

# **Planning Obligations in Lancashire Policy**

**Lancashire County Council**

**Adopted November 2006  
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## CONTENTS

	Page
Preface	1
<b>Part 1: Policy Guidance</b>	<b>3</b>
Background	5
Methodologies and Priorities	7
Key Principles and Procedures	12
<b>Part 2: Individual Methodologies</b>	<b>17</b>
<b>2.1 County Council Services</b>	<b>19</b>
2.1.1 Children's Centres	19
2.1.2 Education	23
2.1.3 Libraries	26
2.1.4 Minerals and Waste Development	29
2.1.5 Transport	30
2.1.6 Waste Management	35
<b>2.2 Combined County Council/Local Authority Services</b>	<b>37</b>
2.2.1 Countryside Access	37
2.2.2 Cultural Heritage	39
2.2.3 Landscape Character and Design	41
2.2.4 Natural Heritage	42
2.2.5 Youth and Community	45
2.2.6 Public Realm and Public Art	48
<b>2.3 Other Service Areas</b>	<b>50</b>
2.3.1 Affordable and Special-Needs Housing	50
2.3.2 Crime and Disorder	53
2.3.3 Flood Defences	56

2.3.4	Health	59
2.3.5	Inland Waterways	62
2.3.6	Open Space, Sport and Recreation	64
2.3.7	Utilities	70
<b>Part 3: General Information and Good Practice Guidance</b>		<b>72</b>
Appendix 1	Land Use Thresholds for Planning Obligations	74
Appendix 2	Protocol between the County Council and District Councils	77
Appendix 3	Financial Guidelines for Managing Planning Obligations	80
Appendix 4	Lancashire County Council Planning Obligation Procedures	83
Appendix 5	Average Building Costs 2008	86
Appendix 6	Practical Examples	87
Appendix 7	Glossary	92
Appendix 8	Bibliography	94
Appendix 9	Key Contacts	100
Appendix 10	Accessibility Questionnaires	104
Appendix 11	Sample Standard Heads of Terms Section 106 Agreements	106
Appendix 12	Planning Officers' Society Guidance on the Use of Conditions in place of Section 106 Agreements	116

## PREFACE

This paper puts forward principles, methods and good practice with the aim of developing a consistent and robust approach to planning obligations across Lancashire. It is based upon extensive research undertaken by a working group from the Lancashire Planning Officers' Society (LPOS). The group consisted of representatives from Lancashire County Council, Blackburn with Darwen Borough Council, Blackpool Borough Council, Chorley Borough Council, Hyndburn Borough Council and Preston City Council.

The paper has been through two stages of consultation.

- During the first stage in September 2005 the paper was circulated to 150 organisations, including developers, transport operators, housing and business organisations, environmental organisations and local authorities. 22 replies were received and in January 2006 a summary of the comments made and responses to them was circulated. Workshops were also held with local authorities.
- For the second stage of consultation a revised document was produced based on the comments received. This was circulated to the same organisations in March 2006 and 10 replies were received. The paper was revised further to reflect these additional comments. There has been no political involvement in the content of the Paper.

LPOS considered a final version of the Policy Paper at its meeting on 9th June 2006. It encouraged each local authority to consider the approach proposed in the paper and to take the document forward at the local level as each authority sees appropriate. This document is substantively the Paper the document that was submitted to LPOS with some changes to ordering of methodologies. This was considered as valuable in providing a wider context. The adoption of the Policy Paper by Lancashire County Council in November 2006 reflects the commitment of the Authority to developing a consistent and clear approach to planning obligations.

The document is structured as follows.

- Part 1 sets out the main guidance on planning obligations
- Part 2 provides detailed methodologies in three parts:
  - County Council Services;
  - Combined County Council/Local Authority Services;
  - Other Services.
- Part 3 sets out examples of good practice.

LPOS advised that Lancashire planning authorities may want to use the Policy Guidance as a basis for developing planning obligations policies in their local development frameworks (LDFs). Local authorities will also want to consider local research to form an evidence base for matters such as public open space, individual authorities may also want to develop internal good practice guidance. Lancashire County Council will undertake further internal research as appropriate. This paper is **not** a formal supplementary planning document (SPD) under the Planning and Compulsory Purchase Act 2004.

In September 2008 the Planning Obligations in Lancashire Policy paper (this version) was updated to take into account new information including the latest building costs from the RICS Building Cost Information Service; the abandonment by the Government of the proposed Planning Gain Supplement and the proposed introduction of a Community Infrastructure Levy (CIL); and revised key contacts (Appendix 9). The opportunity has also been taken to provide clarifications in response to comments by users and to correct drafting errors in the original document.

A full review of this paper will be conducted to take account of the implications of the proposed Community Infrastructure Levy.

# **Part 1**

# **Policy Guidance**



## PART 1: POLICY GUIDANCE

### BACKGROUND

#### Introduction

- 1.1 The main purpose of the planning system is to promote sustainable development. This includes social, economic and environmental factors, as well as prudent use of natural resources. Development proposals should contribute to this purpose and should minimise the negative impact of development.
- 1.2 Planning obligations are a way of helping to deliver sustainable development. However, if the basic concept of a scheme is not in line with sustainable development principles (particularly those set out in the development plan), then even the most comprehensive planning obligation will not help.
- 1.3 Planning obligations are legal agreements negotiated under Section 106 of the Town and Country Planning Act 1990. They may be negotiated between the developer and the planning authority. They may involve other people or organisations. Unilateral undertakings only involve the developer and are usually drawn up in the context of Planning Appeals but may be appropriately offered by applicants in other specific circumstances. An example would be where all the requirements set out in the Local Development Framework are met and no other party is involved in meeting the Obligation.
- 1.4 Planning Obligations can be used to offset the impacts of new development where these cannot be satisfactorily addressed by conditions attached to the planning consent. This may include the need for 'specific mitigation' – for example, to create new wildlife areas or to provide extra services for the development, such as new school facilities.
- 1.5 Planning obligations can take several forms. These include 'in-kind' contributions, such as financial payments, long-term site management or where a developer builds or provides a facility such as a school. Many local planning authorities and courts have taken a broad view of the issues which can be included in planning obligations. However, the Government has taken a narrower view.
- 1.6 In July 2005 The Office of the Deputy Prime Minister (now the Department for Communities and Local Government – DCLG) published updated guidance on planning obligations in Circular 05/2005. The circular states that planning obligations should be:
  - necessary;
  - relevant to planning;
  - directly related to the proposed development;
  - fairly and reasonably related to the proposed development; and
  - reasonable in all other ways.
- 1.7 Circular 05/2005 identifies the importance of setting a planning policy framework for planning obligations as a means of justifying the range of requests made. It also supports the use of formulae, procedures and good practice to speed up the



negotiation process. This reflects approaches pioneered by several authorities across the country.

- 1.8 Planning obligations should not be used where conditions can be applied to achieve the same result. This is because a developer can appeal against a planning condition to the secretary of state but cannot appeal against a planning obligation.
- 1.9 Some planning authorities have been able to manage the off-site impact of development proposals by using 'Grampian conditions'. The Planning Officers' Society produced a best practice note on this subject in March 2005 which identified where this approach may be a suitable alternative to planning obligations (see Appendix 12). Planning authorities and developers are encouraged to refer to this note for advice.
- 1.10 National planning obligation policy is in a state of change. The Government is expected to formally consult at the end of 2008 on the Community Infrastructure Levy. If new regulations are put in place, Local Authorities that elected to adopt the CIL approach would be required to establish the likely infrastructure costs in order to set an appropriate levy for their respective areas.
- 1.11 However, many of the general principles which currently underpin planning obligation good practice are likely to remain when any new system is introduced. These relate in particular to:
  - having a clear basis for identifying needs;
  - prioritising requirements; and
  - establishing effective internal procedures for processing and monitoring funds and agreements.

## **Lancashire**

- 1.12 At the moment local planning authorities do not have a consistent approach to planning obligations across the County. There is no strategic policy guidance in the Joint Lancashire Structure Plan.
- 1.13 Several Councils have general local plan policies on the subject, but there is a general lack of detailed guidance and clear procedures for specific topics. The main exception to this relates to public open space.
- 1.14 As a result, solutions have been sought and negotiated for individual proposals, which has often led to inconsistency and long, expensive delays in processing applications. The problem has been made worse by a lack of clear rationale behind requests to developers and vague procedures for processing information within and between organisations. There is a clear need for consistent procedures and suitable guidance on good practice.

## **This Document**

- 1.15 This document provides guidance in establishing principles for the current round of LDF development in Lancashire.

## ***Aims***

- 1.16 The aims and objectives of this guidance should apply throughout Lancashire. However, it is recognised that individual local authorities will apply the guidance in line with their own circumstances and priorities.
- 1.17 The main aims of this guidance are to:
- provide a clear framework for local planning authorities preparing LDF policies and developing a plan-led approach;
  - provide a systematic basis for officers negotiating Section 106 Planning Agreements; and
  - give specific advice to developers on when contributions will be required and how they will be calculated.

## ***Objectives***

### ***1.18 Transparency***

This guidance sets out the circumstances where an authority may impose planning obligations and, where possible, how it should calculate its requests.

### ***1.19 Consistency***

This guidance aims to minimise the negative effects of development in a way that is fair and reasonable. A Lancashire-wide approach will reduce unnecessary differences and competition between authorities.

### ***1.20 Speed***

This guidance aims to:

- provide a higher level of clarity for everyone involved;
- reduce unnecessary negotiation; and
- increase the speed of planning decisions.

### ***1.21 Certainty***

This guidance makes clear what is expected of developers and the roles of different local authorities. However, it also provides enough flexibility for local authorities to adapt to site-specific circumstances.

## **Methodologies and Priorities**

### **Overview**

- 1.22 New development can have a wide range of effects. This document aims to identify the main areas where an authority may request planning obligations. However, no list can cover all possibilities and there will be circumstances where other planning obligations are requested. In the same way, for many applications the authority will not seek a contribution or will make requests relating to only a limited range of issues.

The main factors to be considered will be the effects and sustainability of the development proposal and the contribution it makes to broader priorities in the area.

- 1.23 In parts of Lancashire the property market is weak and highly sensitive to land costs. This can undermine attempts to regenerate the area and to attract specific types of development. In these cases the local planning authority may choose not to request planning obligations, or it may reduce the scope and amount of obligations. This is likely to be the case where a development proposal would stimulate regeneration but is financially marginal, or where a scheme is fundamental to the District Council's overall development strategy.
- 1.24 Most planning obligations involve developers paying a fixed sum of money to the local authority or to another service provider to reduce any negative impact the development may have. Or the developers may carry out the work themselves to reduce this impact. However, other planning obligations require the developer to take some kind of management action that does not directly involve financial payments. Examples of this include managing a car park or allowing public access to land.

### **Methodologies**

- 1.25 The detailed methodologies set out in part 2 of this guidance represent the main subject areas where planning obligations can be identified and, where possible, calculated. A standard format is followed for each subject area using the following headings.
- 'Background' – the nature of the individual service.
  - 'Identified needs' – reasons for requesting a planning obligation and specific contexts where development would have an impact.
  - 'Assessing contributions' – land uses for which planning obligations may be requested, different types of obligation and a definition of unit costs where possible.
- 1.26 The formulae set out in this paper provide a clear, fair and consistent basis for calculating planning obligations. They have been drawn up so that everyone involved can easily work out the amount to be paid, which in turn should avoid time-consuming negotiations. An electronic calculator has been developed that will enable users to calculate contributions where formulae apply. It has not been possible to provide formulae for all subject areas. This is either because of a lack of detailed information or the difficulty of producing general values for site-specific impacts.
- 1.27 Appendix 6 includes two examples of how these formulae will work in practice. The first is a transport contribution calculation for a mixed-use development. The second is an overall contributions calculation for a residential development.
- 1.28 Whenever possible formulae are based on local sources and national standard figures, for example from the Royal Institute of Chartered Surveyors British Cost Information Service. Figures will need updating each year to reflect inflation.
- 1.29 Detailed costs used in this document are set out in Appendix 5. Where gaps remain in information, these have been identified. Local planning authorities will need to

carry out their own research to underpin specific procedures, for example by preparing appropriate local standards for public open space.

## **Outline Applications**

- 1.30 The local planning authority may need to make assumptions about housing density when considering procedures and formulae relating to residential development. If the number of houses is not specified in the planning application, the authority should base its calculations on the following assumed densities from Planning Policy Statement 3.

- In principal urban areas, main towns and key service centres – 40 houses per hectare.
- Outside these areas – 30 houses per hectare.

Developers should pay additional contributions for:

- any houses which they build over the number agreed at the outline planning stage; and
- other significant changes made after the outline planning stage, where these have an impact measurably greater.

- 1.31 If the authority does not know the type of dwelling involved or the number of bedrooms, it should assume that the proposal is for three-bedroomed houses. (This is particularly relevant to obligations relating to children's centres, education, transport and youth and community services). The authority can then amend its request for contributions if the final approved development is substantially different. Examples of this would be if there were a large number of single-bedroomed properties or large houses.
- 1.32 If an outline application is made for non-residential development and only the site area is known, the planning authority will request further relevant information from the developer on the proposed development. If no information is available at outline stage, the planning authority will base its request for obligations on a worst-case scenario. It is then for the developer to show at reserved matters stage that the request is unreasonable.

## **Priorities**

- 1.33 It is not possible to provide a general approach to prioritising that will apply in all cases – for example, that affordable housing will always be more important than archaeology. Site-specific issues will always be an important consideration, as will the fact that economic, social and environmental circumstances vary considerably across Lancashire as a whole and within different districts.
- 1.34 The most frequently required planning obligations have always related to affordable housing, public open space and transport. This pattern is expected to continue across Lancashire. However, this does not mean that other subject areas are of less value. Indeed, on certain sites the principal obligations may relate to matters such as the public realm and flood defence. The list of methodologies in part 2 of this document is presented in alphabetical order and does not imply any order of priority.

- 1.35 As a general principle, the local planning authority will expect each development proposal to consider all of the negative impacts it may have on the local area and the environment. This includes proposals for affordable and special-needs housing as their impact and the increased demands they will place on services are equivalent to those of a commercial housing proposal. This means that if a specific methodology in this document applies to a proposed development, the developer should expect to pay a contribution.
- 1.36 However, it is entirely up to the local planning authority whether it imposes the full range of costs for planning obligations. The authority may decide not to do so if, for example, it believes that the costs generated by the development will be met by other means or are outweighed by the benefits of the development. Flexibility is required that reflects local and site-specific issues.
- 1.37 In most instances the District Council is the authority determines the nature and scale of planning obligations. The County Council will provide a reasoned and consistent response to District Councils based on the methodologies in this document. It is, however, unable to insist upon or enforce requests for contributions to its services other than where the County Council is the determining authority. Likely requests for contributions to County Council services can be anticipated pre-application based upon Parts 2.1 and 2.2 of this document.
- 1.38 Individual methodologies set out the types and sizes of development where planning obligations will be requested. 10 homes and 1,000m<sup>2</sup>gfa are used as thresholds for a number of methodologies. This reflects the need to consider the cumulative impact of relatively small developments. This has been balanced with the need to process planning applications quickly to meet national targets.
- 1.39 The thresholds chosen reflect the definition of major applications set out in the Town and Country Planning (General Development Procedure) Order 1995. Local planning authorities may request contributions from developments below these thresholds if there is a local issue that justifies this.
- 1.40 The basic principle of planning obligations is that they should genuinely allow an otherwise suitable development to progress. Authorities may tailor the guidance in this document to reflect local and site-specific circumstances, and local physical and political priorities.
- 1.41 Circular 05/2005 indicates that the LDF core strategy development plan document (DPD) will provide the overall framework for the type and nature of planning obligations required across a local planning authority area. Supplementary planning documents (SPD) will be the usual context for developing methodologies in more detail, although some authorities plan to use DPDs for this. Area action plans (AAPs) and development briefs may set out specific planning obligations for smaller parts of the local authority area.
- 1.42 The development plan process provides several opportunities for those with an interest, including local residents and the development industry, to comment on an authority's proposed planning obligation policy. Individual planning applications also provide a formal route for comments and objections. The development of large sites may provide opportunities to actively involve local stakeholders in introducing planning obligations – for example, through Community Trusts.

- 1.43 Although the procedures set out in part 2 of this document deal with individual subject areas, there will be some areas which overlap. For example, a specific item such as a new cycle-way could help to achieve objectives in several subject areas such as countryside access, inland waterways, open space, sport and recreation and transport. It is recognised that this will result in an overlap between methodologies that are predominantly county council related and those that are district functions. The focus of local authorities when addressing such issues will be on ensuring the most appropriate and sustainable approach. In these cases local authorities will adopt a strategic approach to avoid double counting. The emphasis will be on maximising the overall value of the contribution to wider objectives while making the process easier for the developer.
- 1.44 Where a request is sought primarily under a methodology with a specific formula, such as Transport, additional quantified contributions may be sought where a scheme would deliver broader clearly defined cross-cutting benefits.

### **Pooled Contributions and Complementary Funding**

- 1.45 There will be situations where an individual development will have only a slight impact on services but, when combined with similar proposals, will have a noticeable effect. For example, a number of small housing developments in a settlement with no library would together increase demand for a library in a way that could not be identified by considering each development individually. Pooled contributions such as this can therefore be extremely important in addressing service shortfalls. Area action plans and supplementary planning documents should provide the framework for identifying where payments into a joint pot may be appropriate and how they will be spent.
- 1.46 Where a very large-scale development is proposed, such as the Fleetwood (Docks-NE Thornton) Strategic Location for Development identified in Policy 3 of the Joint Lancashire Structure Plan, the local planning authorities involved should consider developing an area-wide agreement to deliver services.
- 1.47 In other circumstances a local cross-border agreement may be relevant, for example in delivering a Regional Park Strategy. All proposals that have a strategic impact should build on the detailed methodologies in this document but should also consider:
- pooling contributions from different developers;
  - identifying key actions and developing a programme to deliver them in stages; and
  - public funding of infrastructure in advance of development, refunding these costs from the profits of development.
- 1.48 In parts of Lancashire there may be circumstances where this last approach is desirable, particularly where developers have benefited from a significant increase in land value. Local planning authorities should set out in advance circumstances where they are likely to apply this as a requirement.
- 1.49 Planning obligations may also be complemented or replaced in full or in part by funds from other public and private organisations to introduce much-needed services before a development has been completed.

- 1.50 When deciding the need for and amount of a planning obligation, the planning authority should consider all possible sources of funding and the wider benefits of allowing the application.
- 1.51 To promote openness, locations where demands for contributions are likely to be reduced should, wherever possible, be set out in development plans.

### **Key Principles and Procedures**

- 1.52 A key objective of this guidance is to speed up the time taken to negotiate and apply Section 106 Agreements. There are several complementary ways to achieve this.

### **Pre-Application Discussions**

- 1.53 Before buying land, developers need to consider the likely costs of any planning obligation. The subject areas identified in this document and the definition of circumstances where they may be applied are intended to provide guidance on the range and amount of contributions a developer may have to pay. An online calculator is currently being developed to make this task easier.
- 1.54 Discussion between developers and local planning authorities should take place at the earliest possible stage of a development scheme. This helps to define relevant issues, problems and priorities for both sides, as well as speeding up consideration of the application when it is formally submitted. Some local planning authorities charge for this service.
- 1.55 Before submitting their planning application, developers should prepare a Heads of Terms Agreement. Some authorities may not consider an application unless it is accompanied by this kind of agreement. It helps to speed up the application process and increases the chances of an application being processed within the relevant statutory period.
- 1.56 Where possible developers should use the planning authority's standard forms and clauses for their Heads of Terms Agreement. Sample copies are included in Appendix 11.

### **Processing the Application**

- 1.57 There must be a clear audit trail for planning obligations within local authorities which enables the authority to monitor the progress of each obligation effectively. Local authorities should develop good practice, including monitoring systems, databases, internal working groups and process trails (see Appendix 3). This means liaising with other council departments which have a relevant interest, such as legal and finance departments. Lancashire County Council is committed to developing and enhancing existing procedures.
- 1.58 Where feasible, authorities should establish codes of practice and benchmarking procedures. They should also seek other internal arrangements to speed up procedures, such as delegating powers to officers.
- 1.59 If a development is phased over a period of time, the local planning authority may require the contribution for each agreed phase to be calculated at the appropriate

trigger date. This system should reflect actual costs at the time and may also reflect any increase in land value since the start of the development.

- 1.60 In other circumstances, the authority may require obligations to be index-linked. Repayable bonds may be used to secure future contributions if the authority feels this is necessary.
- 1.61 Local authorities should wherever possible define the maximum period within which pooled or site-specific contributions must be spent. This approach may be general, may relate to a particular type of contribution, or may be development-specific. Information on how individual contributions are used should be made available to developers on request.
- 1.62 If contributions are not used within the agreed period, the authority should have procedures in place to repay the original amount plus interest. However, if contributions are not spent within the agreed period because of unforeseen circumstances outside the control of the authority, there should be a procedure in the Heads of Terms Agreement for extending the spending deadline. An example of this would be where assembly of several small sites as part of a bigger scheme takes longer than expected. For developments that would cause service demands across local authority borders, including outside Lancashire, Councils should work together to co-ordinate both contribution requests and delivery.
- 1.63 If a developer applies to reduce a contribution based on financial viability and the authority questions this, the developer will need to demonstrate that the project would not be able to go ahead if they paid the full contribution. The authority may request documentary evidence through "open-book accounting" to back up this kind of claim and calculate contributions. Or, if the application is particularly complex and specific valuation or property expertise is required, the authority may appoint an external consultant to assess the viability of the scheme.
- 1.64 If a proposal is viable but the developer and authority cannot agree on the range and amount of contributions, independent mediation and arbitration may be used. The authority and developer must agree on who should mediate, but the developer will normally have to pay any mediation costs.

