

Developer Contributions

Supplementary Planning Document

Adopted October 2016



Prepared by the South Worcestershire Councils

South Worcestershire Developer Contributions Supplementary Planning Document

October 2016

Malvern Hills District Council, Worcester City Council

and Wychavon District Council

Local Development Framework

Developer Contributions Supplementary Planning Document

Malvern Hills District Council, Worcester City Council and Wychavon District Council

South Worcestershire Developer Contributions Supplementary Planning Document (SPD) Adoption statement.

In accordance with Regulation 14 of the Town and Country (Local Development) (England) Regulations 2012.

The South Worcestershire Developer Contributions SPD sets out guidance relating to the collection of developer contributions, to be used when determining planning applications. The SPD forms part of Local Development Framework for the three South Worcestershire Councils (Malvern Hills District Council, Worcester City Council and Wychavon District Council).

Notice is hereby given that:

- a) On 19th October 2016 Wychavon District Council agreed to adopt the South Worcestershire Developer Contributions SPD with effect from the 20th October 2016.
- b) On 13th September 2016 Worcester City Council agreed to adopt the South Worcestershire Developer Contributions SPD with effect from the 20th October 2016.
- c) On 28th September 2016 the Malvern Hills District Council agreed to adopt the South Worcestershire Developer Contributions SPD with effect from the 20th October 2016.
- d) That any person with sufficient interest in the decision to adopt the SPD may apply to the High Court for permission to apply for judicial review of that decision, and
- e) That any such application must be made promptly and in any event not later than 3 months after the 20th October 2016, which is when the SPD was adopted.

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Summary

- i. A planning obligation is a legally binding agreement that a landowner signs to provide a developer contribution either before development commences or at some other point during the actual construction phase. Planning obligations can only be required to make a planning application acceptable in planning terms, usually this means by a contribution towards, or the direct provision of, essential infrastructure. Planning obligations can occasionally also be used to control any aspect of development, e.g. the end use of the development or the size of permitted signage.
- ii. This SPD sets out the approach that the three South Worcestershire Councils' will take when considering and determining the amount a developer should pay towards infrastructure necessary to make a development proposal acceptable in planning terms.
- iii. All planning obligations must comply with the tests set out at paragraph 204 of the [National Planning Policy Framework \(NPPF\)](#). This document provides greater certainty as to the likely level of developer contributions for qualifying development proposals. Where there is no infrastructure deficit, for example where local schools have sufficient places to absorb the impact of the proposed levels of development, then no developer contribution will be sought.
- iv. While every effort will be made to ensure that infrastructure requirements and developer contributions do not prejudice the viability of development, unless development is supported by additional infrastructure then development cumulatively will have an unacceptable impact on the environment and economy of South Worcestershire. It is not necessary to approve development without the completion of a justified planning obligation simply to ensure development viability. If the development cannot be made acceptable in planning terms without a developer contribution then in some cases development will not be able to proceed until the necessary infrastructure has been secured.

1 Introduction

1.1.1 A commitment to ensuring that infrastructure is provided to support development is a strong theme throughout the South Worcestershire Development Plan (SWDP) and is embedded in the Spatial Vision, Strategic Objectives and many topic and site allocation policies. Infrastructure can be secured through a wide variety of means including:

- [The South Worcestershire Development Plan Infrastructure Delivery Plan](#);
- Supplementary Planning Documents that explain how policies will be effectively implemented;
- [Planning conditions](#);
- [Planning obligations](#);
- The Community Infrastructure Levy; And
- Other funding sources such as the New Homes Bonus.

1.1.2 This SPD explains the inter-relationship between the various policies and other important documents.

1.1.3 Many developments in South Worcestershire are small-scale. Their cumulative effect is a gradual, but significant, impact on the infrastructure requirements of South Worcestershire's towns and villages. A mechanism to share the burden fairly is therefore particularly important if development is to be accompanied by adequate additional infrastructure.

1.1.4 In order to help ensure that future development is matched by the necessary infrastructure SWDP policy SWDP7 requires that all development either provides or makes a contribution towards the provision of infrastructure needed to support it. National planning policy exempts some types of development from paying developer contributions and this SPD cannot apply to development that is specifically excluded from contributing to off site infrastructure by national government policy.

1.2 Purpose and scope of this document

1.2.1 This Developer Contributions SPD sets out the South Worcestershire Councils' approach to seeking developer contributions via the SWDP for infrastructure or environmental improvements required as a result of allocated development or additional windfall development. This document is intended for use by all interested parties including developers, planning agents and the general public. It seeks to provide an understanding of when planning obligations will be expected and how developer contributions will be used.

1.2.2 All development has the potential to impact on the environment and place pressure on local infrastructure and services. The planning system can ensure new development has a reduced impact on the local environment and surrounding

infrastructure. Conditions attached to planning applications and/or legal agreements with developers (known as planning obligations) can secure positive benefits for the local environment, mitigation, or contributions towards directly related infrastructure improvements. The introduction of the Community Infrastructure Levy (CIL) Charging Schedules by each of the South Worcestershire Councils' will mean that some future infrastructure contributions will be made in the form of CIL payments, rather than through planning obligations. Once CIL is operational, (likely to be from 2017), the number of development proposals that require a planning obligation should be reduced.

1.2.3 This SPD therefore aims to provide developers, planning agents and applicants with:

- An overview of the South Worcestershire Councils' planning policy approach to securing mitigation through planning conditions, planning obligations (Section 106, Section 278 and Section 38 agreements) and CIL;
- Clarification about the relationship between planning obligations and CIL; and
- Guidance on the type and nature of planning obligations that may be sought, and the basis for the sums sought.

1.2.4 This SPD provides further information on the implementation of SWDP policies which seek to ensure that development is sustainable and makes a proportionate contribution to the infrastructure requirements identified in the South Worcestershire Development Plan Infrastructure Delivery Plan (referred to as the IDP in this SPD). The SWDP policies relating to infrastructure provision are;

- SWDP3: Employment, Housing and Retail Provision Requirement and Delivery
- SWDP4: Moving Around South Worcestershire
- SWDP5: Green Infrastructure
- SWDP6: Historic Environment
- SWDP7: Infrastructure
- SWDP14: Market Housing Housing Mix
- SWDP15: Meeting Affordable Housing Needs
- SWDP16: Rural Exception Sites
- SWDP22: Biodiversity and Geodiversity
- SWDP23: The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty
- SWDP24: Management of the Historic Environment

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- SWDP25: Landscape Character
- SWDP27: Renewable and Low Carbon Energy
- SWDP28: Management of Flood Risk
- SWDP29: Sustainable Drainage Systems
- SWDP30: Water Resource, Efficiency and Treatment
- SWDP37: Built Community Facilities
- SWDP38: Local Green Network
- SWDP39: Provision for Outdoor Community Uses in New Development, and
- SWDP43 to SWDP61 with regard to specific infrastructure requirements associated with site allocations policies.

1.2.5 This SPD has been prepared in accordance with the following national and local policy documents:

- Town and Country Planning (Local Planning) (England) Regulations 2012
- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance (NPPG)
- SWDP

This SPD supports the implementation of the SWDP and is an important material consideration in the decision making process.

2 Planning Obligation Guidance

2.1 Introduction

2.1.1 This section provides details of the most common types of planning obligations the South Worcestershire Councils are likely to seek. Affordable Housing contributions are not included here but are fully explained in the [South Worcestershire Affordable Housing SPD](#). There may be other types of infrastructure that may be sought through planning obligations on a case-by-case basis. There may also be applications where the full range of contributions may not be necessary, for example, where there is capacity in local infrastructure provision to match the needs arising from a development proposal.

2.1.2 The following paragraphs provide information on infrastructure requirements and the proposed method of calculating planning obligations. Where tariff style contributions are proposed the explanation below sets out how the maximum possible contribution will be calculated. Any sums actually sought or secured will have to be in accordance with the nationally set tests for planning obligations and therefore the actual contributions required may be less (or zero) than that suggested by the calculations set out below.

