

Agenda Item No. 7(w)

DERBYSHIRE COUNTY COUNCIL

CABINET

20 September 2016

Report of the Strategic Director - Economy, Transport and Communities

**DEVELOPER CONTRIBUTIONS PROTOCOL (STRATEGIC POLICY,
ECONOMIC DEVELOPMENT AND BUDGET)**

(1) **Purpose of Report** To approve the attached draft Developer Contributions Protocol and agree to its subsequent publication and dissemination across Partner organisations.

(2) **Information and Analysis** Economic growth brings many advantages but the consequences of new development on the highway network, education and other social infrastructure can be significant. Provision is available to local authorities under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure contributions from developers that help mitigate these impacts.

The Developer Contributions Protocol (the Protocol) was originally published in May 2012 and refreshed in November 2013. The County Council committed to reviewing both the existing Derbyshire Infrastructure Plan and the Protocol on a triennial basis; the next review is due to be completed by December 2016.

The Protocol sets out the scope of services being covered and specifically, how the County Council: responds to consultations on planning applications for housing development; negotiates Section 106 Agreements; and monitors the income and expenditure of Section 106 monies. For clarity, the Protocol excludes those highways and transport functions which are dealt with by the County Council's Highways Development Control Service as the Highway Authority.

The County Council has been very successful in working with local district/borough councils and negotiating legal agreements that mitigate the impact of development on major physical and social infrastructure. In 2015-16 alone, the County Council secured £5.7 million funding for these purposes (excluding highways). The successful receipt of monies, however, depends on when/whether developers implement their planning permission and requires active monitoring of the triggers contained in the legal agreements.

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) introduced a new restriction that limits councils to pooling the contributions of no more than five planning obligations towards a single infrastructure project. Careful monitoring is therefore required to ensure compliance with the CIL Regulations and to ensure the most appropriate schemes and interventions are supported.

To support this work, the County Council has developed a new checklist which it will use in the preparation of legal agreements. This includes methodology for calculating school place provision; broadband provision; and public health requirements (in line with ongoing work with local clinical commissioning groups). Contributions will no longer be sought for waste management as there would be no match funding to ensure delivery of new facilities. The County Council will keep under review opportunities to secure developer contributions for waste, libraries and energy infrastructure.

The draft Protocol is attached as Appendix A to this report and has been subject to informal consultation with district and borough councils and has been amended to reflect their comments. Once approved, the Protocol will be disseminated to local planning authorities and serve as the basis for the County Council's response to planning applications on the strategic infrastructure implications of major housing development.

County Council officers are currently working to develop a monitoring system to support implementation of the Protocol and enhance the County Council's records on the receipt and expenditure of developer contributions. This approach will secure greater efficiency and effectiveness by bringing together and replacing the Section 106 databases currently used in Children's Services and Planning Services.

(3) **Financial Considerations** The Developer Contributions Protocol guides the County Council's approach to mitigating the negative impact of development in local communities and on the provision of local services by securing monies via Section 106 Agreements. Section 106 Agreements signed in 2015-16 secured £5.695 million towards the provision of County Council activity and this is legitimate but heavily negotiated income.

(4) **Legal Considerations** The Town and Country Planning Act 1990 (as amended) makes provision for legal agreements to be secured with developers under Sections 106. This agreement is the legal mechanism which makes development acceptable in planning terms, that would otherwise not be acceptable.

Common uses of these legal obligations are to secure affordable housing and secure financial contributions to provide infrastructure. Often, such

agreements require a sum or sums to be paid to the local authority, either provisionally or on specified dates.

The legal tests for the appropriate use of a Section 106 agreement are set out in Regulations 122 and 123 of the CIL Regulations (as amended). The tests are:

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

(5) **Social Value Considerations** The relevance of social value in terms of social, economic and environmental wellbeing has been considered in the preparation of this report. Meeting the current and future needs of communities in the most sustainable is central to the role of the County Council and its provision of services and infrastructure. Section 106 agreements can be used to meet social value objectives, particularly in supporting local businesses and economy, and the use of local labour supply in the development process when appropriate.