### **County-District Procedures**

- 1.65 Appendix 2 sets out a draft County-District protocol which will apply to the non-unitary areas of Lancashire but not Blackburn with Darwen or Blackpool. The protocol identifies the roles of different tiers of authority and aims to provide a compact framework for action. Further debate is needed before all relevant authorities can agree to the protocol and the final version may be different in some ways from the current version. However, the aim is for each District Council and the County Council to sign the final protocol, which will also act as a checklist for developers as to what to expect from different authorities.
- 1.66 Lancashire County Council and Preston City Council are examples of authorities that are appointing dedicated officers to co-ordinate the processing of planning obligations. These officers will act as single points of contact for developers within their authorities and will operate to clearly defined response targets. They will also be responsible for streamlining internal procedures such as monitoring. The internal



role proposed in Lancashire County Council is set out in Appendix 4. Other local planning authorities may establish similar procedures.

- 1.67 The planning contributions officer at Lancashire County Council will also act as a clearing house for District Councils seeking contributions for County services.

### **Standard Agreements**

- 1.68 Developers and authorities should use standard legal agreements such as Heads of Term Agreements and model clauses wherever possible. This will reduce the time taken to draw up legal documents. Examples of these agreements are included in Appendix 11.
- 1.69 All local planning authorities should, where possible, use the DCLG/Law Society standard planning obligation agreement. This can be adapted locally to include model clauses building on the guidance in this document.
- 1.70 Developers must pay an authority's reasonable costs for drawing up and finalising agreements and must make sure that their own professional advisers contribute to the timely completion of agreements.
- 1.71 Authorities may include any administrative costs involved in processing and implementing an agreement within the planning obligation if this will provide the developer with a more comprehensive and efficient service.

### **Overall Principles for Considering Section 106 Agreements**

- 1.72 Local authorities in Lancashire should negotiate planning obligations based on the following key principles.
- Planning permission may not be bought or sold.
  - A planning obligation must only be requested if it is relevant to the planning decision on a proposal. If a particular planning obligation is necessary in order to make a development proposal acceptable, planning permission will not be granted without it.
  - A planning obligation must not be requested if a planning condition would be more appropriate.
  - A planning obligation must not be requested to compensate for existing deficiencies or for lack of capacity in existing services.
  - Development that is acceptable on land-use planning and development plan policy grounds must not be refused because a developer is unwilling or unable to offer benefits.
  - Unacceptable development must not be permitted because a developer is offering unnecessary or unrelated benefits. Benefits that exceed what is necessary to make a proposal acceptable must not affect the decision on a planning application.
  - The type of obligation required must be made known as early as possible in the planning process.
  - The planning obligation requested must take into account what is reasonable in terms of the scale of the development and its impact.
  - Relevant planning committees or officers with delegated authority must decide whether a development proposal is acceptable based on its planning merits.

They must take into account the planning application and whether the planning obligation negotiated is enough to overcome any negative impact caused by the development.



# **Part 2**

## **Individual Methodologies**



## **2.1 COUNTY COUNCIL SERVICES**

### **2.1.1 Children's Centres<sup>1</sup>**

#### **Background**

- 2.1.1.1 Children's centres are a national programme implemented at local level to improve services for children under 5. They provide a vital service to many parents, improving social inclusion and giving young children the best possible start to life. The scheme currently operates under the Sure Start banner, with children's centres developing through the Sure Start local programme. Sure Start aims to improve the health and well-being of families and children from birth by improving services for those with children under 5.
- 2.1.1.2 Children's centres are key to this as they aim to integrate education, family support and health services to achieve better standards for children, parents and communities. The centres integrate core services provided by local authorities, health centres, jobcentre plus and private, voluntary and community organisations.

#### **Identified Needs**

- 2.1.1.3 By the end of 2006 there will be 46 children's centres in Lancashire. In line with Government guidance, these centres currently target the top 30% areas of deprivation.

Centres will be located broadly as follows.

#### ***Burnley***

- Sure Start South West Burnley Children's Centre
- The Chai Centre (formerly Sure Start Daneshouse and Stoneyholme)
- Sure Start Duke Bar and Burnley Wood
- Whitegate Children's Centre (formerly Whitegate Nursery School)

#### ***Chorley***

- Highfield Children's Centre (formerly Highfield Nursery School)

#### ***Hyndburn***

- Church and West Accrington Children's Centre      } (Sure Start
- South Accrington Children's Centre                      } Hyndburn)
- Fairfield Children's Centre (formerly Fairfield Nursery School)

#### ***Lancaster and Morecambe***

- Lune Park Children's Centre (formerly Sure Start North Lancaster)
- Poulton Children's and Families' Service Centre

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<sup>1</sup> Children and Young People Directorate has not provided updated information.

### ***Pendle***

- Sure Start Bradley and Whitefield Children's Centre
- Family Tree Centre (formerly Sure Start Brierfield and Walverden)
- Walton Lane Children's Centre
- Sure Start Waterbridge Children's Centre

### ***Preston***

- Sure Start Preston East Children's Centre
- Sure Start Preston West Children's Centre
- Sure Start Ribblesdale Children's Centre
- Sunshine Children's Centre (formerly Sure Start Fishwick and St Matthews)
- Stoneygate Children's Centre (formerly Stoneygate Nursery School and Centre)
- Sure Start Preston Central Children's Centre

### ***Ribble Valley***

- Ribblesdale Children's Centre (formerly Sure Start Ribblesdale Nursery School)

### ***Rossendale***

- The Maden Community and Children's Centre (formerly Sure Start Bacup and Stacksteads)
- Staghill's Children's Centre (formerly Staghill's Nursery School)
- Haslingden Community Link and Children's Centre

### ***South Ribble***

- Wade Hall Children's Centre

### ***West Lancashire***

- Tanhouse and Digmoor Sure Start Children's Centre
- Park Children's Centre (formerly Park Primary School)
- St John's Children's Centre (on site with St John's Full Service Extended Primary School)

### ***Wyre***

- Sure Start Fleetwood Children's Centre
- Rural Wyre Children's Centre (on site with St Thomas C of E School, Garstang)

Seven centres will also be constructed in Blackburn with Darwen, and nine in Blackpool.

- 2.1.1.4 The programme will continue to expand, with another 38 centres planned by 2008. 31 of these will be within the Lancashire County Council administrative area. The sites for these schemes are currently subject to negotiation and are as follows:

### ***Burnley***

- Ightenhill Primary School
- Barden Lane BSF Campus

### ***Chorley***

- Coppull Primary School
- Duke Street Primary School
- Clayton Brook Primary School
- Buckshaw Primary School

### ***Fylde***

- Sydney Street Family Support Resource Centre
- Kirkham (site to be identified)
- Freckleton Strike Lane Primary School

### ***Hyndburn***

- Huncoat Primary School
- Great Harwood Primary School
- Mount Pleasant Primary School (Clayton-le-Moors Youth & Community Centre to be developed as a satellite)
- Rishton (site to be identified)

### ***Lancaster***

- Ridge Primary School
- Appletree Nursery School
- Carnforth – New Build on LCC Land Adjacent to Carnforth High School
- Westgate Primary School
- West End Primary School
- Heysham Mossgate Development

### ***Pendle***

- Gisburn Road Primary School

### ***Preston***

- Sharoe Green (site to be identified)

### ***Ribble Valley***

- St. Wilfrid's RC Primary School working in conjunction with Longridge Community Hospital



### **Rossendale**

- Balladen Primary School
- Whitworth (site to be identified)

### **South Ribble**

- Bamber Bridge (site to be identified)
- Kingsfold Primary School
- Wellfield Business & Enterprise College

### **West Lancashire**

- Moorgate Nursery School
- The Grove Youth and Community Centre

### **Wyre**

- Anchorage Family Support Resource Centre
- Burn Naze Primary School

- 2.1.1.5 Centres can be provided in existing buildings where there is enough space and capacity (for example, schools and community centres), or in new buildings if no other suitable facilities are available. Rural areas may need to be more flexible and find innovative solutions such as mobile facilities.

### **Assessing Contribution**

- 2.1.1.6 Local planning authorities may request a contribution from developers towards the capital cost of providing a children's centre within a community. The authority will assess the need for a centre based on anticipated changes in the local population. The ability to use existing and proposed centres will reduce the need to provide additional facilities for families. A developer's contribution to the capital costs of these centres may therefore be substituted for the cost of providing new facilities through the traditional channels.

#### **Residential development (use class C3)**

10 or more dwellings

Local planning authorities should consider requesting contributions from developers if their proposed development falls within a 20-minute walk or 1.5 mile radius of a proposed centre. This is considered to be the limit to which a parent with small children will be prepared to travel to use facilities.

800 children is regarded to be the normal size of a catchment population where the provision of Children's Centres within a community will be required.

In rural areas where the population is dispersed, it is not possible to provide the same level of services as in urban areas. In these areas, the authority should consider other ways of providing for children (for example, mobile facilities and satellite centres).

## 2.1.2 Education (Text replaced by November 2011 Review and superseded by March 2014 Review, (<http://www.lancashire.gov.uk/media/324206/Education-contributions-methodology.pdf>))

### Background

- 2.1.2.1 Education services are managed through Lancashire County Council and the two unitary authorities of Blackburn with Darwen and Blackpool. These authorities have a statutory responsibility for the provision of sufficient accessible school places for children residing in their areas. Pressure for more school places can be caused by new housing developments, people moving within an area and parental choice of one school over another.
- 2.1.2.2 A residential development for family housing will create demand for school places either in the long or short term. If local schools are unable to meet this demand, the development imposes a burden on the community.
- 2.1.2.3 If existing schools are expected to become over-subscribed, as a result of new housing, the education authority will seek assistance from the developer in meeting educational needs. This applies only to primary and secondary education and does not include independent schools, pre-school nurseries and crèches, or further education.

### Identified Needs

- 2.1.2.4 There has been a downward trend in Lancashire's school rolls for a number of years in both primary and secondary schools. This has resulted in several schools having significant numbers of spare places. In response, over the last few years there have been detailed reviews of education services in parts of Lancashire such as Skelmersdale and Burnley. As a result, several under-subscribed schools have closed or merged.
- 2.1.2.5 However, increased birth rates for the last three years, combined with some significant pockets of new housing development and the removal of surplus places in some schools will reduce the numbers of spare places available in some primary schools in future years.
- 2.1.2.6 The Department for Education and Skills (DfES) has approved £170 million of capital investment to replace 11 secondary schools in Burnley and Pendle, creating 8 new schools under the Government's Building Schools for Future initiative. This programme will eventually be extended throughout Lancashire. It is anticipated that there will not be a requirement to seek contributions for secondary school places in the majority of the county in the foreseeable future.
- 2.1.2.7 In 2008 only 13 primary schools in Lancashire were over-subscribed in excess of 10% but an additional 49 are operating at or above capacity. A number of these are small rural schools. There are 3 secondary schools with more than 10% above capacity but a total of 20 operating above their capacity. Demand for places at a specific school may be as a result of a range of factors and does not necessarily mean a shortage of places in the wider catchment area (2 miles Primary, 3 miles Secondary).

### Assessing Contributions

~~2.1.2.8 Planning Obligations will be sought for educational facilities, such as extra classrooms where schools within 2 or 3 miles are projected to be over-subscribed in excess of 10% above their net capacity, as a direct result of residential developments, as follows:~~

- ~~• In Principal Urban Areas, Main Towns<sup>2</sup> and Key Service Centres<sup>3</sup>— for C3 residential development of 50 or more dwelling units.~~
- ~~• In areas outside of Principal Urban Areas, Main Towns and Key Service Centres — for C3 residential development of 10 or more dwelling units.~~

~~2.1.2.9 If a major new housing development (over 150 houses) is proposed, a new school may be required. This need will be assessed by the education authority, who will decide whether to build a new school or extend an existing facility. If the authority decides to extend an existing school, the developer will be expected to pay all associated costs.~~

~~2.1.2.10 Schools increasingly act as wider community facilities, for example, by providing sports facilities and out-of-hours activities for children and adults. It is also becoming increasingly common for school premises to be used for other services such as health care. Authorities should also assess these factors under the relevant subject areas when considering planning obligations.~~

~~2.1.2.11 Contributions will not be requested for:~~

- ~~• developments within the catchment area of a school which has enough places to meet the need generated by the new housing;~~
- ~~• one-bedroomed properties;~~
- ~~• sheltered accommodation; or~~
- ~~• redevelopment or housing replacement schemes which do not increase the number of family houses.~~

#### **~~Residential development (Use Class C3)~~**

~~Contributions should be made for developments involving dwellings with two or more bedrooms.~~

##### **~~Principal urban areas, main towns and key service centres~~**

~~Contributions should be made for residential developments of **50 or more dwellings** in a catchment area (2-mile radius for primary schools and 3-mile radius for secondary schools) where direct impact has been identified.~~

##### **~~Areas outside of principal urban areas, main towns and key service centres~~**

~~Contributions should be made for residential developments of **10 or more dwellings** in a catchment area (2-mile radius for primary schools and 3-mile radius for secondary schools) where direct impact has been identified.~~

~~Primary schools = 0.35 per unit x DfES multiplier (£12,257) x locational factor (0.95 Lancashire, 0.97 Blackburn with Darwen and Blackpool)~~

<sup>2</sup> Main Development Locations as identified in JLSP Policy 2.

<sup>3</sup> Key Service Centres (Market Towns) as identified in JLSP Policy 4.

= £4,075 (Lancashire), £4,161 (Blackburn with Darwen and Blackpool) per dwelling

Secondary schools = 0.25 per unit x DfES multiplier (£18,469) x locational factor  
(0.95 Lancashire, 0.97 Blackburn with Darwen and Blackpool)

= £4,386 (Lancashire), £4,478 (Blackburn with Darwen and Blackpool) per dwelling.

If the education authority decides that a new school is needed, the developer will be expected to pay all costs, and donate or pay for the acquisition of a suitable site.

DfES multipliers used are for 2008/09. All costs will be updated each year to reflect current DfES multipliers. If the DfES stops issuing cost multipliers, costs will increase each year in line with RICS indices of inflation.

### **2.1.3 Libraries**

#### **Background**

- 2.1.3.1 Library services are provided by the County Council and the unitary authorities of Blackpool and Blackburn with Darwen. A wide range of services is provided, from large town centre buildings to mobile libraries which visit villages on a rota.
- 2.1.3.2 Provision of a public library service is a statutory obligation on first-tier Councils and Unitary Authorities. According to the Act, the service offered must be 'comprehensive and efficient'. The Department of Culture, Media and Sports (DCMS) has issued guidance in the form of 'Public library service standards' to define this and has set a target for 85% of households within Lancashire and 100% of households within Blackpool and Blackburn with Darwen to be within two miles of a static library. The methodology set out below relate to static libraries (permanent buildings). Libraries provide an important social and cultural resource that has increasingly diversified through new services such as the provision of public internet access. Libraries are also key parts of the Council's information and customer access strategies, offering face-to-face capability in a wide range of different communities.

#### **Identified Needs**

- 2.1.3.3 In some areas of Lancashire, libraries are running at or above capacity and need to expand or have a new building. Substantial recent housing development in some areas means that some libraries are now located away from the core of the communities they are meant to serve and could reasonably be relocated. The practice of providing a range of community facilities under one roof also creates opportunities for new or shared buildings in some locations.
- 2.1.3.4 Most locations would benefit from additional investment in libraries when substantial changes are planned in any particular area. Change regarded as substantial is relative to the location involved, so a fairly restricted development near a small community library may be significant while a larger development near a major town centre library might not be. Each case will be identified through local development frameworks and will be determined appropriately according to the formulae set out below.

Blackburn with Darwen Borough Council and Blackpool Borough Council have not identified any additional need for library services in their areas.

#### **Assessing Contributions**

- 2.1.3.5 Local authorities request contributions from residential developments towards the cost of providing new or improved facilities in the identified locations and through local development frameworks. This is based on the impact of new residents using both local and central library services.
- 2.1.3.6 Contributions should be made for appropriate new residential development within a 3km radius of existing libraries.
- 2.1.3.7 A large-scale development where there is no existing library may trigger the need for a new library in a stand-alone or shared facility. Generally a mobile library serves very small communities and a permanent static library serves larger communities, but

shared facilities, outreach services to existing community facilities and flexible working with other partners can all be used to deliver library services to appropriate communities.

- 2.1.3.8 Libraries are increasingly seen as a base for a growing range of services. These services include health education, meetings for community groups, and children's services in addition to internet access and information points. If the redevelopment of community facilities by other providers offers the opportunity to relocate or upgrade library facilities that would directly benefit the development, authorities should request contributions towards both the library and the other facilities to facilitate partnership working.
- 2.1.3.9 Authorities should also request contributions if the increased demand for services generated by a new development is likely to require extra staff or equipment.
- 2.1.3.10 A multiplier can be used to calculate the overall cost of providing a new library for a certain catchment population. The multiplier for libraries is assessed on a catchment population of 5,000. This provides a new permanent library of 400m<sup>2</sup>.

#### **Residential development (Use Class C3)**

10 or more dwellings

##### **Flats and single-bedroomed dwellings**

$0.08 \times 1.5$  (average household size)  $\times$  £1,670 (average building cost per m<sup>2</sup>) = £200 per unit

##### **Family housing (2 or more bedrooms)**

$0.08 \times 2.37$  (average household size)  $\times$  £1,670 (average building cost per m<sup>2</sup>) = £317 per unit

##### **Sheltered accommodation**

$0.08 \times 1.25$  (average household size)  $\times$  £1,670 (average building cost per m<sup>2</sup>) = £167 per unit

##### **Major residential development (over 150 dwellings)**

In addition to the above formulae, developers will be expected to contribute to any additional investment required to provide facilities in locations where there is no library within 3 km. This contribution may be financial or may take the form of land or materials.

#### **Notes on costs**

- £1,670 is the 2008/2009 average building cost for libraries per m<sup>2</sup>, general external work and landscaping. (Source: RICS Building Cost Information Service).

- All costs will be updated each year in line with the Building Cost Information Service All-In Tender Price Index.

## **2.1.4 Minerals and Waste Development**

### **Background**

- 2.1.4.1 Minerals Policy Statement 2 and PPG10 'Planning and waste management' provide Government policy and guidance on developing mineral and waste disposal sites. The Government recognises the damage these sites may cause to local communities and the environment. It recommends using planning obligations to minimise this damage.
- 2.1.4.2 The County Council is responsible for making decisions on mineral and waste planning applications in Lancashire. Blackburn with Darwen Borough Council and Blackpool Borough Council carry out this role in their areas. This includes consideration of applications for:
- winning and working minerals;
  - managing waste (including landfill sites, waste transfer stations, incinerators, treatment plants, scrap yards, sewage treatment, dredging, crushing and reprocessing);
  - depositing and reworking mineral waste;
  - stockpiling mineral waste; and
  - erecting buildings to treat minerals.

### **Identified Needs**

- 2.1.4.3 Mineral and waste sites are in limited supply, yet they can be harmful and must be managed carefully in the public interest. These developments are long-lived and demand constant monitoring and maintenance to reduce damage to the environment.
- 2.1.4.4 The County Council has a track record of securing Section 106 Agreements for these developments. To reduce and compensate for the effects of mineral working, developers also contribute to community-based projects through the DEFRA Aggregates Levy.

### **Assessing Contributions**

- 2.1.4.5 Agreements should usually relate to how a site will be managed and restored when it is no longer in use. They should be drawn up where planning conditions are inappropriate or where measures are required to combat potential nuisance. Typical examples cover areas such as:
- managing a site beyond five years;
  - restoring a site for use as public open space or for wildlife; and
  - controlling of the routing of lorries to prevent nuisance to a neighbourhood.

#### **All Use Classes**

There is no minimum threshold. Proposals will be dealt with on a site-by-site basis and will primarily relate to mineral extraction and waste proposals.



## **2.1.5 Transport**

### **Background**

- 2.1.5.1 The transport system in many parts of Lancashire is under pressure. This is the result of an intense level of development, limited capacity for all modes of transport, and general traffic growth. Further development could make these problems worse if measures are not taken to make better use of the existing network, introduce extra capacity, and provide additional services.
- 2.1.5.2 Management of the transport network including public transport provision is a function of the County Council and the Unitary Authorities of Blackburn with Darwen and Blackpool in their role as Highways Authorities.

