowing for revenue growth. In order to encourage the use of the service it will ideally start early in the development of a site. However factors such as the development phasing and likely future viability will be taken into account on a case by case basis.

5.12 More details on bus service contributions are provided in Appendix A to this section.

Local Bus Infrastructure contributions

5.13 The decision to a request a contribution towards the cost of local bus infrastructure relates to the following factors:

- a) The size of any new development.
- b) Bus Usage – the Council will look at the number of likely trips that would be generated and the likely modal split in terms of transport usage, taking the developer's Transport Assessment and Travel Plans for the site into consideration.
- c) Local Bus Infrastructure Availability – The Council will look at the proposed development and the nearest current bus stop infrastructure. Optimum walking distance to and from a stop are assessed on a site by site basis. As a guideline a 250m distance to a stop is desirable and manageable for most users, up to 400m is the accepted DfT standard in urban areas as set down in the current edition of the '[Delivering Streets and Places Guide](#)' (produced collaboratively by 6Cs Local Highway Authorities and key stakeholders). In rural areas the distance to stops should be the minimum practical in the circumstances and footways and footpaths leading to the stops should be improved dependant on site location. Should the nearest bus stop infrastructure be further away than the distances in the guidelines, then the Council will request that new bus stops are installed within the relevant distances via developer contributions.
- d) Quality of Existing Bus Stop Infrastructure – the Council will also consider the quality of the nearest bus stops to the proposed developments and whether the infrastructure could be improved to promote the use of sustainable transport. Any suggested improvements will be relative to the size of the development proposed and its potential impact on the usage of the infrastructure.

5.14 The developer should ensure that the highway design takes into account the needs of any prospective bus service/s and the County Council recommends developers follow the design principles outlined in the best practice guide produced by Stagecoach: '[Bus Services & New Residential Developments –](#)

[General Highways and Urban Design advice to applicants and Highways Authorities'](#)

- 5.15 The following infrastructure is currently considered when bus stops are moved or for new stops installed within Derbyshire:
- a) Bus stop pole, with County Council standard specification flag and timetable case
 - b) Raised Boarding Kerb
 - c) Lowered Accessibility Kerb/pedestrian access improvements at stops
 - d) Bus Shelter to Derbyshire County Council standard specification
 - e) Electrical Lighting in Bus Shelter
 - f) Real Time Information displays and pole including associated electrical connections
 - g) Enforceable Bus Stop Clearway
- 5.16 Where new infrastructure is provided the developer will need to enter into an agreement for its long term maintenance through a commuted sum payment to the Borough/District/Parish Council and/or County Council. This will cover the ongoing maintenance and cleaning of the infrastructure and any electrical costs for the next 15 years.

More details on local bus infrastructure are provided in Appendix B to this section.

Home to School Travel

- 5.17 The statutory walking distance to a school before a child becomes entitled to travel support is 2 miles for children aged under eight and 3 miles for older children with some additional arrangements for people on specific benefits. This distance criteria is applied to the nearest suitable school, measured by the shortest available safe walking route. Derbyshire County Council's Transport Policy can be found at www.derbyshire.gov.uk/get2school
- 5.18 Where a residential development is located within the statutory walking distance it should be linked to the school(s) by adequate pedestrian facilities. If there are no pedestrian facilities, or the existing are considered inadequate the developer shall be required to provide new or improved facilities usually via a section 278 agreement. If it is not feasible for improvements or adequate pedestrian facilities to be provided, in the case of developments of 15 or more dwellings, the developer will be required to provide a contribution towards school transport costs.

Rail Service Contribution

- 5.19 There are 35 rail stations across Derbyshire most of which have at least an hourly service with many getting considerably better frequency than that.

- 5.20 Derbyshire County Council is keen to encourage greater use of rail services and has worked constructively with rail industry partners and groups such as the Derwent Valley, and Hope Valley and High Peak Community Rail Partnerships to improve services and the upgrade facilities at stations.
- 5.21 As with bus services and infrastructure the decision to request a contribution towards the cost of rail service provision will depend on a number of factors. However where a development takes place within 1km of existing station the County Council would expect the developer to provide a contribution to provide safe and appropriate links to it for pedestrians and cyclists.
- 5.22 Dependent on the existing facilities at the station and its usage a developer may also be required to provide a contribution towards the costs of enhancements such as:
- a) Waiting shelters
 - b) Customer Information Screens
 - c) Cycle storage
 - d) Car parking

Appendix A - Bus Service Routes and Support – Bus Service Support

Derbyshire County Council places a high priority on planning effectively for the impact from new developments on the local environment, including the local public transport network. Bus route improvements arising from new developments are planned with reference to the following factors:

- a) For developments in excess of 80 dwellings for residential and medium/large Industrial/Employment sites where more than 100 workers are on site at the same time
- b) The bus service specification is produced with reference to the expected additional population arising from the new development and any new bus service provided by the developer will be expected to meet any Statutory or Voluntary Quality Bus Partnership standards applicable in the local area including new partnership arrangements set out in the Bus Services Act 2017. The operator will also be expected to participate in any integrated ticketing schemes/ initiatives in the local area.
- c) The existing public transport network serving the area with stops within an acceptable walking distance from the new development.
- d) The availability of alternative public transport services in each settlement for three main time periods: Monday to Saturday daytime (0600-1800hrs); Monday to Saturday evenings (1800- 24:00hrs); Sunday all day (0600-2400hrs).

- e) Presence of geographic or other features affecting the route i.e. rivers, low bridges, step hills.
- f) Locations of key services including employment, shopping, education and leisure facilities.

New routes – these are planned to primarily serve the new development and provide access to key services including employment, shopping, education and leisure facilities in areas where no existing services. The introduction of the service will normally be phased with the vehicle size and service frequency reflecting the build out of the development.

Extension of existing routes – Where a bus network already exists in the local area the Council will work in partnership with the local bus operators and developer to determine the most appropriate revised service route, capacity and frequency to ensure that both existing and future bus users can be accommodated without affecting the quality of the service provided.

The following costs overheads are taken into account when assessing the cost of the new or extended service -

- Capital costs including vehicles, premises and facilities
- Drivers wages and other on costs
- Other labour and staff costs
- Insurance
- Fuel
- Maintenance
- Vehicle depreciation

The above costs are offset by revenue from fares and passes.

The typical costs used by Derbyshire County Council to calculate bus service contribution is £150,000 per annum gross for a full day Monday – Saturday operation for a conventional single deck vehicle.

Appendix B - Bus Stop infrastructure – How are the costs of the requested infrastructure improvements calculated

Funding will be provided by the developer for all new developments, of any size (11 dwellings or more if residential), which require the installation of new bus stops in order to provide access to sustainable forms of transport. Examples of the expected infrastructure is set out below:

- a) Bus stop pole, with County Council standard specification flag and timetable case
- b) Raised Boarding Kerb
- c) Lowered Accessibility Kerb/pedestrian access improvements at stops

- d) Bus Shelter to Derbyshire County Council standard specification
- e) Electrical Lighting in Bus Shelter
- f) Real Time Information displays and pole including associated electrical connections
- g) Enforceable Bus Stop Clearway

For developments where existing bus stop infrastructure is within a reasonable walking distance of the site, the existing standard of the closest stops will be assessed alongside the proposed development to evaluate its impact on infrastructure usage.

The tables below give an illustration of a pair of standard pole and flag bus stops with examples of how improvements would be requested via planning obligations or developer contributions:

Development size	Bus stop 1 with bus services heading towards a major town	Bus stop 2 with bus services heading away from a major town
<p>Small (10-49 Dwellings for Residential)</p> <p>These improvements will allow the public and bus operators to safely access public transport infrastructure</p>	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case. • Raised Boarding Kerbs • Enforceable Bus Stop Clearway • Pedestrian access improvements at stop. 	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case • Raised Boarding Kerbs • Enforceable Bus stop Clearways • Pedestrian access improvements at stop
Development size	Bus stop 1 with bus services heading towards a major town	Bus stop 2 with bus services heading away from a major town
<p>Medium* (50-99 Dwellings for Residential)</p> <p>These improvements will allow the public and bus operators to safely access public transport infrastructure. Bus passengers will be provided with a high quality information provision. *there may be more than a single pair of bus stops which require improvements for developments of this size</p>	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case • Raised Boarding Kerbs • Enforceable Bus Stop Clearway • Pedestrian access improvements at stop • Bus Shelter to Derbyshire County Council standard specification • Electrical lighting in the shelter • Real Time Information display and pole and 	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case • Raised Boarding Kerbs • Enforceable Bus Stop Clearway • Pedestrian access improvements at stop

	associated Electrical Connections	
Large* (100+ Dwellings for Residential) The improvements will allow the public and bus operators to safely access public transport infrastructure. Bus passengers will be provided with a high quality waiting environment and information provision. *there may be more than a single pair of bus stops which require improvements for developments of this size	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case • Bus Shelter to Derbyshire County Council standard specification • Electrical lighting in the shelter • Raised Boarding Kerbs • Enforceable Bus Stop Clearway • Pedestrian access improvements at stop • Real Time Information display and pole and associated Electrical Connections 	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case • Bus Shelter to Derbyshire County Council standard specification • Electrical lighting in the shelter • Raised Boarding Kerbs • Enforceable Bus Stop Clearway • Pedestrian access improvements at stop

Bus Stop infrastructure – how are requested improvement costs calculated?

All costs for infrastructure improvements are based on Derbyshire County Council's contract price in addition to quotations from our contractors to carry out the works. Each site will be priced individually through developer contact with the County Council's Public Transport team. The table below shows examples of costings, however the prices quoted are for illustration purposes only and should not be used to calculate costs as they are subject to change.