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

(6) **Key Decision** No.

(7) **Call-In** Is it necessary for the call-in period to be waived in respect of the decisions being proposed in the report? No.

(8) **Background Papers** Held on file within the Economy, Transport and Communities Department. Officer contact details - Chris Massey, extension 39805.

(9) **OFFICER'S RECOMMENDATIONS** That Cabinet:

- 9.1 Approves the updated Developer Contributions Protocol (September 2016) attached in draft at Appendix A.
- 9.2 Agrees the subsequent publication and dissemination of the document to key partners.

Mike Ashworth
Strategic Director - Economy, Transport and Communities

Developer Contributions Protocol September 2016

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Appendix A: Form 1 – Planning Obligations Payment Request

1. Consulting the County Council on Proposed Housing Development

As local planning authorities (LPAs), it is the borough and district councils and the Peak District National Park Authority that determine planning applications for housing development. However, it is the County Council and other providers that are responsible for delivering much of the vital infrastructure and services which can face extra demand resulting from such development.

The County Council should be involved at the earliest possible stage in the assessment of proposed residential schemes and the negotiation of Section 106 planning obligations. A named Principal Planner (Economy, Transport and Communities Department) will act as a **single point of contact** for services covered by this Protocol as described in Section 2. All correspondence should be sent from LPAs electronically via email to planningpolicy@derbyshire.gov.uk.

Pre-application discussions help to speed-up decision making and provide clarity. Developers are encouraged to engage in discussions and meetings with Local Planning Authorities prior to submitting planning applications. The County Council will only respond to pre-application enquiries that are sent via Local Planning Authorities. The County Council will no longer respond to pre-application enquiries received directly from developers, landowners and their agents.

LPAs should notify the County Council of any **major residential planning applications of 11 dwellings or more** at the earliest opportunity. The County Council should be provided with sufficient information to identify the site of the proposal (location plan), and the type and nature of the proposed development (total gross number of dwellings and number of dwellings with one bedroom and restricted to those aged 55 and over). All correspondence should be sent electronically via email to planningpolicy@derbyshire.gov.uk. The Principal Planner (Economy, Transport and Communities Department) acts as a **single point of contact**.

As a Statutory Consultee, the County Council's Highways Development Control Service must be consulted by all LPAs **separately** on all planning applications which have a potential impact on the County's highway network and transportation infrastructure. The Highway Authority is obligated to provide a substantive response to all consultations within 21 days. The Principal Planner (Economy, Transport and Communities Department) and the County Council's Highways Development Control Team liaise to ensure that responses back to LPAs are broadly consistent. Correspondence for the County Council Highways Development Control Team should be sent to ETC.DevelopmentControl@derbyshire.gov.uk. See Section 9 for further information.

2. The County Council's Response

The following County Council services and infrastructure **are covered** by this Protocol (see Sections 6-8):

- Education
- Broadband
- Health

The following services and infrastructure **are not covered** and developers and LPAs should refer to the organisations named for further advice (see Section 9):

- Highways (County Council's Highways Development Control Team)
- Public Rights of Way (County Council Highways Development Control Team)
- Travel planning (County Council's Highways Development Control Team)
- Local Authority Collected Waste (district and borough councils)
- Libraries (County Council's Libraries and Heritage Service)
- Waste (County Council's Waste Management Team)
- Flood and water management (County Council's Flood Risk Team)
- Biodiversity (Derbyshire Wildlife Trust)
- Archaeology (Derby and Derbyshire Development Control Archaeologist based at Derbyshire County Council)
- Landscape character (Local Planning Authority)
- Canals and Waterways (County Council's Countryside Service)
- Fire and Rescue (Derbyshire Fire and Rescue Service).