### **Identified Needs**

- 2.1.5.3 Local authorities must address the specific transport requirements of proposed developments. Shortfalls in existing services and the effects of development on the local network should be highlighted using the relevant accessibility questionnaire (see Appendix 10). These are identical to those used in the Joint Lancashire Structure Plan SPG 'Access and Parking'.
- 2.1.5.4 The results of the accessibility questionnaire should be complemented by an approved transport assessment and travel plan produced by the developer's consultants.
- 2.1.5.5 Developers' contributions could be used for:
- pedestrian and off- and on-road cycle schemes;
  - bus and rail improvements such as improving infrastructure and subsidising new or better services;
  - community transport and services in areas of defined need;
  - traffic management schemes such as local safety schemes, traffic-calming measures and contributions to Home Zone initiatives;
  - real-time information projects (including hardware and maintenance);
  - parking management schemes such as 'residents only' parking;
  - funding to provide advice with respect to Travel Plan evaluation, promotion, implementation and programmed monitoring through a Section 106 Agreement (see paragraph 2.1.5.16); and
  - locally relevant schemes as defined in the local transport plan and local development framework.

The specific package of measures identified should be implemented before the development is occupied unless agreed by the Highways Authority.

- 2.1.5.6 Local authorities should request contributions based on typical network and public transport service costs, and the type of development involved. Current contributions are based on 2008/09 information.
- 2.1.5.7 The financial basis for contributions will be reviewed and updated each year, based wherever possible on actual costs. It will also allow for inflation. The range of

development types covered will also be reviewed each year and additional land uses introduced as required.

### **Assessing Contributions**

- 2.1.5.8 Average costs for type and size of development are expressed within an 'accessibility matrix' and the contribution is then converted into site-specific schemes. At this stage the process only considers the most common land uses that will affect the transport network. Land use types will be reviewed each year.
- 2.1.5.9 A breakdown of contributions for specific network, public transport and sustainable transport initiatives to serve the development will be derived from the Transport Assessment, Travel Plans and relevant strategies. The onus will be on the developer to demonstrate with evidence any proposed alternative solution to that put forward by the Highways Authority.
- 2.1.5.10 Use of the accessibility questionnaire, complemented by a transport assessment and travel plan, will allow authorities to assess the range of measures required. Schemes should be dealt with as a package wherever possible. Any highway work funded through a Section 278 Agreement that directly contributes to achievement of sustainable transport initiatives will be discounted from the Section 106 request.
- 2.1.5.11 Authorities should base contributions for mixed used developments on an assessment of each land use within the proposal, unless the scale of these falls below that allowed by permitted development arrangements.
- 2.1.5.12 Highway Authorities will co-ordinate Section 278 contributions for off-site highway work with requests for Section 106 contributions. Section 106 does not remove the need for Section 278 funded work which provides the necessary modifications to the highway. Developers must liaise directly with officers responsible for Section 278 Agreements.
- 2.1.5.13 Contributions towards highway schemes **do not include** those which may be required by the Highways Agency for any trunk roads affected by the development. Pre-application discussions between developers, Planning and Highways Authorities/Highways Agency are encouraged.
- 2.1.5.14 The Highways Authority and the local planning authority may apply an area-wide approach to large development proposals or where a broader transport strategy has been prepared.

Land use	Development (threshold)
Residential development (C3)	10 dwellings or more
Food retail (A1) Non-food retail (A1) B1(a) office + A2 employment B2 general industrial and B8 storage and distribution	1,000m <sup>2</sup> gfa or more
Other uses	To be determined on a case by case basis

- 2.1.5.15 All land uses not identified in the table (page 34) will be dealt with individually. This may include proposals of less than 1 000m<sup>2</sup> gfa where the Highways Authority identifies a major impact on local transport.

### Travel Plans

- 2.1.5.16 Request will be made for funding to provide assistance with respect to Travel Plan support, promotion, monitoring and evaluation. The sums requested will be based on the Travel Plan Thresholds recommended by the DfT in "Guidance on Transport Assessment" published in March 2007

Use Class	Travel Plan Threshold M <sup>2</sup> GFA unless stated
A1 Food retail	>800
A1 Non Food Retail	>1500
A2 Financial and professional services	>2500
A3 Restaurants and cafes	>2500
A4 Drinking establishments	>600
A5 Hot Food Takeaways	>500
B1 (a) Offices Other than those within A2; (b) Research and Development; and (c) Light Industry	>2500
B2 General Industry	>4000
B8 Storage and Distribution	>5000
C1 Hotels	>100 bedrooms
C2 Residential Institutions, Hospitals and nursing homes	>50 beds
C2 Residential College and school	>150 students
C2 Residential Institutions – Institutional hostels	>400 residents
C3 Dwelling Houses	>80 units
D1 Non residential institutions	>1000
D2 Assembly and leisure	>1500
Other	Discuss with LCC Highways Team.

Small Developments	TP threshold < TP threshold x2	£6,000
Medium Developments	TP threshold x2 < TP threshold x3	£12,000
Large Developments	TP threshold x3 < TP threshold x4	£18,000
Developments more than 4x the TP threshold to be decided on an individual basis		

2.15.17 The travel plan tariffs referred to above will be discounted from the general developer contributions tariffs set out in the Table on page 34. The Travel Planning team will provide a range of services to meet the specific needs of the developer. This may include:

- Advice and guidance on Travel Plan development
- Template travel plan documents
- Assistance with survey design
- Regular meetings as required
- Access to Lancashire's car sharing website
- Liaison with public transport providers
- Free journey planning service
- Assistance with promotional events
- Accessibility planning services
- Provision of leaflets and maps
- Monitoring and surveys

Developer contributions for transport									
Accessibility score  (as determined by the accessibility questionnaire)	Land use type £ per 1,000gfa					Residential contribution per dwelling (number of bedrooms)			
	Food retail	Non-food retail	Office (B1a) and employment (A2)	General industrial (B2) and storage and distribution (B8)	All other uses	1 or 2 or sheltered or communal housing (per unit)	3 or property size not known	4	5
under 9	200,000	135,000	50,000	35,000	Decided on a case-by-case basis	1,600	2,400	3,200	4,000
9	192,400	129,900	48,100	33,700		1,570	2,350	3,130	3,920
10	184,800	124,800	46,200	32,300		1,530	2,300	3,070	3,830
11	177,300	119,700	44,300	31,000		1,500	2,250	3,000	3,750
12	169,700	114,500	42,400	29,700		1,470	2,200	2,930	3,670
13	162,100	109,400	40,500	28,400		1,430	2,150	2,870	3,580
14	154,500	104,300	38,600	27,000		1,400	2,100	2,800	3,500
15	147,000	99,200	36,700	25,700		1,370	2,050	2,730	3,420
16	139,400	94,100	34,800	24,400		1,330	2,000	2,670	3,330
17	131,800	89,000	33,000	23,100		1,300	1,950	2,600	3,250
18	124,200	83,900	31,100	21,700		1,270	1,900	2,530	3,170
19	116,700	78,800	29,200	20,400		1,230	1,850	2,470	3,080
20	109,100	73,600	27,300	19,100		1,200	1,800	2,400	3,000
21	101,500	68,500	25,400	17,800		1,170	1,750	2,330	2,920
22	93,900	63,400	23,500	16,400		1,130	1,700	2,270	2,830
23	86,400	58,300	21,600	15,100		1,100	1,650	2,200	2,750
24	78,800	53,200	19,700	13,800		1,070	1,600	2,130	2,670
25	71,200	48,100	17,800	12,500		1,030	1,550	2,070	2,580
26	63,600	43,000	15,900	11,100		1,000	1,500	2,000	2,500
27	56,100	37,800	14,000	9,800		970	1,450	1,930	2,420
28	48,500	32,700	12,100	8,500		930	1,400	1,870	2,330
29	40,900	27,600	10,200	7,200		900	1,350	1,800	2,250
30	33,300	22,500	8,300	5,800		870	1,300	1,730	2,170
31						830	1,250	1,670	2,080
32						800	1,200	1,600	2,000
33						770	1,150	1,530	1,920
34						730	1,100	1,470	1,830
35						700	1,050	1,400	1,750
36						670	1,000	1,330	1,670
37						630	950	1,270	1,580
38						600	900	1,200	1,500
39						570	850	1,130	1,420
40						530	800	1,070	1,330
41						500	750	1,000	1,250
42						470	700	930	1,170
43						430	650	870	1,080
44						400	600	800	1,000
45						370	550	730	920
46						330	500	670	830
47						300	450	600	750
48						270	400	530	670

## **2.1.6 Waste Management**

### **Background**

- 2.1.6.1 The County Council has overall responsibility for waste planning and disposal in Lancashire, except in the unitary authority areas of Blackpool and Blackburn with Darwen. The County Council is directly responsible for providing and managing the County's 23 household waste recycling sites and acts jointly with the 12 District Councils for recycling household waste. The 12 Districts are responsible for waste collection. The unitary authorities of Blackpool and Blackburn with Darwen have a combined role for waste planning, collection and disposal.
- 2.1.6.2 The Lancashire Waste Partnership brings together the County Council, the District Council and the two unitary authorities. This partnership has produced the Lancashire Waste Strategy. To encourage greater recycling and less dependence on landfill, the strategy proposes a network of three central waste treatment facilities and six waste transfer stations. This is also necessary to meet the requirements of the Waste and Emissions Trading (WET) Act 2003 that implements the European Landfill Directive.

### **Identified Needs**

- 2.1.6.3 There is a shortage of landfill sites throughout Lancashire.
- 2.1.6.4 Landfill tax is currently at £32 a tonne and will rise at a rate of £8 a year to £48 a tonne in 2010/11. This will bring the total cost of landfill to £88 a tonne (based on £40 a tonne gate price). One tonne is the average amount produced by a single household in one year.
- 2.1.6.5 If the County fails to keep landfill under the targets set for Lancashire through the Landfill Allowance Trading Scheme, there will be penalties of £150 a tonne (2005/06 prices). A waste private finance initiative contract has been agreed to develop a network of facilities through a design, finance, build and operate arrangement, alongside additional funding through traditional County Council borrowing. However, this new approach to waste management has considerable financial implications.

### **Assessing Contributions**

- 2.1.6.6 Local authorities should request contributions towards the cost of the new waste management network. Contributions should be based on the capital cost per household of the new network. The system is designed to deal with waste from properties which have not yet been built and financial commitments are already being made to meet this future need. Contributions will, therefore, be sought from new development to meet the costs of the new network.

### Residential development (Use Class C3)

10 or more dwellings

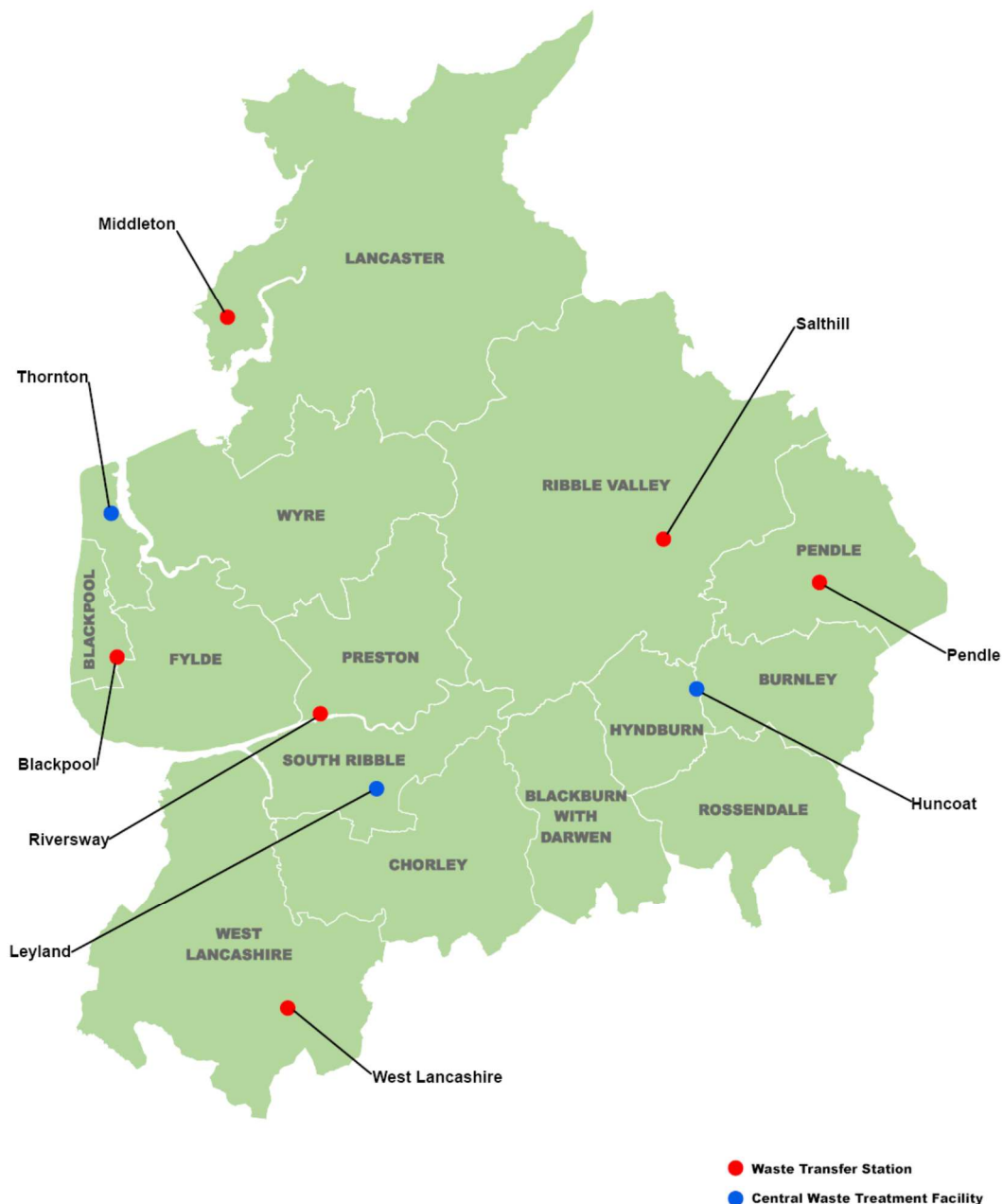
#### ***Capital cost of a new network 2006 to 2013***

Network capital cost (£300,000,000) divided by the number of Lancashire households (625,000) = £480

Contribution per household = £480

After 2013 contributions will be towards revenue costs and the cost of updating facilities. Contributions will be reviewed in 2009.

### Proposed Waste Network



## **2.2 COMBINED COUNTY COUNCIL/LOCAL AUTHORITY SERVICES**

### **2.2.1 Countryside Access**

#### **Background**

- 2.2.1.1 The County Council manages an extensive rights of way network consisting of paths, bridleways and byways. Rights of way are an important recreational facility which local authorities should protect and improve. There are opportunities to provide better facilities for walkers, cyclists and horse-riders, for example by adding links to existing rights of way networks – especially where these would create useable routes for everyday travel on foot or by bicycle.
- 2.2.1.2 The Lancashire Rights of Way Improvement Plan will guide this work. The plan aims to:
- promote the development of walking and riding trails close to centres of population;
  - identify opportunities for introducing walking, cycling and horse-riding routes which link communities to the countryside; and
  - meet the needs of users with poor mobility.
- 2.2.1.3 The County Council also manages or owns several country parks and, with other relevant organisations, plays a major role in protecting and improving the County's environment.

#### **Identified Needs**

- 2.2.1.4 In some parts of Lancashire the public rights of way network is incomplete, disjointed, difficult to use or in poor repair. Areas with incomplete networks include West Lancashire close to Southport, the area east of Lancaster, and bridleways on the West Pennine Moors. Rights of way in Rossendale are in a particularly poor state of repair. The Rights of Way Improvement Plan identifies key actions to improve the network.
- 2.2.1.5 Local authorities own several countryside-based recreational facilities. Development near these facilities will increase pressure on these already sensitive resources. Examples include Preston Junction Local Nature Reserve, Healey Nab Woodlands, (Chorley) and Fleetwood Nature Park.

#### **Assessing Contributions**

- 2.2.1.6 Local planning authorities should request contributions from all developments which may have a negative impact on the rights of way network or country parks which are managed or owned by local authorities. These contributions will fund new opportunities for walking, cycling and horse-riding, as well as diversions and improvements to existing rights of way.
- 2.2.1.7 Research at the sub-regional level is currently under way to develop the principle of 'green infrastructure'. Draft RSS suggests the growing importance of this concept and the value of taking a strategic approach to achieving it. Rights of way can be an important element of this.



- 2.2.1.8 If an authority identifies the need for strategic green infrastructure, it may focus requested contributions from a range of subject areas to achieve this objective. Other relevant subject areas from this document include flood defences, landscape heritage, inland waterways, natural heritage, the public realm and public art, and open space, sport and recreation.

**Residential development (Use Class C3)**

Contributions should be made for developments of 150 or more dwellings within 3km of a public right of way or country park.

**All other uses**

Contributions should be made for developments of 5,000m<sup>2</sup> within 3km of a public right of way or country park.

**All uses**

If there is loss of or direct harm to a public right of way or country park, there is no minimum threshold. Contributions will be based on the site in question.

## **2.2.2 Cultural Heritage**

### **Background**

- 2.2.2.1 Cultural heritage covers all of an area's historic environment. It includes archaeological remains, listed buildings, conservation areas, and historic landscapes and townscapes. These features are an important cultural asset for the nation and need to be conserved for future generations.
- 2.2.2.2 The Government recognises the importance of the nation's cultural heritage. Guidelines for protecting and improving these features are set out in PPG15 'Planning and the historic environment' and PPG16 'Archaeology and planning'. Further guidance is given in the policy statements made by English Heritage.
- 2.2.2.3 Policy 21 of the Joint Lancashire Structure Plan and its Landscape and Heritage SPG aims to protect and enrich Lancashire's heritage resources. The policy recognises the need for development but requires that it should not be at the expense of cultural heritage.

### **Identified Needs**

- 2.2.2.4 If a development is likely to affect cultural heritage, developers have a duty to:
- provide enough information to allow informed planning decisions;
  - mitigate the impact of their development; and
  - make sure that there is 'no net loss' of heritage assets.
- 2.2.2.5 It is important that developers provide sufficient information as to the maintenance of the site affected and the level of impact expected from their proposed development. Where they do not provide sufficient information powers exist to require that further information in the form of assessments, rapid surveys of potential items of interest, or evaluations are submitted prior to a planning decision being reached (see PPG15 paragraph 2.11 and PPG16 paragraphs 18-27).

### **Assessing Contributions**

- 2.2.2.6 It is not possible to set up a formula to calculate this type of obligation. However, the approach will be similar to that set out in the Design Manual for Roads and Bridges Volume 11, Section 3, Part 2.

Typical obligations may include:

- Provision for the detailed scientific analysis of material where it is thought that this will significantly add to an understanding of the site.
- Provision for public access to the site during excavation by interested members of the public including guided tours led by a senior member of the excavation staff. The developer may be required to ensure that local schools are provided with an opportunity to visit the site

- Provision for continued public access to the site once the development has been completed where it has been possible to retain features or finds of archaeological interest either in-situ or as a display within the new development.
- Provision for the costs of appropriate consolidation, conservation and protection of such features or finds;
- Provision for further dissemination of the results of the archaeological work to the public through the placing of interpretative panels either on or adjacent to the site, or in relevant public buildings (libraries, schools, etc.) or by means of a 'popular' publication.
- Provision for further dissemination of the results of the archaeological work to the academic world by publication in a relevant national journal (for example Proceedings of the Prehistoric Society, Medieval Archaeology, Post-Medieval Archaeology).
- The relocation of, or an increase in, the area of any open space allocated to ensure preservation in situ.

2.2.2.7 All obligations should require a suitable archive of information and a report accessible to the public.

2.2.2.8 Early consultation with relevant groups may help an authority to decide whether a site requires protection measures. It may also be possible for the authority to gauge the general level of protection required by using information already available or by comparing the proposal with similar sites. Detailed responses will, however, normally need to wait until after the results of assessments, rapid surveys or evaluations.

#### **All Use Classes**

There is no threshold for developments in this subject area. The type and level of contribution will depend on the site and the nature of the proposed development.

## 2.2.3 Landscape Character and Design

### Background

- 2.2.3.1 The character and quality of Lancashire's landscape is a valuable asset which makes an important contribution to quality of life in the County. Developments can have a negative impact on the character of the surrounding landscape if they are not located or designed appropriately.
- 2.2.3.2 Policy 20 of the Joint Lancashire Structure Plan (JLSP) and its Landscape and Heritage Supplementary Planning Guidance aim to protect and enrich the landscapes of Lancashire. The policy is designed to accommodate landscape change in a positive way and aims to make sure that development fits in with the local landscape character type in which it occurs. Details of landscape character types can be found on the landscape character and heritage SPG pages of the website at [www.lancashire.gov.uk](http://www.lancashire.gov.uk) then enter S for strategic planning.

### Identified Needs

- 2.2.3.3 If a development detracts from the character of the surrounding landscape and opportunities for on-site improvements are restricted, changes to landscape design and management of nearby areas can improve the situation. This is especially the case where landscape degradation is an issue.
- 2.2.3.4 As well as fitting in with the character of the landscape, a development should contribute to its conservation, improvement or restoration. In areas of outstanding natural beauty, developers have a duty to help conserve the natural beauty of the area. Contributions will be sought separately for these functions.

### Assessing Contributions

- 2.2.3.5 Local authorities should use planning obligations to provide landscape improvements or restoration near to the development site, or to contribute to wider landscape improvement or restoration projects. These projects might include:
- long-term woodland management;
  - hedgerow management and tree-planting throughout the area;
  - restoring boundary walls;
  - improving urban parks; or
  - providing and maintaining street trees.
- 2.2.3.6 Agreements are likely to link landscape, public open space, recreational, natural and cultural heritage issues.