Development size	Indicative costs of Bus stop infrastructure
Small (10-49 Dwellings for Residential)	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case: £1,000 • Raised Boarding Kerbs: £1,800 • Enforceable Bus Stop Clearway: £1,500 • Pedestrian improvements at stop: £1,500
	Indicative Bus Stop Total - £5,800
Medium* (50-99 Dwellings for Residential) *there may be more than a single pair of bus stops which require improvements	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case: £1,000 • Raised Boarding Kerbs: £1,800 • Enforceable Bus Stop Clearway: £1,500 • Pedestrian access improvements at stop: £1,500 • Bus Shelter to Derbyshire County Council standard specification: £5,000 - £7,000 • Electrical lighting in the shelter: £1,000 • Real Time Information display and pole and associated Electrical Connections: £6,100
	Indicative Bus Stop Total £17,900 - £19,900

<p>Large* (100+ Dwellings for Residential) *there may be more than a single pair of bus stops which require improvements</p>	<ul style="list-style-type: none"> • County Council standard specification pole, flag and timetable case: £1,000 • Raised Boarding Kerbs: £1,800 • Enforceable Bus Stop Clearway: £1,500 • Pedestrian access improvements at stop: £1,500 • Bus Shelter to Derbyshire County Council standard specification: £5,000 - £7,000 • Electrical lighting in the shelter: £1,000 • Real Time Information display and pole and associated Electrical Connections:£6,100
	<p>Indicative Bus Stop Total £17,900 - £19,900</p>

Education

Assessing the Proposed Development

- 1.1 The County Council, as the Local Education Authority, has a statutory duty to make education provision available for each young person and elects where possible to provide a school place for each child at their normal area school. This duty applies across all schools and includes Academies. Although a new school must be established as a Free School, and some existing schools have opted to become an Academy, the statutory duty to plan provision remains with the Local Authority. In many cases the provision of additional school places is required to ensure that a proposed housing development is sustainable.
- 1.2 When the County Council responds to a consultation on a proposed development, it assesses the total gross number of dwellings proposed within the application site. One bedroom dwellings are excluded from the assessment as it is unlikely that families with children would occupy these dwellings. Dwellings that will be restricted to occupation by people aged 55 and over are also excluded from the assessment.
- 1.3 The County Council response to the Local Planning Authority includes information on the number of pupils that the development is expected to generate, the net capacity of the normal area school, the current number of pupils on roll and the projected number of pupils on roll for the next five years at the normal area school.
- 1.4 The number of pupils that the development is expected to generate is calculated using the formula that for every 100 dwellings there will be 24 primary, 20 secondary and 8 post-16 pupils. This formula is based on a statistical assessment of birth rate and housing occupancy data in Derbyshire using information from the 2011 census. In calculating the pupil yields one-person households have been omitted. This reflects the fact that one-bedroom dwellings are omitted from the assessments of need contained in consultation responses. The County Council will review pupil yields calculations after each census, the next being the 2021 census. The County Council will employ any alternative methodology required by the Department for Education (DfE), should this be forthcoming.
- 1.5 The net capacity of the normal area school is the DfE's nationally agreed measure of a school's ability to accommodate pupils of statutory age. Following any building work at the school, the net capacity is reviewed and may change to reflect refurbishment, extensions or adaptations to the building(s). The net capacity of a school may also change over time in response to the evolving nature of curriculum and organisational requirements.

- 1.6 Information on the current and projected number of pupils on roll is kept as up to date as part of an annual cycle, however many factors impact on pupil numbers and the situation can change very quickly. Therefore, pupil projection information is a snapshot in time. At any time during the year, families may move into or out of a school's normal area, the Head Teacher or other staff may change, or the Office for Standards in Education (OfSTED) may publish a report which influences public perception of a school. These factors, amongst others, can impact on pupil numbers and can change projection trends. The pupil projection information only accounts for trends within the existing population. The projections **do not** account for planned new housing developments (with or without planning permission) within the normal area of a school.
- 1.7 Therefore, when assessing a proposed development, the County Council must consider the impact of other development within the normal area over and above any impacts anticipated as a result of demographic trends within the existing population. The County Council considers the impact of all major residential development with extant planning permissions within the normal area of a school to assess the effect that committed development coming forward will have on school capacity.
- 1.8 The County Council's assessment of capacity and demand for places advises the Local Planning Authority on whether the normal area primary and secondary (including post-16) schools can accommodate the additional pupils arising from a proposed development. It should be noted that an assessment of capacity at post-16 will relate to school-based sixth form education only where this is provided at the normal area secondary school. A contribution to school-based sixth form education will only be sought if the normal area secondary school for the development runs a sixth form. Contributions will be combined with secondary contributions towards integrated projects at the school.
- 1.9 Where a development proposal is within the normal area of a Derby City school, the County Council will consult Derby City Council for its views on the education impacts of the proposed development and incorporate those views into its assessment.
- 1.10 The request for a contribution towards Special Educational Needs and Disability (SEND) provision is not subject to an analysis of capacity within a given geographical area, i.e. the locality within which the development is located. Rates of all types of SEND are increasing and special schools and Enhanced Resource School (ERS) units generally operate at or above capacity to avoid pupils being placed out of County. The pattern of provision across the County often involves pupils travelling a significant distance in order to access the most appropriate place to suit their needs. It is therefore not appropriate or possible to assess capacity against the need for places generated by any given development within any specific locality.

- 1.11 A contribution towards SEND infrastructure will be requested for developments of 100 dwellings or more. In the case of an outline permission for 100 dwellings or more, and where the development is phased, the required SEND contribution would be payable at a pro rata rate per dwelling to ensure each phase contributes a proportionate amount. The pupil yield employed in the assessment reflects the proportion of Derbyshire pupils being educated within Special Schools as well as Enhanced Resources within mainstream schools.
- 1.12 In January 2019, 0.86% of young people aged 0-19 in Derbyshire were recorded as being educated in special schools. A further 0.22% of the 0-19 population were attending Enhanced Resource provision within mainstream schools. For the purposes of seeking a contribution to SEND education provision, these will be combined to represent the proportion of the pupil population within special schools and Enhanced Resource provision.
- 1.13 The SEND rate of 1.1% of pupils is then applied to the population and occupation data to give a yield for all-age SEND of 0.7 pupils per 100 dwellings. This yield will be reviewed annually based on actual numbers of pupils in special schools and Enhanced Resource provision.

Mitigation

- 1.14 Any proposed residential development will always be considered within the context of the school normal areas within which it falls. The normal area is the most appropriate and fairest spatial unit for assessing whether sufficient local capacity exists within the education system for new and existing residents. Normal areas are largely long-established and understood by local communities. Their establishment was based on consideration of local geography and topographic features, including roads and rivers, to ensure accessibility to schools from the addresses within each normal area. Information on which normal area an address lies is easily accessible through the County Council's online and telephone services. In the school admissions process, each parent/carer is made aware of the normal area in which they reside.
- 1.15 Available capacity in other local schools which may exist within any given radius of a proposed development will not normally be considered as a measure of whether a contribution to education is required to mitigate for a proposed development. The use of any such capacity would not ensure that local school places are available to current and future residents and therefore would not ensure that the development is sustainable in planning terms.
- 1.16 Where the County Council's assessment concludes that the relevant normal area primary and secondary schools would have sufficient capacity to accommodate the pupils arising from the proposed development, the County Council will advise that no mitigation is required. On larger developments a contribution to SEND will still apply, as detailed above.

- 1.17 Where the County Council's assessment concludes that the relevant normal area primary and secondary schools would not have sufficient capacity to accommodate the pupils arising from the proposed development, the County Council will request financial contributions to provide additional capacity. A contribution to SEND will also be required on larger developments.
- 1.18 To deliver the additional capacity required to accommodate the pupil yield from a development, the County Council looks first at whether the existing accommodation at the normal area school can be reconfigured. If it is not possible to reconfigure existing accommodation, the County Council next looks at whether the existing normal area school can be expanded, for example by providing new classroom accommodation.
- 1.19 In exceptional circumstances the County Council may request a contribution towards places at an alternative to the normal area school. This may occur when in instances where there is no scope for expansion at the normal area school, for example due to the size of the site. It may also be due to qualitative factors, such as quality issues, with the DfE presumption against the expansion of schools which are not graded 'Good' or 'Outstanding'. Where an expansion at a school nearby to the development other than the normal area school is required in order to make the development sustainable in planning terms, this will be highlighted in the planning consultation response.
- 1.20 Similarly it may be the case that the quality of a school named within a Section 106 changes significantly between agreement of the Section 106 and the funding for expansion becoming available. In a situation where quality issues preclude expansion of the named school, Derbyshire County Council may seek agreement to use the funding at an alternative school.

Level of Contributions

- 1.21 Where a contribution is required to provide additional school place capacity at an existing school(s), the level of contribution is determined by using figures provided by the DfE for the cost per pupil of capital development in schools. These figures are based on the DfE's analysis of national building costs per pupil, adjusted to reflect regional variations in costs. The DfE costs are no longer updated. Therefore contribution levels have been brought into line with price changes using the BCIS All in Tender Price Index and will be indexed annually from April to ensure contributions keep pace with rises in inflation. The cost per place figures shown below have been indexed from 1Q 2011 when the pupil place calculations were first made. These figures will be updated annually with the BCIS All in Tender Price 1Q Index. The thresholds and level of contribution for providing additional school place capacity at an existing school in Derbyshire for 2020-21 are provided in the following table.

2020/21 Level of Contributions

	Places per 100 dwellings	Cost per pupil place	Cost per 1 dwelling	Cost per 10 dwellings	Cost per 100 dwellings
Primary phase	24 places	£17,176.59	£4,122.38	£41,223.82	£412,238.17
Secondary phase (without Post16)	20 places	£25,881.90	£5,176.38	£51,763.80	£517,638.00
Secondary phase (with Post 16)	28 places	£26,506.91	£7,264.50	£7,421.94	£74,219.35
SEND	0.7 places	£96,202.99	£673.42	£6,734.20	£67,342.00

1.22. The cost of providing a SEND place is significantly higher than a mainstream school place. As evidenced in DfE design guidance, there is far greater space requirement for SEND pupils, along with the requirement for specialist facilities and equipment. The cost of building accommodation per pupil place is 4.5 times that of mainstream. The level of SEND contribution per pupil is calculated by averaging the costs for mainstream provision, assuming a split across all year groups from Reception to Y13 (i.e. the 7 primary year groups, 5 secondary and 2 post-16). This gives an average of £21,378.44. The pupil place multiplier is then applied $4.5 \times £21,378.44 = £96,202.99$ per SEND pupil place required.