2.1.3 The methodology used complies with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

2.2 Open Space Contributions (Policy SWDP39)

2.2.1 In accordance with standards set out in policy SWDP39 development exceeding five⁽¹⁾ dwellings (net) is required to provide the following:

Table 1: SWDP39 open space requirements per 1,000 residents

Open Space Type	Malvern Hills	Worcester (including Worcester-related growth adjacent to the City)	Wychavon
	Hectares per 1,000 resident population		
Amenity and semi-natural greenspace	2.00	1.11	1.03
Children and young people	0.04	0.61	0.04
Cemeteries, churchyards	0.41	No set standard	No set standard
Civic space	0.03	0.03	0.03
Allotments	0.14	0.40	0.39
Formal pitches, courts, etc	No set standard ⁽²⁾	No set standard ⁽²⁾	No set standard ⁽²⁾
Total	2.62	2.15	1.49

2.2.2 Where new provision of open space is made either within a development or elsewhere developers will also be required to provide secure arrangements for its future management and maintenance. Future maintenance of new open space may be secured by a variety of means, including by a management company and estate management charges or by adoption of the land by a local authority. If a developer seeks the adoption of open space then this will be negotiated with the relevant council

1 Following the Court of Appeal decision regarding West Berkshire and Reading Councils' challenge to the Government's policy on developer contributions thresholds, the 28 November 2014 Ministerial Statement is a material consideration for the decision maker. For tariff based developer contributions the south Worcestershire Councils will not seek them for development of 10 or less (net) dwellings unless the site lies within a Designated Rural Area where only on developments of 5 dwellings or less will developer contributions not be sought.

2 Requirements for new and improved formal sports pitches will be assessed on a case by case basis using the most up to date available evidence as required by SWDP39.

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service manager. In most cases the local authority will require a commuted sum to fund future maintenance for 20 years from the date of adoption. An example of a commuted sum calculation is provided at Annex B. This is only an example as the characteristics of each new open space will vary as will the future maintenance costs and therefore each adoption agreement will be negotiated on the basis of the bespoke costs associated with the piece of open space to be adopted.

2.2.3 The requirements for types of new open space set out in policy SWDP39 can be provided within development sites and this may be a requirement for the approval of large housing developments. Where site allocations policies require specific provision of a certain type of open space, e.g. sports pitches, this will be off-set against the indicative total open space requirement. Where there is no local surplus of a particular type of open space and it is not possible to provide open space within a development, developer contributions will be calculated in accordance with the following:

1. Number of dwellings per 1,000 residents

Table 2: Average household size at the 2011 Census

District	Average Household Size
Malvern Hills	2.32
Worcester	2.35
Wychavon	2.36

Table 3: The number of dwellings per 1,000 residents at the 2011 Census

District	Dwellings per 1,000 residents
Malvern Hills	431
Worcester	425
Wychavon	423

2. Cost of providing each type of open space

Amenity and semi-natural greenspace: £20,000 per hectare or £2 per square metre.

Children and young people: Local Area for Play (LAP) provision and Locally Equipped Areas of Play (LEAP) should in most circumstances be provided for within residential developments as these facilities are for use by young children who should not have to travel far to access this type of facility. Off-site open space provision specifically to meet the needs of children and young people will in the main be for Neighbourhood Equipped Areas of Play (NEAP) and Multi Use Games Areas (MUGA). Sport England estimate that a basic MUGA would cost £115,000 for a 782sqm facility (£147 per square metre).

Cemeteries, churchyards: While the local authority may play a role in providing the land for this type of facility it is assumed that the laying out of new burial space will be funded via charges paid by the customers.

Civic space: The cost of providing for the wide range of civic spaces required by any community will vary greatly. Most new civic space can only be provided via the refurbishment or conversion of existing space within existing built up areas. Seeking a modest contribution from new development of £10,000 per 1,000 residents for the enhancement of 300 square metres of civic space strikes a balance between the need to fund this type of open space and the scope for making new provision. Recent examples of civic space refurbishment schemes in Worcester City include Angel Place (2,000 square meters at a cost of £470,000) and The Cornmarket (2,500 square meters at a cost of £500,000).

Allotments: £20,000 per hectare or £2 per square metre. Recent examples of new allotment provision include the planned expansion of Trotshill Lane, Worcester where the City Council is spending £21,809 to provide 14 additional plots. The maximum number of plots that it is considered can be accommodated on an acre is 15.

3. Cost divided by number of dwellings for each type of Open Space

The cost of providing each type of open space per 1,000 residents divided by the number of dwellings per 1,000 residents equals the cost per dwelling if provision is not made on-site.

Please note that one and two bedroom dwellings have lower average occupancy rates therefore the developer contributions are reduced by 25% for 2 bed dwellings and by 50% for one bed dwellings.

Table 4: the cost of providing open space in Malvern Hills District (431 homes per 1,000 residents)

Type of Open Space	Hectares per 1,000 resident population	Cost per 1,000 residents*	Cost per dwelling
Amenity and semi-natural greenspace	2.00	£40,000	£92.80
Children and young people	0.04	£58,800	£136.42
Cemeteries, churchyards	0.41	£0.00	£0.00
Civic space	0.03	£10,000	£23.20
Allotments	0.14	2,800	£6.49
Formal pitches etc.	No set standard (see note to 4 table 1)		
Total	2.62		£258.91
Land acquisition costs	2.62x £20,000 =	£52,400	£121.58
Total Open Space Contribution per Dwelling			£380.49
Commuted Sums for adoption of Public Open Space			
Maintenance costs per hectare per year			£12,869.30**
Maintenance costs for 2.62 hectares x £12,869.30			£33,717
Maintenance costs over 20 years = 20 x £33,717			£674,351
Commuted sum per dwelling = £674,351 ÷ 431			£1,564

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Table 5: the cost of providing open space in Worcester City (425 homes per 1,000 residents)

Type of Open Space	Hectares per 1,000 resident population	Cost per 1,000 residents*	Cost per dwelling
Amenity and semi-natural greenspace	1.11	£22,200	£52.23
Children and young people	0.61	£896,700	£1,983.85
Civic space	0.03	£10,000	£23.53
Allotments	0.40	£8,000	£18.82
Formal pitches etc.	No set standard (see note to 4 table 1)		
Total	2.15		£2,078.43
Land acquisition costs	2.15 x £20,000 =	£43,000	£101.18
Total Open Space Contribution per Dwelling			£2,179.61
Commutated Sums for adoption of Public Open Space			
Maintenance costs per hectare per year			£12,869.30**
Maintenance costs for 2.15 hectares x £12,869.30			£27,669
Maintenance costs over 20 years = 20 x £27,669			£553,380
Commutated sum per dwelling = £553,380 ÷ 425			£1,302

Table 6: the cost of providing open space in Wychavon District (423 homes per 1,000 residents)

Type of Open Space	Hectares per 1,000 resident population	Cost per 1,000 residents*	Cost per dwelling
Amenity and semi-natural greenspace	1.03	£20,600	£48.70
Children and young people	0.04	£58,800	£139.00
Civic space	0.03	£10,000	£23.64
Allotments	0.39	£7,800	£18.44
Formal pitches etc.	No set standard (see note to 4 table 1)		
Total	1.49		£229.78
Land acquisition costs	1.49 x £20,000 =	£29,800	£70.45
Total Open Space Contribution per Dwelling			£300.23
Commuted Sums for adoption of Public Open Space			
Maintenance costs per hectare per year			£12,869.30**
Maintenance costs for 1.49 hectares x £12,869.30			£19,175
Maintenance costs over 20 years = 20 x £19,175			£383,505
Commuted sum per dwelling = £383,505 ÷ 423			£906

*see Annex A for further information on cost assumptions.

**see Annex B for further information about open space maintenance costs

2.3 Transport Contributions

Introduction

2.3.1 Full details of the requirements for transport can be found within the separate [transport evidence base document](#). A summary of relevant transport policy, justification, methodology, scale and types of contributions is set out below:

2.3.2 Parts of the South Worcestershire transport network are congested and subject to poor performance. Development projected in the SWDP will generate additional traffic, cumulatively causing unacceptable network performance deterioration, as shown by the results of the Worcester Transport Model and SWDP Gravity Model assessments of the SWDP.

2.3.3 The Worcester Transport Strategy and South Worcestershire Towns Strategy identifies the schemes which have been included in the IDP and will support the SWDP by improving network performance and mitigating development impacts.

2.3.4 Traffic from SWDP developments will travel to areas of the South Worcestershire transport network already suffering from congestion. Developments will be required to ensure that measures are included within their development to encourage travel by sustainable modes and where appropriate provide an effective Travel Plan to mitigate their impact on the transport network. Appropriate mitigation through planning obligations will be required where necessary in order to make development acceptable in planning terms.