#### All Use Classes

#### No minimum threshold

Contributions and management agreements will depend on:

- the nature and scale of the development;
- the character of the landscape where it is located;
- needs highlighted in the JLSP Landscape and Heritage SPG.

## **2.2.4 Natural Heritage**

### **Background**

- 2.2.4.1 PPS9 and Government Circular 06/2005 set out the Government's policy on biodiversity and geological conservation through the planning system. The aims of these documents are:
- to promote sustainable development;
  - to conserve, restore and improve the diversity of England's wildlife and geology; and
  - to contribute to rural renewal and urban revival.
- 2.2.4.2 A key principle in PPS9 is that planning decisions should prevent harm to biodiversity and geological conservation interests. If there is no alternative location for a harmful application, suitable measures must be put in place to reduce or compensate for that harm before planning permission is granted. Further PPS 9 recognises that Developments provide many opportunities for building-in beneficial biodiversity or geological features as part of good design. Such opportunities should be maximised in and around developments, using planning obligations where appropriate.
- 2.2.4.3 Policy EM1 of the emerging North West Regional Spatial Strategy translates PPS 9 to a regional context and requires a 'step-change' increase in the region's biodiversity resources through protecting, enhancing, expanding and linking areas for wildlife within and between the locations of highest biodiversity resources and the expansion of ecological fabric elsewhere. The policy requires that where proposals affect the natural environmental assets then developers and local authorities should first seek to avoid loss of or damage to the assets, then seek to mitigate any unavoidable damage and where appropriate compensate for loss or damage through offsetting actions. Policy 21 of the Joint Lancashire Structure Plan and its Landscape and Heritage SPG aim to protect and enrich Lancashire's overall heritage. The policy recognises the need for development but also requires that this should not be at the expense of environmental heritage. In applying the 'as a minimum no-net-loss' approach planning conditions and Planning Obligations are seen as key to the delivery of sustainability.

### **Identified Needs**

- 2.2.4.4 Natural Heritage may be site specific or be widely distributed over both the urban and rural landscape. Certain habitats and species are covered by statutory or non-statutory wildlife site designations, others of biodiversity importance may not be.
- 2.2.4.5 Ecological networks and links that allow the movement of species are now recognised as important planning issues. Habitat management is vital to maintaining natural heritage. Changes in land use will inevitably involve changes in land management, which in turn are likely to adversely affect the long-term conservation interest.
- 2.2.4.6 Where development impinges upon natural heritage assets or has adverse implications for biodiversity then Planning Conditions or Planning Obligation will generally be necessary.

### **Assessing Contributions**

2.2.4.7 Developer contributions may include:

- keeping or restoring key habitats or features on the development site;
- re-establishing or creating new habitats on or off the site;
- aftercare and sympathetic management of key habitats or features on or off the site;
- providing access for education and scientific research; and
- facilitating that documentation for all measures are placed in the public domain.

2.2.4.8 In most cases method statements and management plans will be a vital part of any planning obligations. Method statements may be appropriate for re-establishing habitats and species, and should cover restoration and providing aftercare for up to 5 years. Management plans should cover periods of up to 30 or more years depending on the development and the scale, nature and importance of the natural heritage at risk. Regular monitoring of the habitats or features involved will be an integral part of the planning obligation.

2.2.4.9 Authorities should also consult chapters 3 and 5 of the Landscape and Heritage SPG. Any measures they prescribe should meet recognised biodiversity targets such as those set out in the Joint Lancashire Structure Plan.

2.2.4.10 Much of the above will be delivered as part of the general planning conditions and obligations. However, such measures require a long-term commitment by local authorities in checking method statements, management plans and monitoring reports submitted by developers and in ensuring the compliance with the required measures. In addition for transparency, future guidance and education there is a need to place such information and data in the public domain through, for example, a local biological records centre.

2.2.4.11 In this respect where mitigation and/or compensation measures are required as a part of a planning approval, a financial contribution will be necessary to cover local authority costs of handling and processing documentation, management plans and monitoring reports supplied by developers, as well as for periodic site inspections. An additional contribution will be necessary for the integration of all information and data relating to mitigation and/or compensation into an accessible biological records database. The table below provides the basis for the Section 106 Contribution.

<b>Staff Time</b>	
<b>Five Years Aftercare</b>	
Method statement detailing restoration/species recovery	5 days
Progress and compliance meetings during aftercare period (3 days per year)	15 days
<b>Long term Management</b>	
Site/species Management Plan (5 year period)	5 days
Year 4 review of Monitoring Report	2 days
Year 5 review of Management Plan (5 year period)	3 days
Year 9 review of Monitoring Report	2 days
Year 10 review of Management Plan (5 year period)	3 days
Year 14 review of Monitoring Report	2 days

Year 15 review of Management Plan (5 year period)	3 days
<b>Repeated over the full extent of the management period</b>	
Daily rate (2008/09): £281.20	

## **2.2.5 Young People's Service**

### **Background**

- 2.2.5.1 Lancashire Youth and Community and Connexions Lancashire Services have now amalgamated to become Lancashire Young People's Service (YPS). Services for young people are provided through YPS together with a wide a variety of organisations and initiatives using funding and resources from public, private and voluntary groups. While responsibility for youth provision ultimately lie with the County Council other agencies and partners, provide a valuable contribution, including a variety of facilities required to meet a wide range of local needs. District Councils are also responsible for community development and community facilities in their areas. Services provided for young people and the wider community include a mix of formal and informal social, recreational and education and learning opportunities for all sections of the community, including youth work, access to information advice and guidance, pre-and after-school clubs, and evening classes and activities for older people.
- 2.2.5.2 Access to these facilities is extremely important as it provides residents of all ages with an opportunity to interact and develop new skills. This in turn improves the social cohesion of the community and opportunities for individuals.
- 2.2.5.3 Provision is essential for all sections of the community. Youth services focus on young people aged between 11 and 25, but in particular on those between the ages of 13 and 19 and those who experience social exclusion. Work with adults concentrates on building stronger communities by increasing skills, breaking down age and race barriers, and increasing confidence within neighbourhoods.

### **Identified Needs**

- 2.2.5.4 There are several Government targets and initiatives to improve access to community services across the country. These focus mainly on youth services, but many of the buildings they are based in offer the opportunity to provide services for the wider community.
- 2.2.5.5 The Extended Schools Programme is an example of this kind of opportunity. It encourages schools to extend their opening hours so that other services can be provided from the premises. The intention is that by 2010, all primary and secondary schools will have extended their opening hours and the services provided.
- 2.2.5.6 The DfES (now the DfCFS) publication 'Transforming youth work: resourcing excellent youth services' (2002) includes a set of minimum national standards for youth services as specified by the National Youth Agency.
- 2.2.5.7 Authorities must secure convenient and suitable access for young people to high quality youth work, including suitable opening hours, in safe, warm, well-equipped locations based on the following guidelines:
- 80% of young people in County Council areas to be within safe 30-minute walking time of youth services.



- All young people must have access to youth services for at least 4 hours a week.
- 90% of larger youth centres must be open at least 24 hours a week.
- There must be one full-time equivalent nationally qualified worker for per 400 young people aged between 13 and 19.

2.2.5.8 Complementing this development is the government strategy Youth Matters: Next Steps, which sets out a vision for empowering young people, giving them somewhere to go, something to do and someone to talk to. The strategy also specifies a duty on Local Authorities to deliver the 'Youth Offer'.

The 'Youth Offer' includes:-

- Places to Go
- Things to do and opportunities which promote personal development and learning
- Engagement
- Confidential and impartial information and advice
- Specialist guidance on jobs, skills and the labour market
- Targeted support for young people in need.

2.2.5.9 Areas identified to date as in need of new, expanded or improved youth facilities include:

- Nelson
- West Preston
- Ormskirk
- Leyland
- Fylde (Lytham/St Annes)

2.2.5.10 Through the Young People's Service, the County Council will provide an updated list of requirements for youth facilities across the County. This responsibility is might shift to Lancashire Locals and the youth Councils in the future or may be provided through liaison between these and other partners.

### **Assessing Contributions**

2.2.5.11 Local authorities should request contributions towards the capital cost of providing new or improved facilities in the areas of need listed above. This is based on the impact of new residents using both local and central facilities. Without improvements to these facilities existing and new residents may be affected, with services unable to cope with the increased demand caused by the new development. The sum is calculated on the basis of new family units (2 or more bedrooms) as these are assumed to make an incremental impact on demand.

2.2.5.12 The minimum floor space for new youth facilities should be 302m<sup>2</sup>. This is the standard specification for the most recently built youth and community centres in Lancashire, and is the minimum space required to provide a suitable range of facilities for the catchment area (for example an ICT suite, meeting rooms and internal play areas). Provision should therefore not fall below this level. More space

may be required for larger developments, outdoor activities and additional facilities. The developer should discuss these matters with the County Council's Children and Young People's Directorate (Young People's service) at an early stage to establish the exact requirements of the area.

- 2.2.5.13 The use of a cost multiplier makes it possible to calculate the overall cost of providing a new facility to be fairly related to the catchment population it will serve. In this case, 19% of the total population of Lancashire falls within the target group of 11 to 25 year-olds, so the multiplier has been rounded to 0.2 (20%).
- 2.2.5.14 Contributions are based on the costs per resident of providing a new building at 2008/09 rates. These figures will be updated each year to reflect inflation.

**Residential development (Use Class C3)**

10 dwellings (2 bedrooms or more) in areas of identified need

$0.2 \times (\text{Average household size } 2.37 \times \text{average building cost per m}^2 \text{ (£1,391)}) = \text{£660}$

**Major residential development (over 150 dwellings)**

In addition to the above formula, developers will be expected to contribute to any new capital investment required where there are no community facilities within a safe 30-minute walk or 2-mile radius plus funding of the first 2 years' revenue costs. The contribution may take the form of a financial contribution and/or an "in-kind" contribution such as land or materials.

It is recognised that in areas of dispersed population it is not possible to provide the same level of services as in urban areas. In such areas, other ways of providing community facilities will be considered (e.g. mobile facilities and satellite centres) and contributions sought.

Building cost for youth centres per m<sup>2</sup> = £1,391 (RICS Building Cost Information Service 2008/2009). This figure will be updated each year using the Building Cost Information Service Construction Index.

## **2.2.6 Public Realm and Public Art**

### **Background**

- 2.2.6.1 The quality of spaces around and between buildings can have a significant impact on how a new development relates to the urban area. Features such as high quality paving, seating, signs, lighting and the use of public art can greatly improve the urban environment. Public realm improvements also offer the opportunity to achieve biodiversity action plan targets and to provide access to green space.

### **Identified Needs**

- 2.2.6.2 A development which adversely affects an existing open area or fails to provide features such as street furniture which complement existing or planned initiatives can have a negative impact on the environment. Public realm improvements may be necessary to enhance the environment, improve pedestrian routes and further more general regeneration objectives in areas such as town centres and canal corridors.

### **Assessing Contributions**

- 2.2.6.3 For major development it will generally be preferable to take a comprehensive approach to the public realm, where this cannot be achieved through a planning condition.
- 2.2.6.4 If public realm and public art requirements cannot be met on site, they should be provided near the site. For smaller-scale developments, authorities should pool contributions to contribute to a larger scheme or project in order to achieve the best planning outcomes.
- 2.2.6.5 Planning obligations towards public realm improvements and public art may include maintenance costs.
- 2.2.6.6 Local research is currently under way to develop the principle of 'green infrastructure'. The draft RSS suggests the growing importance of this concept and the value of taking a strategic approach to achieving it. Public realm and public art can be important elements of this.
- 2.2.6.7 If an authority identifies the need for strategic green infrastructure, it may focus requested contributions from a range of subject areas to achieve this objective. Other relevant subject areas from this document include public rights of way, landscape heritage, inland waterways, natural heritage, outdoor space and sport and recreation, and flood defences.

### ***Public Realm Improvements***

- 2.2.6.8 Local authorities should usually request contributions towards public realm improvements from developments which are next to or within areas identified in their local development documents or other strategies. Advice is also available from specialist organisations such as CABI, English Heritage and the Civic Trust.

## ***Public Art***

- 2.2.6.9 Initiatives such as Percent for Art have gained international recognition. Where they have been identified in local planning policy, these initiatives will form the basis for planning obligations. Local authorities should encourage contributions of at least 1% of the total development cost (excluding land costs) for each individual development. This is particularly important in town centres and conservation areas, and at gateways to major developments such as business parks.

**Town centre, retail, leisure and business uses (Use Classes A1, A2, A3, A4, A5, B1, B2, B8, C1, D1 and D2)**

1,000m<sup>2</sup> gfa or more

**Residential and related development (Use Classes C2 and C3)**

50 or more dwellings

For use class C2, contributions should be made for developments of 1,000m<sup>2</sup> gfa or more.

## **2.3 OTHER SERVICES**

### **2.3.1 Affordable and Special-Needs Housing**

#### **Background**

- 2.3.1.1 PPS3 and 'Delivering Affordable Housing' (both DCLG 2006) enable local authorities to seek affordable housing for a range of types and sizes on appropriate sites. The key aims behind this are to promote integrated and balanced communities and to provide access to decent homes for those in need of housing. It is recognised that the normal workings of the housing market will not tackle these issues without policy intervention.

Special-needs housing is a clearly defined sector. It includes hostels for homeless people, group homes and accommodation specifically built to meet the needs of people with mobility problems.

Affordable housing focuses on providing housing at prices below market value for those identified as being in housing need. It may include the following:

- Dwellings for rent from a registered social landlord – contributions through Section 106 Agreements play an increasingly important role in providing housing within this sector. Most affordable housing has been provided through this mechanism.
- Shared-ownership schemes – homes that are part owned and part rented, usually through a RSL.
- Fixed-equity schemes – property that is sold at a discounted price to the first buyer and future buyers.
- Key-worker housing – for employees such as nurses and fire-fighters.

#### **Identified Needs**

- 2.3.1.2 All District Councils and Unitary Authorities are required to carry out Housing Needs Surveys to identify those in housing need in their area. These surveys identify both specific categories of need and parts of the area with particular problems, such as rural settlements. All parts of Lancashire have identified needs for affordable housing. This includes districts with large amounts of low-demand housing that may not meet people's needs, as well as relatively affluent areas such as Ribble Valley and Fylde.
- 2.3.1.3 In most cases affordable housing should be on the same site and of the same quality as other housing being constructed. To avoid social segregation and promote integrated communities, it should be scattered among new housing schemes rather than all placed together in one corner of the site. This also avoids the problem of finding suitable sites at a time when building land is scarce. In rural areas local planning authorities may need to identify specific 'rural exception sites'.

## **Assessing Contributions**

- 2.3.1.4 An affordable housing contribution is sought from residential development. PPS3 states that local planning authorities should set a minimum site-size threshold, above which affordable housing will be sought. The national indicative threshold is 15 dwellings, but local authorities may set a different threshold where justified.
- 2.3.1.5 Local planning authorities should expect development to deal with all negative impacts a project may create. This means that developers of affordable and special needs housing will be expected to contribute to other relevant services. The reason for this is that the impact of the development and demand for services is the same as for market housing.
- 2.3.1.6 Local planning authorities will identify the specific need for affordable housing within their LDFs. This will include the numbers and types of affordable housing required. Plans to develop windfall sites must also include affordable housing.
- 2.3.1.7 If the local housing market results in requests for affordable housing from developments lower than the normal threshold, the local planning authority should use the research carried out in preparing its local development framework to decide whether this is appropriate.
- 2.3.1.8 Each local planning authority should decide the percentage of affordable housing required as a proportion of the total number of houses on a site based on housing need. This figure should be calculated as a percentage of total housing on the site, not as an element of market provision. For example, on a site of 1ha where 50 dwellings are to be built and 60% of housing is to be affordable, 30 affordable properties would be required.
- 2.3.1.9 The cost of providing affordable housing should be assessed through local negotiation. Wherever possible this should take place in pre-application discussions to avoid delays in the planning application process. Where affordable dwellings for rent are required, the registered social landlord should be involved at an early stage. The rental stream approach (Housing Corporation total cost indicators minus capitalised rent) is a useful starting point for these negotiations.
- 2.3.1.10 Certainty in providing affordable housing is essential. Developers must reach an agreement with the registered social landlord if housing for rent is to be provided. For shared-ownership and fixed-equity schemes, local planning authorities will need documentary proof that the designated properties or a suitable equivalent will be made permanently available at an agreed, affordable price.

### ***Off-Site Affordable Housing***

- 2.3.1.11 Affordable housing should generally be provided on the same site as market housing. However, this may not always be possible. In these exceptional cases the local planning authority may allow the developer to provide a financial obligation or affordable housing on a different site. An example of such a case would be where there is a predominance of a particular type of tenure and an alternative is desirable in the interests of balanced communities.

2.3.1.12 The developer contribution will be based upon the amount it would cost to build the same number of properties as would have been built on the original site. It will also take into consideration:

- the cost of a serviced site;
- the cost of construction;
- the fact that the site must be in a suitable location, both in terms of planning policies and meeting the need for affordable housing in the area; and
- the additional cost of developing a separate site.

As a result of these factors the developer's contribution will be based on the open-market cost of an equivalent dwelling *less* the affordable level of return that would have been paid to the developer for the housing provided on site.

2.3.1.13 The open-market cost of equivalent housing will be agreed through negotiation based on the developer's projected selling price or Land Registry data. The affordable level of return will be based on relevant earnings as identified in the New Earnings Survey (Office for National Statistics). If the developer is able to provide alternative land in a suitable location, subject to planning policies this may also be taken into account.

#### **Residential developments (use class C3)**

Affordable housing should be provided on all sites over 0.5ha, or 15 or more dwellings, whichever is less.

Affordable housing should be provided based on the rate<sup>(A)</sup> and type identified by the local planning authority.

#### **Calculating financial contributions where affordable housing cannot be provided on site**

Equivalent open-market dwelling price <sup>(B)</sup> (£)	<b>less</b>	Affordable level <sup>(C)</sup> (£)	<b>=</b>	Affordable housing contribution per property (£)
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(A) The percentage of affordable housing required as a proportion of the total number of homes being built.

(B) A price negotiated between the developer and the local authority, based on the developer's projected selling price or Land Registry data.

(C) A price less than or equal to the following.

- For a single-income buyer – their relevant average earnings multiplied by three.
- For joint buyers with two incomes – one and a half times the average relevant earnings of one buyer, multiplied by three.

Relevant earnings are identified for the site through the Council's housing needs assessment or the average earnings figure for the area identified in the New Earnings Survey.

Note: Prices will change as average earnings figures change.

## **2.3.2 Crime and Disorder**

### **Background**

- 2.3.2.1 An important part of planning is to create environments in which people feel safe and secure. Section 17 of the Crime and Disorder Act 1998 places a responsibility on the police, the local authority, the probation service and other community groups to draw up a crime prevention strategy.
- 2.3.2.2 Many academic, Government and police reports cite poor design as one of the factors responsible for high crime rates in an area. The ODPM (now DCLG) documents 'Safer places' (2004) and 'Secured by design' ([www.securedbydesign.com](http://www.securedbydesign.com)) set out guidance for reducing crime hazards through better design. These guidelines suggest a package of measures to reduce and prevent both the reality and the perception of crime. Authorities may use planning obligations as one way of achieving these measures and ensuring that the safety of the community is protected.

### **Identified Needs**

- 2.3.2.3 All development proposals should demonstrate how crime prevention measures have been considered. Good quality design and management offer the potential to reduce crime and provide safe and secure environments for communities.
- 2.3.2.4 Some new developments may include crime prevention measures for their own security but may unintentionally affect the safety of the wider community, causing impacts beyond the original site. Under the Crime and Disorder Act 1998 and in line with Government guidance, e.g. PPS1, planning authorities should seek to minimise the impact of development on community safety and should make sure that each development contributes to measures to prevent and deter crime and antisocial behaviour.

### **Assessing Contributions**

- 2.3.2.5 The planning system has a key role to play in maintaining the safety of both existing and new communities. Local planning authorities should seek contributions towards wider crime prevention measures if:
- a development may increase the risk to public safety;
  - lead to an increase in vandalism or antisocial behaviour.
- Any development likely to increase the burden on crime prevention initiatives should pay contributions.
- 2.3.2.6 Authorities should request contributions from both residential and commercial development proposals to cover a package of measures. These measures may include installing CCTV, increasing street lighting, providing a neighbourhood warden, and landscaping and environmental work to improve visibility. Items such as security gates must not interfere with emergency access to utility services.
- 2.3.2.7 The type and level of contribution required will depend on the location of the development, how it affects security and the degree of protection required. For



residential developments, contributions will be sought in order to reduce the opportunity for crime in both existing and future communities.

2.3.2.8 When deciding the scale of contribution required for commercial development, local authorities should consider:

- what the development will be used for;
- how it is likely to affect community safety;
- the hours of use;
- the total floor space;
- the likely number of users and level of activity;
- the location in terms of public transport and accessibility, including fear of crime;
- how the building and design will affect the immediate area;
- existing safety measures; and
- other practical requirements such as car parks and open space.

2.3.2.9 Where long-term security measures are required a commuted sum may be requested towards ongoing operation, monitoring and maintenance. This should again be determined on a case-by-case basis.

