

LEICESTERSHIRE  
PLANNING  
OBLIGATIONS POLICY

Draft for Consultation

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## 1. INTRODUCTION

1.1. The purpose of the planning system is to contribute to the achievement of sustainable development<sup>1</sup>. The County Council has a role in achieving sustainable development, not only as a planning authority in its own right, but as a provider of physical and social infrastructure that contributes to economic and social wellbeing that helps make development sustainable. The purpose of this planning obligations policy document is to explain the requirements for, and the approach to, the type and level of infrastructure the County Council will seek through planning obligations given by applicants (usually developers) applying to the District Councils as Local Planning Authorities or to the County Council for planning permission to make it acceptable in planning terms.

1.2. The main types of infrastructure required by the County Council typically include:

- Schools
- Roads and transportation
- Social care
- Libraries
- Waste management facilities

1.3. Other infrastructure requirements such as affordable housing, play and open space, health and policing will be sought by the District Councils and other public organisations

1.4. A planning obligation is a legally enforceable obligation (known as Section 106 agreement or S106 unilateral undertaking<sup>2</sup>) entered into to mitigate the impacts of development. Planning obligations can only be sought (and be considered to be CIL compliant) where they meet the following tests<sup>3</sup>:

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<sup>1</sup> Paragraph 7 National Planning Policy Framework (2018)

<sup>2</sup> Section 106 under the Town & Country Planning Act 1990 (as amended)

<sup>3</sup> Regulation 122 under the Community Infrastructure Regulations 2010 (as amended)

- necessary to make the development acceptable in planning terms;
- directly related to the development;
- fairly and reasonably related in scale and kind to the development;
- and where the number of planning obligations for a project or type of infrastructure (known as pooling<sup>4</sup>) does not exceed five

## 2. PLANNING POLICY

2.1. Development proposals must be determined in accordance with the development plan unless material considerations indicate otherwise<sup>5</sup>. The development plan for Leicestershire are the local plans prepared by each local planning authority<sup>6</sup>. The County Council is also a local planning authority for the purpose of applications it can determine under the Town and Country Planning (General ) Regulations (as amended) and in respect of any county matters (minerals and waste applications) the relevant development plan is the Minerals and Waste Local Plan. For all other applications the most relevant Local Plan for the area the application site is located will be the local plan for the relevant local planning authority. All local plans must be consistent with the National Planning Policy Framework (NPPF). At the heart of the NPPF is the presumption in favour of sustainable development. Local planning authorities should aim to achieve healthy, inclusive and safe places, through the provision of social, recreational and cultural facilities and services the community needs which will include a sufficient choice of school places and sustainable and healthy access.<sup>7</sup> Those responsible for new development should make an appropriate contribution to the costs of providing the necessary additional infrastructure.

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<sup>4</sup> Regulation 123 under the Community Infrastructure Regulations 2010 (as amended)

<sup>5</sup> [Section 38\(6\)](#) of the Planning and Compulsory Purchase Act 2004 and [section 70\(2\)](#) of the Town and Country Planning Act 1990.

<sup>6</sup> Includes the County Council (Minerals and Waste Local Plan) & District Councils' Local Plans

<sup>7</sup> Paragraphs 91-95 NPPF (2018)

- 2.2. Local planning authorities should also work proactively with applicants to secure developments which improve the economic, social and environmental conditions of an area.
- 2.3. A balance is therefore needed between delivering new houses and achieving economic growth and ensuring new development is supported by appropriate infrastructure and does not have a negative impact on the existing and future communities of Leicestershire.
3. Community Infrastructure Levy (CIL)
- 3.1. The County Council will work in partnership with District Councils where they develop CIL charging schedules and rates and Regulation 123 lists.
- 3.2. Where a CIL is to be introduced the County Council will work closely with those Districts who propose to adopt CIL to ensure the necessary County Council infrastructure is able to be funded and delivered through CIL
4. LEICESTERSHIRE COUNTY COUNCIL POLICIES
- 4.1. Leicestershire County Council's Enabling Growth Plan 2018-2019<sup>8</sup> (May 2018) (EGP) will help facilitate the prioritisation of projects for future investment including securing external funds where possible.
- 4.2. Working together for the benefit of everyone Leicestershire County Council's Strategic Plan 2018-2022<sup>9</sup> (Dec 2017) sets out five strategic outcomes essential for good quality of life in Leicestershire. These include developing a strong and resilient economy, support wellbeing and opportunities such as access to quality education, keeping people safe, provide great communities that are well connected and have access to services and support the delivery of affordable quality homes that support economic growth, in the right location and are well designed.
- 4.3. The County Council Infrastructure (Sep 2016) Plan<sup>10</sup> sets out a strategic approach to the priorities for future capital funding to

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<sup>8</sup> <http://politics.leics.gov.uk/documents/s137270/Enabling%20Growth%20Plan.pdf>

<sup>9</sup> <http://politics.leics.gov.uk/ieListDocuments.aspx?CId=134&MIId=5104&Ver=4>

<sup>10</sup> <http://politics.leics.gov.uk/documents/s122367/Cabinet%20Report%20Inf%20Plan.pdf>

support investment in infrastructure to account for the growth in population, employment and housing in Leicestershire

- 4.4. The specific emphasis of the plan is on:-
- 4.5. Investing in key economic development opportunities and providing the require infrastructure to support them;
- 4.6. Implementing strategic transport improvements, reducing congestion and encouraging sustainable travel;
- 4.7. Implementing the Superfast Leicestershire Broadband programme
- 4.8. The Infrastructure Plan will assist the County Council in prioritising its own capital investments as well as supporting bids for external funding (including developer contributions).

## 5. COUNTY COUNCIL APPROACH TO PLANNING OBLIGATIONS

### Sustainability

- 5.1. The County Council will only seek planning obligations where they are in line with the regulations and planning policies. In other words, they are necessary to make the development acceptable in planning terms. All requests for planning obligations will be accompanied by reasoned justification in accordance with the regulations<sup>11</sup>. In circumstances where the local planning authority do not accept the County Council's request the County Council would expect to be notified with reasons and given an opportunity to address those concerns in a timely manner. Whilst the County Council accepts that it is the local planning authority's responsibility to make the final judgement about whether any request is CIL compliant, the County Council will consider carefully whether the particular circumstances warrant the maintenance of an objection on the basis that the development will be unsustainable without the contribution and whether in such circumstances the local planning authority ought to consider refusing the development. Where the local planning authority have granted planning permission subject to a s106 agreement that does not contain the County Council's requested planning obligations the County Council reserves the right not to complete the s106 agreement until completion of an acceptable s106

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<sup>11</sup> Community Infrastructure Regulations 2010 (as amended)

agreement between the developer and the County Council or an acceptable s106 Unilateral Undertaking to the County Council provided by the developer.

## 5.2. Viability

Where up to date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. In circumstances where a developer claims that some or all the requested obligations will make the proposed development unviable, it will be up to the applicant to justify the need for a viability assessment and for it to clearly demonstrate that the level of required obligations will materially affect the viability of the development and make that viability assessment publicly available in line with the NPPF<sup>12</sup>.

- 5.3. In cases where the viability of the development leads to a reduced level of contributions being available, the local planning authority should liaise with the County Council on any re-apportionment or reduction of contributions relating to the provision of County Council services and any s106 agreement should include a review mechanism (such as an overage related clause) in circumstances where market or other conditions improve its viability. Where the local planning authority does not liaise with the County Council the provisions specified at para 5.1. will apply.

## Monitoring

- 5.4. Monitoring of planning obligations is a complex process which requires significant knowledge of the legal, planning and development contexts. The County Council consider it is appropriate and justified to seek a monitoring fee. The requirement will be assessed in respect of each request made for planning obligations. The fee will include monitoring of development progress, tracking trigger points over various time periods to ensure collection of staged payments, calculating inflationary indexing, issuing invoices, receipting income, account management of funds, recording payments on and maintenance of developer contributions database,

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<sup>12</sup> Paragraph 57 NPPF (2018)

reviewing spend on required obligated projects, administrating payback of contributions unspent, recovering non payment and handling late payments. Following the Oxfordshire case the monitoring fee charged (and secured by appropriate provision in the s106 Agreement / Unilateral Undertaking will be a reasonable, justifiable and proportionate monitoring amount.

#### Legal Costs

5.5. The County Council as a party to the S106 agreement or beneficiary of a s106 unilateral undertaking will charge for its legal costs associated with a S106 agreement/unilateral undertaking. The costs which could be covered are for example:-

5.5.1. The legal costs of negotiating required provisions in respect of County Council obligations, liaising with elected Members and Chief Officers preparing, drafting amending, producing and sealing s106 agreements / approving s106 unilateral undertakings;

5.5.2. The costs associated with obtaining independent or specialist advice if obligations are disputed, e.g. when late issues of viability are raised.

5.6. Legal costs are required to have been paid before s106 agreements are sealed by the County Council. The County Council's legal costs are regularly reviewed. For 2018/19 the legal costs for s106 agreements taking less than 10 hours are £950. S106 Agreements taking over 10 hours are charged at the time taken x the fee earner's concerned hourly rate-which at a minimum is currently £95.00

#### Staged / Trigger Payments

5.7. The County Council will seek to ensure that all obligations are complied with and fulfilled and will be prepared to accept in respect of obligations requiring financial payment, staged payments where acceptable to the County Council.



### Debt Recovery

- 5.8. The County Council will use its corporate debt recovery process, if necessary and might use powers to stop development (e.g. apply for an Injunction) where the obligations have not been made or are not in accordance with agreed payment stages or “trigger” points.

### Bonds

- 5.9. The County Council may request a bond or other form of financial safeguard is obtained to mitigate the risk of defaults on the fulfilment and payment of planning obligations and other agreements (including s278 and s38 Highway Act agreement<sup>13</sup>) based on the circumstances of each individual planning application.

### Notification Protocol and Procedure

- 5.10. A notification protocol and procedure between the County Council and the Local planning authorities has been set up to ensure County Council services are given the opportunity to assess the need for any planning obligations from a proposed development. Further details of the protocol and procedure are found in Appendix 10.

### Local Searches

- 5.11. The County Council receives enquiries about planning obligations as part of local searches on behalf of purchasers buying property that is part of a development which is subject to a s106 agreement/unilateral undertaking with planning obligations in favour of the County Council. S106 agreements/unilateral undertakings should include a clause to exempt individual residential occupiers in respect of compliance with planning obligations to the County Council. In the absence of such the County Council will not enforce against an individual residential occupier / purchaser if there is a breach of a planning obligation.