2.3.5 Traffic generated from developments in South Worcestershire including cumulative impacts, will be reduced by projects contained within the IDP via dedicated improvements using planning obligations and developer contributions.

2.3.6 Contributions are proportionate to the amount of development traffic routing to areas and schemes of the South Worcester network and its surroundings, and as such, are reasonably related in scale. Contributions will be used to fund schemes along network routes most used by development generated traffic.

South Worcestershire Development Plan Infrastructure Delivery Plan (Transport)

2.3.7 The IDP Transport Package in line with the Worcester Transport Strategy and Local Transport Plan 3 (LTP3), addresses issues relating to the performance of the transport network by investment in the following deliverable packages:

- Improvements to infrastructure,
- Information systems and
- All services across all modes of transport

2.3.8 The phased delivery of the Worcester Transport Strategy is a priority for Worcestershire County Council and in supporting economic growth is fully supported by:

- Worcestershire Local Enterprise Partnership (LEP),
- Chamber of Commerce,
- Members of Parliament and
- South Worcestershire Councils

2.3.9 Subject to funding availability and the capacity to develop and construct the packages of schemes, the Worcester Transport Strategy will be delivered over a number of years linked with the development growth set out in the SWDP.

2.3.10 Worcestershire County Council's package approach was assessed by the Department for Transport after having taken account of their guidance on the balanced approach to transport investment. This guidance covers the role differing modes of transport have in addressing problems with performance of a transport network. The assessment of the Worcestershire approach highlighted that the combined and integrated package approach delivered increased benefits, with the package of measures producing over 8.5% more benefit than the sum of the parts (i.e. if schemes are appraised on a stand alone basis).

2.3.11 Failure to deliver these strategies will critically undermine the ability of the Worcestershire transport network to accommodate the planned growth set out in the South Worcestershire Councils' adopted plans and the SWDP. As such the implementation of the Worcester Transport Strategy will:

- a. Support the growth of the Worcestershire economy by reducing travel times and costs imposed on businesses, transport operators and other network users by the current and forecast traffic congestion on the Worcester Transport Network.
- b. Improve the transport performance for users of the key bypass of Worcester City Centre, thereby helping to better manage traffic conditions.
- c. Improve access to the Strategic Road Network from areas to the west and North West of Worcester, including Malvern Hills District and Herefordshire.
- d. Improve access to national and international hubs, including Birmingham International Airport, Bristol Airport, Birmingham New Street Railway Station and regional train stations.

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- e. Provide provision of economic benefit to ensure 'High Value for Money', for example Phase 1 of the Worcester Transport Strategy had a strong combined economic and financial benefit to cost ratio of over 4:1 with net benefits of over £225million.
- f. Contribute to environmental objectives, particularly through encouraging use of walk, cycle and public transport modes.

Policies and Objectives

2.3.12 Key to achieving the Transport Strategy goals is the need to have a transport network in place that will be able to accommodate the future level of growth without imposing unacceptable costs on businesses and other transport users and operators arising from increasing traffic congestion and variable and increasing journey times.

2.3.13 It is apparent that without investment in Worcester's (and South Worcestershire's) transport infrastructure and services, Worcester City's and the wider area's ability to grow, accommodate planned development, and remain a key centre in Worcestershire and the wider West Midlands region will be significantly constrained. There are forecast to be severe impacts in terms of traffic congestion and access to key services with consequent negative impact on the environment due to reduced air quality, resulting in a decline in the quality of life for residents and reduction in the overall attractiveness of the City for businesses and visitors.

Approach to S106 Developer Contributions for Transport

Introduction

2.3.14 All proposals for developments must be in accordance with the requirements and policies of SWDP4.

2.3.15 The transport assessment will be underpinned by the results of development assessments. The results of the assessments will provide the basis for identifying the appropriate planning obligation towards the IDP.

2.3.16 In addition to bespoke transport infrastructure costs to wards the IDP, developer contributions will be sought to reduce the impact of developments through Smarter Choices measures such as the "Choose How You Move" programme or to support and monitor measures of the developments Travel Plan.

2.3.17 Provision for on-site facilities can be made through planning conditions and a Section 38 or Section 278 Agreement under the Highways Act 1980, and may also be secured through a Section 106 agreement.

General Approach

2.3.18 The level of development proposed for South Worcestershire will have an impact on the immediate, local and wider transport networks. The nature of the existing transport network means that a development site(s) can cause a significant

impact by adding to problems which occur at pinch points. Such congestion is caused by trips with trip origins and/or destinations across the South Worcestershire network and beyond.

Contributions Methodology

2.3.19 The South Worcestershire Transport Strategy Developer Contributions approach allows for:

- a. Calculation of the numbers of trips that each proposed development site will generate.
- b. Assessment of the way in which those trips will route on the network and identifying the proportion of development-generated trips with origins or destinations within the Worcester Transport Network (WTN) Area.
- c. Assessment of the way in which those trips with origins and destinations within the South Worcestershire (Non WTN) Transport Network Area will route.
- d. Schemes will be identified based on the impact development will generate within both the WTN and the wider South Worcestershire Transport Network.
- e. Apportionment of the costs of mitigating infrastructure against each development allocation.
- f. Delivery of a transparent method for financially contributing toward the mitigation of the impacts of planned development on the performance of the Worcestershire Transport Network.

2.3.20 The approach quantifies the number of trips generated by planned development. The model applies a distribution factor based on census data which is bespoke to each site to quantify the proportion of trips which will use the Worcester Transport Network and a distribution factor for the non WTN area on a site by site basis. This allows the costs of the strategy schemes to be fairly and reasonably apportioned against each of the planned development sites based on their proportional impact. In summary the methodology is as follows:

- a. Confirm the total costs of the core Worcester Transport Strategy measures, excluding committed funding such as Worcester Transport Strategy Major Scheme Bid, i.e. £145.5million.
- b. Confirm the total costs of the core Non-Worcester Transport Strategy measures, excluding committed funding such as Worcestershire Local Enterprise Partnership Strategic Economic Plan funding.

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- c. The development management process will quantify the contribution toward a specific programme of Worcester Transport Strategy projects per development based on the IDP.
- d. The development management process will quantify the contributions toward a specific programme of Non-Worcester Transport Strategy projects per development.

CIL Compliance

2.3.21 Regulation 123 of CIL Regulations 2010 (as amended) makes it unlawful for a charging authority to seek planning obligations to fund infrastructure which it is intending to support with receipts from CIL. The Regulation 123 list has been developed and agreed between South Worcestershire Councils and Worcestershire County Council, with the methodology set out on how transport projects will continue to be funded.

Necessary to make the development acceptable in planning terms

2.3.22 In order to deliver sustainable housing growth, it is necessary to maintain a transport network that is capable of minimising adverse impacts upon the economy and environment, which in particular seeks to deal with issues of accessibility, traffic congestion, journey times, journey time reliability and transport related costs imposed upon businesses and other network users. If these issues are not addressed, then they could adversely impact on the performance of the local economy and the local environment, in terms of air quality, noise, severance etc.

2.3.23 The IDP sets out a comprehensive approach to mitigate the severe adverse impacts on transport network performance of the SWDP planned growth, support the economy, reduce the impact of transport on sensitive environments and improve quality of life.

2.3.24 In order to make development acceptable it is considered necessary and appropriate that developers should contribute towards those elements of the IDP made necessary by their development, in accordance with policies set out in the SWDP and the Local Transport Plan Policy DC8.

Directly related to the development

2.3.25 It has been identified that traffic generated by development proposals has a direct impact on the area covered by the IDP. The methodology on which the contribution is calculated is directly related to the level of impact, therefore it is considered that the monies sought as a contribution towards the IDP are directly related to the development in terms of the site proposals being the generator of trips.

Fairly and reasonable related in scale and kind to the development

2.3.26 Based upon development sites likely to come forward, which are allocated within the SWDP, the impact of new trips on the transport network has been assessed. This methodology forms the basis on which other future site contributions towards IDP schemes will be calculated.

2.3.27 It is the Highway Authority's intention to apply this methodology for calculating the cost that the impact of all future developments will have on the IDP schemes within the study area unless; the impact of the development is not directly related to the IDP, or is mitigated by site specific measures, or the developer can demonstrate that the contribution cannot be made on viability grounds.

2.3.28 It is therefore considered that this consistent approach now and in the future when seeking transport contributions from developers is fairly and reasonably related in scale and kind to specific development proposals.