The Developer Contributions Protocol does not cover local services or specific funding schemes established by the LPAs and County Council's Planning Authority including:

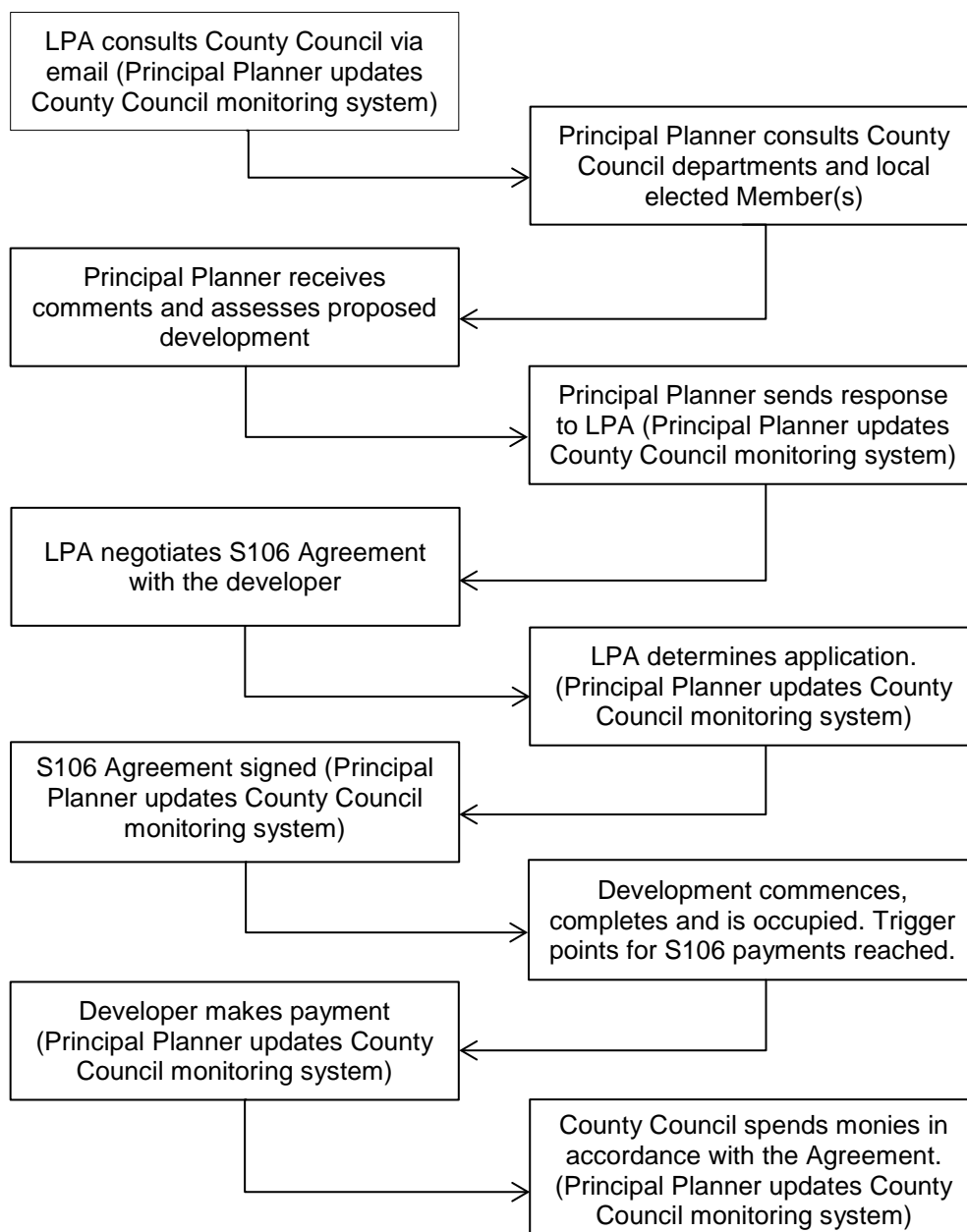
- Affordable housing
- Public realm and art
- Open space
- Recreation and leisure
- National Forest
- River Mease Catchment
- Minerals

The County Council responds to pre-application enquiries and consultations on planning applications from LPAs within 21 days of receiving them. The Principal Planner, (Economy, Transport and Communities Department), acts as a **single point of contact** and coordinates comments from County Council departments and elected Members to assess the proposed development and prepare a response.