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<sup>13</sup> Highways Act 1980

**APPENDIX 1****ADULT SOCIAL CARE AND HEALTH**

1. The County Council has a duty to protect vulnerable groups. People might need social care or support because of their age, health, or disability, or because they are caring for others. The focus of adult social care in Leicestershire is based on a number of strategies<sup>14</sup> which seek to promote, maintain and enhance people's independence so that they are healthier, stronger, more resilient and less reliant on formal social care services. The stagey for adult social care is to prevent need through good quality accessible information and promoting well being; reduce need through providing targeted support and early help; delay need by responding quickly and effectively with reablement, rehabilitation and recovery; and meet need in the most effective and efficient way using a broad set of social resources.
2. In order to meet the national objectives set out in the NPPF, local planning authorities need to assess the number, size, type and tenure of housing needed for different groups in the community and reflect these in their planning policies, which should include homes for older people and people with disabilities.<sup>15</sup> Their policies and decisions should also aim to enable and support healthy lifestyles, safe and accessible places that provide and maintain integrated community facility and services.<sup>16</sup>
3. New developments should reflect the social care needs of its users if they are to be sustainable developments. The assessment of those needs are derived from the general prevalence in the population of likely social care infrastructure demands that new development would create and how they can be met in a given location and circumstance. The needs may be met by direct provision of purposefully designed space or by a contribution through planning

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<sup>14</sup> Leicestershire County Council Adults and Communities Market Position Statement 2016-2020; Leicestershire County Council Promoting independence, supporting communities – Vision and strategy for adult social care 2016-2020; Leicestershire learning disability market position statement 2016-2020; Accommodation Strategy for Working Age Adults 2017-2022; Accommodation Strategy for Older people 2016-2020

<sup>15</sup> Paragraph 61 NPPF 2018

<sup>16</sup> Paragraph 91-92 NPPF 2018

obligations to the County Council to some other offsite provision (including capital investment to increase capacity) to be provided.

4. The County Council would use s106 obligations provided by financial contributions to direct and support infrastructure provision as a consequence of the impact of the proposed development in the following example areas:
  - 4.1. Accommodation for older people – which ranges from sheltered housing, **extra care accommodation**, residential home and nursing homes.
  - 4.2. **Supported Living** – – accommodation which is designed, structurally altered, refurbished or designated for occupation by, and made available to, individuals who require support in order to enable them to live, or adjust to living, independently within the community'. This will include people with learning disabilities and/or autism, people with mental health needs, or physical disability, people with a condition who display behaviour that challenges and young people potentially transitioning into Adult Services.
5. To support the above, needs also arise from the need to make **major adaptations** to existing homes and the use of assistive technologies For example, older people's housing needs can mostly be accommodated through simple alterations to their current homes such as modernising heating systems, good home maintenance, handrails, assistive technology and replacing baths with showers.
6. Telecare, telehealth and other **assistive technology** systems can be adapted to suit each individual within their own home as part of their care needs assessment regardless of accommodation type and tenure. Assistive technologies can include helpful devices such as medication reminders, property exits or movement sensors and flood detectors, as well as falls detectors and environmental control systems and health monitoring systems for those with long term conditions. These can substantially reduce mortality, reduce the need for admissions to hospital, lower the number of bed days spent in hospital and reduce the time spent in A&E.

## CALCULATING CONTRIBUTIONS

7. The following are examples of how need that may arise from new development will be calculated together with the cost of that need that developers would be expected to meet to mitigate the developments impact.

#### Extra Care & Supported Living

8. Although there have been a number of extra care units developed across the County, there is a currently shortfall in provision of extra care accommodation in Leicestershire and therefore no capacity to meet the requirements created by new developments. Leicestershire County Council considers that Local Planning Authorities should ensure that extra care housing is planned for in the main market towns as part of their Local Plans.
9. In order to mitigate the effects of new development, contributions towards the provision of additional Extra Care Housing units would be sought from major residential development where there is shown to be no available Extra Care Units over and above the baseline requirements identified by the County Council to meet the needs of the development.
10. The means of calculating contributions is based on consideration of the capital investment required to develop an extra care housing scheme along with associated communal facilities. In Leicestershire this is typically £160,000 per Extra Care Housing unit, with cost depending on local variables. The capital cost of building extra care housing schemes that are developed in partnership between local authorities and housing associations are generally met through a combination of funding sources. The level of public subsidy required will vary from scheme to scheme depending on factors such as, land costs; the tenure mix applied to the scheme (number of properties offered for sale / part ownership) and the market value of local property in the area in which the scheme is developed. Typically nationally the public subsidy is in the region of 50% (per unit) to allow delivery of affordable units.
11. Any contribution sought would be proportional to the anticipated level of service demand created by number of additional population associated with a development that may require extra care housing. Such funding would be used to aid delivery of necessary affordable

extra care housing having regard to a general assumption 50% of Extra Care Units would be affordable rented and 50% would be for sale.

<b>EXTRA CARE – FORMULA</b>	
A	Number of homes proposed where there is shortage of EC Homes
B	Number of EC homes required per household
C	Equity shortfall per unit
D	Proportion of rented housing on development site
<b>CONTRIBUTION (A) x (B) x (C) x (D)</b>	

<b>EXTRA CARE CONTRIBUTIONS – EXAMPLE</b>					
A	100	Number of homes proposed where there is shortage of EC Homes	To be added per development (Figure shown is an example)		
B	0.0039	Number of EC homes required per household	1,068	Predicted EC Home required in 2027	LCC predictive analysis
			275,580	Leicestershire estimated households	DCLG, 2016
C	£80,000	Equity shortfall per unit	50% cost – (e.g. £80,000)		
D	0.5	Proportion of rented housing on development site	50%		
<b>CONTRIBUTION (A) x (B) x (C) x (D) = £15,501.60</b>					

### **SUPPORTED LIVING – FORMULA**

A	No. of homes proposed where there is shortage of Supported Living
B	Number of supported living units required per household
C	Average cost of supported living unit
<b>CONTRIBUTION (A) x (B) x (C)</b>	

<b>SUPPORTED LIVING CONTRIBUTIONS – EXAMPLE</b>					
A	100	Number of homes proposed where there is shortage of SL Homes	To be added per development (Figure shown is an example)		
B	0.0024	Number of SL units required per household	668	Predicted Supported Living requirement in 2027	LCC predictive analysis
			275,580	Leicestershire estimated households	DCLG, 2016
C	£133,000	Average cost of supported living unit	£133,000 based on recent Leicestershire examples		LCC data
<b>CONTRIBUTION (A) x (B) x (C) = £31,920</b>					

#### Adaptations and Assistive Technologies

12. Financial contributions would be sought where it is considered that by reason of a development's design, its adaptation to meet the needs of those with a physical disability or those requiring assistive technology would be significant and it is likely that the provision of increased home caring services would be needed. Where a contribution is sought via a S106 Agreement, the level of contribution would be based on a standard calculation.

<b>MAJOR ADAPTATIONS CONTRIBUTIONS – FORMULA</b>	
A	Dwellings that do not provide the required design mitigation
B	Prevalence of adult physical disability Leicestershire service users
C	Average cost of DFG adaptation
<b>CONTRIBUTION (A) x (B) X (C)</b>	

<b>MAJOR ADAPTATIONS CONTRIBUTIONS – EXAMPLE</b>					
A	100	Dwellings that do not provide the required design mitigation	To be added per development (Figure shown is an example)		
B	0.0109	Prevalence of adult physical disability Leicestershire service users	6,286	No. PD Sus in 2017-18 (Age 18+)	SALT Table LTS001a (from LAS)
			574.463	Mid 2017 Leicestershire Popn Estimate (age 20+)	ONS
C	£6,978	Average cost of DFG adaptation	£3,670,455	DFG Capital Grant (2017-18)	Ministry of Housing Communities and Local Government
			526	Number of Major Adaptations starting in 2017-18	LAS
<b>CONTRIBUTION (A) x (B) x (C) = £7,636</b>					

<b>ASSISTIVE TECHNOLOGY – FORMULA</b>	
A	Dwellings that do not provide the required design mitigation
B	Prevalence of ASC Leicestershire service users
C	Average cost of an stand alone item of assistive technology
<b>CONTRIBUTION (A) x (B) X (C)</b>	

<b>ASSISTIVE TECHNOLOGY CONTRIBUTIONS – EXAMPLE</b>					
A	100	Dwellings that do not provide the required design mitigation	To be added per development (Figure shown is an example)		
B	0.0174	Prevalence of ASC Leicestershire service users	69,970	No. SUs in 2017-18 (Age 18+)	SALT Table LTS001a (from LAS)
			574.463	Mid 2017 Leicestershire Popn Estimate (age 20+)	ONS
C	£55.78	Average cost of an stand alone item of assistive technology	Average cost of stand alone assistive technology during 2017/18		
<b>CONTRIBUTION (A) x (B) x (C) = £97</b>					

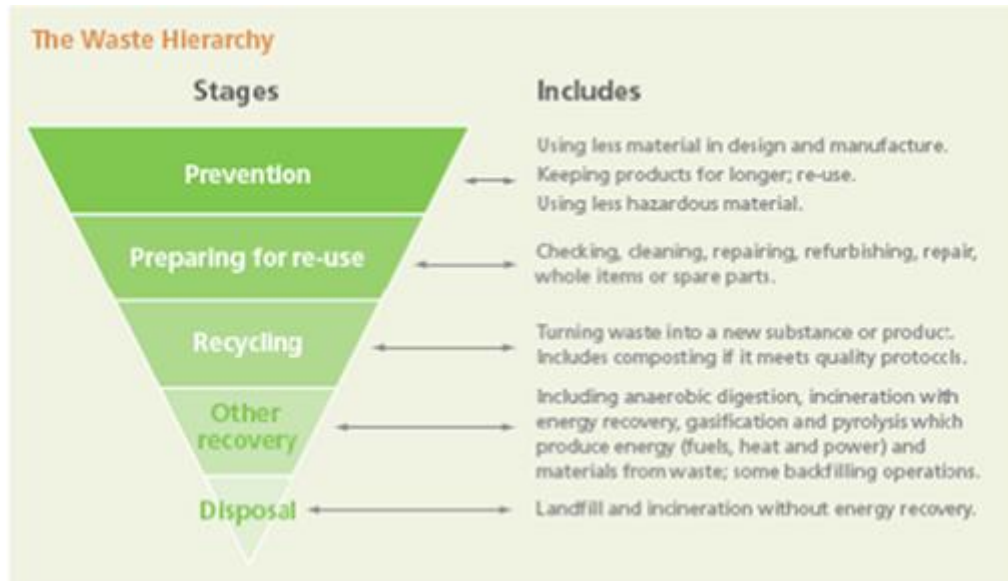


**APPENDIX 2****HOUSEHOLD WASTE RECYLING CENTRES / WASTE MANAGEMENT**

1. Government legislation is currently focused on the prevention and minimisation of waste, maximising the re-use and recycling of waste and diverting it from landfill. Leicestershire County Council as a Waste Disposal Authority has a statutory duty under the Environmental Protection Act 1990 to offer facilities to local residents where they may deposit their household waste. These are known nationally as Household Waste Recycling Centres (HWRC) and locally as Recycling and Household Waste Sites. Other existing key legislation and guidance which the County Council adheres to is the European Revised Waste Framework Directive (2008/98/EC); Waste Management Plan for England; National Planning Policy for Waste; Planning Practice Guidance – Waste.
2. The Leicestershire County Council Municipal Waste Management Strategy Update 2011 (LMWMS) has objectives and targets which focus on sustainable waste management. The vision of the LMWMS is:
  - 2.1. Leicestershire is pursuing a clear vision for sustainable waste management and resource use. Through the delivery of high quality, efficient services, waste should first be prevented from arising, be reused, recycled or composted. Any residual waste that has not been reused, recycled or composted should be treated before disposal so that further value can be recovered and so that the impact of final disposal is minimised.
  - 2.2. Through the collaborative efforts of the Leicestershire Waste Partnership (the Leicestershire district and borough council's and County Council), and in partnership with others, a majority of Leicestershire's waste will continue to be recycled, waste production will be in decline and local communities will be taking responsibility for the waste they produce.
3. New developments should be provided within easy, convenient means of waste management, including access to a HWRC offering suitable facilities for re-use, recycling and disposal.