Requirement for Additional Schools

1.23 For mainstream education, where the County Council's assessment concludes that it is not possible to provide additional capacity by reconfiguring or expanding the existing school(s), the County Council may advise that a new school is required.

1.24 It is anticipated that a proposed development scheme of around 1,000 dwellings will require provision of a new one-form entry primary school and proposed development schemes of around 6,000 dwellings will also require provision of a new secondary school. However, these thresholds are only a guide. As stated above, if existing schools cannot be expanded, the County Council may advise that a new school is required for smaller scale residential developments. For any development for which a new primary school is required, this will include nursery provision. This reflects the DfE's expectation that all new schools include a nursery. The size of provision will be a 26 place nursery unit for a one-form entry primary school, 52 place nursery for a two-form entry primary school and 63 place nursery for a three-form entry primary school. The cost of this provision is included in the new build costs stated below.

1.25 Currently, a new one-form entry primary school, including nursery, costs the County Council between £5.5 million and £6.5 million to build. A new secondary school of 900 pupils would cost the County Council approximately £25 million+ to build. Where a new school is required, the County Council will require funding for construction in addition to or funding for or provision of, suitable land for the new school. Such sites are required to be serviced to the boundary and large enough for the size of school required, including a nursery where it is primary provision. Developers may choose to construct the school themselves, to the County Council's specification, as often they can deliver the school at a lower cost. Where additional adjacent land is available, the County Council may wish to explore options for procurement or a contribution in kind of such land to enable future expansion.

Contribution to revenue costs associated with new schools:

Growth funding:

1.26 Central government policy dictates that all new schools are Free Schools, which are outside Local Authority control. When the need for a new school arises due to residential development, the school can currently be established either through a 'Direct' or 'Presumption' route. In the 'Presumption' process, the Local Authority work closely with the DfE and the selected Academy Trust to plan the opening phase of the school. When established through the 'Direct' route the Local Authority is not involved in this planning phase. Where the need for a new school is created by a development and this is established through the 'Presumption' route, the Local Authority has responsibility for managing the growth of the school. This involves a financial liability for the authority, as revenue funding is required to be provided to the academy in the early years of operation. The County Council will request a proportionate financial contribution from the developer where appropriate and on a case by case basis.

Transport costs:

1.27 Where a development requires a new school to be provided in response to a development, arrangements will need to be made for early residents of the new housing to access education in alternative schools until the new school is available. In such circumstances the County Council will seek to secure a contribution to transport costs if the distance to the nearest school is above 2 miles for children under 8 years of age and 3 miles for children over 8. This contribution will be proportionate and based on the numbers of dwellings which will be occupied ahead of the opening of the school. This will be subject to detailed analysis to ensure that the contribution being sought is in line with the transport costs which would otherwise be incurred by the County Council in order for the early pupils to access a school place.

Projects:

1.28. Where a financial contribution is requested towards the provision of school places, the County Council's response identifies how and where the contribution is expected to be used and the nature of the project that it will support.

Primary and secondary (including school-based sixth form) projects will add places and/or enhance provision at the normal area school where a shortfall in capacity has been identified. The use of the contribution will be determined by an analysis of a school's existing accommodation and shortfalls in teaching and support accommodation in line with DfE guidance for school accommodation. It will highlight any aspects of teaching and support accommodation which will need to be increased and/or improved in order to be able to accommodate additional pupils.

These could include the following;

- New school
- Extension to existing school
- Replacement of temporary buildings with new accommodation in order to make that capacity permanent.
- Provision of specialist teaching and support facilities. Support facilities could include group teaching spaces, spaces needed for pastoral care, or auxiliary facilities such as toilets.

1.29 SEND projects will be identified in consultation with the SEND Service of Derbyshire County Council. The contribution may be used anywhere in the county in line with priorities for providing additional places or improving existing facilities at special schools and Enhanced Resources.

Public Health and Adult Social Care

Introduction

- 1.1 The purpose of this section is to ensure health and social care are fully embedded into the planning process and that health and social care infrastructure requirements are considered in order to meet the growth requirements of Derbyshire.
- 1.2 The link between planning and health has been long established. The built and natural environments are major determinants of health and wellbeing. The National Planning Policy Framework (2019) recognises the significant synergies between environment and health and as such embeds health within the planning system, recognising that planning policies and decisions should aim to achieve healthy, inclusive and safe places along with the facilities and opportunities which create a community.

Health impacts and development

- 1.3 There is a fundamental relationship between a person's health and their environment (Town and Country Planning Association (TCPA), 2019)⁴. The built and natural environment where we live, work and play is inextricably linked to health and wellbeing, and can determine the health outcomes of individuals and populations.
- 1.4 Whilst access to healthcare is important, 90% of people's health and wellbeing is linked to the wider determinants of health as outlined in Figure 1 below (The Health Foundation, 2017)⁵ and associated lifestyle factors.
- 1.5 The wider social determinants outlined in Figure 1 are influenced by various factors, such as neighbourhood design, quality of homes, exposure to air pollution, access to greenspace, contact with good quality education and employment opportunities, maximisation of opportunities to connect communities via community facilities and sustainable active travel options.
- 1.6 Better outcomes for people and places can be achieved when built environment professionals work with health and social care professionals (TCPA, 2019) across the whole system. The potential impact on population and human health should be considered early in the development of planning proposals, to enhance the design of places from a health improvement perspective (Public Health

⁴ Town and Country Planning Association (2019) The State of the Union – reuniting health with planning in promoting healthy communities www.tcpa.org.uk

⁵ What Makes us Healthy? <https://www.health.org.uk/infographic/what-makes-us-healthy>

England (PHE 2017)⁶ (PHE 2017)⁷. For example, developers can make positive contributions to enhance the physical and mental wellbeing of residents through the design and accessible layout of their housing schemes and surrounding green spaces in order to facilitate independence and community connectedness. These considerations will enable people with a long term health condition or disability to live as independently as possible as well as have more general benefits for population wellbeing. See Health Impact Assessment information below.



Figure 1 – The Wider Determinants of Health (Dahlgren and Whitehead 1991)⁸

System wide approach across the health sector

- 1.7 To effectively address local health needs, NHS Clinical Commissioning Groups, NHS Acute Trusts, NHS Community Providers, Primary Care, Adult Social Care, Public Health, and the Voluntary and Community Sector (not limited to) all need to be consulted and engaged in the planning process. This active role will help to achieve the necessary health and social care provision for local communities and thus the health and wellbeing advantages for the community. The interrelationship between the different health sector bodies is shown in Figure 2 below.
- 1.8 It is important to note that this document does not cover Derby City, nor does it address the issue of NHS service delivery as this lies outside the remit of both the County Council and local planning authorities.

⁶ Public Health England (July 2017) Health and Environmental Impact Assessment: A briefing for Public Health Teams in England. PHE gateway number 2016712.

⁷ Public Health England (June 2017) Spatial Planning for Health An evidence resource for planning and designing healthier places. PHE gateway number 2017151.

⁸ Dahlgren, G, Whitehead, M. (1991) Policies and Strategies to Promote Social Equity in Health. Stockholm; Sweden

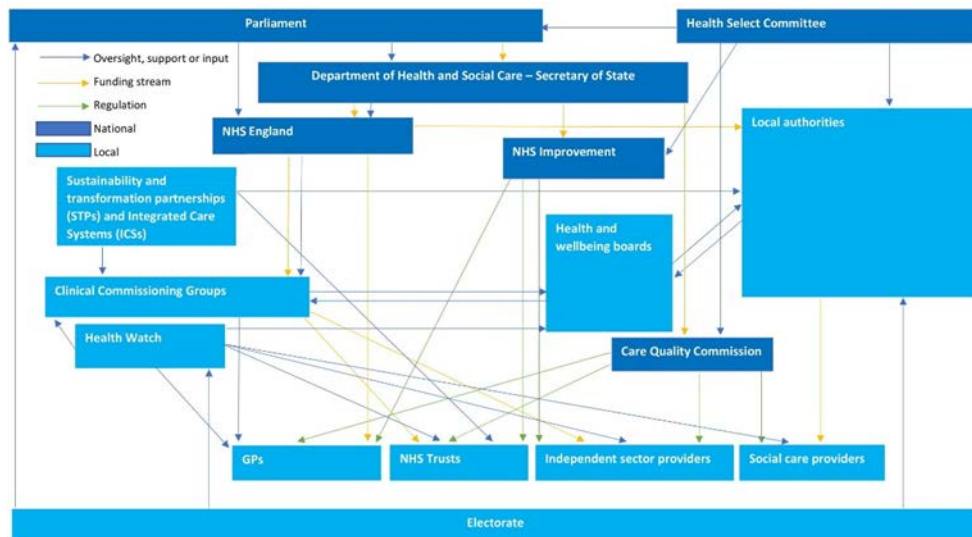


Figure 2 – The Health and Social Care System (BMA 2018)

1.9 The Derbyshire Health and Wellbeing Board was formed as a result of the Health and Social Care Act (2012). Each Health and Wellbeing Board is responsible for producing a Health and Well-being Strategy underpinned by a Joint Strategic Needs Assessment. The Board focuses on improving the health and wellbeing of Derbyshire residents and has produced ‘Our Lives, Our Health – Derbyshire Health and Wellbeing Strategy, 2018-2023’ (2018)⁹.

1.10 Joint working across the health system in Derbyshire is facilitated by Joined Up Care Derbyshire (also known as Derbyshire’s Sustainability and Transformation Partnership (STP)). Individual organisations have different responsibilities but collaborate across the system to provide a coordinated approach to care. The NHS long term plan sets out a clear expectation that by April 2021 all STPs will become fully realised integrated care systems. The September 2019 submission of the Joined Up Care Derbyshire 5 Year Strategy Delivery Plan: 2019/20 to 2023/24 sets out plans to be an Integrated Care System. This will see a fundamental shift in how public health, healthcare and social care is commissioned and provided within Derbyshire and will have an increased focus on preventative activity to improve population health and wellbeing. Planning and urban design has a significant impact on population health and wellbeing, and can play a significant role in supporting a sustainable NHS and social care system. An example of this approach can be seen via the [NHS Health New Towns programme](https://www.derbyshire.gov.uk/site-elements/documents/pdf/social-health/health-and-wellbeing/derbyshire-health-and-wellbeing-strategy-2018-to-2023.pdf).