The thresholds below apply where advised by local community safety officers that a crime and disorder issue may exist. In exceptional cases a contribution may be sought at a lower threshold reflecting the perceived risk of crime in that area. This will enable the threshold to be tailored to the location specifics of the area.

**Residential development (use class C3)**

10 or more dwellings

The scale and type of contribution will depend on how the development is likely to affect community safety.

**Retail, leisure and business uses, and residential institutions (use classes A1, A2, A3, A4, A5, B1, B2, B8, C1, C2, D1, D2 and sui generis uses)**

1,000m<sup>2</sup> gfa or more

Contributions from retail, leisure and business proposals will be used to maintain a safe and secure environment for employees, visitors and the general public. Commercial developments will also be expected to contribute to the local authority's wider crime prevention initiatives.

Contributions will generally be requested for:

- all major proposals for leisure and entertainment facilities, including gyms, leisure centres and cinemas, that are likely to be open after 8pm;
- retail, hotel, office and other developments that include the facilities listed above, or that are likely to significantly increase visitor numbers to the area;
- developments such as supermarkets and petrol stations that are open late at night or 24 hours a day;
- all late-night cafés, restaurants, pubs and night clubs that can accommodate 40 or more people and attract customers after 8pm;
- all major town centre developments that will significantly increase visitor numbers and use of public transport; and
- all major development proposals that lead to increased use in isolated areas that are likely to be poorly located in terms of safe, well lit and popular routes and transport facilities.

### **2.3.3 Flood Defences**

#### **Background**

- 2.3.3.1 New developments in flood-risk areas can be at risk from flooding and may also increase the risk of flooding, placing people's lives and property at risk. Building on flood plains and developing large areas of land have reduced the land's natural capacity to store and drain water increasing the risk of flooding. The likelihood of flooding in most areas is also expected to increase in future because of the effects of climate change. Coastal areas of Lancashire will be particularly vulnerable due to increasing sea levels. While it is not possible to eliminate the risk of flooding altogether, its impact can be reduced through good planning and management.

#### **Identified Needs**

- 2.3.3.2 PPS25 'Development and flood risk' (2006) identifies 3 flood risk zones:
- Zone 1 – low probability of flooding, less than 1 in 1,000 annual probability of river or sea flooding in any year.
  - Zone 2 – medium probability of flooding, between 1 in 100 and 1 in 1,000 of river flooding or between 1 in 200 and 1 in 1,000 annual probability of sea flooding in any year.
  - Zone 3a – high probability of flooding, 1 in 100 or greater annual probability of river flooding or 1 in 200 or greater annual probability of sea flooding in any year. (Zone 3b is the functional floodplain.)
- 2.3.3.3 Development should first be directed to areas at the lowest risk of flooding (zone 1). However, it is inevitable that some development will be necessary in areas of higher risk. In these cases the planning authority must make sure that proposals will not create an unacceptable risk of flooding and will not increase the flood risk to the area. They must also make sure that mitigation measures are in place to minimise all risks of flooding.
- 2.3.3.4 It is the developer's responsibility to:
- fully assess the risk of flooding;
  - propose measures to mitigate the risk; and
  - demonstrate that any risks remaining after mitigating can be safely managed.
- Planning applications for sites in areas at risk of flooding should be accompanied by a Flood-Risk Assessment appropriate to the nature and scale of the proposed development.
- 2.3.3.5 Local authorities must make sure that all new developments in flood-risk areas can suitably survive and resist floods. To do this they are required to produce a Strategic Flood-Risk Assessment (SFRA) in consultation with the Environment Agency. These should be used both to inform the determination of planning applications and the allocation of sites within their LDF. Such assessments form the basis for identifying areas at most risk of flooding. The indicative areas of high flood risk across Lancashire are identified on map 17 of the Joint Lancashire Structure Plan.
- 2.3.3.6 Where specific risks are identified both to the development and/or the surrounding area, the developer must:

- satisfy the planning authority that they will manage the risk effectively and with minimum harm to the environment;
- prove to the authority that they have sufficient funding to provide the flood-risk management measures necessary to develop the site and guarantee safe occupancy throughout its proposed lifetime;
- design proposals in a way which limits flood risk to the development and elsewhere, by including sustainable drainage systems and, if necessary, flood-resilience measures; and
- identify opportunities to reduce flood risk, increase biodiversity and seek partnership solutions to managing flood risk.

2.3.3.7 Developers must usually pay for appropriate flood defence and prevention measures for new developments. They cannot normally use public resources. The only exceptions to this are:

- where previous programmed public flood defences and other measures exist which may provide opportunities for new development, as long as they do not increase the flood risk at other locations; and
- where public investment in land remediation and infrastructure may include flood defence and prevention measures.

### **Assessing Contributions**

2.3.3.8 A threshold for negotiating contributions has not been set; this should be determined on a case-by-case basis dependent on the scale of impact and the degree of protection and mitigation measures required. Contributions will however be sought for all developments located in flood risk areas where appropriate defence, mitigation and management measures are needed.

2.3.3.9 Contributions may be sought from the developer for both onsite and offsite work (e.g. sustainable urban drainage). Such work may be undertaken directly by the developer or through the provision of funds for work to be carried out on their behalf. The level and nature of the contribution required should be informed by the advice of the Environment Agency. Where a canal forms part of any proposed flood alleviation measures the views of British Waterways should be sought.

2.3.3.10 Flood defence or mitigation works to include the whole range of measures that may be appropriate, including:

- Works or contribution to improving flood defences and mitigation such as strengthening to river banks, bridge/culvert widening, improving watercourse bed gradients or general widening of watercourses as appropriate;
- Sustainable Drainage Systems (SUDs) or other measures to reduce surface water run-off (e.g. infiltration devices to allow water to soak into the ground, filter strips and swales, filter drains and porous surfaces, basins and ponds etc.). (It should be noted that the development of any such proposals is likely to have implications for Local Authority asset management and drainage departments as

United Utilities policy is not to adopt any SUDs structure. United Utilities will consider the adoption of surface water sewers draining to a balancing pond subject to a range of established conditions);

- Contribution to monitoring; and
- Commuted sum towards subsequent maintenance. PPS25 advises that a dedicated commuted sum to cover maintenance for a 30-year period should be made for any such works.

2.3.3.11 Local research is currently under way to develop the principle of 'green infrastructure'. The draft Regional Spatial Strategy (RSS) suggests the growing importance of this concept and the value of taking a strategic approach to achieving it. Flood defence can be an important element of this.

2.3.3.12 If an authority identifies the need for strategic green infrastructure, it may focus requested contributions from a range of subject areas to achieve this objective. Other relevant subject areas from this document include public rights of way, landscape heritage, inland waterways, natural heritage, the public realm and public art, and open space, sport and recreation.

#### **Flood-risk assessment**

Developers must provide a Flood-Risk Assessment for major developments and all developments in flood-risk zones (zones 2 and 3). This assessment should be produced in consultation with the local authority.

PPS25 defines a major development as follows.

#### **Residential development (Use Class C3)**

10 or more dwellings, or a site equal to or greater than 0.5ha.

#### **Other development (all other use classes)**

A development involving a floor space equal to or greater than 1,000m<sup>2</sup>, or a site equal to or greater than 1ha.

## **2.3.4 Health**

### **Background**

2.3.4.1 It is Government policy to make sure that the planning system delivers high quality development which promotes community cohesion and social inclusion. Accessibility for all members of the community to health facilities is seen as key element of social inclusion.

2.3.4.2 The Cumbria and Lancashire Strategic Health Authority (SHA) manages the NHS locally on behalf of the secretary of state. Its role involves:

- developing plans for improving health services in the area;
- making sure local health services are of a high quality and are performing well; and
- increasing the capacity of local health services so that they can provide more services.

The SHA provides a key link between the Department of Health and the NHS.

2.3.4.3 There are eight NHS primary care trusts (PCTs) in Lancashire, and one each in Blackpool and Blackburn with Darwen. They are the local health organisations responsible for managing health services. They work with local authorities and other agencies that provide health and social care locally to make sure the community's needs are met.

2.3.4.4 PCTs must make sure there are enough services for people in their area and that they are accessible to patients. They must also make sure that all other health services are provided, including hospitals, dentists, opticians, mental health services, NHS walk-in centres, NHS Direct, patient transport (including accident and emergency), screening and pharmacies. They are also responsible for getting health and social care systems working together to the benefit of patients.

### **Identified Needs**

2.3.4.5 When considering whether a developer should make contributions towards health services, the planning authority should liaise with its local PCT and other relevant agencies.

2.3.4.6 In assessing whether contributions should be required, the following will need to be considered:

- Will the development create a demand for new facilities or services?
- Can existing facilities or services absorb the new patients and/or users?
- Will new patients/users generated by the development be able to easily access existing services and facilities?
- Will the development result in the loss of existing health facilities and is adequate alternative provision being made?

- Can the increased needs arising from the development be met by existing resources and funding regimes?

Contributions will be sought where, as a result of the development:

- New premises/facilities are required as a result of the increased needs arising from the development.
- Current facilities are inadequate for the additional users, in terms of their quality or accessibility (based on accepted NHS standards) and therefore need to be improved or extended.
- Inadequate funding is available to provide the additional facilities or services required as a result of the development.

2.3.4.7 Funding for health care services is usually based on residential catchment. However, non-residential developments can also have a significant effect on health care services even though their impacts may not be as direct. It is the Government's policy to provide patients with access to health care near their work places, mainly through walk-in centres.

2.3.4.8 Walk-in centres (WICs) are designed to offer basic primary health care services in accessible settings without an appointment. The first pilots opened in 2000 and the Government announced an extension of the scheme in November 2004 to provide WICs in stations. WICs are intended to boost, not replace, primary care services. They are targeted at workers, commuters and visitors, as well as local residents. There is currently a WIC in Blackpool and one in Skelmersdale.

### **Assessing Contributions**

#### **2.3.4.9 *Residential Development (Use Class C3)***

There is likely to be greatest justification for contributions to local services which benefit patients and users from the new development. Local authorities will request contributions for residential developments of 150 or more dwellings. These contributions will depend on the scale of development proposed and existing services with spare capacity, including:

- primary care from GPs;
- intermediate care such as day places and beds; and
- mental health services.

#### **2.3.4.10 *Non-Residential Development***

When estimating how a non-residential development will affect health care services, PCTs and local authorities should consider:

- numbers of additional commuters arising from the development;
- numbers of additional workers;
- numbers of additional visitors; and
- numbers of construction workers.

**Residential development (Use Class C3)**

150 or more dwellings

**Other development (all other use classes)**

Contributions sought will depend on the nature and scale of the proposed development.



## **2.3.5 Inland waterways**

### **Background**

- 2.3.5.1 Inland waterways are navigable rivers and canals. In Lancashire these consist of the River Ribble as far as Preston, the River Lune up to Lancaster, the River Wyre up to St Michaels-on-Wyre, and the Lancaster and Leeds-Liverpool canals.
- 2.3.5.2 Commercial activity on inland waterways is limited to traffic on the River Lune as far as Glasson Dock, and the Irish Sea ferry and fishing traffic at Fleetwood. The remaining waterways are only used by leisure craft.
- 2.3.5.3 Inland waterways have a valuable role, not only for the boats that use them but also for the wider community. They play a part in flood prevention and drainage, act as wildlife links, offer safe towpaths for walking and cycling, promote tourism and act as focal points for regeneration. New development close to inland waterways can benefit from this environment but can also harm the waterways.

### **Identified Needs**

- 2.3.5.4 New development can affect inland waterways in several ways. The following are among the most significant effects.
- Flood prevention and drainage – if a development drains directly into a canal, this can have a direct impact on water levels that may need correcting.
  - Access issues – a new development may use existing paths for access. This may mean upgrading the paths or adding new stretches of walkway to the network. This will also mean adding new signs on the paths. In some locations a new bridge across a waterway may be required.
  - New moorings and waterway facilities – there is currently a shortage of suitable moorings and facilities such as boatyards on the canal network. There may also be circumstances where existing wharves, boatyards and moorings should be protected.
  - Protecting structures – larger developments may damage structures such as canal banks and locks and may create the need for additional dredging and restoration of historic features.
  - Restoring derelict facilities – British Waterways has identified the northern reaches of the Lancaster Canal as a priority for restoration. There are also proposals by Preston City Council to reinstate the Lancaster Canal into the centre of Preston.
  - Wildlife habitats – development proposals may require the creation of alternative habitats or improved facilities for wildlife.
- 2.3.5.5 Local authorities should consult British Waterways and the relevant navigation authorities about all planning applications that will affect inland waterways. This will help them to identify any specific contributions that may be required. British

Waterways has, for example, no specific budget for towpath upgrading or maintenance.

### **Assessing Contributions**

- 2.3.5.6 Local authorities may request contributions towards any of the issues identified above. Contributions should be based on the impact of individual proposals.
- 2.3.5.7 Developments that front onto waterways benefit from their location. British Waterways estimates that residential developments next to canals have a 20% higher value than identical non-waterfront properties. There are also benefits to non-residential developments such as pubs and hotels. Maintaining and improving the waterside environment is central to creating and sustaining the overall attractiveness of these developments. Planning authorities should seek contributions on behalf of British Waterways towards the maintenance of towpaths, canal infrastructure and litter removal. Wherever possible, Planning Obligations for inland waterways should be managed in a strategic manner. Ideally this should be co-ordinated through an Area Action Plan (AAP) or a Supplementary Planning Document (SPD). Improvements to the towpath, signage, seating, etc should be co-ordinated as part of a broader Public Realm Strategy. A formulaic approach may be appropriate in such circumstances.
- 2.3.5.8 Large-scale regeneration schemes which involve inland waterways should maximise the benefits of their waterside location and avoid turning their backs on the waterway.
- 2.3.5.9 Local research is currently under way to develop the principle of 'green infrastructure'. The draft RSS identifies the growing importance of this concept and the value of taking a strategic approach to achieving it. Inland waterways can be an important element of this.
- 2.3.5.10 If an authority identifies the need for strategic green infrastructure, it may focus requested contributions from a range of subject areas to achieve this objective. Other relevant subject areas from this document include flood defences, landscape heritage, public rights of way, natural heritage, the public realm and public art, and open space, sport and recreation.

The following obligations apply to developments within 50 metres of an inland waterway or where recommended by the navigation authority.

#### **Residential development (Use Class C3)**

Contributions should be made for developments of 10 or more dwellings.

#### **All other land uses**

Contributions should be made for developments involving an area of 1,000m<sup>2</sup> gfa or more.

## **2.3.6 Open Space, Sport and Recreation**

### **Background**

- 2.3.6.1 PPG17 'Planning for open space, sport and recreation' states that well-designed and applied planning policies for these facilities are fundamental to delivering the Government's aim of supporting urban community cohesion and sustainable development.
- 2.3.6.2 Development proposals can affect open space and sport and recreation facilities in several ways. In some cases a development can reduce existing services, for example, by building on existing playing fields. In other situations, a development may generate extra demand which existing facilities cannot meet.
- 2.3.6.3 PPG17 suggests a logical five-step approach to planning for open space, sport and recreation. This approach involves:
- identifying local needs;
  - assessing existing services;
  - establishing service requirements as a result of the development;
  - applying those requirements; and
  - drafting policies.

A companion guide to PPG17 – 'Assessing needs and opportunities' – explains in some detail how authorities should apply this approach.

- 2.3.6.4 The procedures set out here relate specifically to new housing developments. Local authorities must identify service shortfalls as a result of the new development and consider how best to meet those shortfalls. This may require a financial contribution from the developer.

### **Identified Needs**

- 2.3.6.5 There is no Lancashire-wide assessment of open space, sport and recreation facilities. Local needs vary considerably from one place to another depending on the age, lifestyle and cultural characteristics of communities. Local authorities should therefore carry out their own assessments in line with PPG17 to identify local need.
- 2.3.6.6 This assessment should be followed by an audit of existing open space and sport and recreation facilities. This will help the authority to identify:
- distance thresholds for facilities;
  - areas where the quality and quantity of services are lacking; and
  - opportunities for new services.
- 2.3.6.7 In carrying out their assessment and audit, local authorities should consider both public and private spaces. These range from civic spaces to parks and gardens (see Annex A to the PPG17 companion guide). They also include natural green spaces which also contribute to the health and well-being of residents.
- 2.3.6.8 In relation to indoor sport and recreation facilities, PPG17 indicates that local authorities should at least assess:

- facilities in large buildings – for example, indoor sports halls and swimming pools; and
- community centres and village halls.

2.3.6.9 This section is concerned with the first of these.

2.3.6.10 Setting standards for open space, sport and recreation should involve assessing quantity, quality and access. Standards should be set out in a development plan policy, with detailed guidance on how to apply them in a supplementary planning document.

2.3.6.11 If local authorities have carried out needs assessments and audited existing facilities in line with PPG17, their service standards will meet the tests of reasonableness set out in Circular 05/2005. Authorities may use planning obligations to reduce or prevent shortfalls in both the quality and quantity of provision.

2.3.6.12 English Nature has researched and developed Accessible Natural Greenspace Standards or 'ANGSt' (see 'A Space for Nature' 1996). These standards emphasise the contribution which natural greenspace can make to quality of life. They recommend that every home should be within 300 metres of an accessible natural greenspace. They also set out other targets for larger natural greenspaces.

2.3.6.13 Authorities should look to develop their own local standards and policies for accessible natural greenspace. They may seek developer contributions to achieve these standards as long as the standards are based on an appropriate assessment of need. Further guidance is available at [www.english-nature.gov.uk](http://www.english-nature.gov.uk).

2.3.6.14 Quantity standards can be expressed in several ways, and local authorities must decide which is the most meaningful. Traditionally these standards have been expressed as 'X hectares per 1,000 people', but it is more practical to express them in terms of 'Y m<sup>2</sup> per bed space'. Like many other authorities, Preston City Council has completed a playing pitch strategy using Sport England's method. This recommends a standard of 0.82ha per 1,000 people for each pitch (8,200 m<sup>2</sup> per 1,000 people, or 8.2 m<sup>2</sup> per bed space). These standards will need to take account of the specific needs of particular types of development, such as student accommodation or sheltered housing.

2.3.6.15 Quality standards are more difficult to prescribe, but must be based on the audit and take account of community views. They can be linked to Best Value benchmarks.

2.3.6.16 Accessibility standards relate to distance thresholds – the maximum distance that typical users can reasonably be expected to travel to each facility using different methods of transport. These thresholds should be based on the needs assessment and audit.

2.3.6.17 If authorities have both urban and rural communities in their areas, they may need different accessibility standards. Parents with small children would not expect to walk for more than 5 minutes (250 metres) to a local play area. On the other hand, young people and adults would normally be prepared to walk for 15 minutes (600 metres) to a playing pitch. Catchment areas for indoor facilities will often extend across a whole District, or beyond District boundaries.

- 2.3.6.18 In the case of both indoor and outdoor facilities, the assessment and audit should lead to a strategy which sets out a programme for new and upgraded facility requirements. For indoor facilities, this should take the form of a Sports Strategy Action Plan. This strategy will clearly identify requirements that would be triggered by new developments, and so should shape an authority's decisions as to how to use developer contributions.
- 2.3.6.19 The spatial implications of these strategies should be reflected in the local development framework and should dictate where an authority will request planning obligations. Authorities will also need to develop a system for pooling developer contributions for larger off-site schemes.
- 2.3.6.20 In addition to the comprehensive guidance set out in the PPG17 companion guide 'Assessing needs and opportunities', Sport England also publishes detailed advice. In particular, it has published:
- good practice guidance on providing for sport and recreation through new housing development; and
  - a Planning Contributions Kitbag which offers advice and techniques for assessing local needs and auditing service levels, and includes examples of good practice.

For more information, visit [www.sportengland.org](http://www.sportengland.org).

### **Assessing Contributions – Outdoor Space**

- 2.3.6.21 When considering outdoor space requirements and related developer contributions, local authorities should explore the following questions.

#### ***1. Does the development generate a demand for recreational open space?***

Some types of housing development may not need to provide certain categories of open space. For example, sheltered schemes would not be expected to provide play areas. The local authority should set out in its SPD what these exemptions will be.

Some local authorities may also define a threshold (for example, 5 dwellings) below which contributions will not be requested. However, this approach is not recommended as most new housing developments will increase demand for open space and recreation facilities and should therefore contribute towards them.

#### ***2. After the development, will there be enough open space in each of the defined categories to meet the needs of existing and new residents?***

When applying standards, authorities' decisions about seeking developer contributions should be linked to their needs assessment and audit. If there is more than enough open space near a development, it would not be reasonable to expect a developer to contribute towards new space.

**3. Does the quality of open spaces within the recommended distance thresholds match the standard in the assessment and audit?**

A developer contribution may be justified if the quality of existing facilities falls short of the standards required.

**4. What is the requirement for each type of open space?**

and

**5. Should recreational open space be provided on site?**

The open space requirement for a development may be provided through:

- on-site facilities;
- facilities which are partly on site and partly off site; or
- off-site facilities.

Developers may create these facilities themselves or provide a financial contribution towards them.

Table A shows an example of a ready-reckoner for calculating the total open space requirement for a development based on the number of bed spaces and an overall standard of 2.85 hectares per 1,000 people.