4. New residential development in Leicestershire is likely to generate an increase in household waste, and depending on the size of the development this can have a varying impact on the existing local HWRC and waste transfer station network. Each proposed development will be assessed and considered on a case by case basis considering the wider impact on the HWRC and waste transfer network.
5. Existing HWRC and waste transfer sites have a finite capacity for waste inputs and waste generated from new residential developments, being delivered to the existing site may not easily be accommodated. Where it is expected that the development will generate a need for additional provision, planning obligations requiring generally speaking financial developer contributions will be primarily used towards:
  - 5.1. site alterations
  - 5.2. new equipment such as compactors
  - 5.3. extensions and/or redevelopment of the existing site
  - 5.4. construction of a new site at a new location as appropriate
  - 5.5. extensions, redevelopment or construction of a new waste transfer station
  - 5.6. contributions towards activities that support waste minimisation, reuse, recycling and recovery.
6. Major developments, for example, Sustainable Urban Extensions (SUEs) will be assessed on their own merits and impacts on waste generation and appropriate mitigation measures will be required to provide for example:-
  - 6.1. Composting/waste treatment facilities
  - 6.2. Normal and bulky materials recycling facilities
  - 6.3. HWRC
  - 6.4. Strategic waste handling facilities/transfer stations

Figure 1 – The Waste Management Hierarchy



7. The planning and design of new developments should consider the waste hierarchy and also adequate capacity for communal or individual householder composting and recycling facilities to be offered at a new development.
8. Other initiatives, for example approved food waste and home composting facilities at each property, could be considered in new residential schemes. Where such provision is made then the development would have a lesser impact on the local HWRC site and a reduced developer contribution rate may be considered.
9. Local Planning Authorities should consider in their local development plans and design guidance ways to achieve reductions in waste through sustainable measures.

### Thresholds

10. Contributions will normally be sought where the number of new additional dwellings on a development would amount to 10 or more

and result in a total contribution that is greater than or equal to £500. Contributions may be sought from smaller sized developments where they form part of an overall development in an area or where sites would have a cumulative impact on services and infrastructure.

11. The developer contribution requested would be based upon providing the necessary infrastructure within the HWRC and waste transfer station network to accommodate the increase in waste generated by the proposed development.

**APPENDIX 3****EDUCATION**

1. The Education Act 2006 places a duty on the County Council to secure a sufficient supply of school places in its area. Subsequent legislation, enacted through the Academies Act 2010 and Education Act 2011, has helped to create a platform for the development of a more diverse and more locally accountable school system, supported by a wider range of providers than in the past, particularly by academy trusts and sponsors. The County Council will work with other providers where necessary to ensure a sufficient supply of places.
2. The County Council is a provider in its own right of Community schools, Voluntary Controlled schools and Community special schools. However, as a consequence of legislative change there are now (as of spring 2017) many academies in Leicestershire which to a large degree operate independently of the Local Authority, this includes nearly all secondary schools and at least half of the primary and special schools in the County. Furthermore, maintained schools are expected to convert to academy status in future years. Nevertheless the Council acts as Admissions Authority for Community and Voluntary Controlled mainstream schools and co-ordinates “applications and offers” for all mainstream schools, including free schools and academies. The Local Authority (LA) co-ordination ensures a fair process for parents and their children and offers an accessible school place to all applicants and seeks to meet parental preference as far as possible.
3. In addition to the above, Free schools, approved and maintained directly by the Secretary of State, add to the supply of places but are not necessarily proposed or approved coherently with the overall LA plans for the strategic supply of school places. Where they meet a shortfall of places, they would be supported by the County Council.
4. The changing legislation has brought about a significant shift in the role of the County Council, which is now a commissioner rather than a provider of new schools. It has the duty to set out the characteristics of a school needed for a new community in order that providers may identify their capacity to provide that school. Where the legal agreement provides the funding for a new school, the County Council will usually procure the school building through

its Official Journal of the European Union (OJEU) compliant contractor framework and will provide the new building for the successful provider (agreed through a competition process) to occupy. A developer may alternatively choose to construct the new school and must be subject to specifications agreed with Leicestershire County Council.

5. The County Council currently receives a capital grant from the government to support the supply of places in all schools, where arising as a consequence of demographic growth. This is often referred to as 'Basic Need'.
6. However in terms of pupils arising from new housing developments the government do not provide monies to develop or expand educational facilities, and expect that such places will be funded by Section 106 or CIL contributions.
7. In terms of new developments the County Council will therefore seek contributions from housing developers to meet the cost of new school places arising a consequence of development to ensure that education provision remains sustainable. Where it secures such contributions it may add to them an element of Basic Need funding (where there is also a benefit to increase capacity due to evidence of demand for places arising due to other factors not including growth from development) to enhance the facilities but will not reduce the level of obligations set out in this document.
8. Regardless of whether schools have academy status, are free schools, maintained schools or others, the County Council remains the responsible authority for ensuring that there are sufficient school places available to meet the educational needs of the population. This means that the County Council remains the appropriate authority in judging the requirements for school provision as a consequence of housing development and will be a signatory to any S106 agreement and receive the appropriate contribution.
9. The County Council's consideration of whether developer contributions towards education provision are required will be informed by the projected capacity figures. Surplus places at a school do not necessarily equate to there being sufficient capacity at that school and/or early year's provider as it is generally accepted that schools and /or early year's providers should not operate at 100% of their capacity.

10. Where a new development is proposed in an area with sufficient projected capacity, no financial contribution will be required; however, where the proposed development would result in insufficient projected capacity, a contribution will be sought.
11. If there is insufficient capacity to accommodate the increase in pupils likely to be generated by a development and the development itself cannot enable the necessary provision the County Council may raise objections to the development unless it is satisfied that suitable alternative provision can be made elsewhere

#### Admissions Policy

12. In accordance with Section 84 of the School Standards and Framework Act (SSFA) 1998 as amended by Section 40 of the Education and Inspections Act 2006 the School Admissions Code sets out the statutory basis for admissions to all maintained schools.
13. In compliance with the Schools Admissions Code the Leicestershire County Council has a School Admissions Policy (SAP) for maintained schools. The County Council has a duty to provide school places for all pupils resident in its area: Leicestershire achieves this by giving high priority to catchment area pupils and allowing parental preference wherever possible.
14. Within the SAP the following entitlements are prioritized where possible for maintained schools:-
  - A place in the catchment area school, if there is room.
  - A place in a preferred school, if there is room
  - To be considered according to the same priority criteria as other children where the preferred maintained school is oversubscribed
15. In operating this policy the arrangements comply fully with the mandatory requirements of the School Admissions Code and Part 3 of the SSFA.
16. Every school has an Admission Number (AN) which is reviewed on an annual basis and indicates the number of pupils to be admitted into each year group. Admission numbers are published on the County Council website 18 months prior to the admission year it refers to i.e. admission numbers for the school year 2019/20 are published by the 15th March 2018.

### Early Years Provision

17. The Childcare Act 2006 places a duty on the County Council for the provision of sufficient childcare places and early education. Provision must be made for free early education for children aged 3 and 4 years. Under the terms of the 2011 Education Act, provision must also be made for every disadvantaged 2 year old. In Leicestershire early year's education is provided exclusively by the private and voluntary sectors, some of the provision may be located on school sites but most will be separately located establishments. Most of the available grant aid for early years is revenue funding for running the services. There is therefore a funding gap for the capital cost of provision of new premises or expanding the capacity of existing ones.
18. It is expected that for housing developments of less than 100 dwellings it will be possible for local early year's providers to accommodate the need for places without the necessity to seek a contribution from developers to enable their expansion.
19. However, where housing developments of more than 100 dwellings are proposed (excluding those discounted from education contributions as listed below in paragraph 29), then an assessment of the capacity of existing early education facilities will be undertaken in relation to the impact of new development. Where it can be reasonably demonstrated that there is no capacity for local providers to meet increased demand for early years places arising as a consequence of the development, and in the absence of any dedicated facilities or space being provided and made available by the developers as part of the infrastructure development to support the new housing, then a funding contribution (based on the methodology set out in subsequent paragraphs) will be sought by the County Council.
20. Contributions sought for pre-school provision may be used to either expand existing pre-schools or develop purpose built new facilities on a separate site, possibly shared with a school. Existing play groups and nurseries within the locality will be taken into account. It should be noted that Primary phase schools are now able in law to extend their age range to encompass two and three year olds.

### Mainstream Home – School /College Transport Policy



21. The County Council has a duty to make arrangements to facilitate attendance at schools and colleges by providing transport in certain circumstances
22. The Home-School/College Transport Policy documents set out the policy and procedures that apply and these can on the County Council's website<sup>17</sup>.

#### Calculating School Net Capacities

23. The Department for Education and Schools (DfE) published guidance in August 2002 – "Assessing the Net Capacity of Schools". Net capacity (NC) was devised by the DfE as a single, robust and consistent method of assessing the capacity of schools. For primary schools the NC is calculated on the basis of the number and size of spaces designated as class bases. For secondary schools it is based on the number, size and type of teaching bases and the age range of the school. In both cases it is checked against the total useable space available which must be measured and ensures that there is neither too much nor too little space available to support the core teaching activities. The method of calculating net capacity produces a capacity range with a minimum and maximum capacity figure.
24. The County Council in consultation with Maintained Schools on an annual basis will agree where within the range to set the net capacity reflecting the organisation of the school, the needs of the pupils, the design/layout and size of internal and external spaces and the number of pupils with special educational needs. For Academies the net capacity figure is contained in the funding agreement between the Academy and the Education and Skills Funding Agency. The net capacity information is submitted to the DfE each year as part of the School Capacity Survey.

#### Type of Education and Early Years Contributions to be sought

25. Education contributions will be sought in relation to outline or full applications for planning permission for residential developments of 10 or more dwellings with 2 or more bedrooms, which are likely to result in the need for additional education provision.