Derbyshire County Council Context

1.10 Within the Derbyshire County Council Plan there are clear outcomes regarding partnership working and working with our local communities. These are:

⁹ <https://www.derbyshire.gov.uk/site-elements/documents/pdf/social-health/health-and-wellbeing/derbyshire-health-and-wellbeing-strategy-2018-to-2023.pdf>

- Resilience and thriving communities where people work together in new and dynamic ways with public services
- Happy, healthy people and families with solid networks of support, who feel safe and in control of their personal circumstances and aspirations.

Contributions from developers through the planning process can help to support the achievement of these outcomes.

1.12 Local Plans and Supplementary Planning Documents in Derbyshire make explicit reference to health and wellbeing outcomes in transport, open space and recreation and design.

Public Health duties and responsibilities

1.13 Derbyshire County Council has a statutory responsibility for Public Health resulting from the introduction of the Health and Social Care Act (2012).

1.14 Derbyshire County Council Public Health, is responsible for a range of services to:-

- empower the population lead a healthier lifestyle
- enable local communities to be resilient
- work in partnership to maximize opportunities to improve health
- provide protection against threats to health and minimize the risk and impact of illness
- create opportunities and environments which enable a healthy community
- support populations to have the best start in life

Adult Care duties and responsibilities

1.15 Adult Social Care supports people in line with the duties and responsibilities outlined in the Care Act (2014) and other legislation, such as the Autism Act and mental health legislation.

1.16 The focus of adult social care in Derbyshire is based on a number of commissioning strategies which are available on line at www.derbyshire.gov.uk/accommissioningstrategies

1.17 Derbyshire County Council want to support residents who have or may develop care and support needs to be supported in their own homes for as long as possible, reducing the need for residential care and enabling independent living. This is outlined in both the older people's housing, accommodation and support strategy and the specialist housing, accommodation and support strategy.

1.18 The strategies are supported by Market Position Statements which provide further detail about current requirements for housing, accommodation and support. They can be accessed at www.derbyshire.gov.uk/marketshaping

Key health and social care priorities

- 1.19 The Health and Wellbeing Board Strategy '[Our Lives, Our Health – Derbyshire Health and Wellbeing Strategy, 2018-2023](#)' (Derbyshire County Council 2018), sets out its key priorities and how members will work together to improve the health and wellbeing of Derbyshire's residents'. Important Derbyshire health statistics are identified within the strategy and its evidence base. The strategy outlines 5 priority areas:
- Enable people in Derbyshire to live healthy lives
 - Work to lower levels of air pollution
 - Build mental health and wellbeing across the life course
 - Support our vulnerable populations to live in well-planned and healthy homes
 - Strengthen opportunities for quality employment and lifelong learning
- 1.20 Key health priorities and principles are outlined in the '[Strategic Statement for Planning and Health across Derbyshire and Derby City](#)'(2016). The statement was shaped in reference to the National Planning Policy Framework (2012) and the National Public Health Outcomes Framework (2016). The statement has been approved by all 10 of Derbyshire local authority areas', and reflects the need for local variation across Derbyshire.
- 1.21 Further work is ongoing to ensure the statement accords with the updates to the National Planning Policy Framework in 2019.
- 1.22 The [Older People's Housing, Accommodation and Support Strategy 2018-2035](#) promotes the need for flexible housing to support the changing needs of residents throughout their life. Derbyshire County Council is seeking to move away from residential based care facilities and to support the provision of a greater range of housing that supports independence i.e. housing with varying levels of care, support or supervision/assistance available on site.
- 1.23 Adult social care is also seeking to develop a range of community based specialist accommodation for working age adults with more complex needs as part of the national Transforming Care agenda.
- 1.24 The County Council would welcome the opportunity to work proactively with developers via section 106 and CIL arrangements to support the development of accommodation and housing in line with these priorities.
- 1.25 Derbyshire County Council's Public Health and Adult Social Care teams have and will continue to support local planning authorities to develop the inclusion of health and wellbeing in relevant policies, and provide evidence of local health needs within communities.
- 1.26 Mandated public health programmes, which local government are required to provide, are revenue funded and are delivered by the County Council. As such developer contributions are not sought towards these health programmes.

Key considerations

1.27 When considering the design of a development and negotiating developer contributions, consideration should be given to the delivery of the following priorities, as outlined in the Strategic Statement:

Table 1

Priority area	Consider contributions that support the following
Prioritising prevention positive	<ul style="list-style-type: none"> • Development of healthy environments that are safe and enable people to be active. • Establishment of Health Zones, Community Wellness Hubs or other improvements to infrastructure that promote healthy lifestyles e.g. community kitchens. • Safe active and sustainable travel opportunities, including walking and cycle paths, particularly to link homes to education and/or employment opportunities. • Effective public transport networks, to connect people from where they live to where they work, study, access services, shop and spend leisure time. • Local green spaces that support healthy lifestyles e.g. green gyms. • One off public health interventions to mitigate against the growing demand on NHS services in those localities e.g. smoking cessation, weight management or physical activity interventions. • Measures to support people to access employment and education opportunities. • Increasing biodiversity to mitigate against air pollution. • Ensuring adequate setback distances in areas of high air pollution/noise. • Increasing access to broadband. • Healthy design and positive spatial planning interventions and principles e.g. traffic free environments, cycle lockers, pedestrian signage.
Supporting wellbeing positive	<ul style="list-style-type: none"> • Access to good quality homes, safe streets and greenspace. • Effective neighbourhood planning to reduce exposure to air pollution and noise. • Reduction of crime and anti-social behaviour. • Infrastructure to enable the Five Ways to Wellbeing (Be Active, Give, Learn, Take Notice, Connect). • Public Art – creation and installation of artwork, engagement and opportunities for local people.

	<ul style="list-style-type: none"> • Through the provision of social housing models of extra care and adapted accommodation with care support for people with disabilities • Requiring a proportion of affordable and market housing to be built to ‘accessible and adaptable standards’ as set out in Building Regulations Standards M4(2) and ‘Wheelchair User Dwelling Standards’ as set out in the standard M4(3)
Supporting healthy ageing	<ul style="list-style-type: none"> • Enabling people to age well by ensuring new homes are built to promote independence and respond to changing needs as people age via utilisation or adoption of: <ul style="list-style-type: none"> ○ Dementia Friendly communities principles ○ Alzheimer’s Society dementia friendly housing charter ○ HAPPI principles ○ Lifetime Homes or Part M2, 3a or 3b Building Regulations. ○ Good community design to enable connectedness. ○ Intergenerational housing or spaces for intergenerational activities. ○ Co-housing opportunities
Social cohesion	<ul style="list-style-type: none"> • Creating and maintaining community assets, that promote opportunities for connecting communities e.g. mixed use housing developments. • Improvements to streetscape e.g. seats for older people, tree-planting on busy roads, better access for those with disabilities. • Creating and maintaining shared recreational spaces e.g. community centres, skate parks or youth shelters (based on local engagement and consultation). • Well-designed street frontages. • Reducing social isolation. • Digital connectivity
Healthy Homes	<ul style="list-style-type: none"> • Building the right homes, in the right communities for the right populations. • Renovating or replacing existing homes that require improvement in the vicinity (cold, damp, digitally enabled, improving accessibility). • Installation of charging points for electric cars.

1.28 The County Council wishes to support local planning authorities to seek developer contributions for infrastructure to address the wider determinants of health, and to support healthier lifestyles where public health may be adversely affected by development. In the majority of cases, the County Council will focus its attention on facilitating greater efficiency in the delivery of local services through ‘designed-in’ solutions with new housing as a means of expanding

service capacity. Local planning authorities will be advised by the County Council on the use of conditions rather than seeking planning obligations.

- 1.29 In order to support local planning authorities to assess the health needs of their communities, Public Health is constructing a series of 'developer contribution dashboards' to support planning authorities to prioritise the obligations they request. Information will be provided down to a ward level and includes information on obesity, physical activity levels, air pollution and smoking. A link will be inserted in this document once the dashboard is operational.

Health Impact Assessments

- 1.30 A Health Impact Assessment (HIA) is a practical tool, which allows for the evaluation of the health impact of policies, strategies and initiatives in sectors that indirectly affect health, such as transportation, employment and the environment. The overall goal of HIAs is to inform decision-makers of adverse health effects of proposed actions, and support identification of appropriate policy options.
- 1.31 In May 2017, changes were made to the Environmental Impact Assessment (EIA) Regulations for major developments to include 'population and human health' as one of the considerations. To reduce health inequalities and promote healthier lifestyles, planning applications for major residential development of 100 dwellings or more should be accompanied by an HIA.
- 1.32 The use of an HIA on a major planning application was piloted in 2016, when the County Council worked with the Homes and Communities Agency (now Homes England), North East Derbyshire District Council, Bolsover District Council, Chesterfield Borough Council, NHS Hardwick and North Derbyshire CCGs (now merged into Derby and Derbyshire CCG), Data Orchid and Lincolnshire County Council. The final report was published in a report entitled '[Rapid Health Impact Assessment of the Avenue development](#)' (2016). It is intended that the learning from this work can be used to inform future HIA proposals.
- 1.33 Developer guidance around reducing the impacts of air pollution is currently being developed. Of all the environmental factors, air pollution has the greatest adverse effect on health outcomes across all population groups. (PHE 2017)¹⁰. The East Midlands Air Quality network seeking to share best practice, in conjunction with Public Health England has developed [Guidance for Developers on Air Quality and Emissions Mitigation](#).

Mitigation

- 1.34 Mitigation of any adverse impacts on health is dependent on the individual circumstances of the proposed development, the local community and any health care facility to which it directly relates. On many issues, there will be overlapping

¹⁰ Public Health England (June 2017) Spatial Planning for Health An evidence resource for planning and designing healthier places. PHE gateway number 2017151.

objectives with regard to transport, open space, housing, design and sustainability.