**Table A**

	Intermediate play area/ LEAP	Local open space	Major open space	Playing pitches	
	Open space requirement per home	Open space requirement per home	Open space requirement per home	Open space requirement per home	Total
1 bed	0	12.9	7.9	17.2	38.0
2 bed	4	17.3	10.6	23.0	54.9
3 bed	6	24.4	14.9	32.5	77.8
4 bed	9	30.6	18.7	40.8	99.1
Total					269.57

Source: Swindon Borough Council.

This table could be used to make an initial calculation of the total open space requirement. The authority would then need to assess whether the open space should be provided on or off site.

It is helpful if local authorities include a minimum size for open space within their standards as this provides a way of deciding whether a developer should contribute. Individual assessments should also take into account the characteristics of the site.

If an authority calculates that on-site facilities may be too small to be of benefit, it should request contributions from developers for off-site facilities and pool these to create facilities which will cater for several new developments in an area.

If the authority believes that some recreational open space should be provided on site, the developer should provide the relevant types of open space within the development itself. For example, there may be land within or next to the site which cannot be used for construction because of major underground utility services. A developer may be able to use this land for open space facilities.

#### **6. *Should the open space be provided on a site elsewhere?***

The authority and developer will need to decide whether there is a site within the recommended distance thresholds which could be used to provide the required open space. If so, the authority may request a contribution from the developer towards the cost of buying the land. If no site is available, the authority should request a contribution towards upgrading an existing open space within the recommended distance thresholds.

Under the REMADE and NEWLANDS land reclamation programmes, sites have been identified throughout Lancashire which may be suitable for open space facilities. Information on these programmes is available from Lancashire County Council.

Local research is currently under way to develop the principle of 'green infrastructure'. The draft RSS suggests the growing importance of this concept and the value of taking a strategic approach to achieving it. Open space and sports facilities can be important elements of this.

If an authority identifies the need for strategic green infrastructure, it may focus requested contributions over a range of subject areas to achieve this objective. Other relevant subject areas from this document include public rights of way, landscape heritage, inland waterways, natural heritage, the public realm and public art and flood defences.

#### **7. *What size of contributions is recommended for open space?***

Table B shows an example of a ready-reckoner for calculating the size of contributions for new on- and off-site open space and improvements to existing facilities. Local authorities should set their own realistic figures expressed as amounts per bed space. (RICS publishes a local cost index which may be useful, and the National Playing Fields Association also publishes information on open space costs.)

Contributions may be requested towards the cost of land, construction and essential equipment.

Table B

**Contribution to On-Site Open Space Provision**

Dwelling Size	Locally Equipped Area for Play (LEAP)	Local Open Space (LOS)	Major Open Space (MOS)	Playing Pitches
1 bed	n/a	£230	£76	£246
2 bed	£265	£369	£102	£330
3 bed	£423	£534	£144	£466
4 bed +	£661	£695	£181	£682

Table C

**Contribution to Off-Site Open Space Provision**

Dwelling Size	Locally Equipped Area for Play (LEAP)	Local Open Space (LOS)	Major Open Space (MOS)	Playing Pitches
1 bed	n/a	£269	£100	£133
2 bed	£276	£421	£134	£161
3 bed	£441	£607	£189	£252
4 bed +	£688	£786	£237	£365

*NB These figures are for illustrative purposes only, and are derived from Swindon Borough Council's Development Control Guidance Note (2007) – each Local Authority will need to derive its own figures.*



## **2.3.7 Utilities**

### **Background**

- 2.3.7.1 United Utilities distributes electricity and supplies water and waste-water services throughout most of the north west of England. It takes a 'demand led' approach to the provision of new infrastructure. Its capital investment programme is set by OFGEM (the Office of Gas and Electricity Markets) and OFWAT (the Office of Water Services), in consultation with the Environment Agency and the Drinking Water Inspectorate.
- 2.3.7.2 The utilities investment programme is agreed and allocated over five-year asset management periods. These have to be matched with development plan periods of 10 to 15 years and the uncertainty of developments taking place.

### **Identified Needs**

- 2.3.7.3 A new development proposed that exceeds the capacity of the utility services available in the area may not be able to proceed without causing significant problems for other utilities customers in the area. This may include low water pressure, foul flooding or environmental pollution.
- 2.3.7.4 Major development proposals which may place unrealistic demands on United Utilities' capacity should involve a utility impact assessment (similar to a traffic impact assessment). PPG3 provides specific policy support for assessing the capacity of key networks such as water, sewerage and other utility services.

### **Assessing Contributions**

- 2.3.7.5 If United Utilities believes that a development may overstretch its capacity, the developer will be required to carry out a utility impact assessment.
- 2.3.7.6 Depending on the impacts of the proposal this assessment may cover:
- the electrical distribution capacity;
  - the water resources capacity;
  - the water treatment capacity;
  - the water supply distribution capacity;
  - the waste-water network (sewerage) capacity; and
  - the waste-water treatment capacity.
- 2.3.7.7 Local authorities should request contributions if normal infrastructure charges do not apply. Infrastructure charges are used to upgrade the local water and sewerage networks. They are not raised for other utilities (gas and electricity) as these costs are contained within the main charges for those utilities.
- 2.3.7.8 If the utility provider's investment programme does not allow for increased capacity as required by the development, the authority may request contributions towards provision of the necessary infrastructure.

**All Use Classes**

There is no minimum threshold. Proposals will be dealt with on a site-by-site basis.

The type and scale of any management agreement or contribution will be dependant on the nature and scale of the development, and on the landscape character type within which it is located.

# **Part 3**

## **General Information and Good Practice Guidance**



## Appendix 1

### Land Use Thresholds for Planning Obligations

Obligation	Type of Development	Threshold
Affordable Housing	Residential (C3)	15 dwellings or more, or 0.5 ha, whichever is less
Children's Centres	Residential (C3)	10 dwellings or more (2 bedrooms or more) where there are no services within a 20-minute walk or 1.5-mile radius
Countryside Access	All use classes	Based on each site where there is loss or direct harm to a country park or public right of way
	Residential (C3)	150 dwellings or more within 3km of a country park or public right of way
	All other uses	5,000 m <sup>2</sup> gfa within 3km of a country park or public right of way
Crime and Disorder	Residential (C3)	10 dwellings or more
	Residential institutions (C2)	Based on consultation
	Retail, leisure and business uses (use classes A1, A2, A3, A4, A5, B1, B2, B8, C1, D1, D2)	Based on consultation
Cultural and Heritage	All use classes	Individual site basis
Education	Residential (C3)	50 dwellings or more (2 bedrooms or more) in Principal Urban Areas, Main Towns and Key Service Centres in a catchment area (2 mile radius Primary; 3 mile radius Secondary) where direct impact has been identified
		10 dwellings or more (2 bedrooms or more) in areas outside of Principal Urban Areas, Main Towns and Key Service Centres – in a catchment area (2 mile radius Primary; 3 mile radius Secondary) where direct impact has been identified

Obligation	Type of Development	Threshold
Flood Defence	Residential (C3)	10 dwellings or 0.5 ha, whichever is less (also required to submit a flood risk assessment)
	All other use classes	1,000 m <sup>2</sup> or 1ha, whichever is less (also required to submit a flood risk assessment)
Health	Residential (C3)	150 dwellings or more
	All other use classes	Individual site basis
Inland Waterways	Residential (C3)	10 dwellings or more within 50 metres of an inland waterway
	All other uses	1,000 m <sup>2</sup> gfa within 50 metres of an inland waterway
Landscape Character and Design	All use classes	Individual site basis
Libraries	Residential (C3)	10 dwellings or more within 3 km of existing libraries where a specific need has been identified
		150 homes where there are no libraries within 3 km
Minerals and Waste Development	All use classes	Individual site basis
Natural Heritage	All use classes	Individual site basis
Open Space, Sport and Recreation	All use classes	Individual site basis
Public Realm and Public Art	Residential (C3)	50 dwellings or more
	Residential (C2)	1,000 m <sup>2</sup> gfa
	Town centre, retail, leisure and business uses (use classes A1, A2, A3, A4, A5, B1, B2, B8, C1, D1 and D2)	1,000 m <sup>2</sup> gfa
Transport	Residential (C3)	10 dwellings or more
	Retail (A1)	1,000 m <sup>2</sup> gfa
	B1(a) office and A2 employment B2 general industrial and B8 storage and distribution	1,000 m <sup>2</sup> gfa
	Other uses	Individual site basis
Utilities	All use classes	Individual site basis

Obligation	Type of Development	Threshold
Waste Management	Residential (C3)	10 dwellings or more
Youth and Community	Residential (C3)	<p>10 dwellings or more (2 or more bedrooms)</p> <p>Developments of 150 dwellings or more (2 bedrooms or more) will also be expected to contribute to any new capital investment required where there are no community facilities within a safe 30-minute walk or 2-mile radius.</p>

## **Appendix 2**

### **Protocol Between the County Council and District Councils**

This protocol applies to areas covered by the County Council and District Councils. It recognises that the local planning authority (LPA) assessing a planning application will decide whether a particular contribution is justified and the priority that requests for contributions towards County Council services should receive.

#### **This protocol aims to make sure that:**

- developers are aware of the likely requirements for contributions, the procedures to be used and the responsibilities of all those involved as early as possible in the development process;
- County and District Councils consult effectively on applications that are likely to affect County Council services;
- District Councils receive suitable information from the County Council to help in negotiations with developers;
- the County Council's requests for developer contributions are properly justified;
- District Councils consider fully the County Council's requests for developer contributions;
- the negotiation process is as consistent and efficient as possible reducing any negative impact on the ability of District Councils to meet their Best Value Performance Indicators; and
- individual procedures can be updated to reflect latest good practice.

#### **District Councils will:**

- make sure that local development frameworks provide suitably for the need to consider all relevant contribution requirements associated with different types and locations of new development;
- involve the County Council and other relevant individuals and groups in early discussions about likely policies and proposals in local development frameworks;
- involve the County Council and other relevant individuals and groups in the early stages of preparing design briefs where planning obligations may be requested; and
- members of planning committees are properly briefed and trained in handling the relevant financial and technical information presented to them;
- establish effective internal procedures, codes of practice and systems for processing planning obligations;



- make sure that enough staff have the appropriate planning, negotiation and management skills;
- consult the County Council planning contributions officer and other relevant individuals and groups with a direct interest in an application at the earliest opportunity if a development proposal is likely to give rise to planning obligations either because it meets a threshold or the specific nature of the site triggers the need for a contribution;
- involve the County Council in pre-application discussions with developers and other relevant individuals and groups wherever possible;
- consider fully the views expressed by the County Council and other relevant individuals and groups on the need for additional services;
- provide the County Council and other relevant individuals and groups with a copy of the decision notice and Section 106 Agreement;
- wherever possible provide the County Council and other relevant individuals and groups with a reasonable opportunity to respond to proposals to improve working arrangements.

The County Council and District Councils should hold discussions each year to review this procedure.

**The County Council will:**

- act in line with national and regional planning policy and its own policies as set out in the Joint Lancashire Structure Plan and other policy documents;
- appoint a dedicated planning contributions officer to co-ordinate its internal policies and procedures on planning obligations and to provide Districts and developers with a single co-ordinated response on potential contributions towards County Council services;
- use its planning contributions officer to respond to District Council consultations on all local development frameworks, supplementary planning documents, development briefs and planning applications;
- assess the suitability of a location and the capacity of existing services and facilities, and consider what scope there is for those services to cope with the anticipated demand arising from development proposals;
- share any background information it has with the District Council and other relevant individuals and groups at an early stage;
- if necessary, take part in early discussions with the District Council to agree the nature and scale of contributions;
- invite the District Council to be involved in any direct discussions with developers relating to the need for and scale of planning obligations;

- co-ordinate agreements under Sections 106 and 278 of the Highways Act in highways matters;
- if necessary, provide expert witnesses at appeals and local planning inquiries to support its requirements;
- meet any costs awarded against the District Council as a result of a requirement sought by the County Council; and
- make the planning obligations calculator for County Council services available to the Districts and developers on a dedicated website.

## **Appendix 3**

### **Financial Guidelines for Managing Planning Obligations**

#### **Establishing Internal and External Procedures**

Local planning authorities (LPAs) should establish effective procedures to identify and liaise with key contacts in internal departments and external organisations in relation to negotiating and implementing financial agreements. They should also consider holding regular inter-departmental liaison groups on major applications.

There should be a clear audit trail and process chart to identify the roles of everyone involved. If appropriate, this can include relevant targets to assist in handling contributions efficiently.

#### **Drafting Agreements**

Planning obligations should be clearly drafted so that financial obligations are set out clearly. Standard clauses should be used as much as possible.

When drafting agreements, LPAs should remember to include details of:

- when payments should be made;
- how payments should be made;
- any index-linking or re-negotiation arrangements required for payments in instalments;
- any limitations on how or where contributions may be spent; and
- any arbitration procedures required.

#### **Receiving Payments**

The Section 106 Agreement should set out the date when the developer must pay contributions. This should be no more than 28 days before the start of the development. This avoids situations where the developer makes a payment immediately after gaining permission but allows permission to lapse without starting the development.

Payments made to the LPA should be recorded on a spreadsheet or database and integrated into the authority's planning application management system. This system should include details of:

- the site;
- the commitment set out in the Section 106 Agreement;
- what the contribution will be spent on;
- cost codes assigned to the contribution;
- relevant budget holders;
- the date the payment was made;
- the payment receipt number;
- the date any refund may be required;
- interest calculations;
- the ongoing balance; and
- how the funds were finally used.

Each subject area for planning obligations should have a separate cost code.

## **Monitoring**

LPAs should have clearly defined procedures for keeping the planning obligation spreadsheet and database up to date.

The finance department should also maintain a compatible monitoring system that identifies the total amount of money under each cost code, and what has been spent out of each. This department should provide the planning department with regular reports of funds received or used under each cost code.

Departments must liaise effectively so that all monitoring systems can be kept up to date.

## **Using Contributions**

LPAs must develop a clear system for authorising and approving the release of funds so that they are spent in line with the original Section 106 Agreement. This system should include procedures for the relevant project manager to confirm that the necessary work has been completed.

The system should also identify where costs are higher than predicted and any costs not included in the Section 106 Agreement.

## **Other Issues**

The LPA's procedure should include:

- a means of responding to developers' requests for progress on the spending of funds;
- a system for repaying unspent funds;
- clear liaison with legal colleagues to sign off agreements; and
- procedures for reporting to relevant Council committees.

## Possible headings for a Planning Application Monitoring Table

	<b>Planning application number</b>
	<b>Site name or description</b>
	<b>Application expiry date</b>
	<b>Financial contribution subject areas</b>
	<b>Budget codes</b>
	<b>Budget holders</b>
	<b>Date contributions are due (including instalments)</b>
	<b>Date contributions received</b>
	<b>Complementary funding type</b>
	<b>Date complementary fund received</b>
	<b>Interest due</b>
	<b>Date money spent (in whole or part)</b>
	<b>Balance</b>
	<b>Repayment required?</b>
	<b>Reports required</b>
	<b>Comments</b>

## Appendix 4

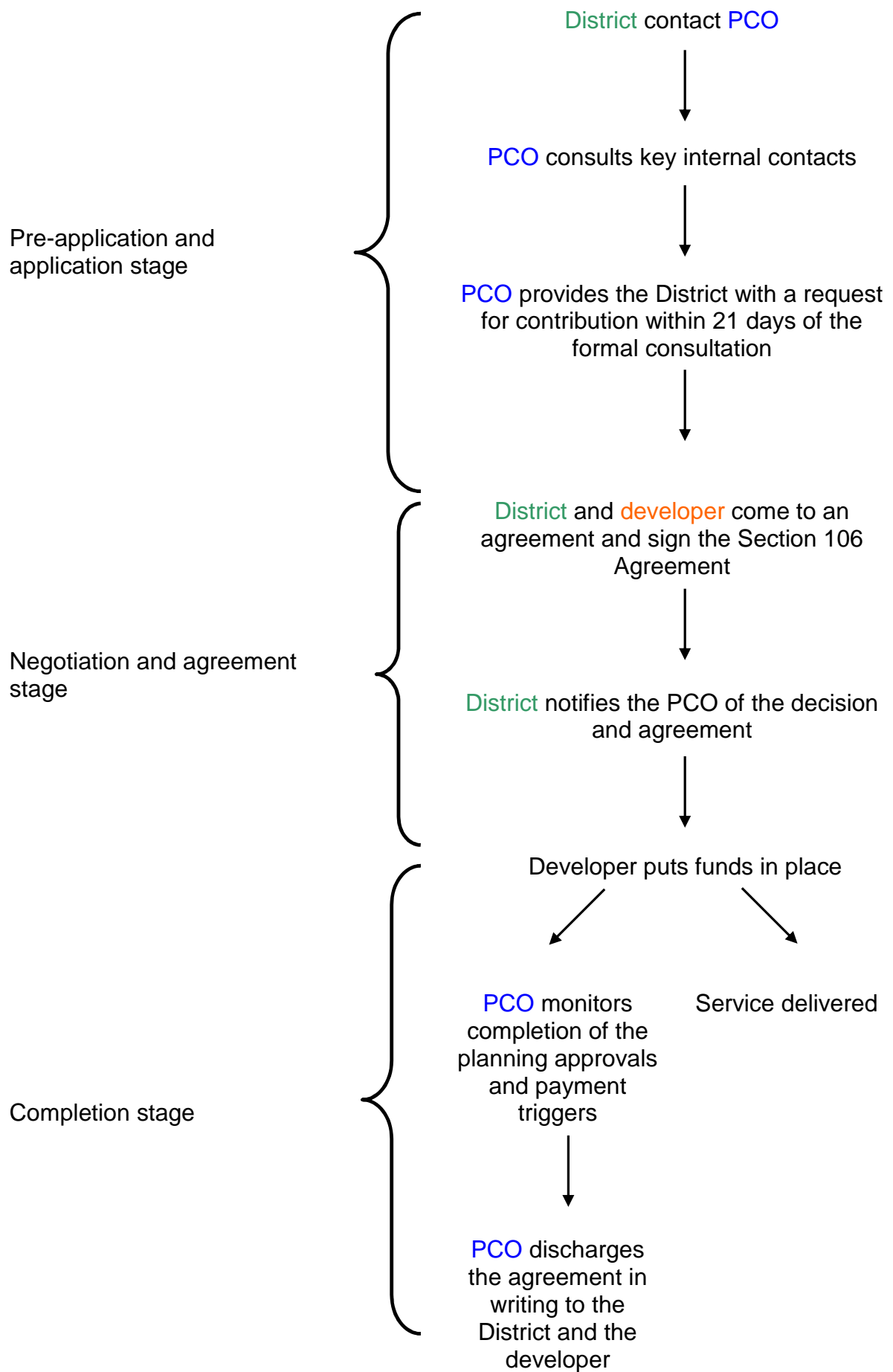
### Lancashire County Council Planning Obligation Procedures

- 1) We will provide District Councils with details of the County Council's planning contributions officer (PCO).
- 2) The County Council PCO will visit the Districts regularly to:
  - make sure that consultations are taking place as set out in the guidance document;
  - take part in pre-application discussions with the District Council and developers.
- 3) We will consider existing consultation arrangements and establish new procedures to make sure that:
  - our requirements are considered as a whole; and
  - co-ordinated responses are given at both pre-application and application stages.

The County Council PCO will work closely with our Section 278 officer to achieve this.

- 4) We will set up a network of key internal contacts covering each planning obligation contribution topic area. This group will meet regularly, and in addition, as required to discuss specific large or complex applications.
- 5) We will develop suitable databases, spreadsheets and websites so that applications and agreements can be monitored effectively. The County Council PCO will update these systems regularly using information from several identified sources.
- 6) We will record all consultations (including pre-application discussions) on the central database.
- 7) The County Council PCO will prepare a standard list of the information District Councils require for planning application consultations. Wherever possible we will carry out the consultation process electronically and also file paper copies.
- 8) Responses to planning application consultations should be made within 21 days of receipt, on a standard pro forma.
  - i) Smaller developments (fewer than 150 dwellings) – requests for contributions should be made in accordance with the figures detailed in the guidance document.
  - ii) Larger developments (150 dwellings or greater) – and those sites where specific nature of it triggers the need for a contribution – we will hold meetings with the key internal contacts.

- iii) Where applications fall within any identified areas of need, e.g. as identified in the Youth and Community and Libraries methodologies, we will prioritise the contribution request.
  - iv) We will make responses within 21 days for applications received from Local Planning Authorities outside of Lancashire but which raise cross-border issues and where a contribution is likely to be required.
- 9) We will record target decision dates on the database. The County Council PCO will contact the District Development Control Case Officer for an update on the status of each application and request made. We will also record the outcome of the planning application process on the database.
  - 10) In some cases we may use an independent mediator to finalise the obligations agreement or speed up the process of agreeing obligations. Any final decision will remain with the local planning authority.
  - 11) We will request from the District Council a copy of the Section 106 Agreement or unilateral agreement for all applications which are approved.
  - 12) The County Council PCO will be responsible for monitoring the completion of planning approvals and any necessary payment triggers by liaising with the District Councils.
  - 13) When we receive contributions we will inform the County Council PCO, who will update the database. We will forward the money to a named contact in the Resources Directorate. This money will be placed in a defined account with a clear reference.
  - 14) The County Council PCO will then consult the named contact for providing the service. Once the service has been provided, the PCO will update the database and discharge that part of the agreement in writing.
  - 15) We will review this guidance each year and update it as necessary.