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<sup>17</sup> <https://www.leicestershire.gov.uk/education-and-children/school-transport/school-transport-for-5-to-16-year-olds/eligibility-for-free-school-transport>; <https://www.leicestershire.gov.uk/education-and-children/school-transport/school-transport-for-16-to-19-year-olds/eligibility-and-how-to-apply>; [www.leicestershire.gov.uk/education-and-children/school-transport/special-educational-needs-and-disabilities-send-school-transport/5-to-16-year-olds](https://www.leicestershire.gov.uk/education-and-children/school-transport/special-educational-needs-and-disabilities-send-school-transport/5-to-16-year-olds)

26. Applications for less than 10 dwellings will be exempt unless their co-location with other sites requires examination of their cumulative impact. Early Years contributions will be sought for all applications of 100 dwellings or more.
27. Contributions will also be sought in relation to planning permission renewals/variations for residential development where there has been a material change in the school organisational status, its capacity, or the numbers of pupils on roll since the planning permission was first granted.
28. Contributions will be sought for all types of dwellings/houses including affordable housing, apartments and flats.
29. Education and Early Years contributions will not be sought for the following:-
  - a. One bedroom dwellings.
  - b. Sheltered or elderly housing
  - c. Student accommodation
  - d. Other specialist housing where it can be demonstrated that the accommodation will not be used by children.
30. Where a need to provide additional capacity has been identified, contributions for education and early years will be sought for:-
  - a. 1-4 early years provision (early years)
  - b. 4-11 years (primary places)
  - c. 11-18 years (secondary places)
  - d. Special school places
31. In addition contributions will also be sought for:-
  - a. Funding transitional issues arising from new development at any school within the locality including the cost of providing temporary school places and transport to the school, in advance of the completion of a new school or expansion of existing nearby schools required as part of a housing development.
  - b. School transport, where it is not possible to provide additional school places within an available walking route of the new development (2 miles for primary school and 3 miles for secondary schools). This contribution will be in addition to any pupil place contribution and is intended to cover the cost of providing new or additional transport for the number of

pupils generated by the development for a defined period of time, usually seven years, provided always that the school places provided are beyond the statutory distances detailed above, and irrespective of whether the transport is provided to the catchment school or another nearby.

- c. Revenue start-up costs for new schools or significant expansion of existing schools to help meet the cost of additional resources and diseconomies of scale in accordance with the County Council policy on funding school growth (further information is provided below).
- d. Providing a walking/cycle route (unless otherwise provided for under Highways contributions), where one does not already exist, to the school/s where additional places are to be provided.

#### Revenue Funding for New Schools and Pupil Growth

- 32. The policy for the funding of revenue start-up costs for new schools and the significant expansion of existing schools was agreed by the Leicestershire Schools Forum in January 2016. Full details of the policy may be accessed via the following link

<http://politics.leics.gov.uk/documents/s115508/School%20Growth%20Policy%20-%20Jan%202016.pdf>

under Appendix 1 of the report.

- 33. In terms of newly opening schools (irrespective of their type) the policy provides for a start-up grant of £125,000 to the school in its first year of opening. For year two and for each subsequent year until the school is fully operative i.e. all year groups are open, a diseconomies of scale grant of £9,525 will be paid to reflect the cost of equipping new classrooms to ensure a suitable teaching and learning environment for each year group, where these items are not provided through the initial capital investment in the school.
- 34. For significant expansion of existing schools a one off grant of £50,000 will be allocated to schools where it is agreed by the County Council that the admission of additional pupils over 10% of the previous October pupil census creates a cost pressure within the school that cannot be managed within the resources currently available to the school, and the school has therefore considered

the organisation of classes and the County Council agrees that the set-up of an additional class is the only option available.

35. The County Council will at all times use its reasonable endeavours to challenge schools and help them effectively plan for growth such that this will keep the need to request revenue funding contributions from housing developers arising as a consequence of Section 106 obligations to a minimum.
36. In circumstances where developer contributions may be sought to meet revenue start-up/growth costs for schools any request from the Council will be proportionate to the particular development i.e. to deal with circumstances where more than one development may contribute to the expansion of a school. Where the cause of expansion relates to a single housing development, then the developer will be asked to meet the revenue costs for growth in full.
37. It should be noted the current policy will be reviewed subject to the DfE confirmation of the position regarding the future funding of schools growth under the proposals for the Nation Funding Formula. Revenue contributions would be requested as set out within the policy for funding school growth in place at the date of the agreement.

The calculation of Section 106 Contributions for Primary and Secondary Schools

38. The School Admission Policy, the Assessment of Net Capacities, the Mainstream Home-School/College Transport Policy and the policy on Revenue Funding for New Schools and Pupil Growth are relevant in the calculation of Section 106 contributions for primary and secondary education.
39. The County Council's consideration of whether developer contributions are required will be informed by the net capacity figures as reported to the Department for Education for maintained schools, and the Education Funding and Skills Agency (EFSA) for Academies.

#### Yield Rates

	<b>Yield Rate per 100 homes of 2 or more bedrooms</b>
Primary Age Pupils	30.0

Either 11 -16 years	16.7
and Post 16 years	3.3
Or 11 - 14 years	10.0
and 14 – 19 years	10.0
Or 11 – 19 years	20
	<b>Yield Rate per 100 flats or apartments with 2 or more bedrooms</b>
Primary Age Pupils	4.3
Either 11 – 16 years	2.67
and Post 16 years	0.53
Or 11 – 14 years	1.6
and 14 – 19 years	1.6
Or 11 - 19	3.2

40. The yield rates in the above table reflect the varying pattern of secondary education within Leicestershire. Some schools have an age range of 11 -16 years or 11 -19 years and others retain an age range of 11 -14 years and 14 -19 years.
41. One bedroomed dwellings which include any houses or apartments/flats are discounted from the calculation of education contributions.

#### Methodology

42. The need for a contribution will be established by comparing the number of pupils generated by the development with:-
- a. The net capacity of the catchment school in terms of primary provision, and the nearest school in terms of secondary provision, and any other school within a 2 mile available walking route for primary school or 3 mile available walking route for secondary school from the development. The capacity figure used for this purpose is the net capacity. Studio schools will only be included in the calculation where they are within a 3 mile available walking route of a development and the secondary schools in the relevant

location are organised in a two phase system e.g. 11-14 years and 14 – 19 years. .

- b. The forecast number on roll for the catchment or nearest school as appropriate to the above, and any other school within a 2 mile available walking route of the development site for primary schools and 3 miles for secondary schools. Pupil places funded by S106 contributions from other new developments in the area will be discounted. The average of the two and four year forecast figures for each school will be used when calculating the surplus or deficit of places. In some circumstances the forecast which is most relevant to the size and scale of the proposed development will be used.
  - c. Any planned changes to the organisation of the school and/or the premises which will affect the net capacity.
  - d. Any other housing developments with outline or full planning permission which will generate the need for pupil places at the catchment school for the development
  - e. Temporary accommodation (usually mobile classrooms) will be included in calculating the net capacity of the school and is therefore counted in S106 calculations. However the Council may at its sole discretion discount temporary accommodation capacity where it is expected that existing planning consents due to expire before the expected date of commencement of the development are unlikely to be renewed for example as may be the case with temporary accommodation having short term planning consent within conservation areas.
43. Having taken all the above factors into account, where it can be demonstrated that the number of pupils generated by a development is greater than the spare capacity in the local schools the County Council will require a contribution to fund the provision of the additional school places required.

#### Cost Multiplier

- 44. When calculating an education contribution the following figures will be used.
- 45. The use of the cost multiplier will be reviewed on an annual basis in April and will be based on the average cost per pupil place for extension and re-build projects in the National School Delivery Cost Benchmarking Report (NSDCBR) which is published annually

in February. This figure has then been up-dated to the BCIS price as expected at 1st quarter 2018, when the new figure will take effect, and includes a location factor of 1.01%.

46. The cost multipliers for secondary and special school places will remain unchanged, as the NSDCBR only surveyed a small sample of projects at secondary and special schools; these figures will be reviewed in April 2019 and thereafter on an annual basis as more benchmarking data becomes available.

Sector	Cost multiplier per pupil
Primary	£14,592
11 -14 years	£17,876
11-16 years	£17,876
11-18 years	£18,118
14-18 years	£18,355
Post 16	£19,327

47. These cost multipliers will normally be used where Section 106 contributions are sought to extend or enhance facilities at existing schools. However in circumstances where the development generates the need for a new school, or the expansion of an existing school where it can be evidenced that the cost to redevelop the school are in excess of S106 funds to be achieved through the application of cost multipliers, such as might be the case for schools located in conservation areas, on constrained sites, or sites having other planning limitations e.g. located on a flood plain, then the full cost of providing the new school or expanding the existing school and/or purchasing additional land to do so may be sought from the developer.
48. Where new schools are required the developer may provide sufficient funds to the County Council to undertake development or may seek to construct the school to a specification provided by the County Council. The general requirements for the provision of a new school are provided below.

Calculation of Section 106 Contributions for the Provision of Special School Places

49. For developments of over 100 dwellings with two or more bedrooms an assessment will be made of the need to secure additional accommodation for pupils with special educational needs (SEN). Special school provision including enhanced resource provision units (ERP) and Special Education Needs units located in mainstream school across the County are already at capacity and any contributions will be pooled to improve or enhance facilities at the most appropriate school or unit, this may not always be the facility closest to the development, as pupils with special education needs are often transported to the school or unit best able to provide for their needs, as will be stated in their Education Health and Care Plans (EHCP)- it is a legal requirement that each child with SEN should have an EHCP to guide their education and learning and this is reviewed annually. In determining the need for these types of contributions, appropriate evidence and data will be provided in relation to the number of special school and ERP places and SEN units available across the County and the current and forecast demand for these types of pupil places. The yield from a new development would be calculated as shown below and compared with the places available to assess if a contribution for special school provision is required.

#### SEN Yield Rates

50. The current proportion as a percentage of Leicestershire primary and secondary age pupils (11-18) who attend a special school or enhanced resource provision unit is 1.21% and 2% respectively – to determine the number of special school pupils generated from a development, it is necessary to apply these percentages to the mainstream pupil yield.
51. The need for a contribution is calculated as follows:
- a. The primary yield (30 pupils per 100 dwellings) x the proportion of primary age pupils attending special education provision (1.21 %) = number of SEN pupils per 100 dwellings (0.363) so 0.00363 per dwelling.
  - b. The secondary yield (20 pupils per 100 dwellings) x the proportion of secondary age pupils attending special education provision (2 %) = number of SEN pupils per 100 dwellings (0.4) so 0.004 per dwelling.