2.4 Education Contributions

2.4.1 Full details of the requirements for education can be found within a separate [Education Evidence Base Document](#). A summary of the justification, scale and type of contributions can be found below.

Justification

2.4.2 Worcestershire County Council has a statutory requirement to provide school places for children living in the area who are of school age and whose parents want their child educated in the state sector. In line with this statutory duty, the County Council needs to ensure that sufficient places are provided to meet needs arising from new housing developments.

2.4.3 New residential development will be required to contribute towards the provision of early years⁽³⁾ and statutory school age (5-16) places unless there is sufficient capacity in existing education infrastructure to cope with the needs arising from the new development.

2.4.4 Until such time that each of the districts within South Worcestershire adopt a CIL Charging Schedule education will continue to make use of S106 planning obligations as designated in the Planning Act 2008. Any requests made will abide with the regulations contained within CIL Regulations 2010 as amended.

Policy Framework for seeking Education Contributions

2.4.5 A range of factors are considered when calculating education contributions these factors are explained below:

2.4.6 A cost multiplier is used as the basis for the calculations. The cost multiplier is the cost per pupil for building new accommodation, based on a weighted average of two separate multipliers, one for totally new schools and one for existing schools. The cost multiplier is based on original figures produced by the Department for Education and Skills with an area weighting for Worcestershire. These figures have been updated annually in line with inflation using retail price indexing. Separate multipliers are published for the primary and secondary phases of education.

2.4.7 A pupil yield is used to represent the number of children in each year group, which may be expected to arise from new housing. A figure of 2.8 children per year group per 100 dwellings will be used. This is derived from the 2011 Census of Population average number of children per dwelling and is updated after every census.

2.4.8 The Number of year groups in each phase of schooling varies across South Worcestershire. Some parts of South Worcestershire operate a three-tier system of education (with first, middle and high schools), with different transfer ages in different areas. In other areas of South Worcestershire a two-tier system is in operation. The two tier schools have seven year groups in primary schools, and five in secondary

3 Pre School aged children (2-5 years of age)

schools. Some of the secondary schools also have sixth form provision offering two years of post-16 education. Further detail of the makeup of schools in Worcestershire is available within the Education Evidence Base Document.

2.4.9 The sizes of dwellings and the number of bedrooms is taken into consideration when calculating an education contribution. A 2-3 bedroomed dwelling is considered the standard (and so has no additional effect on the basic calculations), whereas a dwelling with four or more bedrooms requires a 50% increase on the calculated standard contribution. This is due to the increased likelihood of there being children resident in the dwelling, derived from the 2011 Census of Population. One-bedroomed dwellings are not subject to any contribution.

2.4.10 Type of dwelling – Flats will be allowed a 60% discount on the standard charge. This represents the reduced likelihood of there being children resident in the dwelling, based on the 2011 Census of Population.

Scale and Type of Contributions

2.4.11 The threshold for contributions will depend on the size of the development and the number of surplus places at related schools and how the impact of additional pupils is managed. The size of the development is determined by the net gain in dwellings. For example, a project involving the demolition of two existing dwellings and the construction of 15 new dwellings will be considered to be a development of 13 dwellings for the purposes of assessing the Section 106 education contributions.

2.4.12 Contributions for developments of 35 dwellings or less will only be sought where there is an exceptional need to increase capacity in the related schools and will be discussed on a case by case basis.

2.4.13 For developments of between 35 and 99 dwellings the County Council will consider the current surplus places ⁽⁴⁾, if any, in the related schools and how this compares to the expected impact of the development.

2.4.14 For developments of over 100 dwellings, Worcestershire County Council will individually assess the development and will seek to discuss the requirements with the developer. An extension of the standard tariff may be used as the basis for these negotiations or, alternatively, Worcestershire County Council may seek land and/or buildings for a new school.

2.4.15 When the South Worcestershire Councils' have adopted a CIL charging schedule Education Contributions will only be sought via a Section 106 agreement for infrastructure identified in a site allocations policy.

Related Schools

2.4.16 Contributions will be sought from housing developments where it can be shown that the scheme will result in a direct need for additional school facilities at one or more related schools serving the development.

⁴ A surplus place is defined as the difference between the number on roll for the year group at the point of the October school census and the Published Admission Number for that year group.

2 Planning Obligation Guidance

2.4.17 When a development site comes forward the County Council will identify which schools are considered to be related to the development. This will usually be where the school operates a catchment area as part of its admission criteria which covers the area in which the development is situated. Where schools are in close proximity to the proposed development but do not operate a catchment area they may still be considered as related schools if they meet the criteria on lack of surplus capacity and can demonstrate a likely demand from families moving onto the development.

2.4.18 Where the County Council decides to request a contribution it will be matched to a suitable basic need project⁽⁵⁾. Contributions will always be for permanent facilities and will not be used for providing temporary accommodation. An identified project may not be fully funded by one contribution and may be identified in up to five separate agreements. Projects may also draw in funds from other sources where available.

2.4.19 In the event the County Council deems it necessary to provide the Educational Facilities prior to receipt of the Education Contribution, the County Council shall be entitled to use the Education Contribution to pay back to the County Council any sum so expended.

Exemptions

2.4.20 Planning contributions for education facilities will not be sought from affordable housing developments (or from those affordable housing units within larger schemes).

2.4.21 One-bedroom dwellings (including flats) will not be subject to education contributions, as it is considered unlikely that sufficient pupils will be generated from these households.

2.4.22 Specialist housing for the elderly or people with disabilities will not be subject to education contributions, as it is considered unlikely that sufficient pupils will be generated from these households.

2.4.23 All exempt dwellings will be included in the calculation of the size of the development but will be zero rated in the calculation of the education contribution.

Procedure for agreement and payment of contributions

2.4.24 The District Council will prepare a standard Section 106 agreement in consultation with the County Council in respect of education provision to accompany each planning application. The level of contribution per dwelling will be agreed at this stage. For outline planning applications, an amount per dwelling will be agreed with the developer which will then allow a final contribution to be calculated at the detailed planning application stage.

⁵ A basic need project can be defined as any project that will assist in a school being able to take additional pupils.

2.4.25 Expected payment dates and instalments, indexation and late payment charges will be considered during the agreement process. Monies from Section 106 Education contributions should be sent directly to Worcestershire County Council.

2.4.26 Worcestershire County Council will carefully monitor and commit to spending the contributions within the time period specified in the planning agreement. This will usually be 7 - 10 years.

Disbursement of Monies

2.4.27 Section 106 Education contributions, together with any accrued interest, shall be spent on the project(s) named in the S106 agreement for that development. The County Council retains the statutory duty to ensure that there are sufficient school places. Contributions may therefore be spent on any category of state-maintained school including Academies, Free Schools, Maintained, Voluntary Aided or Voluntary Controlled Schools.

2.4.28 Contributions may also be spent on Early Years facilities, extended school facilities, youth facilities, or specialist facilities for children with disabilities, or other school-based provision for the benefit of under-18 year olds. Contributions sought will be supported with an appropriate justification and analysis of need statement.

2.4.29 Unspent monies will be returned to the developer at the end of any period specified in the Section 106 agreement.

2.5 Flood Risk and Surface Water Management Contributions

2.5.1 Where development is permitted in areas at risk of flooding paragraph 103 of the National Planning Policy Framework is clear that the risk of flooding should not be increased elsewhere, and that any residual risk is safely managed. Application of the sequential test may, in some circumstances, result in development being permitted that requires the provision of off-site flood defence and mitigation works.

2.5.2 Such provision, generally funded by the developer, would only be acceptable if it is consistent with the relevant flood-risk management policies (SWDP28 and SWDP29) and does not have a significant adverse impact on flood flows or storage or impact on third parties.

2.5.3 Where a development requires the provision of defences to mitigate residual flood risk, the developer will be expected to provide these directly or pay for the timely completion of the necessary works. In all cases, the type and location of the defences should be justified and agreed with the appropriate Risk Management Authority (either the Environment Agency or the Lead Local Flood Authority), as defined in the Flood and Water Management Act 2010, prior to any works or funding being implemented.

2.5.4 In smaller schemes, it may be more appropriate to consider on-site mitigation measures, such as the raising of floor levels, positioning of electrical sockets at a higher level or using more water resistant materials. The use of such measures will normally be secured through planning conditions rather than a planning obligation.