- 1.35 Mitigation could include for example, financial contributions through Section 106 or CIL for healthcare facilities, and/or infrastructure to facilitate health and wellbeing such as open spaces and active travel infrastructure (as identified by the County Council and local planning authorities).
- 1.36 The Adult Social Care and Health Directorate will be consulted on planning applications via the County Council's Planning Policy Team. Responses made to the local planning authority will be relevant through the identification of appropriate policies and evidence, explicitly linking any recommendations to the policy context (NPPF, Local Plan, and Supplementary Planning Documents).
- 1.37 Planning obligations, in the form of section 106 agreements, will only be requested where it is not possible to address unacceptable impacts through design or a planning condition. A planning obligation may only constitute a reason for granting planning permission if it meets the three tests as set out in the NPPF (2019) and CIL Regulations 2010 (as amended). Where the provision of a facility/intervention has been agreed, funding may be held and pooled in order that a larger specific scheme can be implemented.

Primary Care

- 1.38 As well as addressing the wider determinants of health, significant consideration needs to be given to access to healthcare.
- 1.39 An individual's first point of contact with the NHS is principally through primary care services, with around 90% of patient interaction occurring through these services. This includes GP practices, dental practices, community pharmacies and high street optometrists. The Health and Social Care Act 2012 places an obligation on NHS England to secure the provision of primary medical services for patients throughout England, and have regard to the need to reduce inequalities in access. Derbyshire Primary Care is commissioned by Derby and Derbyshire Clinical Commissioning Group, with the exception of Glossop, which is commissioned by Tameside and Glossop Clinical Commissioning Group.
- 1.40 Key Derbyshire Clinical Commissioning Group (CCG) contacts:

Clinical Commissioning Group (CCG)	Key Contact	Area
Derby and Derbyshire CCG	Jean Richards	ddccg.estatesenquiries@nhs.net
Tameside and Glossop CCG	Susan Hall	Susan.hall2@nhs.net

- 1.41 Strategic estates matters and governance processes for Joined Up Care Derbyshire are dealt with through the Local Estates Forum (LEF) and guidance is also available from NHS England and NHS Improvement: Robert Hill (Strategic Estates Lead) robert.hill8@nhs.net
- 1.42 The County Council is working with local planning authorities to develop mechanisms to systematically consider health impacts of local plans during their preparation and review. The County Council is also working with CCGs to develop a shared approach for assessing the impact of development proposed through planning applications on the delivery of primary care services and health care facilities (buildings).
- 1.43 Once an approach has been agreed, the LEF and the CCG will as a statutory consultee in the planning process consider the impact of the proposed development on healthcare services and facilities and will advise local planning authorities on potential mitigation.

Waste Services

Meeting additional demand on Waste Facilities – Household Waste Recycling Centres

- 1.1 Derbyshire County Council, along with the nine City, Borough and District Councils across Derbyshire, is a partner in the Derbyshire and Derby City Joint Municipal Waste Management Strategy which sets out ten objectives:
- 1.2 The Strategy helps deliver:
- Reduced waste
 - Reduced waste;
 - Increased reuse and recycling/composting of waste;
 - Reduced waste to landfill and recovering value from waste that is left over for disposal;
 - Increased public understanding and engagement in waste and recycling leading to high levels of public satisfaction;
 - An accessible, efficient, effective and value for money service.
 - It will also contribute towards:
 - Improved resource efficiency;
 - Reduced carbon/climate change impacts;
 - Protection of natural resources;
 - The management of non-household waste;
 - Local self-sufficiency in the management of waste.
- 1.3 Derbyshire's Household Waste Recycling Centre (HWRC) service forms part of the waste service provided by Derbyshire County Council, with significant input towards the achievement of the objectives within the strategy.
- 1.4 HWRCs are provided in accordance with current legislation which requires the provision of such sites in order to enable householders to be able to dispose of their own household waste. In recent years there have been a number of changes, including:
- HWRCs have become more aligned to recycling facilities rather than disposal points;
 - The nature and type of vehicles householders use when visiting the HWRCs;
 - Householder expectations regarding recycling;
 - The introduction of and an increase in the range of recyclable materials at the HWRCs.
- 1.5 Derbyshire County Council provides 9 HWRCs across Derbyshire. Householders are asked to separate their waste and recycle wherever possible and as a result diversion from disposal has increased. Up to 21 materials are accepted for recycling, the majority of which are not collected by Derbyshire's Waste Collection Authorities (WCAs) as part of their kerbside recycling collections. The

network of HWRCs provides additional opportunities for the recycling of other household materials, to the benefit of both countywide, WCA and national recycling performance. If materials were to instead appear in the kerbside residual waste bin, it would have a negative impact on recycling performance.

- 1.6 The HWRCs all have permits issued by the Environment Agency and planning consent to operate as recycling centres. Several HWRCs are now at or close to capacity and housing growth within their catchment area places additional pressure on the sites, including:
 - Queuing and congestion for users;
 - The need to service the HWRCs more frequently, at which times the HWRCs can be closed to public access for Health and Safety reasons;
 - The HWRC no longer being deemed 'fit for purpose', with regard to householder usability;
 - Fluctuations in levels of waste;
 - Site constraints.
- 1.7 Additionally, increasingly Government is focussing its intentions on seeing waste arising's managed higher up the waste hierarchy, meaning greater householder expectations for recycling, composting and reuse facilities at the HWRCs.
- 1.8 Whilst waste minimisation is at the heart of everything that the Derbyshire Council's seek to achieve and WCA kerbside collections help divert waste materials for recycling, there still remains a significant amount of household waste materials to deal with and a large proportion of this is received at the HWRCs.
- 1.9 Occupiers of housing on new developments expect to be within easy reach of an HWRC and, once there, see suitable facilities for re-use, recycling (including composting) and disposal. Access to which should be simple and convenient.
- 1.10 New residential development in Derbyshire can be expected to generate an increase in the overall amount of household waste and depending on the size of the development this can have a varying impact on the existing local HWRC network.
- 1.11 Where it is expected that new housing development will generate a need for additional provision, funding through developer contributions will be expected to help provide the necessary additional capacity. Developer funding will be used towards areas such as:
 - HWRC alterations;
 - Provision of new equipment;
 - Extensions and/or redevelopment of existing HWRCs
 - Construction of a new HWRC;
 - Provision of reuse facilities;
 - Activities that support waste minimisation, reuse and recycling.

- 1.12 Existing HWRCs have a finite capacity for current waste inputs; waste generated from new residential developments, being delivered to the existing HWRC, however, may not easily be accommodated.
- 1.13 Derbyshire County Council will work with its HWRC contractors to put forward proposals for improvements to the HWRC service, to ensure the service continues to operate efficiently and offer best value to Derbyshire residents. Developer funding will assist in providing funding for additional capacity proportionate to the development.
- 1.17 Each proposed development will be assessed and considered on its own merits. Where new proposed housing will place greater pressure on the local HWRC, contributions will be sought from developments of 10 or more new dwellings. Contributions may be sought from smaller sized developments where they form part of an overall development in an area or where sites would have a cumulative impact on services and infrastructure.
- 1.18 Developer funding may be 'pooled' in order to help provide improved levels of provision, greater efficiency and economies of scale.
- 1.16 Contributions will be fairly and reasonably related in scale and kind and based on the cost of works associated with the provision of a HWRC. Ongoing revenue costs will not be requested.

Library Services

Library Provision

- 1.1 The County Council has a statutory responsibility under the terms of the 1964 Public Libraries and Museums Act, to provide “a comprehensive and efficient library service for all persons desiring to make use thereof”.
- 1.2 The Council has a commitment to maintain and develop a strong libraries network across the County and confirms the purpose of libraries as being places that aim to be at the heart of Derbyshire’s community life.
- 1.3 In Derbyshire, public library services are delivered through a network of static and mobile libraries. Derbyshire libraries provide people focussed services at the heart of local communities, enabling access to books and reading, information, digital skills, technology, cultural and lifelong opportunities for all.
- 1.4 The County Council has a clear vision providing a core library service offer with three distinct elements:
 - Directly accessible services through static libraries.
 - Digital access to services, online offer of eBooks, eAudio, eMagazines, digital newspapers, a range of other online resources and virtual catalogue. The online offer is available 24 hours a day, 365 days a year.
 - Outreach through a well-developed and popular Home Library Service, Bookstart and a Mobile Library Service
- 1.5 Contributions from developments which place demand on library services are required in order to maintain this statutory responsibility and vision for libraries.

Current Guidance: National Planning Policy Framework (NPPF)¹¹

Contributions

- 1.6 Contributions could pay towards:
 - Construction and fit out costs of extensions/ alterations to existing libraries
 - Stock costs

Type and size of development which may trigger a contribution

- 1.7 The need for a contribution will be established by comparing the current capacity of the library and population it serves against the number of people likely to be generated by the new development including:

¹¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf

- Residential (including student accommodation) **of over 50 dwellings**
- Where new development generates a need for additional library provision
- Where the existing library's capacity is exceeded

1.8 The Arts Council England recommended benchmark is 45 square metres per 1,000 population. ¹²

1.9 The catchment population of the library is identified by the home addresses of customers who borrow from that library using data from the Library Management System

What are the costs and how are they calculated

1.10 Where a new development places demands on the library above its physical capacity, a new library or an extension to an existing facility is required. The following standard build cost charges will be applied:

- *Building Costs (including stock):*
 - Building costs linked to the RICS BCIS Tender Price Index¹³ and new build prices
 - Fitting out costs including furniture and technology based upon current fitting out costs of a new provision in Derbyshire

Where such a contribution is required the cost will be determined at the time of the planning application and will be subject to negotiation with the developer.