#### SEN Cost Multiplier



52. A pupil in a special school requires between four and five times the space of a pupil in a mainstream school (Based on Building Bulletin No. 102 Page 52). Therefore the cost of providing a special school place is expected to be four and half times the cost of providing mainstream provision
- a. Cost multipliers per pupil place for SEN provision:
- i. Primary (4-11 years) £65,664
  - ii. Secondary (11-19 years) £81,531

Calculation of Section 106 Contributions for Early Years provision

53. For developments of over 100 dwellings with two or more bedrooms an assessment will be made of the need to secure additional S106 funding for early years/pre-school provision, where it can be reasonably demonstrated that there is no capacity for local providers to meet increased demand for early year's places arising as a consequence of the development. Where developer contributions are considered appropriate a yield rate of 8.5 children per 100 dwellings will be applied. S106 contributions will not however be sought in circumstances where dedicated facilities or space is provided and made available by the developers as part of the infrastructure development to support the new housing.

Early Years Yield Rates

54. Based on information and data provided by the Early Years providers the County Council will not require a contribution to fund 100% of places for all year groups. It should be noted that there is not a significant demand for children up to the age of one. The government offer a Free Early Education Entitlement (FEEE) for 40% of 2 year olds and due to the volume of parents returning to work take up is quite high. 100% of three year olds in Leicestershire take up their FEEE place, but this figure reduces to 50% for take up by four year olds as they enter school.
55. The table below explains how the total yield of 8.5 Early Years children per 100 dwellings is broken down into the year groups.

	Yield rates per 100 homes of 2 or more bedrooms	
Early Years age group	3.4 children per year group	
1 year olds	25%	0.85 child
2 year olds	75%	2.55 children
3 year olds	100%	3.4 children

	Yield rates per 100 homes of 2 or more bedrooms	
4 year olds	50%	1.7 children
	Total	8.5 children

### Early Years Methodology

56. The need for a contribution will be established by comparing the number of pupils generated by the development, with the number of existing Early Years providers within a one mile radius of the development.
57. In calculating the need for a contribution the County Council will take account of any new providers who are opening within one mile of the development.
58. Having taken the above factors into account, where it can be demonstrated that the number of Early Years children generated by a development is greater than the space capacity in current or planned Early Years provision the County Council will require a contribution to fund the provision of the additional Early Years places required.

### Early Years Cost Multiplier

59. The cost multiplier for the provision of Early Years places is based on the assessment of a number of new build projects, extensions and modular buildings which have been provided across the County since 2012.
60. The average cost per place provided is £8,907. The cost multiplier will be reviewed annually and adjustment made where necessary.

### **How Section 106 Planning Contributions will be applied**

61. Section 106 contributions will be applied on capital works to provide additional capacity or enhance existing facilities at academies, maintained schools or early year's providers. This might include, for example, but is not limited to:
  - a. Providing additional school or early years places
  - b. Providing new schools or school buildings
  - c. Providing new early years buildings/facilities.
  - d. Adapting, extending and enhancing existing school buildings and/or early years facilities.

- e. Improving school grounds, sports and physical education facilities
  - f. Purchasing new equipment above a de-Minimis limit of £10,000 required as a direct result of the additional demand, or as part of a scheme to improve, extend or enhance the school accommodation.
  - g. Contributing to the revenue costs of starting up or growing the provision of additional school places.
62. It may not always be practical or desirable to use S106 contributions to provide additional capacity at the catchment school or provider, because for example the site may be constrained, or the school may not have the infrastructure spaces necessary to support the increased capacity. In these circumstances the contributions would be used to provide additional capacity through extension, refurbishment or re-modelling of existing schools or providers where the needs could be best met.
63. In addition, due to the advent of academies and the number of schools making changes to their age range, admission arrangements and catchments areas, it is essential to have the flexibility to use the funding at the most appropriate school, and therefore the wording within the S106 agreement should enable the County Council to do this.
64. When the County Council commissions additional places through a free school or academy and uses S106 funding to provide those places, the County Council will require the provider to enter into a legal agreement detailing the funding to be provided and the number of additional places to be provided.

**Allocation of S106 contributions for the development of Mainstream and Special School Places (including County Council maintained schools and academies).**

65. Prior to the introduction of academies (following the Academies Act 2010), subsequent age range changes for primary and secondary schools, changes to admissions policies and catchment areas, S106 funds were allocated by the County Council to the schools whose catchment area encompassed the new development or were located nearest to this. There were exceptions to this to address circumstances where the school might not be capable of physical expansion, or governors were opposed to this, although such cases were very rare. The subsequent change to mainstream home to school transport policy, which now provides free transport only to

the nearest available school (assuming this is above statutory walking distance) further served to render the application of past practice more difficult.

66. In view of the change that has occurred it is now more appropriate to take a more considered approach to the allocation of S106 contributions to schools, in reaching a decision on allocation the County Council will therefore take account of the following matters\*.

#### School Performance

- a. As the County Council's statutory duty is to have a strong supply of high quality school places, consideration will be taken of the current Ofsted inspection judgement for the schools concerned, and data and performance (including results of statutory tests for pupils). It is expected that in keeping with DfE guidance that only Outstanding, Good or improving schools would be considered for the allocation of funds.

#### Distance from the centre of the new development to the School.

- b. It is expected that in most circumstances the proximity of the school to the new development will still be a key factor in determining allocations, as the County Council would be liable for transport costs where schools were above statutory walking distances, or if a safe and accessible walking route was not present.

#### Ease and extent of adaptations needed to create further places

- c. The County Council has a duty to ensure that it achieves value for money and available funding for school expansion is used effectively. Consideration will therefore be given to the ease of expansion of schools, taking account of construction requirements, planning matters including potential access and environmental issues. The amount of expansion required will also be considered and recognises that some schools will already be at capacity whereas others may have some existing surplus space.

#### Admissions policy

- d. As the additional places are being provided for pupils from the new development any restrictions in the admissions policy will

need to be carefully considered before any agreements are entered into.

#### Ability to meet specific learning and development needs

- e. This is of particular importance in the allocation of SEND funding and where it is expected that the school may be located some distance away from the new development.

#### Parental preference

- f. This will be an important factor for determination of the allocation of funds. The County Council will take account of current patterns of admission and pupil movement within the locality of the development.

#### Views of Governors and Trustees

- g. Consideration will be given to the views of Governors and Trustees, particularly in the event that they do not support expansion of their school. Where consideration is being given to the expansion of Faith schools this will also include the views of the respective Diocese

#### Views of the Department for Education

- h. In circumstances where any school is known to be under scrutiny by the DfE, or in the case of academies would be subject to approval to a significant change business case to enable expansion, then advice will be sought from the Regional Schools Commissioner

#### Status of the school

- i. Whilst this should not be a barrier to school expansion, the status of the school, particularly if where land may not be owned by the Local Authority, or may require third party consents for adaptations, could add complexity to matters.

67. It should be noted that the County Council decision in relation to the allocation of S106 funds to schools will be final<sup>18</sup>.

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<sup>18</sup> It should be noted that some historic S106 agreements specifically name a school or schools and therefore may remove the discretion of the County Council to give consideration to some or all of the above matters.

## **Transitional Costs**

### Transport Costs

68. In addition to the contributions set out above, a contribution, for example, in the case of major 'strategic' developments/sustainable urban extensions which results in the need for a new school, or significant extensions to existing schools may require a contribution to be sought to fund transport costs. This will be assessed on a site by site basis and could be the cost of transporting children to a school, where it is not possible to provide additional school places within an available walking distance of the development. This contribution will be in addition to any pupil place contributions and will relate to the cost of providing a new transport route for the additional pupils for a defined period of time, up to a maximum of 7 years for primary age pupils and 5 years for secondary age pupils, from the date of completion of the development, to reflect the number of years a child spends in this phase of education. This claim will usually apply during the early phases of a major development prior to the opening of the new school on site.

### Temporary Accommodation

69. The full cost of any temporary accommodation required on schools sites pending the delivery of any new schools or extended school facilities.

### Trigger Points

70. Trigger points for the payment of S106 contributions will be agreed on an individual site by site basis, however, in general the first instalment will be required on commencement of the development and will equate to 10% of the total contribution. The remaining payments should be linked to time or delivery milestones whichever is the sooner and agreed by all parties, but must keep pace with the completion of the development to ensure additional provision is in place for pupils when needed.
71. In cases where the S106 provides for a new school or early years facility the trigger points should relate directly to the contract for the building of the new establishment and ensure the funding received meets the costs incurred at each milestone.

72. Trigger points should not be linked to final completion of the development due to the uncertainty and delay this can create when planning S106 projects.

### **Provision of New Schools through Section 106 Agreements**

73. When the scale of development is such to necessitate a new school and/or early year's facility, the developer/s will be expected to provide the site free of charge, or fund site acquisition, fund the building costs, including the infrastructure and the playing fields and all loose and fixed furniture, equipment and ICT costs. Alternatively the developer may agree to construct the new school and/or early year's facility and this must be to an agreed specification with the County Council. Following guidance issued by the DfE in May 2018 with regard to the Free School Presumption process, which is the mechanism by which new schools are established, there is a presumption that local authorities planning a new school should include nursery provision in the specification, unless there is a demonstrable reason not to.
74. Where a number of sites are contributing to a new school or early year's provision, each site will be required to pay a proportionate amount of the total cost, including land, design and building and infrastructure costs.
75. The use of the DfE cost multiplier will not apply to new schools, as these figures are based on the extension of existing facilities where all of the other infrastructure requirements are in place. The cost of a new school or early years provision will need to be agreed on a site by site basis and will reflect the type and size of school or provision and the site considerations and constraints hence may vary from one development to the next.
76. If the scale of a proposed development falls below the critical threshold to deliver a 100% developer funded establishment (typically around 800 new dwellings for a primary school) the LA, where appropriate, will seek a pro-rata contribution towards the new build costs.
77. The phasing of any contributions to fund the cost of a new school and/or early years provision, or the timetable for the building of a new school and/or early years provision where the developer is undertaking this, will be agreed on a site by site basis. The opening date for all new schools and/or early years' provision will be the first September unless otherwise agreed before the

completion of the 300th dwelling, or any earlier or later date where specifically requested by the Council.