Justification

2.5.5 Worcestershire's natural environment and geography is such that the county is already at risk of flooding from a number of sources including rivers and surface water and this is predicted to increase with climate change. This is demonstrated by the emerging Worcestershire Local Flood Risk Management Strategy and the adopted Worcestershire Surface Water Management Plan.

2.5.6 Environment Agency figures suggest that the following numbers of properties are at risk in Worcestershire:

1 in 100 fluvial = 6,300

1 in 1000 fluvial = 11,200

1 in 100 year surface water = 15,100

2.5.7 The South Worcestershire Strategic Flood Risk Assessment prepared by JBA Consulting identified that over 1,800 properties were flooded in July 2007 in Wychavon and Worcester from a combination of surface water and river flooding. There have been flood events in South Worcestershire in 2000, 2007 and 2014 that have come close to the level expected of a 1% likelihood flood event. This is the level more commonly referred to as a one in one hundred year flood.

Approach to Section 106 Agreements

2.5.8 It is expected that developers will in the first instance meet the costs of the direct off-site flood risks and any indirect residual flood risks arising from their development on local drainage and flood risk management through appropriate planning conditions. Planning obligations will be sought where the development requires:

- Off-site management of surface water to ameliorate the impact of the development on the risk of flooding to other properties nearby, having regard to critical drainage area boundaries.
- Off-site works to manage any potential increase in the risk of flooding from fluvial sources arising from the development proposed to properties nearby.

2.5.9 Section 106 Agreements will require the nature of the works to be undertaken to be agreed by the appropriate Risk Management Authority, and appropriate contracts to be in place to secure the delivery of off-site work before the development can commence. This will involve securing the agreement of the relevant landowner/s as well as appropriate agreements from the local drainage company and/or relevant regulatory bodies.

2.5.10 On-site infrastructure may also be provided to alleviate the risk of flooding, and reduce impacts on drainage infrastructure. This will normally form part of the detailed matters submitted and agreed through the planning application process and the delivery can therefore be secured through a planning condition. However, the on-going maintenance of on-site infrastructure may need to be subject to a Section 106 Agreement.

Phasing of Drainage and Flood Risk Management Planning Obligations

2.5.11 In order to ensure delivery of drainage and flood risk management infrastructure in line with the delivery of development, any financial planning obligations must be paid when development commences or according to a timetable agreed between the relevant South Worcestershire Council and the developer.

2.5.12 If the developer is undertaking the physical work themselves, this work must be completed to a timetable or phasing plan agreed with the Local Planning Authority. The Section 106 Agreement will set out the phasing requirements for planning obligations related to drainage and flood risk management infrastructure.

Maintenance of flood risk management and drainage infrastructure

2.5.13 Off-site infrastructure will need to be maintained in order to ensure it continues to operate effectively.

2.5.14 In addition, some developments will incorporate on-site flood risk management and drainage infrastructure which will require maintenance well beyond the completion of the development.

2 Planning Obligation Guidance

2.5.15 The developer may be able to get this infrastructure adopted by an appropriate authority if it meets their specifications. Where this cannot be achieved, the developer will need to put in place mechanisms to ensure the on-going maintenance and effective operation of the infrastructure in perpetuity.

2.5.16 Due to the time-limited nature of planning conditions, it is considered appropriate for a clause within a Section 106 Agreement to be used to secure the on-going maintenance of flood risk management and drainage infrastructure for both off-site and on-site provision. Normally the Section 106 Agreement will require either:

- a. The developer to enter into an agreement with the local drainage company to adopt the flood risk management or drainage infrastructure before any part of the development is occupied/used for the first time; or
- b. The developer to prepare a management plan for the flood risk management or drainage infrastructure, to be agreed by the local planning authority; and to put in place the mechanisms to deliver on-going management of the infrastructure as per an agreed timetable or phasing schedule or similar before any part of the development is occupied/used for the first time.

Reason and justification

2.5.17 Due to the unpredictable nature of flood risk and drainage issues which mean an incident of flooding could occur at any time, later implementation of such maintenance is not considered acceptable and it is essential that proper maintenance is secured for the lifetime of the development.

2.6 Other Planning Obligations

2.6.1 While the following matters will not be relevant to many applications and are not explicit Local Plan policy infrastructure requirements, they may be material considerations relating to some applications that will result in the need for a planning obligation. For example larger residential developments may require some additional built recreational or community facilities. The general need for development to mitigate any adverse impacts on infrastructure is supported by policy SWDP7 which states ‘*Development will be required to provide or contribute towards the provision of infrastructure needed to support it. Developers will also need to contribute towards community benefits related to the development.*’ Any developer contribution for bespoke infrastructure provision can only be required if it is in accordance with the CIL Regulations and the NPPF tests for planning obligations.

Biodiversity/natural habitats

Historic environment

Burial land

Community Development

Indoor Sport & Recreation Facilities

Renewable and Low Carbon Energy

Waste Management

Emergency Services infrastructure

Public Art and Public Realm enhancements beyond the boundary of a development site

Employment and Skills initiatives and training

2.6.2 Promoters of larger developments are encouraged to contact the relevant Development Management Team at the earliest opportunity to discuss the potential impacts of their development proposals which may require site specific mitigation and non-standard developer contributions.

Local Economic Benefits from Development

2.6.3 The South Worcestershire Councils will seek to secure in-kind planning obligations to ensure that South Worcestershire residents and businesses can access the employment, skills and economic opportunities generated by major development.

Agreements will be on a site specific basis, in keeping with the scale, size and type of planned development through a negotiation process

The targeted outcomes that will be sought include –

2 Planning Obligation Guidance

- Employment, training and apprenticeships opportunities from both construction and end use phases
- School engagement including offering work experience to students
- Development of local supply chains

The South Worcestershire Councils will look to in-kind delivery, either through contractors own programmes and/or in partnership with Worcestershire Local Enterprise Partnerships approved delivery agents such as Jobcentre Plus, Worcestershire Apprenticeships, Worcestershire Business Central and Connecting Schools and Business.

Annex A: Public Open Space Costs

If it is necessary to acquire land to accommodate new open space provision it is assumed the local authority will purchase agricultural land at its current use value (approx. £20,000 per hectare).

Cost of providing:	
A Local Area of Play	Assume on-site provision only
A Locally Equipped Area of Play	Assume on-site provision only
A Neighbourhood Equipped Area of Play	£100,000 (1,000sqm)
A Multi Use Games Area	£145,000* (782sqm)
A natural turf pitch	£100,000* (1 hectare)
Tennis Courts	£200,000* (1,227sqm two courts)
Semi natural amenity space	£20,000 (1 hectare)
Civic space	£10,000 (300sqm)
Allotments	£20,000 (1hectare)
Cemetery Space	Assume cost will be financed via fees

Then how much of each of the above types of open space per 1,000 residents in each district and the cost of maintaining for 20 years each of the above.

* costs obtained from Sport England, Kitbag Facility Costs, second quarter 2016.

Annex B: Example of a Commuted Sum Maintenance Costs

Guideline Commuted costs Jan 2010 for 1 hectare of POS. FOR URBAN AREAS				
Landscape element.	Area	Rate	Item	Annual cost. £
Grass cutting x 17 cuts per annum	6700 M ²	0.013 per M ²		1,480.70
Shrub bed maintenance	3300 M ²	1.64per M ²		5,412.00
Mature Hedges cut one side and top	500 lin M	2.42per lin M		1,210.00
New trees check ties and stakes	30 No.	10.00 each		300.00
Existing mature trees	15 No.	50.00 each		750.00
Allowance for fly tip removal			100	100.00
Emptying litter bins - weekly	3 No.	0.50 per occasion per bin		78.00
Allowance for 2 weekly litter collection. i.e. 26 times a year.	10,000 M ²	£17.60 per 100 M ² per annum		1,760.00
Fence/ boundary maintenance			100	100.00
Sub Total				11,190.70
Admin charges 15%				1,678.60
Annual costs				12,869.30
Annual x 20 years				
Total commuted cost [indicative only] for 1 hectare.				257,386.00
NB - These cost assume approx. 2/3rds grass 1/3 shrubs. For different splits use the m2 rates as shown above.				
These prices are for guidance only. Individual landscapes may have other features such as woodland, wildflower meadows, orchards, etc. and will need to be calculated when the final landscape plan has been approved.				
NB for rural sites the grass cutting rate is 0.052 per M² per cut	6700 M²	0.052		5,922.80

Appendix 1: Preparation of this SPD

This SPD has been developed through and in conjunction with the following consultations:

- Draft Developer Contributions SPD public consultation – 16th February 2015 to 30th March 2015.
- Revised Draft Developer Contributions SPD public consultation – 1st April 2016 to 16th May 2016.
- Community Infrastructure Levy Draft Charging Schedule public consultation – 1st April 2016 to 16th May 2016.
- Draft South Worcestershire Affordable Housing SPD public consultation – 14th March 2016 to 25th April 2016.