For pre-application enquiries, Derbyshire County Council's elected Members are consulted for their views on the developer contribution implications only. The details and design of the proposed development may change before it is finalised into a formal planning application. If a formal planning application is submitted, the LPA will carry out a wider public and Member consultation. At the pre-application stage, consultations sent to County Council elected Members will be for their attention only.

The County Council's response advises the LPA on how the development could impact on strategic infrastructure and services. Where necessary, the County Council will request the mitigation of impacts identified, including (for example) through maintenance and service delivery, the improvement or enhancement of existing infrastructure, and the delivery of new infrastructure. Requests will comply with Community Infrastructure Levy (CIL) Regulations.

It remains the responsibility of the LPA to consider the County Council's advice and determine the application, including any decision to require developer contributions via Section 106 (S106) planning obligations.



3. Mitigation – Planning Obligations and CIL

The County Council's response advises the LPA on how the proposed development could have unacceptable impacts on strategic infrastructure and services. The County Council's response advises the LPA of any opportunities to enhance existing or provide new infrastructure and services.

It may be possible to resolve any unacceptable impacts that have been identified through the use of planning conditions.

However, it may be necessary to use planning obligations by entering into a legal agreement in order to resolve the impacts identified. Planning obligations are negotiated on a case-by-case basis, based on the characteristics and impacts of the proposed development in question.

Section 106 Agreements (where the County Council is party to the legal agreement) and Unilateral Undertakings (where the County Council is not party to the document) can include planning obligations that secure financial contributions towards improving or expanding existing infrastructure or providing new infrastructure, the direct provision of services, infrastructure, land and buildings, or payments towards ongoing maintenance and service delivery costs.

The County Council requests and enters into planning obligations using Section 106 Agreements only where they comply with the legal requirements set out in the CIL Regulations 2010 as amended and the National Planning Policy Framework. Obligations must be:

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

CIL is a tariff-based approach that provides funding for infrastructure and service delivery to support the development of the area. The amount per square metre to be paid by developers is set out in advance in a CIL Charging Schedule.

The CIL Charging Schedule is subject to consultation and public examination before it is adopted by the LPA. This means that everyone is aware of the amounts payable in advance of a planning application and it is a fairer and more transparent approach than Section 106 planning obligations which rely on a case-by-case negotiation.

To justify introducing a CIL, the LPA must provide evidence on the total amount of funding for infrastructure required to support growth and delivery of the Local Plan. The CIL Regulation 123 List sets out which infrastructure projects are to be funded by CIL. LPAs can pass funds raised via CIL to the County Council to deliver infrastructure projects on the Regulation 123 List.

LPAs can choose to introduce a CIL. At the time of writing, only Chesterfield Borough Council has introduced a CIL in Derbyshire. Where a CIL is in place, the County Council requests funds from the CIL pot to deliver the infrastructure projects included on the Regulation 123 List in order to mitigate any impacts identified.

Where a CIL is in place, Section 106 planning obligations can be used still provided that:

- the obligations meet the three tests set out in the CIL Regulations;
- the obligation is not being used to deliver a project that is on the Regulation 123 list and is to be funded via CIL (to ensure developers are not 'double charged' for the same project); and
- it complies with the 'pooling' restrictions.

The CIL Regulations restrict the pooling of Section 106 planning obligations. No more than five Section 106 obligations dating from April 2010 can be pooled together towards a single 'infrastructure project'. The term 'infrastructure project' is not clearly defined in the Regulations, but the County Council takes it to mean a specific single project such as the construction of a classroom at a named school, rather than a broad infrastructure type such as 'education', for example.

The restriction imposed since April 2010 by the CIL Regulations on pooling funds from Section 106 planning obligations presents a real risk that LPAs will reach the limit of five obligations for certain projects and will be unable to enter into additional obligations for those projects.

If the pooling limit of five obligations has been exceeded and there is no CIL in place, the County Council may decide to object to the proposed development because the mitigation necessary to resolve any negative impacts identified could not be funded, and therefore the proposed development would not be acceptable.