### **Sites for New Schools and Early Years provision**

78. Where a developer is required to provide land to accommodate or provide for a new establishment, it is expected that this will be sufficient for the size of establishment required. In terms of primary schools the County Council preference is for 420 places. The County Council would expect the free transfer of a suitable site of approx. 2.0 hectares, but will make provision within any S106 agreement for the return of a proportion of this land if the school does not need to accommodate 420 pupils, but at all times will be mindful of future expansion needs. Site requirements will be guided by recommendations contained in the latest appropriate Building Bulletin guidance as issued by government or its agents<sup>19</sup>) and with the possibility of having early years provision on site.
79. The County Council will require the land meets a checklist of requirements, to include for example the following:-
- a. Be of regular shape, level and largely free from building constraints such as underground sewers, landfill sites, tree preservation orders;
  - b. Be located centrally within the development, ideally close to the local centre;
  - c. Be located within 400 meters of housing it is designed to serve.
  - d. Provide space for home to school transport (including school buses) and parents to drop off and pick up either in the school grounds or close to school, on the same side of the road as the school, as determined by specialist highways advice/requirements.
  - e. Have separate pedestrian and vehicle access.
  - f. Be located to encourage walking and cycling to school.
  - g. Provide room for coaches to access school to pick pupils up for trips etc.
  - h. Have playing fields located in close proximity to building.
  - i. Be free from contamination, or be re-mediated prior to the County Council taking ownership.
  - j. Have uncontaminated topsoil applied to a minimum depth of 300mm

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<sup>19</sup> Building Bulletin 103:Area guidelines for mainstream schools – updated 26 June 2014 Education Funding Agency (latest guidance at the time of publication)



- k. Have adequate drainage to discharge surface water from the grassed playing field on the site.
80. Proposed Sites for New Schools or Early Years provision should ideally NOT be:-
- a. Located on a flood plain or be subject to flooding.
  - b. Located in a cul de sac.
  - c. Crossed by overhead power cables or be any public footpath or right of way.
  - d. Located within a 57dBA Leq noise contour of an airport or similar facility (57dB marks the approx. onset of significant community annoyance due to daytime aircraft noise)
  - e. Situated in proximity to any development, business or land use that may disrupt the normal functioning of a school, detract from pupil's learning or place anyone associated with the school at risk.
  - f. Within an air quality management area.
81. The site for the establishment must be fully serviced with all utilities e.g. water, electricity, gas and broadband.

#### Access to the School Site and/or Early Years provision

82. There must be an adopted permanent or intended permanent public vehicular road serving the site.
83. For schools, vehicular access is preferred on two sides of the site and must facilitate a safe delivery route to the school building.
84. Safe and direct walking and cycling routes must be planned to the site from the areas where it will draw children/pupils.

#### Building Design

85. The location and design of school buildings should facilitate community use.
86. The building should be designed to a specification to meet the current Department for Education guidance and best practice for the type of school as well as latest government advice and guidance.
87. The County Council will use its reasonable endeavours to ensure the building offers community facilities and access but given that any new school will be an Academy operating independently of the local

authority this cannot necessary be guaranteed and may not be able to be included within the S106 legal agreement.

<b>EDUCATION SUMMARY SCHEDULE</b>	
Current guidance	<ul style="list-style-type: none"> <li>• National Planning Policy Framework</li> <li>• Policy Statement Planning for Schools development (DCLG) 2011</li> </ul>
Type of facilities for which provision may be required	<ul style="list-style-type: none"> <li>• Sites for new schools and/or early years provision</li> <li>• Construction costs of new schools and/or early years provision</li> <li>• Other building provision at existing schools (including for example additional grass/artificial turf sports pitches) and early years providers</li> </ul>
Type of development which would trigger need	<ul style="list-style-type: none"> <li>• Planning obligations will be generated by residential development which creates extra demand at local schools (subject to a lack of capacity at the local catchment schools) and/or early years providers</li> <li>• Normally request for contributions will be made for all residential developments of 10 dwellings or more</li> <li>• When building a new school the County Council will carefully consider the wider community use of both the school buildings and the playing fields where appropriate</li> <li>• A contribution will be required for existing schools and/or early year's providers, towards the cost of additional primary and secondary school places, where there is a need. Contributions will be calculated on the basis of a minimum of 8.5 early years, 30 primary places and 20 secondary places per 100 houses. For flats/apartments the current figures are</li> </ul>

## EDUCATION SUMMARY SCHEDULE

	<p>4.3 primary pupils and 3.2 secondary pupils per 100 units.</p> <ul style="list-style-type: none"> <li>• Information about local child/pupil yields will be taken into account in setting the precise requirements. The costs per pupil place based on the National School Delivery Cost Benchmarking Report is £14,592 for primary age pupils</li> <li>• The cost multipliers for secondary and special schools will remain unchanged; £17,876 for 11-16 year old pupils, £18,118 for 11 -18 year old pupils, £18,355 for 14-18 and £19,327 for 16+ students. These cost multipliers are updated on April 1st each year.</li> <li>• In circumstances where the expansion of an existing school is expected to cost in excess of s106 contributions derived from pupil yield rates and cost multipliers as outlined above, for example where schools are located in conservation areas or occupy constrained sites or have other planning limitations, then the developer will be expected to meet the full cost for the expansion of the school.</li> <li>• When a new school or early year's provision is required the developer would be expected to provide a site and construction costs including professional fees, loose and fixed furniture and equipment.</li> <li>• The value of contributions will be based upon cost multipliers current at the time of the signing of the formal agreement or the appropriate cost multipliers plus an index linked update (as defined earlier), whichever is the greater.</li> <li>• Contributions will also be sought in relation to development proposals</li> </ul>
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EDUCATION SUMMARY SCHEDULE	
	<p>exceeding 100 dwellings, to enable the provision of places for pupils with SEND. The cost multipliers will be reviewed in April each year.</p> <ul style="list-style-type: none"> <li>• A contribution will be sought for the revenue start-up costs for new schools and the expansion of existing schools subject to meeting agreed criteria for growth in pupil numbers.</li> <li>• Proposals to redevelop an existing school site by a developer may trigger the need for a replacement school.</li> </ul>
<p>What if there is spare capacity at the local catchment school?</p>	<ul style="list-style-type: none"> <li>• Contributions will be required for every pupil place required in excess of the projected capacity</li> <li>• If calculations indicate that spare capacity/places will exist in the catchment school by the time the development reasonably can be expected to generate new demand for places then the requirement will be adjusted accordingly</li> <li>• Projected capacity is calculated on the basis of:- <ul style="list-style-type: none"> <li>○ the catchment school's existing net capacity/number on roll</li> <li>○ any planned changes to the school building stock affecting the school's net capacity/number on roll calculation</li> <li>○ pupil projections (revised twice annually)</li> <li>○ developments with planning permission which will generate a need for pupil places</li> </ul> </li> </ul>
<p>Discounts</p>	<ul style="list-style-type: none"> <li>• Discounts only apply for one bedroom flats or houses or specialist units for example residential care homes for the elderly.</li> <li>• There is no discount for developments which wholly or partially comprise affordable housing as there is evidence to</li> </ul>

EDUCATION SUMMARY SCHEDULE	
	<p>show this type of housing can reasonably be expected to generate at least as many children as open market housing.</p>
Major Developments	<ul style="list-style-type: none"> <li>• Major developments for example SUE's will not necessarily rely on the figures above as they are not applicable to situations where a new school or early year's provision is required.</li> <li>• In such cases the County Council may require land from the developer within the site and sufficient monies to build the establishment</li> <li>• The cost of the new establishment will depend on the its required size, the relevant building standards requirements and issues relating to the proposed development</li> <li>• The County Council will make every reasonable effort to minimise the cost of providing a new school and/or early year's provision and offer the developer the option to build the new establishment subject to meeting the required building and design standards.</li> </ul>
Form in which contributions payments should be made	<ul style="list-style-type: none"> <li>• Land where required and financial contribution towards the cost of construction of buildings or works in kind including equipment/fitting out of new school and early years provision to the County Council's design and building specifications</li> </ul>

**APPENDIX 5****HIGHWAYS & TRANSPORTATION**

1. The successful delivery of housing and economic growth is dependent, amongst other things, on an effective and efficient transport system. A poorly functioning system can stifle growth, for example, through the impacts of traffic congestion on journey time reliability for businesses and land for potential housing development that is inaccessible due to a lack of suitable highway connectivity. All planning applications that propose developments that generate significant amounts of traffic movement must be supported by a Transport Statement or Transport Assessment prepared in accordance with current national and local guidance. In coming to a view as to whether a development and its proposed mitigation by planning obligations are acceptable the County Council will take account of whether the residual impacts are likely to be severe and whether <sup>20</sup>opportunities for sustainable transport modes are sufficient for the nature and location of the site in order to reduce the need for major transport infrastructure.
2. A key national planning objective of the planning system is to actively manage patterns of growth in support of sustainable travel. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Notwithstanding this, national economic and housing strategies and initiatives recognise that effective and efficient transport infrastructure is also vital the delivery of future growth.
3. To achieve sustainable development that is supported by an appropriate range of transport measures and infrastructure, the County Council will likely seek off-site public transport, cycling and walking measures, in the general area within which the development lies. These could include road based improvements such as crossings, footways, cycle routes, intelligent transport systems, public transport services, and bus priority measures. It will also include general highway infrastructure improvements that could

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<sup>20</sup> paragraph 109 NPPF (2018)

include additions to the highway network that would unlock sites; capacity improvements where journey times would otherwise be severely impacted or road safety adversely affected. As well as the use of s106 under the Town and Country Planning Act 1990, the County Council will also make use s278 and s38 of the Highways Act 1980 where works are required to an existing highway network or the provision of new adoptable highway works.

4. In some instances the County Council may also require planning obligations that provide a financial contribution towards wider transport infrastructure improvements or integrated transport measures. This may be where the quantum of development is insufficient to afford worthwhile improvements/measures in isolation and a contribution can be put towards a proposed transport investment in the wider area that would address the impacts of the development and where the contribution can be pooled with that from other nearby developments to fund the improvements.
5. Measures for Public Transport have to be assessed on each site through the Transport Assessment (TA) and Travel Plan (TP) process where applicable. However it is important that any new development has easy and convenient access to suitable, viable in the long term (i.e. once any developer contributions have been expended), public transport services suggested by any Transport Assessment and/or Travel Plan. Provision of bus services will ensure that the opportunity is taken to encourage travel by alternative means to the car and thereby optimising the long-term sustainability of the development.
6. Relevant Public Transport services and infrastructure will be secured through financial contributions or planning obligations, for example the provision of high quality bus stop infrastructure on-site or if suitable bus services off-site then providing additional and/or upgrading of existing bus stop facilities. These will include raised and dropped kerbs to allow level access on and off low floor buses. Depending on size and location of the site these may also include timetable cases, street information points, bus shelters and on street real time information to provide high quality and attractive public transport facilities, including public transport services and cycle parking facilities at transport hubs.

7. Ensuring easy, safe and attractive local walking routes to and from the boarding and alighting points of public transport services and cycle parking facilities at transport hubs is as necessary as the facilities and services themselves; the whole journey is important for encouraging sustainable travel. Optimum walking distances to and from these stops are assessed on a site by site basis but as an example of some typical distances: a 250 metre distance to a stop is desirable and manageable for most users (including the elderly or those with small children or encumbered with luggage/shopping etc); up to 400 metres is acceptable in urban areas with an absolute maximum of 800m in suburban and village communities. In rural areas outside villages the distances to stops should be the minimum practical in the circumstances and footways and footpaths leading to stops should be improved dependent on site location.
8. The ability to influence behaviour patterns from the start or early stages of a development is critical in successfully establishing sustainable travel behaviour by new residents, employees or visitors to those sites. Key methods of doing this include the provision of up-to-date information through Travel Packs, to inform potential travellers what sustainable travel choices and destinations are available in the surrounding area and what incentives may be available as inducements to begin to use travel choices other than private cars.
9. Provision of new public transport services such as demand responsive taxis/minibuses or bus services may be required depending on size, location, and type of development. Demand responsive services may be used to reduce early reliance on cars as the primary modal choice in the initial stages of the development, prior to the extension/introduction of bus services, as well as upgrading of existing services such as improving the frequency of an existing service to cater for the increased usage that development will generate. It is important that a sufficient level of public transport provision is available to accommodate the increased population in the area.
10. Developers will be required to commit to travel plan monitoring and to pay a separate fee to cover the County Council's travel plan monitoring costs proportionate to the size of the development and



the likely staff time involved if they choose the council to undertake such monitoring. Contributions will be sought in all cases where it is necessary to make the development acceptable in planning terms.