This SPD was adopted by the South Worcestershire Councils' in September and October 2016 with effect from 20th October 2016.

Appendix 2: Mechanisms to be used

2.1 Planning Conditions

2.1.1 A planning condition may be attached to the approval of a planning application by a local planning authority. Planning conditions permit development to take place if certain circumstances are satisfied. Planning conditions may include requirements relating to on-site environmental issues, on-site infrastructure provision and/or the appearance and size of a proposed development, and are required to mitigate the impact of development and make it acceptable in planning terms.

2.2 Planning Obligations

2.2.1 The South Worcestershire Councils have been securing funds to support infrastructure needs via planning obligations for many years. There are, however, considerable differences between the three authorities in what is collected and how funds are managed and spent. Adoption of this document creates alignment between the three South Worcestershire Councils' methods for securing planning obligations.

2.2.2 The need for a planning obligation may arise as the result of a policy requirement within a site allocations policy, as the result of a generic developer contributions policy requirement set out in the SWDP or as the result of some specific characteristic of a development proposal. A list of potential development-specific contributions is provided at paragraph 2.6.1.

2.2.3 A planning obligation which, can take the form of a Unilateral Undertaking a Section 106 Agreement or a Section 38 or 278 Agreement, is a legal agreement between a local authority and a developer or landowner. Usually planning obligations are formally registered as land charges which, means that if the development site is sold the planning obligation remains a legal agreement between the new land owner and the local authority.

2.2.4 The legislative justification for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended by Section 12 of the Planning and Compensation Act 1991.

2.2.5 The NPPF at paragraph 204 and the CIL Regulations 2010 (as amended), Regulation 122 set the following three tests for any planning obligation. It must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

2.2.6 The South Worcestershire Councils will only seek developer contributions where it is clear that national planning regulations, policy or guidance are satisfied. Any attempt to negotiate, agree, collect or enforce any planning obligation which is

contrary would be liable to challenge either via an appeal to the Planning Inspectorate or in the Courts. It is likely that any monies received as a result of such an obligation would have to be re-paid.

2.2.7 In determining whether planning obligations are required to make a proposed development acceptable in planning terms, the South Worcestershire Councils will have regard to the infrastructure requirements identified in the IDP.

2.2.8 In negotiating a planning obligation that is fairly and reasonably related in scale and kind to a development, the South Worcestershire Councils will consider development viability and the benefit of the development in relation to its impact.

2.2.9 Worcestershire County Council as the local Highway Authority may also use Section 38 or Section 278 of the Highway Act 1980 to secure developer funding for off-site highway works necessary to ensure adequate access arrangements are provided to the proposed development. These agreements are an alternative form of planning obligation.

2.3 Community Infrastructure Levy (CIL)

2.3.1 CIL was introduced in 2010 as a new way to collect developer contributions towards the infrastructure required to ensure new development is sustainable and does not overload local community facilities. CIL is intended to provide greater certainty for both developers and local authorities about the value of contributions from proposed development than the existing system of negotiated Section 106 Agreements/planning obligations.

2.3.2 To introduce CIL each South Worcestershire Council must prepare a [CIL Charging Schedule](#) and consult developers and the local community about the contents of the Charging Schedule before submitting it to the Secretary of State for [Examination in Public](#) by an independent examiner. The South Worcestershire [CIL Preliminary Draft Charging Schedule](#) was published for consultation from the 16th February to 30th March 2015. The [Draft Charging Schedule](#) was published for consultation from the 1st April 2016 to 16th May 2016.

2.3.3 The Draft Charging Schedule was submitted to the Secretary of State for public examination on the 26th July 2016. Once adopted, the CIL Charging Schedule will set out the standard charges which will be levied on relevant residential and retail development schemes. The levy is charged on the basis of pounds per square metre of floorspace on the net additional increase in floorspace of any given development.

2.3.4 The money collected can be spent on the provision of new or improved infrastructure. The Councils must publish a list of infrastructure projects that it is intended that CIL funds could support ([the Regulation 123 list](#)) if they want to continue to collect planning obligations for other types of infrastructure.

2.3.5 Regulation 123 of CIL Regulations 2010 (as amended) makes it unlawful for a charging authority to seek a planning obligation to fund infrastructure which it is intending to support with receipts from CIL.

Appendix 3: The South Worcestershire Approach to Developer Contributions

3.1 Introduction

3.1.1 This section sets out the South Worcestershire Councils' approach towards seeking contributions from development to help fund essential infrastructure. Below is an explanation of the interaction between CIL and planning obligations, the process for seeking planning obligations and the South Worcestershire Councils' approach to viability considerations.

3.2 The Interaction between planning obligations and the Community Infrastructure Levy

3.2.1 CIL payments will be required in accordance with the published CIL Charging Schedule, once adopted. Each South Worcestershire Council intends to adopt its own charging schedule in April 2017. This will be based on geographical areas allowing for different market conditions and development viability within each of the South Worcestershire Councils. The aim is to ensure the CIL Charging Schedule does not put development at risk by making it unviable. There will be a requirement for any adverse impact on the local environment or local infrastructure, which will arise as a direct result of development, to be mitigated via a planning obligation.

3.2.2 Planning obligations may still be required for specific on-site mitigation measures and/or contributions towards off-site infrastructure such as public open space provision. Since April 2015 it has been unlawful for local planning authorities to pool contributions from more than five planning obligations, towards the same project or type of infrastructure, if more than five similar agreements have been signed since 6th April 2010. This makes it more difficult for the South Worcestershire Councils to collect planning obligations within the scope of existing planning policy.

3.2.3 Although the number and value of planning obligations will be reduced following the introduction of the CIL, they can still be reasonably sought from some types of development as follows:

- Affordable Housing provision as this is not within the scope of CIL contributions.
- Infrastructure that is required as a result of development and which is not included in the CIL Regulation 123 list (see paragraphs 2.2 to 2.6).
- Commuted sums for the maintenance of facilities/infrastructure that the developer would like a public authority to adopt.
- Mitigation of the impacts of development within the site boundary, for example relating to environmental mitigation, historic environment mitigation, biodiversity, access, travel, etc.

3.2.4 Affordable Housing will be provided in accordance with Policy SWDP15, which will be applied in accordance with the most recent national policy, through planning obligations in the form of land/ and or buildings, or financial contributions, (see the [South Worcestershire Affordable Housing SPD](#) for further details of affordable housing requirements from residential development).

3.2.5 Where either the SWDP or other planning policy establishes a minimum scale of residential development for the consideration of the need for developer contributions the size of the whole development will trigger such consideration. Developments for 100% affordable housing provision will not be required to pay any tariff based developer contributions.

3.2.6 Appendix A to the Regulation 123 list sets out a summary of what may be required from development schemes. This is provided as an illustration only, and specific cases may differ. Applicants and/or their agents are advised to engage with the relevant South Worcestershire Council Development Management Team at the earliest possible opportunity to discuss their proposal and the likely mitigation required.

3.2.7 The South Worcestershire Councils will ensure that no "double dipping" takes place, (whereby developers are charged twice for the same infrastructure via planning obligations and CIL) in accordance with the CIL Regulations. Appendix A to the Regulation 123 list seeks to clarify how each type of infrastructure will be supported either by the CIL or by developer contributions. The list of infrastructure is not exhaustive and some developments may need to help deliver other infrastructure requirements.

Appendix 4: Process for Seeking Developer Contributions

4.1 The following paragraphs set out the process for seeking developer contributions, including the collection, financial management and spend of funds.