- *Stock costs only:*
 - Where a library building is able to accommodate the extra demand created by a new development but it is known that the stock levels are only adequate to meet the needs of the existing catchment population, a "stock only" contribution will be sought.
 - The National Library Standard upper threshold as cited in Championing archives and libraries within local planning¹⁴ recommends a stock level of 1,532 items per 1,000 population. At an average price of £20.00 per stock item (based on Askews Library Services book prices at May 2019), the costs for the provision of stock only is as follows:

*Number of dwellings x 2.3 (average household size) x 1,532 (number of people generated by the development) x £20.00 (cost per stock item)
Divided by 1,000 population = £70.47 per dwelling.*

¹² <https://webarchive.nationalarchives.gov.uk/20160204122149/http://www.artscouncil.org.uk/advice-and-guidance/browse-advice-and-guidance/arts-museums-and-new-development-standard-charge-approach>

¹³ <https://www.rics.org/uk/products/data-products/bcis-construction/bcis-online/>

¹⁴ <https://www.artscouncil.org.uk/publication/championing-archives-and-libraries-within-local-planning>

Form in which the contributions should be made

- 1.11 Proportionate contribution towards land, where required, and either the costs of construction of buildings to the County Council's specification and fitting out costs including initial book stock and IT; or contributions towards stock increases.

Broadband

Assessing the Proposed Development

- 1.1 Broadband service quality varies across Derbyshire with access to Next Generation Access (NGA) broadband infrastructure (capable of delivering download speeds of speeds of at least 30 Mbps) improving. Investment in the County's broadband infrastructure, to support the future economic prosperity of the county, continues to be a priority for the County Council.
- 1.2 The Digital Derbyshire programme is a partnership between Derbyshire County Council and Openreach to provide access to NGA fibre broadband services for residents and businesses. The Council's ambition is that 98% of homes and businesses in Derbyshire will be able to access speeds of at least 24 Mbps by the end of 2020¹⁵.
- 1.3 The Digital Derbyshire programme applies to existing households and businesses. New residential developments coming forward will not necessarily be covered by the Digital Derbyshire programme.
- 1.4 Therefore, all developers proposing housing developments should look to provide for NGA broadband infrastructure and services as part of the design of their development schemes at the outset.

Mitigation

- 1.5 It is not expected that the County Council will require fibre-based broadband to be provided to make a development acceptable in planning terms, however developers should look to provide for NGA broadband infrastructure services as an integral part of the development scheme at the outset. This will support the Government's ambitious targets for the availability of full fibre and 5G networks which seeks to see 15 million premises connected to full fibre by 2025, with coverage across all part of the country by 2033. More information can be found the Government publication '[Future Telecoms Infrastructure Review](#)'.
- 1.7 Operators and developers are starting to realise how important fibre-based broadband is for new development and have started to work together to install this infrastructure. More information can be found in the [Openreach Guides and Handbooks](#).
- 1.8 Virgin Media is also offering this service. More information can be found on the Virgin Media's [web page](#).
- 1.9 NGA broadband connectivity is a crucial factor for homeowners when deciding to buy a house. The Home Builders Federation (HBF) is promoting and

¹⁵ Based on the number of Derbyshire premises as of August 2014 and contractual target with BT

supporting the uptake of this funding amongst its members to ensure that high quality broadband services are provided as an integral part of new build homes. More information can be found at <https://www.openreach.com/fibre-broadband/fibre-for-developers/>

- 1.11 Openreach is not the only provider of high-speed broadband services. Developers may wish to make enquiries with other service providers to explore whether other more cost-effective options are available.
- 1.12 Local Planning Authorities should attach advisory notes to planning permissions to request that developers work with broadband providers to ensure NGA broadband services are incorporated as part of the design of new development. However, if it can be shown that this would not be possible, practical or economically viable, in such circumstances, suitable ducting should be provided within the site and to the property to facilitate future installation.
- 1.13 Guidance on the characteristics of qualifying NGA technologies is available from The Department for Digital, Culture, Media and Sport.¹⁶

¹⁶ <https://www.gov.uk/government/publications/2016-nbs-tech-guidelines>

Employment and Skills

- 1.1 One of the 5 outcomes of Derbyshire County Council's 'Council Plan 2019-21' identifies 'A strong, diverse and adaptable economy which makes the most of Derbyshire's rich assets and provides meaningful opportunities for local people'. To support its Council Plan, the County Council has developed an 'Employment and Skills Strategy' with the vision being 'To enable the residents and employers of Derbyshire to secure the skills and employment needed for economic success and prosperity'.
- 1.2 Much of the activity delivered through the Strategy is already funded through existing departmental budgets. External funding opportunities have been, and will be, maximised through joint work with partners.
- 1.3 The County Council will also continue to work with partner organisations including the D2N2 Local Economic Partnership (LEP), and District/Borough Councils to implement the emerging Local Industrial Strategy (LIS). The D2N2 LIS is structured around the UK's Industrial Strategy which seeks to 'ensure that everyone can improve their skills throughout their lives, increasing their earning power and opportunities for better jobs'.
- 1.4 Development which is capable of contributing to these objectives will be considered on a case by case basis. The County Council will work collaboratively with the District/Borough Councils to identify where activities or contributions are required to support employment and skills development where they are supported by policies in the District/Boroughs' respective local plans.

Other

1. Flood and Water Management

As a Lead Local Flood Authority, the County Council is responsible for the Local Flood Risk Management Strategy and should be engaged and consulted in both the development planning and development management process. The County Council has prepared a Preliminary Flood Risk Assessment for Derbyshire which can be used to inform the preparation of land use policies and decisions on planning applications. Further information regarding flood risk is available by contacting Derbyshire County Council's Flood Risk Team – flood.team@derbyshire.gov.uk.

2. Biodiversity

All Local Planning Authorities in Derbyshire have Service Level Agreements with Derbyshire Wildlife Trust to provide advice on ecological issues. These service level agreements should be used to obtain advice on request

3. Archaeology and the Historic Environment

Derbyshire's historic environment includes the Derwent Valley Mills World Heritage Site, a wealth of nationally designated built heritage and archaeological sites, locally designated Conservation Areas and Areas of Archaeological Interest, and over 20,000 sites and features of archaeological and historic interest recorded in the Derbyshire Historic Environment Record (DHER). The County Council hosts DHER as well as an archaeological advisory service which provides planning advice to Local Planning Authorities across the county under Service Level Agreements. Planning conditions/obligations and developer contributions may be used by planning authorities to conserve and enhance aspects of the built and historic environment, one of the key objectives of sustainable development as defined by the NPPF.

Where advice is required, details of planning applications should be emailed to: stephen.baker@derbyshire.gov.uk.

4. Landscape Character and Visual Amenity

Derbyshire has a varied and diverse landscape. Local Planning Authorities are responsible for determining whether a Landscape and Visual Impact Assessment is required. Local Planning Authorities can use planning conditions and financial contributions to help secure long-term management plans and to conserve, enhance and manage landscape character.

5. Canals and Waterways

The canals and canal routes are an important element of Derbyshire's green infrastructure. Derbyshire County Council has large land and asset liabilities on the Chesterfield, Derby and Sandiacre and Cromford Canals and is the

Navigation Authority for the in-water sections between Chesterfield and Staveley and at Cromford. Please refer to the [Derbyshire Waterways Strategy](#) and the County Council's Countryside Service for more information: Susan.White@derbyshire.gov.uk.

6. Fire and Rescue

It is vitally important that new housing is well-designed and addresses safety and the needs of vulnerable people. Houses must provide adequate safety for the occupant throughout the occupiers' lifetimes. Derbyshire Fire and Rescue Service should be consulted on all proposals for housing growth so that the implications for fire safety can be considered. Local Planning Authorities should consider the use of conditions and information notes/recommendations on planning permissions to secure the provision of sprinkler systems and associated water supply infrastructure. For more information contact:

Bolsover, Chesterfield and North East Derbyshire	northareaadmin@derbys-fire.gov.uk
High Peak and Derbyshire Dales	westareadmins@derbys-fire.gov.uk
Derby City, South Derbyshire, Amber Valley and Erewash	SouthAreaAdmin@derbys-fire.gov.uk

Appendix B**Comments received on the Derbyshire County Council Developer Contributions Protocol and the County Council Response**

Paragraph	Organisation	Comment	DCC response
Comment	Councillor	What about community hub infrastructure?	Requests for contributions need to be in line with the 3 tests in the CIL regulations. It is unlikely that a community hub is necessary to make a development acceptable in planning terms.
Comment	Chesterfield Borough Council	Welcomes the clarification of the approach and methodology in calculating a proportionate financial contribution from the developer where appropriate and on a case by case basis	Comment noted
Travel Plans	Chesterfield Borough Council	It is noted that DCC will continue to request a travel plan for “all developments that will generate significant amounts of movement” and seek to include this in any S.106 agreement, and that DCC will also seek a financial contribution from the developer towards staff costs incurred by the County Council as part of the associated costs of the travel plan monitoring	Comment noted
Electric Vehicles	Chesterfield Borough Council	The Borough Council welcomes the approach to provision of EV infrastructure as an integral part of the development scheme at the outset, and recognises the value in seeking high level co-ordination in standards and requirements. The protocol advises that Local Planning Authorities should attach advisory notes to planning permissions to request that developers work with EV infrastructure providers to ensure charge points are incorporated as part of the design of new development in line with the recommendations. This advice may need to be expanded as technology continues to develop.	There is a review mechanism within the document at 7.7 (Page 18) to allow for updates. It is envisaged that EV infrastructure will also be embodied in local plan policy.