11. A suitable Travel Plan is required for each new single occupier employment site or a new single developer residential site of more than 80 dwellings and any new school, shopping, health or leisure development likely to generate significant traffic. 'A Framework Travel Plan' is required for a multi-use employment site or a multi developer residential site or complex including retail, community, health or leisure uses. Travel Plan contributions may be required for any of these types of Plan.
12. To ensure Travel Plan outcomes are being achieved and, where necessary, that remedial or planning enforcement action is initiated, Leicestershire County Council expects careful monitoring to be undertaken using a recognised survey and recording system and a standardised 'Travel Plan Monitoring Fee' will be charged to the developer to cover the Authority's costs for this service
13. Where the County Council receives funding to manage and deliver bus and associated services an administrative charge will be made. Monitoring and reviewing of public transport services will be charged to enable the county council to ensure the service delivery is provided as agreed if this is provided under a planning obligation. Commuted sums may be required for public transport infrastructure facilities.

HIGHWAYS AND TRANSPORTATION SUMMARY SCHEDULE	
<b>Current Guidance</b>	National Planning Policy Framework and Planning Practice Guidance Local Transport Plan LTP3 Leicestershire Highway Design Guide
<b>Type of facilities for which provision may be needed</b>	pedestrian and cycle facilities public transport improvements; public transport facilities and services travel plans (workplace, residential, school or

HIGHWAYS AND TRANSPORTATION SUMMARY SCHEDULE	
	<p>mixed use);  off site highway infrastructure improvements;  road and rights of way improvements;  traffic management schemes;  car parking and means of control;  traffic regulation orders;  support for car sharing scheme;  facilities for charging or refueling vehicles using new forms of energy (e.g. electricity, fuel cells, hydrogen);  associated landscaping includes planting and hard surfaces</p>
<p><b>Type of development which might trigger need for provision</b></p>	<p>Any type of development residential or other which leads to an unacceptable increase in traffic on the network or is detrimental to road safety or has inadequate access to walking cycling and public transport or inadequate parking provision or creates on street parking issues or affect a right of way.</p> <p>Requirements will depend on the particular circumstances of a development proposal and may include for example parental car parking at schools and traffic management.</p> <p>Normally a scoping study or Transport Assessment/statement will assist in assessing the requirements for a particular development.</p>
<p><b>Form in which payments should be made</b></p>	<p>Required infrastructure generally will be provided by the developer as part of the development, however some requirements (particularly those required 'off-site' or where a continuing management or maintenance) might be covered through financial contributions, bond or commuted sums, secured by legal agreements or undertakings made under the</p>

HIGHWAYS AND TRANSPORTATION SUMMARY SCHEDULE	
	planning and/or highways acts
<b>Contributions to capital costs or revenue costs</b>	<p>Generally capital but revenue also, for example bus services and required maintenance liabilities usually in the form of a commuted sum.</p> <p>Liabilities include compensation arising from development highways work.</p> <p>Other examples of contributions will include some or all of the following:</p> <p><b>Travel Packs</b> - to inform new residents from first occupation what sustainable travel choices are in the surrounding area including incentives to encourage changes in travel behaviour towards the greater use of sustainable travel modes.</p> <p><b>Bus services and infrastructure</b> – contributions to bus service provision, enhanced frequency, bust stops, bus shelters, raised and dropped kerbs, low floor vehicles, bus information displays including real time information displays, travel plans (normally from major employment sites and residential sites of more than 80 dwellings)</p> <p>A monitoring fee for a Framework Travel Plan (for a multi-use employment site or a multi developer residential site), or a Travel Plan (for a single use employment site or a single developer residential site), will be charged to enable Leicestershire County Council to provide support to the developers Travel Plan Co-ordinator; audit annual Travel Plan performance reports to ensure Travel Plan outcomes are being achieved and for it to take responsibility for any necessitated planning enforcement.</p>

HIGHWAYS AND TRANSPORTATION SUMMARY SCHEDULE	
	<p>The County Council will encourage the direct provision of the above infrastructure by the developer where appropriate otherwise the costs of the above will be calculated on a case by case basis.</p>
<p><b>Threshold for size of development for which contributions are appropriate</b></p>	<p>There is no specific level as a need for highways related contributions will depend on the local circumstances and situation pertaining to a particular development.</p>

**APPENDIX 6****LIBRARY SERVICES**

1. The County Council has a statutory responsibility under the Public Libraries and Museums Act 1964 to provide a comprehensive and efficient library service.
2. In 2014 a review of the County Council Library service asked people for their views on whether local communities could run their own libraries. Following the feedback the County Council agreed that its library offer would comprise of:-
  - 2.1. 16 County Council Funded Libraries
  - 2.2. support to enable community groups to run up to 35 libraries mainly in rural locations
  - 2.3. a mobile library service for most villages without a static library
  - 2.4. an online library service available 24 hours a day
3. The County Council considers that its libraries should be modern and attractive; located in highly accessible locations in close proximity to, or jointly with, other community facilities for example in retail centres or with other services for example health or education and ideally integrated within the design of an overall development of suitable size and standard for intended users.
4. Libraries will need to be flexible to meet the diverse range of users and be adaptable to the use of new technologies to meet the needs of their clients. They should provide access to print and digital materials, books, media (for example DVDs) and a wide range of information services; provide access to IT and host opportunities for learning and leisure.
5. Therefore new developments which place demand on library services and are likely to impact on the library services might require developer contributions to mitigate the impacts of a development on the library service secure by planning obligations.

## Community &amp; Voluntary Libraries

6. It is anticipated 33 of 36 libraries will be managed by local communities by the end of 2018. The majority of the community libraries are being developed as "Community Hubs" offering a range of cultural, leisure and information facilities for their local communities. The majority of the community libraries have become Community Interest Companies (CICs) as their form of governance. The County Council continues to provide book stock to the groups and peripatetic officer support to these libraries so planning obligations that relate to these libraries will be sought.

### LIBRARIES SUMMARY SCHEDULE

#### Current Guidance

- National Planning Policy Framework
- Community Infrastructure Levy Regulations
- Museums Libraries and Archives Council (MLA): Public Libraries, Archives and New Development, A Standard Charge Approach. May 2010
- Department of Culture Media and Sport (DCMS) Public Library Standards. 2001
- Arts Council England: The Community Infrastructure Levy, advice note for culture, arts and planning professional. April 2012
- Adults and Communities: Annual Service Plan
- Communities and Wellbeing Strategy 2016 – 2020 Providing Less: Supporting More;
- Askews and Holts: average book price indicators
- Leicestershire County Council: Property Services guidance on internal building costs

<b>LIBRARIES SUMMARY SCHEDULE</b>	
<b>Type of facilities for which provision may be needed</b>	<ul style="list-style-type: none"> <li>• Access to static and mobile library services to support reading learning and information provision.</li> <li>• Building work including internal adaptation and fitting out, extension and new building provision.</li> <li>• Resources including books, newspapers/magazines, study support material, audio visual stock.</li> <li>• Infrastructure including ICT network and equipment</li> <li>• Provision or enhancement of community facilities with appropriate partners</li> </ul>
<b>Type of development which might trigger need</b>	<ul style="list-style-type: none"> <li>• Any new residential development has potential for increasing the service delivery.</li> <li>• A large commercial/employment development could lead to an increase in the use of local library services</li> <li>• Student accommodation or halls of residence</li> </ul>
<b>Form in which payments should be made</b>	Financial in the majority of cases, however, for some large scale developments shared use of new/converted buildings may be more appropriate.

## LIBRARIES SUMMARY SCHEDULE

<b>Contributions to capital costs or revenue costs</b>	<p>Where new development generates a need for additional library provision, a contribution will be required. The need for a contribution will be established by comparing the current capacity of the library and population it serves against the number of people likely to be generated by a new development using standards developed by the MLA and DCMS. The formula used for calculating contributions is detailed below.</p> <p>Contributions will be sought for the library that will be most affected by a proposed development. This may not necessarily be the local community library in all cases but a larger sub-regional library that draws its catchment from the geographical area of the proposed development. Catchment populations are identified using post code data derived from the library management system.</p>	
<b>A contribution will be required for the enhancement of existing static library buildings and mobile provided services. Calculations are based on MLA Public Libraries, Archives and New Development: A Standard Charge Approach (May 2010). Assumed occupancy rates are:</b>	1 bed open market or affordable	= 1.5 persons
	2 bed + open market or affordable	= 3.0 persons
	1 bed student accommodation	= 1.0 persons
	MLA standard for public space in libraries:	30m <sup>2</sup> per 1,000 pop
	LCC cost per m <sup>2</sup> for new building of a public library building (based on Building Cost Indices) 2017	= £2,030 per m <sup>2</sup>
	Cost per 1,000 pop	= £60,900
	Cost per individual	= £60.90
	Building contribution per dwelling based on MLA assumed occupancy rates:	



LIBRARIES SUMMARY SCHEDULE		
	1 bed dwelling	= £91.35
	2 bed + dwelling	= £182.70
	1 bed student accommodation	= £60.90
	LCC cost per m2 for internal building work	= £1,128 m2
	Cost per 1,000 pop	= £33,840
	Cost per individual	= £33.84
	Internal building work per dwelling based on MLA assumed occupancy rates:	
	1 bed dwelling	= £50.76
	2 bed + dwelling	= £101.52
	1 bed student accommodation	= £33.84
<b>A contribution will be required for library materials and equipment to support reading, digital, learning and information services. Calculations are based on:</b>	Average number of residents per type of dwelling using the MLA assumed occupancy standards as above	
	DCMS standard for provision of library materials per 1,000 population Current average supplier price per item of stock including discount and servicing	
	These factors are converted into a formula for a cost per type of dwelling	
	National Library Standard of level of stock per 1,000 pop	Lower threshold = 1.157532
	Current average price per item added to stock, June 2017 March 2013	= £68.760

LIBRARIES SUMMARY SCHEDULE		
	Cost per 1,000 population	= £10,06356.00
	Cost per individual	= £10.06
	Library materials contribution per dwelling based on MLA assumed occupancy rates:	
	1 bed dwelling	Lower threshold = £15.0954
	2 bed + dwelling	Lower threshold = £301.018
	1 bed student accommodation	Lower threshold = £10.306

7. Currently a protocol is in place which allows the County Council to submit responses about developer contributions on behalf of the CICs. The protocol will be kept under review as the relationship with CICs is developed.