4.2 Planning Application Process

4.2.1 Developers are advised to enter into discussions with the relevant South Worcestershire Council and other infrastructure providers including Worcestershire County Council as early as possible and in all cases prior to submitting an application. Development Management teams may be able to provide advice that will reduce the impact of proposed development and minimise the need for mitigation via planning obligations. On-site mitigation measures will in most cases offer the best solution and are the preferred option. Contributions to off-site mitigation will only be acceptable where it can be clearly demonstrated that on-site mitigation is impractical or impossible. The Development Management case officer will consider the requirements as outlined in this SPD, the South Worcestershire Affordable Housing SPD and CIL Charging Schedule as well as the infrastructure needs identified within the most recent IDP. The Development Management case officer will seek advice from other council officers, other infrastructure providers and stakeholders in relation to the need and size of planning obligations. When dealing with outline applications the South Worcestershire Councils may use the standard housing mix set out in the South Worcestershire Affordable Housing SPD as an indicator of the requirements for planning obligations.

4.2.2 When the CIL charge becomes applicable, developers will be required to follow the necessary legal steps, including the completion of a CIL Liability Notice. Further information is provided in the South Worcestershire Councils' Community Infrastructure Levy Guidance Note for Applicants.

4.2.3 In relation to planning obligations, Draft Heads of Terms for a Section 106 legal agreement should be submitted with the planning application, setting out the type and extent of necessary planning obligations. Proforma agreements can be found on the Councils' Websites:

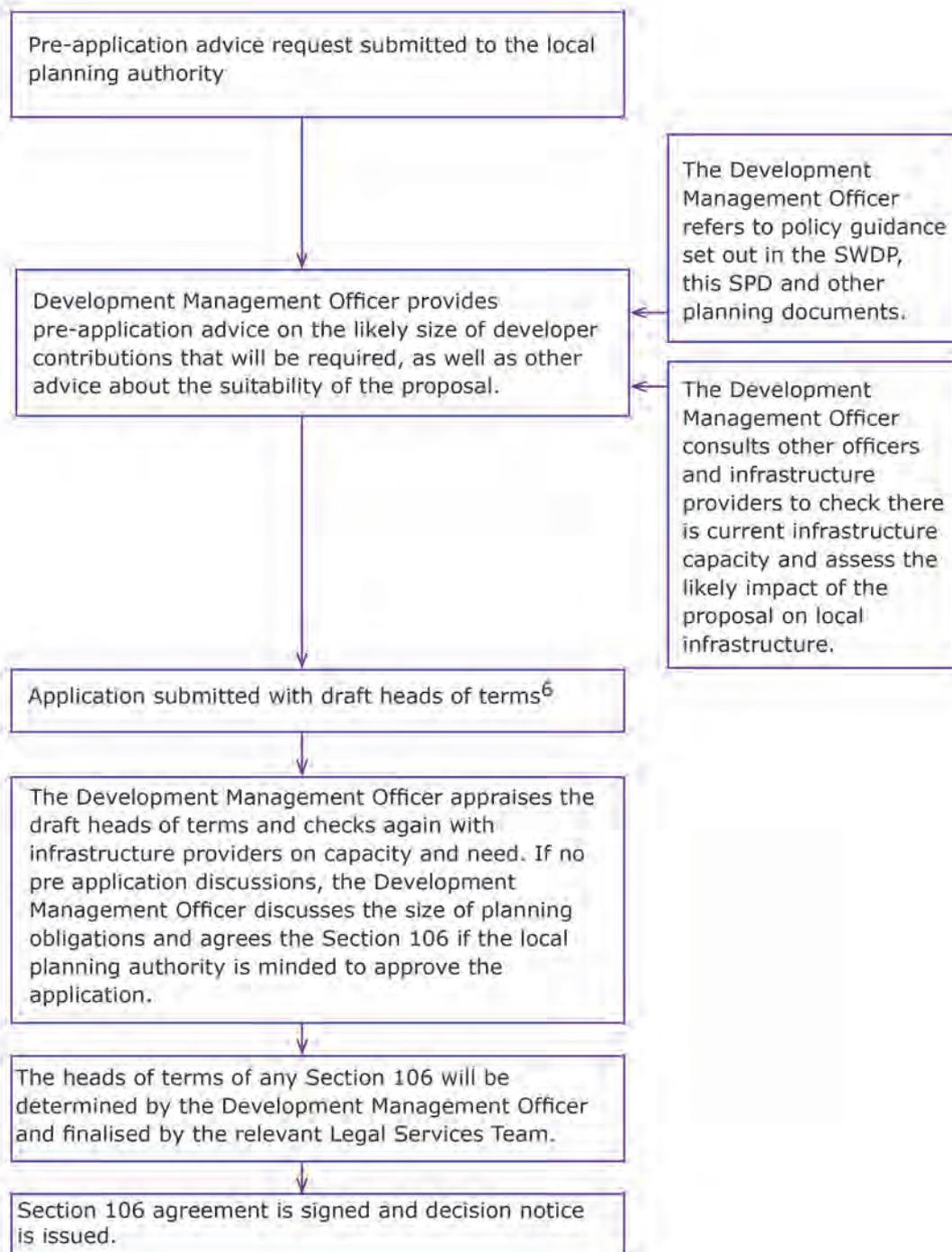
Malvern Hills: [Section 106 Draft Heads of Terms.](#)

Worcester: [Section 106 Draft Heads of Terms.](#)

Wychavon: [Section 106 Draft Heads of Terms.](#)

4.2.4 Figure 1 below summarises the process for seeking developer contributions required via planning obligations. If the developer believes however that the financial viability of development will be jeopardised by the scale of planning obligations likely to be required then the scale of any planning obligations may need to be negotiated with the relevant South Worcestershire Council— see paragraph 5.3 of Appendix 5 for further details about the assessment of development viability.

Figure 1: Process for the consideration of planning obligations.



⁶While the submission of a draft planning obligation is encouraged at the time an application is submitted it is not an essential validation requirement and the processing of an application will not be delayed due to the lack of a draft planning obligation.

Appendix 5: Management of Planning Obligations

5.1 Introduction

5.1.1 To ensure the occupants of new dwellings are able to access necessary infrastructure and/or are not inconvenienced by for example partially completed access roads, conditions will be attached to approved development that require completion of infrastructure before the occupation of dwellings over specified limits. This is in accordance with the requirements set out in policy SWDP7. If these conditions are not adhered to during the construction phase of the development it should be anticipated that enforcement action will be taken by the relevant South Worcestershire Council which will have adverse implications for the sale of the remaining dwellings within the development.

5.1.2 The imposition of planning conditions will aim to provide on or off-site infrastructure at a point in the implementation of the development where there would be a need for the infrastructure. This will be set out in an agreed phasing plan. Maintenance contributions (commuted sums) may be sought for open space or other types of infrastructure whether the infrastructure is provided on or off-site if a developer wishes the infrastructure to be adopted by a local authority.

5.1.3 With regard to the adoption of highways any Section 106 or Section 38 or 278 (Highways Act 1980) agreement should seek to ensure that the road network is open for use by the public before first occupation.

5.1.4 The phasing and implementation of the infrastructure will normally be agreed during the course of pre-application discussions and planning conditions will therefore be a formal means of recognising a mutually agreed timetable between the developer and the local planning authority.

5.1.5 The South Worcestershire Councils will use indexing in planning obligations to take account of potential increases in the cost of infrastructure during the time it takes to implement a planning approval. The Royal Institution of Chartered Surveyors Building Costs Information Service All Tender Index will be used for this purpose. Expected payment dates and instalments, indexation and late payment charges will be considered during the agreement process. Education and transport contributions should be sent directly to Worcestershire County Council. Open Space contributions should be sent to the relevant local planning authority, unless agreements state otherwise.

5.2 Monitoring, Management and Review

5.2.1 The South Worcestershire Councils and Worcestershire County Council will monitor planning obligations to ensure they are complied with. Enforcement action will be taken where planning conditions or planning obligations are not implemented. Payment of financial contributions will be in accordance with the trigger points in Section 106 Agreements. Late payment of more than three weeks will trigger a reminder letter and the relevant Council will consider pursuing appropriate legal action to recover unpaid amounts, including interest and legal fees.

5.2.2 The South Worcestershire Councils will publish information annually on the number and value of planning obligations and CIL receipts and how they have been spent. This information will be published on the Councils' websites.

5.2.3 Section 106 Agreements will specify time limits for the spending of money received. The South Worcestershire Councils will refund money that remains unspent in accordance with the Section 106 Agreement. The delivery of infrastructure can take some time and may be delayed by the time it takes to secure funding from an appropriate range of sources. For this reason, there is no time limit for the spending of CIL receipts.