Signatories Page 14 para 5.3	Chesterfield Borough Council	It is noted that the protocol proposes that the County Council should be a signatory to S106 legal agreements which relate to services which are the responsibility of the County Council. This will incur legal fees which the protocol states that the County Council will seek to recover from the developer by using a clause in the Section 106 agreement.	This remains the case.
Payment of contributions	Chesterfield Borough Council	It is also noted that the protocol states that where agreed with the District/Borough Councils, contributions payable in relation to the County Council's clauses will be paid directly to the County Council	Please note this is in agreement with the District/Borough Council's to ensure no double charging.
Monitoring Fees	Chesterfield Borough Council	It is noted that the protocol sets out the intention charge monitoring fees, as now permitted by Reg. 122 of the CIL Regulations. It may be appropriate to consider whether a single monitoring fee to cover the total cost of monitoring S.106 agreements at County and District level may be more appropriate and cost effective in its collection.	The County Council is only requesting contributions towards the monitoring of the obligations which are due to the County Council. The joint fees approach with the relevant District/Borough was considered however the issues were as follows: <ul style="list-style-type: none"> • each LPA may wish to use a different charging model, which for the County Council would involve different arrangements with each of the LPAs • fee revisions would no longer be an individual authority decision • Collecting the funds as 1 payment it would also involve double handing and splitting of fees. • Requesting separate fees would reflect the proportionality of the work of the respective authorities.
Viability	Chesterfield Borough Council	The protocol recognises that the role for viability assessments is now primarily at the plan making stage to ensure that policies are realistic, and that policy requirements should be set at a level that takes account of affordable housing and infrastructure needs, and allows for the planned	Given that each of the 9 planning authorities has Local Plans at differing stages there is no optimal time to review the Developer Contributions Protocol. This review was driven by the changes in the Community Infrastructure Levy Regulations which were introduced on 1 st September 2019.

		<p>types of sites and development to be deliverable, without the need for further viability assessment at the planning application stage.</p> <p>The commitment of the County Council to continue to work with LPAs at the plan making stage to ensure the required infrastructure and services are factored into the viability assessments to ensure that the allocated sites are deliverable is welcome.</p> <p>However it is significant that in the case of the Chesterfield Local Plan, a whole plan viability assessment was undertaken on the submission draft to ensure that the total policy burden is deliverable. The additional costs now brought about through the revised Protocol have not been reflected in the viability study through the local plan and have therefore not been tested.</p>	<p>Not every item listed within the Protocol will be required as each development is distinctive. The County Council will continue to work closely with LPAs to seek contributions towards necessary infrastructure and the viability of a development.</p>
Future Review	Chesterfield Borough Council	The Borough Council requests that adequate opportunity for comment and consultation is provided on future reviews of the Developer Contributions Protocol	A 6 week consultation period will be provided.
Standards and timescales	Chesterfield Borough Council	The protocol is a comprehensive statement of existing, revised and new requirements on the part of the County Council in relation to new development proposals. If the additional requirements and fees are to be introduced, developers will in all likelihood expect a commitment to standards in respect of issues such as response times to ensure that progress on agreeing and signing s.106 agreements takes place at an appropriate pace and without undue delay. The protocol should include an additional section to set out this commitment and clarify that all relevant DCC services are committed and signed up to this.	Acknowledged and additional wording included: Where contributions are sought through the provision of a Section 106 agreement, Derbyshire County Council is committed to progressing these matters in a timely manner, at an appropriate pace and without undue delay on the part of Derbyshire County Council.

Page 5 Paragraph 2.5	Amber Valley Borough Council	The wording of this paragraph could perhaps be revised to provide greater clarity. As currently worded, it could imply that housing need is determined by delivery, on the basis that the Housing Delivery Test measures the extent to which housing completions have met established need.	Acknowledged and reworded to: Figures in the Housing Delivery Test, which measures the extent to which housing completions have met established need, showed that Derbyshire (not including Derby City) in 2017/18 delivered 3,327 new dwellings. This demonstrates the level of additional growth and the demand placed on infrastructure and services.
Pre-application Page 8 Paragraphs 4.2-4.3	Amber Valley Borough Council	It would helpful if any requests to the County Council for pre-application advice and the responses given to those requests are copied to the relevant local planning authority, for information.	Acknowledged and reworded to include that the response will be copied to the relevant Local Planning Authority.
Page 8 Paragraph 4.5	Amber Valley Borough Council	The County Council's policy of referring pre-application consultations to the relevant County Council elected ward member(s) is acknowledged, although this is not Amber Valley Borough Council's policy in respect of its elected members. In these circumstances, it is important to emphasise to the County Council elected ward member(s) that any pre-application enquiries submitted to the Borough Council are dealt with on a confidential basis.	Acknowledged and included
Planning Applications Page 9 Paragraph 4.8	Amber Valley Borough Council	It is not clear how this position sits with the proposals by the County Council to introduce Highway Standing Advice as a means of delivering the substantive response of the Highway Authority, to a planning consultation, in a generic format.	Duly noted. The Standing Advice will form the Highways Authority's substantive response for those applications to which it refers.
Page 10 Paragraph 4.12	Amber Valley Borough Council	It is not clear whether this wording refers specifically to proposals received directly by the County Council, or to those on which they have been consulted by District/Borough Councils. If the latter, it is not clear what the County Council would undertake its own consultation with a neighbouring authority, as this should be picked up	This was specifically with reference to Education and the cross county or unitary nature of some normal areas. The comment is acknowledged and the paragraph reworded to: Where infrastructure and services are provided in conjunction with a neighbouring authority, the County Council will liaise with the appropriate

		by the District/Borough Council as the relevant planning authority.	authority and Section 106 contributions may be secured to mitigate any negative impacts a development may place on the neighbouring authority.
Page 10 Paragraph 4.14	Amber Valley Borough Council	It would helpful to clarify whether such notification would need to be formal i.e. in writing, or whether an informal telephone call & discussion may suffice.	Acknowledged and included 'via email' in the text.
Page 11 Paragraph 4.19	Amber Valley Borough Council	It is not clear why this would be appropriate. Where Amber Valley Borough Council receives a viability assessment, it would then refer it for independent review to a suitably qualified person.	The County Council may not agree with the outcome of the independent review and consider a review of the documentation is necessary. Reworded: At the planning application stage the LPA should consult the County Council as soon as possible if they have accepted a viability assessment as part of the planning application process. The LPA should provide the viability assessment to the County Council along with any independent review commissioned to allow an understanding of the issues. Should it be required the County Council reserves the right to appoint a suitably qualified person to undertake an independent viability review of the documentation.
Page 12 Paragraph 4.23	Amber Valley Borough Council	The wording here should be clarified, as the current wording could imply that infrastructure requirements identified in a response by the County Council would take priority over any section 106 requirements identified by the relevant District/Borough Council.	Reworded: Where viability is proven an issue, the County Council requests that a review mechanism is included in a S106 requiring periodic viability assessments throughout the life of the development. Any overage generated, should in consultation with the Local Planning Authority be prioritised, and include infrastructure as identified within the County Council's response to the planning application.
Section 106 Legal Agreement Checklist Page 15 Paragraph 5.8	Amber Valley Borough Council	The difficulties arising here are noted, but the Borough Council considers that it would not be appropriate to include a clause stating that committed funds should be treated as spent, as this would not be factually correct.	Acknowledged and sentence 'Therefore, S106 Agreements should include a clause that says where funds are committed they should be treated as spent' removed and text of clause included at 5.9

			‘For the avoidance of doubt, for the purposes of paragraph X of this Schedule, the Contribution shall be deemed to have been committed if the County Council has entered into any contract or given any undertaking (whether enforceable in law or otherwise) the performance or fulfilment of which will require the County Council to expend funds in the future’
Monitoring Page 17 Paragraph 7.4	Amber Valley Borough Council	It would helpful to confirm whether this fee is proposed as a result of the changes to the CIL Regulations referred to in paragraph 7.3.	Yes this is a result of CIL Regulation 122 2A. Sentence inserted to identify this is in line with the CIL regulation.
Appendix 1 Travel Plan monitoring fee	Amber Valley Borough Council	It would helpful to confirm whether this fee is proposed as a result of the changes to the CIL Regulations referred to in paragraph 7.3.	Travel Plan monitoring fees have been sought by the County Council for a number of years and this is not a result of the changes to the CIL Regulations.
Travel Plan bond Page 21 Paragraph 2.6	Amber Valley Borough Council	It would helpful to confirm whether this fee is proposed as a result of the changes to the CIL Regulations referred to in paragraph 7.	The Travel Plan bond is not a result of the changes to the CIL Regulations. The bond is required to enable travel plan measures to be implemented by the County Council should the identified targets not be achieved by an agreed date. A proportionate amount is returned in line with the level of achievement against the Travel Plan targets.
Appendix 3 Public Health and Adult Social Care Page 51 Paragraphs 1.42-1.43	Amber Valley Borough Council	The shared approach for assessing the impact of development on the delivery of primary care services and health care facilities (buildings) is strongly supported	Duly noted
Waste Services Page 54 Paragraph 1.17	Amber Valley Borough Council	The scope for the Borough Council to negotiate financial contributions through section 106 agreements towards this service is restricted, pending the preparation and subsequent of appropriate policies in a new Local Plan.	Acknowledged. Given that each of the 9 planning authorities has Local Plans at differing stages there is no optimal time to review the Developer Contributions Protocol. This review was driven by the changes in the Community Infrastructure Levy Regulations which were introduced on 1st September 2019.