**APPENDIX 7****SPORTS & RECREATION**

1. Leicestershire and Rutland Sports (LRS) is the County Sports Partnership for Leicestershire, Leicester and Rutland. It is a partnership of the local authorities of Leicestershire, Leicester and Rutland working together with schools, National Governing Bodies of Sport, club coaches and volunteers to create a lasting legacy for sport and physical activity. Its focus is to ensure the national sport and physical activity resources have a local dimension and the national sport and physical activity policies are delivered or implemented at a local level. It is responsible for the development of sport and physical activity at County level working with partners to increase participation in sport and physical activity.
2. LRS will where appropriate use the national standards and a local evidence base to negotiate for the provision of sports facilities where it is identified that it is required to mitigate the impact of developments on existing sports facilities or provision. In some cases the developer will be expected to secure long term maintenance of those sports facilities
3. New developments, particularly major schemes can have significant effects on the sports facilities and capacity. In order to mitigate those impacts the methodology for the assessment of sports facilities will be based on a combination of local authority policy and specific modelling which can be undertaken in line with Sports England tools and information on facilities and planning which is available on the Sport England website including the sports facility calculator.

Threshold for the Level of contribution

4. Normally residential development proposal of 10 or more dwellings is likely to trigger a demand for sports, recreation and community facilities. The level and type of obligation will be dependent on current provision in the area and a development's proximity to existing provision. Generally the approach will be to require the developer to provide additional facilities on site where feasible. Although where this is not practical, the developer will be required to ensure provision is made off site at an accessible, convenient location to the proposed development.
5. Where it is not considered practical for the provision to be made by the developer then financial contributions will be sought to secure the necessary off site sports or recreation provision. In some cases the

developer will be expected to secure long term maintenance of those sports or recreation facilities

#### Implementation

6. Where contributions towards specific types of open space or recreational provision have been agreed, the Council will ensure that funding is held and pooled if needed in order that a specific scheme can be implemented. In other cases it may be that such provision needs to be secured solely through partnerships with the voluntary or other public sector bodies. In both cases, funding will be disbursed either to District Council projects or to Voluntary Sector agencies through the Grants Panel referred to earlier via an application process.

**APPENDIX 8****COMMUNITY SAFETY**

1. The focus of community safety partnership is on a combination of reduction and prevention of crime and disorder and the introduction and promotion of social and economic change. In recent years it has been acknowledged that tackling community safety issues cannot be done by the police alone and a multi-agency approach can be more effective.
2. There are seven Community Safety Partnerships in Leicestershire. Community Safety partnerships are made up of representatives of local authorities; the police and crime commissioner; police force; the fire and rescue service; probation services; voluntary bodies and others.
3. Good design principles will be expected when considering planning applications by the County Council, for example waste and minerals and schools. The District/Borough Councils determine planning applications where the majority of design issues in relation to designing out crime and anti-social behaviour arise from for example housing and employment.
4. Whilst the matters relating to community safety are likely to be subject to planning conditions, there may be circumstances when a legal agreement is required and normally the majority of planning applications for housing or employment would lie with the District/Borough Councils and any planning contributions, for example, for the police would need to be addressed through the local planning authorities.

**APPENDIX 9****PUBLIC HEALTH**

1. Since April 2013 Leicestershire County Council has been responsible for the majority of the public health services previously run by the NHS. The public health team in the County leads on improving health and helping people lead more healthy lifestyles with a focus on the population and commissions key services from a number of organisations. The services range from support to quit smoking, drug and alcohol abuse, obesity, sexual health to services to improve mental health and well-being. There is an obligation on planning authorities to work with public health leaders to ensure that decisions are made to improve the health and wellbeing of communities.
2. Operating these services from County Hall offers opportunities to link up with other duties of the County Council, particularly those areas which directly or indirectly affect health for example, social care, transport and libraries. The County Council, via the Director of Public Health, is also required to assure itself that relevant organisations have appropriate plans in place to protect the health of the population (e.g. from infectious diseases). The public health team also works closely with NHS colleagues particularly in clinical commissioning groups to ensure that local health services closely match the health needs of local people and to provide advice to them.
3. There may be circumstances when a s106 agreement will be required to secure required planning obligations.

**APPENDIX 10****NOTIFICATION PROCEDURE FOR PLANNING OBLIGATIONS**

1. New development often requires planning obligations from developers to provide for necessary improvements to local infrastructure and services. These may be provided by the District or Borough and/or the County Councils in Leicestershire or may be secured on behalf of other agencies. It is in the interest of all parties to ensure a full range of relevant infrastructure or facilities arising from any particular development is made available for the benefit of the local community irrespective of the distribution of responsibilities for different services.
2. The District or Borough Councils, as local planning authorities, are the first points of contact for the majority of developments proposals which would be likely to require planning obligations. A formal protocol was established through the original County -wide supplementary guidance document to ensure that all responsible parties are offered the opportunity to assess the implications/impact for service provision arising from new development proposals. This procedure has evolved and has been improved and needs to respond to changes in circumstances.
3. The procedure for consultation between the District/Borough Councils and the County Council on proposals as set out in the previous Development Control Agreement will continue to operate.

## The Procedure

4. The County Council's Developer Contributions Officer (Chief Executive's Department) will be the coordinator for developer contributions matters and will be responsible for contacting nominated officers within the relevant County Council services and responding to the District or Borough Councils on any development proposal notified by them.
5. Individual planning officers at the District/Borough Councils will be responsible for notifying the County Council Developer Contributions Officer of relevant development proposals as defined in the following paragraphs:-
  - 5.1. Residential development of at least 10 dwellings or 0.25 hectare @ 36 dwellings per hectare in size;

- 5.2. Significant or major proposals for employment; retail; leisure; mixed use developments which are likely to give rise to requirements for developer contributions;
6. There may be circumstances where there are a large number of proposals below 10 dwellings in an area. The County and District Councils will need to advise each other of these smaller proposals, where it is established that individual services and facilities are close to capacity or will require improvement as a result of development. Individual service providers have identified separately in the guidelines the locations where there are 'special concerns' for particular services and these will be reviewed by the service departments on a regular basis. In the case of education provision, the roll of schools can vary from term to term and in order to obtain up-to-date information on spare capacity it will be necessary to consult the Education Department.
7. Individual service providers will review the contents of the guideline tables on a regular basis, in the context of annual programmes and changes in circumstances. In some locations, the cumulative impact of proposals for 'small sites' (i.e. below the identified thresholds) may result in the need to improve service provision. The County Council will maintain records of the accumulation of 'small' developments, based on the 'small sites' information provided by District Councils. Relevant development proposals include planning applications, any pre-application inquiries and development briefs on the following:
  - 7.1. proposals that are identified as Local Plan allocations. although there may have been consultation on these sites through the local plan process, it will be necessary to notify the County Council of subsequent planning applications, in order that its service requirements agreed through the local plan process can be formally secured. It will also be necessary where the local plan does not set out the specific contributions that will be required. It may exceptionally be appropriate to consider additional contributions in addition to those set out in local plans where there are new considerations to be taken into account;
  - 7.2. 'windfall sites', which can often give rise to previously unidentified requirements for services and facilities;



- 7.3. proposals which are the subject of appeal and/or 'call-in' proceedings, where notification procedures have not been concluded or require confirmation.
8. Notification by the District Council shall be in an appropriate form either by email or letter the contents of which shall be agreed by the County and District Councils and reviewed as necessary. Details of the site of the proposal, the description of the proposed development and the application number should be provided to the County Council and provision of an access/web link to identify the site of the proposal, an adequate location plan, and written submission or details which accompany the developer's application or inquiry.
9. In agreed cases, the County Council developer contributions officer, together with a representative of other County Council Services as may be necessary, will be given the opportunity to attend any meetings which may be held between the District Council and a developer and / or agent to discuss potential contributions, with the agreement of the developer.
10. The County Council developer contributions officer will respond to all notifications of planning proposals by the District Council within 21 days, unless an extension of time is granted at the discretion of the District Council's officer.
11. Prior to the final decision on the proposal being made, in the event of any requirements for developer contributions associated with Leicestershire County Council service provision not being agreed, the District Council officer will formally notify the County Council developer contributions officer of the circumstances. The County Council will be given the opportunity to respond if any of its requirements are not agreed and where appropriate to prioritise its bid for contributions towards service provision and facilities. The County Council will respond to the District Council within 14 days of the subsequent notification, unless an extension of time is granted at the discretion of the District Council officer.
12. On occasions, a developer or agent will contact an individual service department of the County Council to discuss the matter of contributions arising from a potential development. In these circumstances, the nominated officer of the service department shall advise the County Council developer contributions officer, within 3 days, of the nature and location of the proposed development. Within 3 days of receiving this advice the County Council developer

contributions officer shall notify the relevant officer of the District Council of the proposal, using the pro-forma and documentation.

#### Legal Agreements

13. After any legal agreement, obligation or unilateral undertaking has been signed and the planning permission has been issued, a copy of the relevant document shall be sent by the District Council to the County Council Legal Services. In the case of County Council determined applications, a copy of the s106 agreement / unilateral undertaking shall be sent by the County Council to the relevant District Council's case officer and the County Council will arrange for Local Land Charges registration as appropriate.

#### Staged / Trigger and Timing of payment

14. This will vary but broadly speaking payment should be made at a time that enables the provision of the facility that is being funded at the time when it is needed. There is no rigid formula to calculate this and it can be varied according to individual circumstances.
15. In the field of education contributions, for example, a payment scheme has developed which normally requires:-
  - 10% on commencement of development to enable commencement of the design of the project;
  - 45% at about the mid- point in the development;
  - 45% towards the end of the development.
16. The payment scheme does vary however, for example where the money will be used to fund part of a larger contract that will incorporate the additional accommodation being funded.
17. Similar types of trigger points and timings of payment of obligations can apply to highway contributions.

#### Method of payment

18. Payment does not necessarily have to be in the form of a financial contribution. It might for example necessitate additional educational

facilities and the developer may be given the option of either paying a financial contribution or constructing the additional facilities to the County Council CYPs specification and design requirements. Alternatively, if the work being funded by the developer is part of a larger extension, the developer may be told that the only option is to make a financial contribution.

19. The same sorts of general consideration on the method of payment and whether the developer or the Highway Authority does the work apply to highway contributions.
20. A record and database will be kept and maintained of payments received. The trigger points at which payments will normally be made will be monitored by the District Council or the County Council as appropriate. If considered appropriate the legal agreement must include clauses requiring the developer to notify the local authority when trigger points are reached or a prescribed period has elapsed. Payments of contributions must be made to the appropriate council or service provider

Supplementary Notes:

21. The District Councils will continue to consult directly with Fire, Police and Health Authorities to ascertain any appropriate service requirements, as they are not part of the County Council's function.

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