## Appendix 5

### Average Building Costs 2008

#### Royal Institute of Chartered Surveyors Building Cost Information Service

Type of Building	Cost per m <sup>2</sup> of Gross Floor Area	
	From (£)	To (£)
Library	1,191	1,456
Community centre	1,026	1,257
General purpose halls	1,125	1,379
Club, youth club, student union, and so on	993	1,213
Day centre (social services)	1,191	1,456
Health centre, clinic, group practice surgery	1,015	1,235

#### Notes

- All costs are based on July to September 2008 prices.
- There is no allowance for general external work, drainage or landscaping. The average cost of these is 15% to 25% in addition to building costs.
- There is no allowance for abnormal building costs, loose furniture or equipment, design fees or disbursements.
- Costs are for new build work.

## Appendix 6

### Practical Examples

#### Example of a Transport Contribution Calculation

A suburban proposal consists of:

- 4,000m<sup>2</sup> gfa of office space;
- 10,000m<sup>2</sup> gfa of general industrial space;
- 400 m<sup>2</sup> gfa of food retail

The current accessibility score is calculated at 16 (see below). The questionnaire highlights site weaknesses and where contributions will have the greatest impact on the needs of the development.

Accessibility questionnaire (as used to work out parking facilities)				Sub-score (Current level of accessibility)
Access type	Criteria	Criteria	Score	
Walking	Distance to the nearest bus stop from main entrance to buildings (via a direct, safe route)	<200m <300m <500m >500m	5 3 1 0	5
	Distance to nearest railway station from main entrance to building	<400m <1km >1km	3 2 0	2
Cycling	Proximity to defined cycling routes	<100m <500m <1km	3 2 1	3
Public transport	Bus frequency of principal service from the nearest bus stop during operational hours at the development	<b>Urban/ Suburban</b> 15 minutes or less 30 minutes or less >30 minutes  <b>Villages and Rural Areas</b> Hourly or less 2-hourly or less 1 or more a day	5 3 1  5 2 1	3
	Number of bus services serving different localities which stop within 200 metres of main entrance	4 or more localities served	5 3 2 1	1
	Train frequency from the nearest station (Monday to Saturday daytime)	30 minutes or less 30 to 59 minutes Hourly or less	3 2 1	2

	Drive to the nearest station	10 minutes or less 15 minutes or less	2 1	
Other	Travel reduction opportunities	Facilities on site or within 100 metres that reduce the need to travel: *food shop/c afé *newsagent *crèche *other	1 1 1 1	
Questionnaire total				16

The

calculation to work out the individual elements and total contribution is shown below.

Contribution			
Land type	Gfa (m <sup>2</sup> )	Cost per 1,000m <sup>2</sup> gfa (£)	Cost (£)
Office	4,000	34,800	139,200
General industry	10,000	24,400	244,000
Food Retail	400	139,400	55,760
Total development contribution			<b>£438,960</b>

## **Example of an overall contribution calculation**

**The proposal consists of 10 three-bedroomed dwellings in a town centre in a principal urban area.**

### **County Council Services**

Transport – based on an accessibility score of 22: £1,700 per dwelling.

Total: £17,000

Education – the development falls below the threshold of 50 dwellings in a principal urban area.

Library Service – the development meets the threshold but is not within 3km of any of the libraries specified.

Youth and Community Services – £660 per dwelling as the development is within an area of defined need.

Total: £6,600

Waste Management – £480 per dwelling.

Total: £4,800

Minerals and Waste – Depends on the site.

Children's Centres – depends if there are no facilities within a 20-minute walk or 1.5-mile radius.

Countryside Access – depends on whether there is any direct loss or harm to a country park or public right of way.

**Sub-total: £28,400**

### **District Council Services**

Affordable Housing – the development falls below the threshold of 0.5ha or 15 dwellings.

Flood Defences – the development meets the threshold but the contribution is unknown.

Crime and Disorder – the development meets the threshold but the contribution is unknown.

Cultural Heritage – depends on the site.

Landscape Character and Design – depends on the site.

Natural Heritage – depends on the site.

Open Space, Sport and Recreation – depends on the site.

Public Realm and Public Art – the development falls below the threshold.

## **Other Services**

Health – the development falls below the threshold of 150 dwellings.

Inland Waterways – the development meets the threshold but the contribution is unknown.

Utilities – depends on the site.

## Appendix 7

### Glossary

**ANGST** – Accessible Natural Greenspace Standards.

**BCIS** – the Building Cost Information Service. Information on building costs for different land uses provided through the Royal Institute of Chartered Surveyors.

**CABE** – the Commission for Architecture and the Built Environment.

**Capitalised Rent** – a landlord's income over the unexpired period of a lease, calculated using a discount rate multiplier.

**CITB** – the Construction Industry Training Board.

**Core strategy** – sets out the general vision and objectives to be delivered in the local development framework.

**DCLG** – the Department for Communities and Local Government.

**DEFRA** – the Department for Environment Food and Rural Affairs.

**Development Plan Documents (DPDs)** – the documents which outline the key development goals of the local development framework. They include the core strategy, site-specific allocations of land and a proposals map. But they may also include optional development documents such as area action plans.

**DfES** – the Department for Education and Skills.

**Elevate** – the Housing Market Renewal Pathfinder for East Lancashire. The Government has identified nine pathfinders which are typically areas with low housing demand.

**Gate Price** – fee charged per tonne at 'gate' of a waste disposal facility. (It does not include transport costs.)

**gfa** – gross floor area. This is all the floor area enclosed within a building, including space such as kitchens, toilets and corridors.

**GP** – general practitioner.

**Green Infrastructure** – a concept that recognises the multi-functional value of green spaces, including for recreation, flood control and communications, in particular when spaces are linked together as a whole across an area in a strategic network.

**Heads of Terms (HOTS)** – set out the principal issues agreed within a planning obligation.

**Highways Authority** – responsible for developing and managing certain types of roads and rights of way.

**IT/ICT** – Information technology or information and communications technology.

**JLSP** – Joint Lancashire Structure Plan.

**Lancashire Planning Officers' Society (LPOS)** – a society representing all the Chief Planning Officers in Lancashire.

**LEAP** – Local Equipped Areas for Play.

**Local Development Framework (LDF)** – a folder of documents prepared by District Councils and unitary authorities to outline the spatial planning strategy for an area.

**Local Planning Authority (LPA)** – Lancashire County Council decides on planning applications relating to waste management and minerals development, as well as for its own development. District Councils are the local planning authority for most other types of planning application.

**Local Transport Plan (LTP)** – a five-year plan prepared by the County Council and unitary authorities to set out their transport strategy and for the area.

**NHS** – the National Health Service.

**NPFA** – the National Playing Fields Association.

**ODPM** – the Office of the Deputy Prime Minister.

**PCO** – planning contributions officer.

**PCT** – primary care trust.

**PFI** – private finance initiative.

**PPG** – planning policy guidance notes which set out Government policy on particular planning issues such as housing and transport. They are being replaced by PPS.

**PPS** – planning policy statements. These have been introduced as part of the Government's review of the planning system. They are a more focussed version of PPGs.

**Planning Obligations** – legal agreements negotiated under Section 106 of the Town and Country Planning Act 1990. They are used to reduce the negative impact of new development.

**Real Time** – up to the minute information communicated in electronic format, e.g. through signs and mobile phones, used to provide information to transport users, e.g. on car park availability, train or bus running times.

**REMADE** – an initiative funded by the North West Regional Development Agency to reclaim derelict land for uses such as public open space, sport and recreation, wildlife, footpaths and cycle paths.

**RICS** – the Royal Institute of Chartered Surveyors.

**RSL** – registered social landlord.

**RSS** – Regional Spatial Strategy.

**Rural Exception Sites** – small sites identified by authorities which are within or near to small rural communities. These sites may be covered by development restrictions such as green belt and will not be available for housing development unless affordable housing is required to meet local needs.

**Section 278 Agreement** – a legal agreement under Section 278 of the Highways Act 1980 to secure improvements to the highway network.

**Supplementary Planning Document (SPD)** – expands or adds detail to policies in the core strategy. It may take the form of a design guide, an area development brief, a master plan or an issue-based document.

**Supplementary Planning Guidance (SPG)** – expands or adds detail to policies in local plans.

**Sure Start** – a Government scheme to achieve better outcomes for children, parents and communities.

**Sustainable Drainage Systems (SuDS)** – a means of controlling surface water run-off as close as possible to its origin before it enters a watercourse.

**TCI** – total cost indicator. The system used by the Housing Corporation to calculate costs for affordable housing.

**Transport Assessment** – a statement which analyses ease of access to a site by all modes of transport. It also identifies measures to improve access, especially by walking, cycling and public transport.

**Travel Plan** – a plan committing the current or prospective user of a property to reduce the number and impact of car trips by introducing specific measures such as encouraging the use of public transport, cycling and car-sharing.

**WET Act** – the Waste and Emissions Trading Act 2003.

**WIC** – Walk In Centre

**Windfall Site** – land or buildings that become available for development which are not identified for this purpose in development plans.



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London Borough of Greenwich

Manchester City Council

Newcastle City Council

Royal Borough of Windsor and Maidenhead

Stockport Metropolitan Borough Council

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## Appendix 9

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	<b>Name</b>	<b>Phone</b>	<b>Email</b>	<b>Fax</b>
<b>Development Control</b>	Neil Watson	01282 661661	neil.watson@pendle.gov.uk	01282 661720
<b>Development Plan</b>	Christine Douglas	01282 661716	christine.douglas@pendle.gov.uk	01282 661720
<b>Transport</b>	Simon Bucknell	01282 856277	simon.bucknell@pendle.gov.uk	01282 661940

Preston City Council

	<b>Name</b>	<b>Phone</b>	<b>Email</b>	<b>Fax</b>
<b>Development Control</b>	Jeff Upton	01772 906580	j.upton@preston.gov.uk	01772 906718
<b>Development Plan</b>	Mike Molyneux	01772 906703	m.molyneux@preston.gov.uk	01772 906718
<b>Transport</b>	Russell Rees	01772 906792	r.rees@preston.gov.uk	01772 906797

Ribble Valley Borough Council

	<b>Name</b>	<b>Phone</b>	<b>Email</b>	<b>Fax</b>
<b>Development Control</b>	John Macholc	01200 414502	john.Macholc@ribblevalley.gov.uk	01200 414487
<b>Development Plan</b>	Colin Hirst	01200 414503	colin.hirst@ribblevalley.gov.uk	01200 414488
<b>Transport</b>	John Heap	01200 414476	john.heap@ribblevalley.gov.uk	01200 414488

Rossendale Borough Council

	<b>Name</b>	<b>Phone</b>	<b>Email</b>	<b>Fax</b>
<b>Development Control</b>	Adrian Harding	01706 252526	adrianharding@rossendalebc.gov.uk	01706 871613
<b>Development Plan</b>	Stephen Stray	01706 252420	stephenstray@rossendalebc.gov.uk	01706 873577
<b>Transport</b>	Daniel Herbert	01706 871617	danielherbert@rossendale.gov.uk	01706 871619



## South Ribble Borough Council

	<b>Name</b>	<b>Phone</b>	<b>Email</b>	<b>Fax</b>
<b>Development Control</b>	Vacant	01772 421491	planning@southribble.gov.uk	01772 622287
<b>Development Plan</b>	Vacant	01772 421491	planning@southribble.gov.uk	01772 622287
<b>Transport</b>	Susan Hackett	01772 630160	shackett@southribble.gov.uk	01772 455766

## West Lancashire District Council

	<b>Name</b>	<b>Phone</b>	<b>Email</b>	<b>Fax</b>
<b>Development Control</b>	John Harrison	01695 585132	john.harrison@westlancsdc.gov.uk	01695 585131
<b>Development Plan</b>	Peter Bradford	01695 585192 01695 585166	peter.bradford@westlancsdc.gov.uk	01695 585131
<b>Transport</b>	Colin Brady	01695 585125	colin.brady@westlancsdc.gov.uk	01695 585131

## Wyre Borough Council

	<b>Name</b>	<b>Phone</b>	<b>Email</b>	<b>Fax</b>
<b>Development Control</b>	David Thow	01253 887287	dthow@wyrebc.gov.uk	01253 887252
<b>Development Plan</b>	Rea Psillidou	01253 887240	Rpsillidou@wyrebc.gov.uk	01253 887252
<b>Transport</b>	Anna Wilson	01253 887216	awilson@wyrebc.gov.uk	01253 899000

## Government Organisations

	<b>Name</b>	<b>Phone</b>	<b>Email</b>	<b>Fax</b>
<b>Sport England</b>	Stewart Kellett	0161 834 0338	Stewart.Kellett@sportengland.org	0161 835 3678
<b>English Heritage</b>	Henry Owen-John	0161 242 1400 Ext. 1411	henry.owen-john@english-heritage.gov.uk	0161 242 1401
<b>English Nature</b>	Jon Hickling	01942 614015	jon.hickling@english-nature.org.uk	01942 614026

## Appendix 10

### Accessibility Questionnaires

Accessibility questionnaire – non-residential development				
Application reference:				
Site description:				
Access type	Criteria	Criteria scores		Sub-score
Walking	Distance to the nearest bus stop from the main entrance to the building (using a direct, safe route)	<200m	5	
		<300m	3	
		<500m	1	
		>500m	0	
	Distance to the nearest railway station from the main entrance to the building	<400m	3	
		<1km	2	
		>1km	0	
Cycling	Distance to defined cycle routes	<100m	3	
		<500m	2	
		<1km	1	
Public transport	Bus frequency of principal service from nearest bus stop during operational hours of the development	<b>Urban/ suburban</b>		
		15 minutes or less	5	
		30 minutes or less	3	
		>30 minutes	1	
		<b>Villages and rural</b>		
		Hourly or less		
		2-hourly or less	5	
		1 or more a day	2	
			1	
			Number of bus services serving different localities stopping within 100 metres of the main entrance	
3	3			
2	2			
1	1			
	Train frequency from the nearest station (Monday to Saturday daytime)	30 minutes or less	3	
		30 to 59 minutes	2	
		Hourly or less	1	
	Drive to the nearest station	10 minutes or less	2	
		15 minutes or less	1	
Other	Travel reduction opportunities	Facilities on site or within 100 metres that reduce the need to travel:		
		* food shop/cafe	1	
		* newsagent	1	
		* crèche	1	
		* other	1	
<b>Total</b>				

### Accessibility level

**High:** 24-30      **Medium:** 16-23      **Low:** 15 or less

Accessibility questionnaire – residential development				
<b>Application reference:</b>				
<b>Site description:</b>				
Access type	Criteria	Criteria scores		Sub-score
Walking distance from the centre of the site to facilities using a safe, direct route	Distance to nearest bus stop	<200m <400m <500m >500m	5 3 1 0	
	Distance to nearest railway station	<400m <800m >800m	3 2 1	
	Distance to nearest primary school	<200m <400m <600m >600m	5 3 1 0	
	Distance to nearest food shop	<200m <400m <600m >600m	5 3 1 0	
Cycling distance from the centre of the site	Distance to defined on- or off-road cycle route	<100m <500m <1km	3 2 1	
	Distance to the nearest secondary school	<400m <600m <1km >1km	3 2 1 0	
	Distance to the nearest town centre	<1km <3km <4km	3 2 1	
	Distance to the nearest business park or employment concentration	<1km <3km <4km	3 2 1	
Public transport	Bus frequency from the nearest bus stop (Monday to Saturday daytime)	<b>Urban/Suburban</b> 15 minutes or less 30 minutes or less >30 minutes <b>Rural Areas including Villages</b> Hourly or less 2-hourly or less 1 or more a day	5 3 1  5 3 1	
	Train frequency from nearest station (Mon-Sat daytime)	30 minutes or less 30 to 59 minutes Hourly	3 2 1	
Other	Access to other basic services (GP, post office, library, bank and pub)	At least 3 within 400m At least 3 within 800m At least 3 within 1.5km	5 3 1	
	Access to a play area or park	<200m <400m <600m	5 3 1	
<b>Total</b>				

### Accessibility level

**High:** 35-48      **Medium:** 20-35      **Low:** less than 20

## Appendix 11

### Sample Standard Heads of Terms Section 106 Agreements

**Example 1: The Association of London Government recommended standard heads of terms agreement based on the London Borough of Camden (used with the permission of the Association of London Government)**

#### **INFORMATION REQUIRED TO DRAW UP A SECTION 106 PLANNING OBLIGATION**

##### **Town and Country Planning Act 1990 (as amended) Section 106 Planning Obligation**

Please supply the following information and return to:

**Aidan Brookes**, Commercial Law Team, Legal Services, Room 223, Town Hall, Judd Street, WC1H 9LP.

Name of Property:

Planning Registration No:

Applicant:

Name, address and telephone number of legal representative:

Evidence of the title for the above property, by way of current HM Land Registry office copies, although this information may be subsequently provide by your legal representative.

Title evidence attached **YES/NO**

Title evidence being compiled and will be forwarded **YES/NO**

Please note that all parties with an interest in the property (i.e. lessees and mortgages) must be a party to the agreement.

#### **STANDARD SECTION 106 PLANNING OBLIGATION**

Planning Obligation reference number: [       ]

Dated: [       ] of [       ] 200[       ]

(1) [       ] Limited (Company Registration No. [       ])

-and-

#### **(2) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN**

##### **AGREEMENT**

**Relating to Development at [       ]  
Pursuant to Section  
106 of the Town and Country  
Planning Act 1990 (as amended)**

Alison Lowton  
Borough Solicitor  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

Ref: CLS/CLT/100 [       ]

Tel: 020 7974 [       ]

Fax: 020 7974 [ ]

S:/abr/plan/106. [ ]

This Agreement is made the [ ] day of [ ] 200 [ ]

## BETWEEN

(1) [ ] **Limited** (Company Registration No. [ ]) whose registered office is [ ] situate at [ ]  
("the Owner") of the first part

(2) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN (hereinafter called "the Council") of Town Hall Judd Street, London, WC1H 9LP of the second part

## WHEREAS

(a) The Owner is registered as the Proprietor with Title Absolute at HM Land Registry under Title Numbers [ ] in respect of the Property.

(b) A planning application ("the Application") was submitted by the Owner to the Council on [ ] in respect of the Property and granted permission conditionally under reference number [ ] subject to the conclusion of this Agreement.

(c) The Council is the local planning authority for the purposes of the Act and for the area within which the Property is situated and for the purposes of enforcing planning obligations pursuant to Section 106 of the Act.

(d) The Council consider it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Agreement.

For that purpose the parties are willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

## 1 DEFINITIONS

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:

1.1 "the Act" the Town and Country Planning 1990 (as amended by the Planning and Compensation Act 1991)

1.2 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act

1.3 "the Application" the planning application for development at the Property submitted to the Council on [ ] and granted permission conditionally under reference number [ ] subject to the conclusion of this Agreement.

1.4 "the Development" the proposal for development at the Property as set out in the Application [ ].

1.5 "Implementation" the implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act (and the date of such Implementation shall be referred to as the "Implementation Date").

1.6 "Occupation Date" the earliest date when any part of the Development is occupied for any purpose

1.7 "the Planning Permission" a planning permission granted in respect of the Application.

1.8 "the Property" [ ] which for the purposes of identification only is shown edged red on Plan [ ] annexed hereto

## 2 NOW THIS DEED WITNESSETH as follows:

2.1 This Agreement is entered into by the Owner in relation to the Property to the extent that its provisions constitute planning obligations under Section 106 of the Act and such obligations herein shall be enforceable by the Council and to the extent that its provisions are not planning obligations they shall be enforceable under any other relevant powers of the Council.

2.2 It is hereby agreed between the parties that save for the provisions of clauses [ ] and [ ] (in their entirety) and sub clauses [ ] below all of which clauses and sub clauses shall come into effect on the date hereof any covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.

2.3 The expressions "the Owner" and "the Council" shall include their successors in title and their assigns.

2.4 If the Planning Permission is quashed or revoked or lapses without Implementation this Agreement shall cease to have effect with respect to that permission and all entries relating to it on the Register of Local Land Charges shall be deleted (at the Owner's expense) should the Owner so request the Council in writing.

## 3 THE OWNER HEREBY COVENANTS WITH THE COUNCIL:

3.1 [ ]

## 4 NOTICE TO THE COUNCIL/OTHER MATTERS

4.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.

4.2 The Owner shall give written notice to the Council on or prior to the date of the Occupation Date specifying that occupation of the Development has taken or is about to take place.

4.3 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and that it shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein.

**5 IT IS HEREBY AGREED AND DECLARED by the parties hereto that:**

**5.1** The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and parties to the Agreement and shall cite the number and clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Sites and Projects Team, Planning Division, Environment Department, Town Hall Annex, Argyle Street, London WC1H 9LP and any notice or approval of the Council shall be signed by a representative of the Council's Environment Department.

**5.2** Payment of any money under this Agreement shall be made by the Owner sending the full amount payable in the form of a Banker's Draft or Solicitors client account cheque within the time specified in this Agreement to the Council together with a letter specifically referring to the name date and parties to the Agreement and citing the number and clause of the Agreement to which the relevant sum relates and identifying which portion of the amount relates such to any sum calculated to take account of inflation in accordance with the terms of this Agreement to be addressed to the Finance and Business Unit, Environment Department, Camden Town Hall, Argyle Street, London, WC1H 8EQ.