			<p>Not every item listed within the Protocol will be required as each development is distinctive. The County Council will continue to work closely with LPAs to seek contributions towards necessary infrastructure.</p>
<p>Appendix 5 Library Services</p>	<p>Amber Valley Borough Council</p>	<p>The scope for the Borough Council to negotiate financial contributions through section 106 agreements towards this service is restricted, pending the preparation and subsequent of appropriate policies in a new Local Plan.</p>	<p>Given that each of the 9 planning authorities has Local Plans at differing stages there is no optimal time to review the Developer Contributions Protocol. This review was driven by the changes in the Community Infrastructure Levy Regulations which were introduced on 1st September 2019.</p> <p>Not every item listed within the Protocol will be required as each development is distinctive. The County Council will continue to work closely with LPAs to seek contributions towards necessary infrastructure.</p>
<p>Appendix 2 Education Paragraphs 1.14 and 1.15</p>	<p>Emery Planning on behalf of</p> <ul style="list-style-type: none"> • Wainhomes (North West) Limited • Barratt Homes • Mr Gary Cullen 	<p>We object to the requirement to consider a proposed residential development within the context of the normal area school only. We consider that the approach should follow well established practice for the assessment to relate to local schools rather than the normal area school only.</p>	<p>There are numerous approaches followed across England, with a number of local authorities assessing need based on normal areas. The latest DfE Guidance 'Securing Developer Contributions for education' (Nov 2019) recognises the merits of a local approach, stating that 'There is great value in detailed local methodologies and guidance that explain to all stakeholders the process and reasons for the collection of developer contributions for education in that area'.</p> <p>The County Council's local approach is to reference the normal area school to assess projected capacity with regard to development proposals. This reflects the County Council's admissions criteria for community and voluntary schools which gives high priority to pupils' resident within the normal area of the school. This is based on the Schools Admissions</p>

			<p>Code of December 2014, which is statutory guidance from the DfE.</p> <p>The normal area approach is consistent with the Local Authority's statutory duty to ensure sufficient local school places, by seeking to secure additional places local to any new development. This is in the clear interests of existing residents and those moving into the area.</p>
<p>Comment Education Appendix</p>	<p>Emery Planning on behalf of</p> <ul style="list-style-type: none"> • Wainhomes (North West) Limited • Barratt Homes • Mr Gary Cullen 	<p>The protocol states that it has been prepared in line with the November 2019 guidelines published by the Department for Education (DoE) entitled 'Securing developer contributions for education.' Furthermore, paragraph 1.5 of the Education Appendix states that the net capacity of the normal area school is the DfE's nationally agreed measure of a school's ability to accommodate pupils of statutory age. However, there does not appear to be requirement within 'Securing developer contributions for education' to consider the normal area school only. Paragraph 3 of the DfE statement actually states that:</p> <p>"It is important that the impacts of development are adequately mitigated, requiring an understanding of:</p> <ul style="list-style-type: none"> • The education needs arising from development, based on an up-to-date pupil yield factor; • The capacity of existing schools that will serve development, taking account of pupil migration across planning areas and local authority boundaries; • Available sources of funding to increase capacity where required; and 	<p>Page 4 of the DfE Guidance also states that 'There is great value in detailed local methodologies and guidance that explain to all stakeholders the process and reasons for the collection of developer contributions for education in that area. This guidance (DfE Guidance) is not intended to replace local approaches, which often provide detail on.....</p> <ul style="list-style-type: none"> • Assumptions about the schools children from a development will attend, when assessing available capacity in affected schools. <p>In response to the query regarding the use of plural in the DfE guidance and the perceived inconsistency with the protocol: It is important to note that any proposed residential development will fall within the normal area of multiple schools. Education provision is organised in phases of education and there will be at least two schools serving any proposed development; for example a primary school and a secondary school, or an infant school, a junior school and a secondary school. The reference to, and identification of the schools whose capacity is to be analysed (ie normal area), will therefore always be expressed as a plural.</p>

		<ul style="list-style-type: none"> • The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.” (our emphasis). <p>Therefore the DfE document refers to the capacity of existing schools, rather than the normal area school only and even refers to taking account of migration across boundaries. That is plainly not just the nearest school, given the use of the plural. There is therefore no support for the approach taken by DCC from the DfE and the DCC protocol is contrary to the DfE guidance.</p>	<p>It is also relevant to note that it is possible for individual normal areas (containing multiple schools) to span Local Authority boundaries.</p> <p>Legal advice has been secured in relation to the Education methodology contained within the Protocol. It has found the document to be legally sound.</p>
<p>Comment Education Appendix</p>	<p>Emery Planning on behalf of</p> <ul style="list-style-type: none"> • Wainhomes (North West) Limited • Barratt Homes • Mr Gary Cullen 	<p>There is no requirement in law for primary schools to take pupils from their normal area. DCC’s own admissions rules provide: “Please note there is no automatic right to a place in any particular school, even where a child lives in the normal area of a school, has a sibling in attendance or attends an associated primary school.”</p> <p>It goes on to state on page 12 that: “In law there is no automatic right to a place in any particular school. We will offer you one place, at the highest priority school possible. Where we cannot offer a place at any of your chosen schools, your child will be allocated a place at the normal area school – if places are still available –.” It is not therefore logical to restrict an assessment of capacity to the normal area school only. Furthermore, it is within DCC’s powers to review and amend the admissions area boundaries to reflect demand and capacity at the schools within an area; indeed as a responsible authority these matters should be kept under review and adjusted to make best use of public resources, and provide</p>	<p>DCC admissions states: ‘Where we cannot offer a place at any of your chosen schools, your child will be allocated a place at the normal area school – if places are still available - or the next nearest school with places available ‘. To enable the admissions criteria to be implemented, additional capacity at the normal area school is funded through the provision developer contributions.</p> <p>The assertion that DCC has powers to review and amend normal area boundaries is factually incorrect. DCC do not have the power to amend normal areas of academy or voluntary aided schools. It is also not possible to adjust boundaries to reflect changes in demand and capacity in real time, as any changes are subject to a formal consultation process.</p>

		the best service to residents. It would be unrealistic to view the normal area as being permanently fixed.	
Comment Education Appendix	Emery Planning on behalf of <ul style="list-style-type: none"> Wainhomes (North West) Limited Barratt Homes Mr Gary Cullen 	<p>As parents are able to select their preferred school, the capacity at a school is not fixed and subject to change. Focusing on capacity in local schools is therefore a more accurate measure of capacity. This is recognised in the draft protocol at paragraph 1.6.</p> <p>Were children only able to access their most proximate school then there may be an argument for restricting the consideration of school capacity to that school. However, that has not been the position within England for decades where parental choice has been at the heart of the education provision subject only to the capacity of local schools. As a result it is far from uncommon for schools to have a significant proportion of their roll from beyond that school’s immediate catchment.</p> <p>This reinforces our case that the assessment of spare capacity (and any resulting need for additional provision) should relate to local schools and there should not be restricted to the normal area school only.</p>	<p>Page 4 of the DfE Guidance also states that ‘There is great value in detailed local methodologies and guidance that explain to all stakeholders the process and reasons for the collection of developer contributions for education in that area. This guidance (DfE Guidance) is not intended to replace local approaches, which often provide detail on.....</p> <ul style="list-style-type: none"> Assumptions about the schools children from a development will attend, when assessing available capacity in affected schools. <p>It is acknowledged parents have a right to express a preference for the school they want their child to attend, but do not have a right for their child to attend that particular school. If there are places available then a place should be offered at that school.</p> <p>By law a school has to accept pupils up to its published PAN under the Admissions Code even if they are out of area. It would therefore be against the law to retain places for unforeseen future normal area pupils.</p> <p>It is also important to note that access to some schools may be restricted and therefore capacity within other local schools may not be available to occupants within a new development. Church schools, for example, are their own admissions authority .</p>
Comment Education Appendix	Emery Planning on behalf of	The planning appeals procedural guidance (August 2019) provides further clarification on the CIL	DCC as a statutory consultee in the planning process, and provide detailed responses providing the

	<ul style="list-style-type: none"> • Wainhomes (North West) Limited • Barratt Homes • Mr Gary Cullen 	<p>tests in Appendix N 'Planning Obligations'. Section N.3 relates to 'Justifying the need for the obligation'.</p>	<p>information as required to justify a request for education contributions and based on the methodology within the Developer Contributions Protocol. These requests have been considered at appeal by numerous Inspectors and have been judged as CIL compliant.</p>
<p>Comment Education Appendix</p>	<p>Emery Planning on behalf of</p> <ul style="list-style-type: none"> • Wainhomes (North West) Limited • Barratt Homes • Mr Gary Cullen 	<p>It is difficult to determine from the draft document quite what the status of this document is intended to be. It is not a development plan document (DPD), nor does it appear to be a supplementary planning document (SPD). If it is intended to be an SPD then it would have been required to be accompanied by a Sustainability Appraisal and this is not the case. As a protocol which is not a DPD nor an SPD, it has considerably less weight than either in the decision making process. However, the intention appears to be that the document will comprise actual planning policy which will be relevant on applications. If this is the case then it does not accord with DfE guidance on education contributions and educations requested on this basis would not meet the CIL tests. Very limited weight should be attached to it.</p>	<p>DCC is responsible for the delivery and operation of much of the large scale infrastructure required to support development. DCC is therefore an important statutory consultee in the planning process. The Protocol does not purport to be an SPD or DPD but provides the information on the type and level of contributions which may be sought and the methodology which underpins the calculations. A key purpose of the protocol is to provide a fair, consistent and transparent approach to developer contributions. Section 1.4 states the purpose of the Protocol as being to:</p> <ul style="list-style-type: none"> • set out clearly the County Council's expectations as to how development will need to mitigate its impact with regard to the infrastructure and services delivered by the County Council. This Protocol details the type and level of contributions which may be sought by the County Council when consulted on planning applications, and the methodology which underpins the calculations. • to support the Local Planning Authorities to incorporate contributions towards infrastructure requirements into their Local Plans in order to comply with Planning Practice Guidance which requires that planning obligations should be set out in plans and examined in public.

			<p>With reference to the above, the Protocol satisfies Para 22 of the DfE guidance ‘Securing Developer Contributions for Education’, which advises local authorities with a responsibility for providing sufficient school places under the Education Act 1996 that they work with local planning authorities and developers to ensure your long-term pupil place planning objectives are reflected in the development plan (and supplementary planning documents which do not form part of the development plan, but which are material planning considerations).</p> <p>Page 4 of the DfE Guidance also states that ‘There is great value in detailed local methodologies and guidance that explain to all stakeholders the process and reasons for the collection of developer contributions for education in that area. This guidance (DfE Guidance) is not intended to replace local approaches, which often provide detail on:</p> <ul style="list-style-type: none">• The approach to seeking contributions for education from affordable housing.• Types/sizes of homes that will be excluded from calculations of developer contributions.• Education projects developer contributions may fund.• The minimum viable size of new schools.• Assumptions about the schools children from a development will attend, when assessing available capacity in affected schools.• Minimum surplus capacity to allow for fluctuations in demand and parental choice, not counted as available when calculating developer contributions.• Contributions ‘in kind’ (land and/or construction).
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			<ul style="list-style-type: none">• Requirements on size and suitability of school sites, including checklists, exemplar layouts and facility specifications.• Standard planning obligation clauses.
Developer Contributions Protocol	South Derbyshire District Council	South Derbyshire District Council welcomes the expansion of topics included within the Protocol, notes the introduction of the planning obligations management fee and travel plan monitoring fee and notes the changes in formula for generating education contributions.	Duly noted.