5.2.4 In most circumstances the South Worcestershire Councils will require their legal costs for securing planning obligations to be reimbursed by the developer.

5.3 Development Viability

5.3.1 CIL is payable on all chargeable development as outlined in the CIL Draft Charging Schedule. The South Worcestershire Councils propose to offer regulatory and discretionary relief from charges; this will be set out in the South Worcestershire Community Infrastructure Levy Relief Procedures. This will only be relevant in very exceptional circumstances and prior to commencement. For further details see the Councils' Community Infrastructure Levy Guidance Note for Applicants.

5.3.2 Planning Obligations are negotiated between Councils and developers on a case by case basis. Where developers believe that planning obligations will make development unviable they will need to make a submission to the relevant Development Management Team, which should include the following:

1. A financial viability appraisal setting out how they are unable to meet the full planning policy requirements (including the number and tenure of affordable homes) deemed necessary to be secured through a Section 106 Agreement and any CIL charges. This appraisal should utilise the Homes and Communities Agency's Development Appraisal Tool⁽⁷⁾, or another suitable model as agreed with the relevant Development Management Team and should include:
 - a. A quantity surveyor's cost assessment
 - b. Market evidence of sales rates and site values
 - c. A development and sales programme (if relevant)
 - d. Details of any exceptional development costs
 - e. The expected CIL charge showing payments required in accordance with the instalments policy
2. A statement outlining the benefits and risks of not meeting the policy requirements and the site not being delivered immediately.

7 <http://www.homesandcommunities.co.uk/ourwork/development-appraisal-tool>

5.3.3 The issue of viability will normally be resolved at the application stage of a development. Applicants can request that the Local Planning Authority review the financial viability of an approved development if they believe circumstances have changed since the original approval. An application may be made to remove or vary a planning obligation that is over five years old where it no longer serves a useful purpose or would continue to serve a useful purpose in a modified form.

5.3.4 The Development Management Team will seek independent advice to review financial appraisals, with the cost of this review being paid for by the applicant. The Local Planning Authority will then consider the viability evidence by weighing up the potential benefits of a development against the resulting harm from the potential under-provision or delayed provision of infrastructure (including affordable housing) and other material planning considerations.

5.3.5 Based on the independent financial viability advice and other evidence such as transport modelling or demand for school places, planning obligations may be deferred, phased or discounted, where this would not make the development unacceptable in planning terms. These three options are explained below.

5.4 Deferred or Phased Planning Obligations

5.4.1 If it is agreed that a development may not be able to viably make the required contributions this option will be considered first before giving consideration to the need to reduce the size of developer contributions. The following may be options depending on the viability evidence:

- a. The provision of site-specific infrastructure (including affordable housing) in phases with trigger points at different stages of the completion of the development.
- b. Deferral of financial contributions to a later stage of the development.

5.5 Reduced or Discounted Planning Obligations

5.5.1 Reductions in developer contributions will be the minimum necessary to make the development financially viable. The relevant Development Management Team will make a judgement as to whether a development will still be acceptable in planning terms with a reduced level of contributions.

5.5.2 Where discounted or reduced developer contributions are agreed, these should be distributed between the identified infrastructure requirements, depending on site-specific factors such as the availability of mainstream or alternative funding and the local authorities' priorities.

5.6 Contingent Deferred Planning Obligations

5.6.1 Where reduced or discounted obligations are agreed the Council may ask the applicant to agree to test the development viability again once a certain point is reached, e.g. after half the development is completed. Such an agreement is called a Contingent Deferred Planning Obligation as the actual value of the obligation is

deferred and is contingent on the viability of development at a future point in time . All agreements and viability assessments will be in accordance with best practice and national planning policy applicable at the time of the agreement or assessment.

Glossary

Affordable Housing

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.

Community Infrastructure Levy Charging Schedule

A document which explains what types of development will be required to pay the Community Infrastructure Levy and what the size of payments will be.

Commuted Sum

A sum of money paid to fund the future maintenance of infrastructure.

Developer Contributions

Contributions either financial or physical e.g. a new school required from developers to make a development acceptable in planning terms.

Development Viability and Viability of Development

The ability of a development to pay a profit to the developer and pay a willing land owner the market value of the land.

Draft Heads of Terms

A list of developer contributions or other forms of planning obligation that may be required to make a development acceptable in planning terms.

Examination in Public

A meeting chaired by a person appointed by the Secretary of State to consider if a Development Plan Document should be adopted as planning policy with or without modifications which may be proposed before or during the examination.

Generic Developer Contributions Policy

A planning policy which proposes that developer contributions should be collected from all development or all development within a particular use class.

Infrastructure Deficit

A shortfall in the amount of infrastructure available to meet local needs, e.g. too few school places for the number of local children.

Infrastructure Providers

Organisations that provide physical infrastructure such as roads or infrastructure services such as the emergency services.

Land Charges

A record kept by the land registry of the charges on a property such as an unpaid loan or a planning obligation.

Larger Developments

Planning classifies development as major or minor development. Major development is development of 10 or more homes or 1,000 square metres of more floor space. Major development may be considered larger development but in some circumstances, i.e. for the provision of whole new infrastructure assets such as schools, larger development would only apply to the very largest development schemes. Where this SPD considers the term larger development would only apply to schemes well above the definition of major development this is explained in the text or footnotes.

Local Development Scheme

This is a public statement of a local authority's programme for the production of Development Plan Documents. The scheme will be revised when necessary. This may be either as a result of the Monitoring Report, which should identify whether the local authority has achieved the timetable set out in the Scheme, or if there is a need to revise and / or prepare new development documents.

Mitigation

Any action which helps to reduce the impacts of development on neighbours or the wider community.

Planning Conditions

Things that a developer must do, or not do, when implementing a planning permission. Failure to comply with a planning condition may mean that the completed development does not have planning permission.

Planning Obligation

A legal agreement that requires a developer to do something or limits the completed development in some way.

Pooled Contributions

When the developer contributions from two or more planning obligations are used for, or are intended to be used for the same infrastructure project then they become pooled contributions.

Section 106 Agreements

Developer contributions are often justified by reference to section 106 of the 1990 planning act even though this act has since been amended. The term Section 106 Agreements has become part of planning language despite the term having been overtaken by more recent legislation.

Site Allocations Policy

A planning policy that identifies land for a particular type of development, e.g. housing.

South Worcestershire Development Plan Infrastructure Delivery Plan

This is a document that offers evidence to support the SWDP. It sets out the amount and type of infrastructure needed to deliver the level of development proposed in the SWDP. It analyses physical infrastructure (such as transport and utilities), social infrastructure (such as schools and community facilities) and a complete range of green infrastructure. These are described on a geographical basis, which makes it easier for the reader to understand where infrastructure is planned; this is analysed in more detail in an Appendix. The IDP also considers issues around the funding of infrastructure and suggests a way forward in meeting such requirements. The IDP has been produced in close consultation with the County Council and the various infrastructure providers. It is a "live" document and will be updated on a regular basis.

Tariff Style Contributions

Developer Contributions that can be calculated consistently on the basis of characteristics of development, e.g. a set amount for school places for every three bed house.

The Community Infrastructure Levy

The Community Infrastructure Levy (CIL) is a charge that local authorities in England and Wales are empowered, but not required, to charge on most types of new development in their area. CIL charges are based on simple formulae that relate the size of the charge to the size and character of the development paying for it. This allows Local Authorities to raise funds from developers undertaking new building projects in their area. It can be used to fund a wide range of infrastructure (i.e. transport schemes, schools, etc.) that are needed to support the development of the local area.

Trigger Points

Planning obligations may require a developer to do something after a period of time or when a stage in the development is reached, these are known as trigger points.

Unilateral Undertaking

A developer can choose to provide a legal agreement to secure developer contributions to avoid the costs of agreeing a Section 106 Agreement with the local planning authority or for some other reason such as to agree the size of developer contributions before a planning appeal hearing. These planning obligations are known as unilateral undertakings.

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Bengali

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Chinese

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Polish

Jeżeli potrzebują Państwo pomocy w
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Punjabi

ਜੇ ਤੁਹਾਨੂੰ ਅੰਗ੍ਰੇਜ਼ੀ ਵਿੱਚ ਗੱਲਬਾਤ ਕਰਨ ਵਿੱਚ ਮਦਦ ਦੀ ਲੋੜ ਹੈ ਤਾਂ ਕਿਰਪਾ
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Portuguese

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Urdu

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