**5.3** This Agreement shall be registered as a Local Land Charge.

**5.4** The Owner agrees to pay the Council its proper and reasonable costs incurred in preparing and monitoring / overseeing this Agreement on or prior to the date of completion of the Agreement.

**5.5** The Owner hereby covenants with the Council that it will within 28 days from the date lodge its Land or Charge Certificates in relation to the Property with HM Land Registry and apply to the Chief Land Registrar to register this Agreement in the Charges Register thereof and will furnish the Council forthwith on written demand with office copies of such titles to show the entry of this Agreement in the Charges Register of the title to the Property.

**5.6** Each party shall act in good faith and shall co-operate with the other to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.

**5.7** Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

**5.8** Insofar as different parts of the Property are owned or become owned by different persons and therefore the term "the Owner" consequently comprises more than one person the Owner covenants with the Council on behalf of any successors in title that each such person who owns an interest in the Property shall co-operate insofar as they are able with all other persons holding an interest in the Property and shall do anything reasonably necessary so as to ensure that the covenants herein expressed to be made on behalf of "the Owner" are fulfilled as expeditiously as possible.

**5.9** The Council hereby covenants with the Owner that it will issue the Planning Permission within 7 days of the date of this Agreement.

**5.10** All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and the Owner shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.

**5.11** Any sums referred to in this Agreement as payable or to be applied by the Owner under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum being equal to the original sum payable multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure published by the Central Statistical Office at the date hereof is the denominator and the last AIIRP figure published before the date such payment or application is made less the last published AIIRP figure at the date hereof is the numerator.

**5.12** All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

**IN WITNESS whereof the Owner and the Council has caused their respective Common Seals to be affixed the day and year first above written**

THE COMMON SEAL OF THE MAYOR       )  
AND BURGESSES OF THE LONDON       )  
BOROUGH OF CAMDEN                    )  
was hereunto affixed                )  
in the presence of:                    )  
Authorised Signatory

SIGNED AS A DEED BY LIMITED        )  
in the                                        )  
presence of:                                )  
Director  
Director/Secretary

## **UNDERTAKING TO PAY THE COUNCIL'S COSTS OF PREPARING, MONITORING AND OVERSEEING A SECTION 106 PLANNING OBLIGATION**

### **Town and Country Planning Act 1990 (as amended) Section 106 Planning Obligation**

This is an undertaking that you will meet the Council's costs incurred in connection with the agreement, including drafting and preparation and monitoring and overseeing costs. Drafting and preparation costs will be payable whether or not the Agreement proceeds to completion. **YES/NO**

If Yes please fill in the following declaration

I \_\_\_\_\_ of \_\_\_\_\_ undertake on behalf of (applicant) to ensure that the Council's fees in preparation of the above Agreement (which incorporate a contribution to future monitoring costs) will be met in full whether or not the Agreement is completed. I undertake to meet these fees on completion for the Agreement unless the agreement takes 3 months or more to complete, in which case I undertake to make payments on account as may be required by the Council.

Signed by:

Name in Capitals:

For and on behalf of (applicant):

Date:

## **Example 2: Chesterfield Borough Council Standard Heads of Terms for Public Art Agreements (used with the permission of Chesterfield Borough Council)**

### **Definitions**

“Artist”	the artist or craftsperson (or artists and craftspersons) agreed pursuant to Clause 3.1 to create the Work of Art
“SPON’s Index”	the edition of SPON’s Architects’ and Builders’ Price Book current at the date of the determination referred to at Clause 3.1 of this Deed
“Work of Art”	a work (or works) of art or craft to the value of £                      being not less than one per cent of the total cost of the Development
“First Occupation”	the date of first occupation of the Development

### **Recitals**

Policy ENV27 (Percent for Art) of the Chesterfield Borough Local Plan

### **Covenants**

#### **PERCENT FOR ART**

- (a) To provide the Council on demand with details of the estimated cost of the Development (excluding the cost of acquisition of the Application Site and Value Added Tax) and to provide to the Council if so required such supporting information as may be reasonably requested and any dispute about such costs shall be conclusively determined by reference to SPON’s Index (or its replacement)
- (b) To liaise with the Council in devising a design brief for the Work of Art
- (c) Jointly with the Council to select
  - (i) the identity of Artist and
  - (ii) the Work of Art and
  - (iii) the location of the Work of Art
- (d) (if a grant of planning permission is required for the Work of Art) to submit to the Council an application for planning permission for the Work of Art
- (e) Not to permit First Occupation before the Company have procured the creation of the Work of Art
- (f) To procure the installation of the Work of Art within 6 months of First Occupation
- (g) To maintain at its own expense the Work of Art
- (h) To retain the Work of Art in the location agreed with the Council pursuant to this Clause for a period of 30 years from the date of installation of the Work of Art
- (h) To inform the Council in writing of
  - (i) First Occupation
  - (ii) the date of installation of the Work of Art



**Example 3: Standard of Definitions and Clauses for use in a Section 106 Agreement (used with the permission of Chorley Borough Council)**

**Definitions and Interpretations**

- “Affordable Houses” Dwellings to be provided on the site in accordance with the Initial Proposal (as defined in clause[--]) which are accessible to persons whose income does not enable them to afford or buy or rent appropriate housing for their needs in the free housing market.
- “Index” Means the Halifax Regional Standardised Quarterly Indices for House Prices (All Buyers) New Houses in the North West of England provided that:
- (a) If the base used to compile the Index or the Index shall change after the date of this Deed then the figure taken to be shown in the Index after the change shall be the figure which would have been shown in the Index if the reference based current at the date of this Agreement had been retained; or
  - (b) If it becomes impossible by reason of any change after the date of this Agreement in the method used to compile the Index or for any other reason whatsoever to calculate any sum which is expressed to be “Index Linked” then the determination of such sum or matter in dispute shall be determined by the Expert in accordance with clause [--] who shall have full power to determine on such dates as he shall deem appropriate what would have been the increase in the Index had it continued on the basis assumed to be available for the operation of this clause:
- “Index Linked” Where used in relation to “the Cost”: adjusted according to any increase occurring in the Index between the last index figured issued as at the date of this Agreement and the last Index figure issued as at the date(s) specified for in the relevant clauses of this Agreement;
- Where used in relation to payments under clause [--] of this Agreement: adjusted according to any increase occurring in the Retail Prices Index between the last index figure issued prior to the date on which this Agreement is entered into and the last index figure issued on the date on which the payment becomes payable; and

Where used in relation to payments under clause [--] of this Agreement: adjusted according to any increase occurring in the Index between the last index figured issued as at the date of this Agreement and the last index figure issued as at the date the relevant payment becomes payable;

**“Market Value”**

The best price at which the sale of the interest to be valued would have been completed unconditionally for cash consideration on the date of valuation assuming:

- (a) a willing seller;
- (b) that prior to the date of valuation there had been a reasonable period (having regard to the nature of the property and the state of the market) for the proper marketing of the interest for the agreement of price and terms and for the completion of the sale;
- (c) that no account is taken of any additional bid by a purchaser with a special interest;
- (d) that both parties to the transaction had acted knowledgeably prudently and without compulsion; and
- (e) that no account is taken of the restrictions and covenants imposed by this Agreement.

**CLAUSES THAT CAN BE INSERTED INTO S106 OBLIGATIONS - Agreement Declarations**

It should be noted that the following clauses included here are extracts from a range of Section 106 Agreements. It is not therefore intended that the clauses set out below be read as a complete agreement, nor that they relate to a specific development proposal.

**A. Affordable Houses**

A.1 At any time following the issue of the Outline Planning Permission the Owner may provide the Council with the types and general specification of the houses proposed to be erected on the Site and the then market value of each house type proposed and provided always that such details have first been provided to the Council the Owner may request in writing that the Council provides the Owner with the Council's proposal (“the Initial Proposal”) in respect of the following within three (3) months following the date of such written request from the Owner:

A.1.1 the desired numbers of Affordable Houses to be provided on the Site;

A.1.2 the desired mix of apartments and terraced houses forming the Affordable Houses; and

A.1.3 the desired numbers of bedrooms required in each Affordable House; and

A.1.4 any terms upon which the Offer is to be made

and in formulating the Initial Proposal the Council shall act properly and reasonably and shall take account of the ability of an RSL to fund the purchase of the Affordable Houses pursuant to the Initial Proposal having regard to the provisions of clause A.5.

A.2 The Owner shall incorporate the Initial Proposal in every relevant Reserved Matters Application save to the extent that as at the date of such Reserved Matters Application (a) the obligations under this clause A have previously been complied with and/or (b) the Council has notified the Owner in writing that one or more elements of the Initial Proposal are no longer required by the Council. In submitting relevant Reserved Matters Applications the Owner shall identify:

A.2.1 those Dwellings which it proposes to form the Affordable Houses required by the Initial Proposal; and

A.2.2 the location of the Affordable Houses within the Site.

A.3 At any time following the grant of a Reserved Matters Approval the Owner shall be entitled to serve notice ("a Market Value Notice") on the Council containing the Owner's assessment of the then current Market Value of each of the proposed Affordable Houses identified by the Initial Proposal and incorporated into the Reserved Matters Application. The Market Value Notice shall:

A.3.1 identify the RSL or RSLs to which the Offer is to be made;

A.3.2 identify the Discounted Price as at the date of service of the Market Value Notice at which the Offer is to be made;

A.4 The Council shall within 3 months following the receipt of the Market Value Notice notify the Owner in writing whether or not the Council agrees with the Market Value Notice. In the event that the Council fails to respond in any way to the Market Value Notice within 3 months the Council's agreement to the Market Value Notice shall be deemed to have been given.

A.5 If the Council accepts the Market Value Notice the Owner shall make the Offer within one (1) month following receipt of such approval by the Council. In the event that the Council does not agree with the Market Value Notice the dispute may, upon the election of either party, be referred to the Expert in accordance with clause B.1 in which case the Offer shall be made within one (1) month of determination by the Expert.

A.6 The Owner shall (a) use reasonable endeavours to enter into an unconditional agreement with a RSL to whom the Offer is made on the terms of the Offer as soon as is reasonably practicable following the making of the Offer and (b) provide to the Council a copy of any agreement for the disposal of the Affordable Houses entered into with a RSL pursuant to the Offer within 14 days of the date of exchange of such agreement.

A.7 Save as provided in clause A.8 the Owner shall not occupy or permit to be occupied more than **[INSERT NUMBER]** private market dwellings permitted to be constructed on the Site by the Outline Planning Permission and any Reserved Matters

Approval(s) until an agreement has been entered into with the RSL to transfer the Affordable Houses to the RSL in accordance with clause A.6 and the Owner shall thereafter use all reasonable endeavours to transfer such Affordable Houses to the RSL as soon as reasonably practicable provided that in any event the Owner shall not occupy or permit to be occupied more than **[INSERT NUMBER]** private market dwellings permitted to be constructed on the Site by the Outline Planning Permission and any Reserved Matters Approval(s) until such transfer has taken place.

- A.8 If within four (4) calendar months of the date upon which the Offer is made no binding agreement has been entered into for the sale of the Affordable Houses by the Owner to a RSL to whom the Offer is made (the Owner having complied with its obligations under clause A.6(a)) then the Owner shall within two (2) months thereafter (but only before such an agreement is entered into) pay to the Council a sum equal to the Cost as at the date of service of the Market Value Notice and upon such payment the provisions of this clause A other than clause A.10 shall cease to be of any further force or effect.
- A.9 Subject to the provisions of clauses A.8 the Owner shall not dispose or offer to dispose of the Affordable Houses other than to a RSL in accordance with the Offer.
- A.10 Following receipt of a written request from the payer of the Cost to the Council in accordance with clause A.8 the Council will repay to such payer the balances (if any) of any of the monies paid to the Council under clause A.8 which at the date of receipt of such request have not been expended together with any interest which has accrued to the Council on them (after deduction of tax where requisite and any other sum required to be deducted by law) Provided Always That (a) no such request shall be made prior to the expiration of five (5) years from the date of payment of the contribution in question and (b) any part of any contribution which the Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the Council prior to that date.

## **B. Agreements and Declarations**

### **B.1 Dispute Provisions**

- B.1.1 In the event of any dispute arising between the parties hereto in respect of any matter contained in this Agreement then the same shall be referred to an expert ("the Expert") being an independent person to be agreed upon between the parties hereto or at the request and option of either of them to be nominated at the expense of the Owner by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors (in relation to valuation disputes) and the President for the time being of the Law Society (in respect of all other disputes) and the Expert shall act as an expert and not as an arbitrator and whose decision shall be final and binding on the parties hereto and whose costs shall be in his award.
- B.1.2 The Expert shall be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than fifty six days from the date of his appointment to act.
- B.1.3 The Expert shall be required to give notice to each of the said parties inviting each of them to submit to him within ten working days of such notice written submissions and supporting material and shall afford each of the said parties an opportunity to make

counter submissions within a further five working days in respect of any such submission and material.

- B.1.4 Save in the case of manifest error the decision of the Expert shall be binding on the said parties.

### **C. Commuted Sum in respect of Off-Site Public Open Space**

The owners agree with the Council.

- C.1 Prior to the commencement of the development to pay to the Council the Commuted sum of **(-----pounds)** in respect of Off-Site Public Open Space as a contribution towards the provision layout equipping and maintenance of an open space in accordance with the Council's planning policy. The Commuted Sum is **(-----pounds)** (being the cost per dwelling) x (the number of Dwellings forming the development).
- C.2 Not to occupy or cause or allow to be occupied any dwelling forming part of the Development before the payment of the Commuted Sum in respect of Off-Site Public Open Space has been made.

### **D. Interest**

The Owner agrees with the Council to pay interest on sums due to the Council under this Agreement but not paid on the due date from the date until actual payment. The rate of interest shall be 4% above the National Westminster Bank plc base rate.

### **E. Costs**

The Owner agrees with the Council to pay to the Council its legal costs incurred in preparing and entering into this Agreement amounting to **(-----pounds)** inclusive of VAT.

## Appendix 12

### **Planning Officers' Society Guidance on the Use of Conditions in Place of Section 106 Agreements (used with the permission of the Planning Officers' Society)**

#### **BEST PRACTICE NOTE ON HIGHWAY/ENVIRONMENTAL IMPROVEMENT WORKS AND AFFORDABLE HOUSING SECURED BY PLANNING CONDITIONS**

##### **General**

Section 72 of the Town and Country Planning Act 1990 contains a general power to impose conditions on a planning permission but judicial decisions have limited this, and to be lawful a planning condition must be reasonable and relate to the development permitted by the planning permission. Conditions may not be used to require the payment of money or to require a developer to enter into a S106 obligation.

Detailed advice on the use of conditions is given in Circular 11/95 which stipulates that conditions should be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

##### **Grampian Conditions**

This expression derives from the decision in *Grampian Regional Council v City of Aberdeen (1984)* and in essence it provides that a condition precluding the implementation of development permitted by a planning permission until some step has been taken is valid. There have been a number of subsequent High Court decisions on this point, in particular *British Railways Board v SSE* in 1994. As a result of these it is lawful for a local planning authority to grant planning permission, even in respect of land not within the planning applicant's ownership, subject to a negative condition restricting its implementation, in whole or in part, until some event has occurred. As a result of the judgement in *Merritt v SSETR and Mendip District Council* it is not possible to impose such a condition when there are no prospects at all of the action in question being performed within the time-limit imposed by the permission (see para. 40 Circular 11/95). The utility of 'Grampian' conditions is nevertheless underestimated. They can be used to secure benefit across the whole spectrum of environmental and infrastructure improvements.

##### **Use of Conditions and Planning Obligations**

The determination of major planning applications can be delayed by the requirement for the applicant to enter into a Section 106 obligation. In a limited range of appropriate circumstances it is possible to use Grampian conditions as a prelude to obligations being entered into, so as to enable the application to be determined, but preventing implementation of the permission until such time that alternative arrangements i.e. s106 obligation has been put in place. Suggested model conditions are set out later in this paper.

Clearly for such a condition to be acceptable to the Secretary of State it must satisfy the tests in Circular 11/95 and also Circular 1/97 which relates to planning obligations. Circular 1/97 specifies that a planning obligation should be necessary, directly related to the proposed development, fairly and reasonably related in scale and kind to the development and reasonable in all other respects. Planning obligations should not duplicate the substance of planning conditions and should only be sought where necessary to make a proposal acceptable in land use planning

terms. When to use this type of condition is a matter for judgement by individual local planning authorities. It is probably most suitable for use where the obligations have been negotiated and there is general agreement between the applicant and local planning authority as to what the requirements of a s106 obligation will be, but the expected delay before the agreement can be signed is too long, given that the applicant needs the assurance of having a planning permission before proceeding with land acquisition or disposal, or finalising a sale subject to conditional contract. Use of the model conditions is probably inappropriate where the substance of the proposed planning obligation is still unclear, either generally or with regard to important elements, it is substantial and wide-ranging, or contains unusual provisions. In such circumstances delaying the determination of the application until a s106 obligation or unilateral undertaking has been entered into would be preferable. In all cases the written agreement of the applicant should be obtained to the course of action proposed.

Subject to the above qualifications model conditions in this form are not dissimilar from others commonly used by local planning authorities precluding the commencement of development until certain steps have been taken. Examples can be seen in the model conditions in paragraphs 25-32 of Appendix A to Circular 11/95 dealing with landscaping matters and paragraph 37 dealing with access to land and buildings for disabled people.

Main advantages of the use of this type of condition:

- it enables the administrative side of the processing of a planning application to be completed when the planning issues have been resolved;
- it assists local planning authorities to comply with the Audit Commission's Best Value indicator relating to the timeliness of the processing of planning applications;
- the conclusion of the planning issues by the grant of planning permission sooner than would otherwise be the case if it had to await the completion of a legal agreement sets the time from when a judicial review can be brought at an earlier date;
- granting the planning permission immediately with a Grampian condition precludes any later discussion as to whether or not the planning application should be formally reconsidered by the local planning authority if there is a long delay between the resolution to grant planning permission and its actual grant, whether by reason of the legal process or otherwise;
- the third and fourth bullet points above are equally of benefit to planning applicants, in particular developers. An advantage to developers alone is that it may allow them to exercise an option to purchase at an earlier date, certain in the knowledge that planning permission has been granted and that the development will be able to proceed on the completion of the planning obligation;
- it avoids the need for the planning obligation to be entered into by the existing owners where land is to be sold for development. This can sometimes be inconvenient and expensive as there may well be no contractual provision requiring an existing landowner to enter into a s106 agreement and sometimes a misunderstanding as to exactly what it entails.



## **Main Disadvantages in using this approach**

- Use of such conditions is still somewhat novel and has not yet been tested in the courts. There is the risk that it will be found to be unlawful, notwithstanding that its form appears generally to be in the interests of everyone it could nevertheless be the subject of judicial review as the various cases on Grampian conditions have shown.

## **Enforceability**

This is relatively straightforward in that it is normally abundantly obvious when a development has begun (i.e. the permission has been implemented) and allows a local planning authority to take enforcement action if appropriate where the condition has been breached.

## **Model Conditions**

The following conditions (1 and 2) are examples of existing good practice which should continue to be used for simple highways &/or environmental improvements:

1. Where the details have not been finalised but where a legal agreement is considered to be unnecessary.
  - The development authorised by this permission shall not begin until the local planning authority has approved in writing a full scheme of works for improvement to:
    - (i)
    - (ii)
    - (iii) etcThe occupation of the development shall not begin until those works have been completed in accordance with the local planning authority's approval and have been certified in writing as complete by or on behalf of the local planning authority.
2. Where the details have been finalised but where a legal agreement is considered to be unnecessary.
  - The occupation of the development authorised by this permission shall not begin until the highway/improvement works shown on the drawings hereby approved and described in the letter dated ..... from ..... has been completed in accordance with those drawings and that letter and have been certified in writing as complete by or on behalf of the local planning authority.  
(letter/drawings may be replaced by reference to whatever are the relevant documents)

The following conditions (3 and 4) are suggested for imposition for highways and/or environmental improvements in advance of a legal agreement being entered into, where the applicant has given written confirmation of their acceptance to this approach.

3. Where the details have not been finalised

- The occupation of the development authorised by this permission shall not begin until:
  - a. the local planning authority has approved in writing a full scheme of works of improvement to:
    - (i)
    - (ii)
    - (iii) etc

and

- b. the approved works have been completed in accordance with the local planning authority's written approval and have been certified in writing as complete on behalf of the local planning authority;

unless alternative arrangements to secure the specified works have been approved in writing by the local planning authority.

4. Where the details have been finalised

- The use authorised by this permission shall not begin until the works shown on the drawings hereby approved and described in the letter dated .... from .... have been completed in accordance with those drawings and that letter and have been certified in writing as complete by or on behalf of the local planning authority unless alternative arrangements to secure the specified works have been approved in writing by the local planning authority.

The following condition (5) is suggested for imposition for affordable housing provision where the applicant has given written confirmation of their acceptance to this approach.

5. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:
- i) The numbers, type and location of the site of the affordable housing provision to be made;
  - ii) The timing of the construction of the affordable housing;
  - iii) The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
  - iv) The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

## **Information**

For the avoidance of doubt, the term 'affordable housing' means subsidised housing at below market prices or rents intended for those households who cannot afford housing at market rates. It is usually managed by a registered social landlord.