It remains the responsibility of the LPA to consider the County Council's advice and determine the application, including any decision to require developer contributions via Section 106 planning obligations.

4. Section 106 Legal Agreement Checklist

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

- Drafting - Section 106 Agreements should be prepared in draft form once an assessment of the impacts of the proposed development has been completed, in advance of any report being submitted to Planning Committee. Drafting the legal agreement ahead of issuing a delegated decision notice or taking a report to Planning Committee meetings (and public inquiries) enables all parties to review the provisions and helps to avoid delays in issuing decisions once applications have been determined. Section 106 Agreements, however, **should not be** dated before an application has been determined by the Local Planning Committee or the Planning Inspectorate on appeal. See also Section 3 about the pooling restriction and the penultimate bullet point below about repayment and the requirement for Section 106 Agreements to include a clause that says where funds are committed they should be treated as spent.
- Signatories - The County Council should be a signatory to Section 106 Legal Agreements which relate to services that are the responsibility of the County Council. Being a party to the agreement enables the County Council to know if and when contributions are due or should have been paid. Copies of signed agreements should be provided to the County Council's Director of Legal Services, Corporate Resources Department, so that monitoring records can be updated.
- Indexation – The County Council prefers to index financial contributions to the All in Tender Price Index of Building Cost Information Services published by the Royal Institute of Chartered Surveyors. This index tracks construction material costs much more accurately than the Retail Price Index.
- Pooling restrictions – To ensure that planning obligations do not exceed the restrictions on pooling imposed by the CIL Regulations, obligations should be as specific as possible and should refer to a particular named project (for example "School x Project a: additional classroom"). Projects will be specified to this level of detail in the County Council's response.
- Triggers – Standard trigger points include 'prior to commencement', 'upon occupation', or 'upon completion'. Developers may wish to delay paying financial contributions until they have received some income from the sale of dwellings to help with cash flow. However, this can mean that the impact on infrastructure and services of households occupying new dwellings is felt before funding is received to mitigate that impact. Therefore, payments should be phased for early in the

occupation of developments and in fewer larger tranches rather than several smaller ones.

- Viability - The County Council can be flexible to assist developers where schemes are showing marginal viability. For example, there may be scope to collect contributions in instalments or to phase payments later in the development process (although, as stated above, this is not ideal). The County Council may consider to 'forward fund' infrastructure by spending money out of its budget in advance of receiving money from the planning obligation. In these circumstances, the County Council would expect developers to provide financial information on the viability of their scheme to the LPA.
- Repayment – The County Council requests contributions once the trigger point(s) have been reached using Form 1 - Planning Obligations Payment Request (see Appendix A). The County Council endeavours to spend contributions as soon as possible and in accordance with the Section 106 Agreement. Cabinet approval is required to authorise the expenditure of funds. This, plus the time it takes to tender and contract the works, can mean that the time limit for repayment is reached. Therefore, Section 106 Agreements should include a clause that says where funds are committed they should be treated as spent. If funds are not committed within the time limit specified by the Legal Agreement (usually five or seven years), the contribution would be returned to the developer.
- Legal fees – considering a draft, obtaining instructions, negotiating amendments and executing the agreement requires input from the County Council's Legal Department. The County Council will seek to recover legal fees from the developer by using a clause in the Section 106 Agreement. At the time of writing, the fee is £1,000 for up to ten hours work and £65 or £75 per hour thereafter, depending on the level of fee earlier involved. These fees are under review.

5. Monitoring, Income and Expenditure

The County Council:

- keeps records of its responses to pre-application enquiries and planning applications;
- monitors progress with planning applications and records decisions; and
- monitors Section 106 Agreements and planning obligations to ensure compliance with the pooling restrictions introduced by the CIL Regulations.

The County Council and LPAs in Derbyshire use a shared land use monitoring and reporting system. Each LPA should input data on planning permissions and planning obligations regularly. Each LPA should regularly update the system with information on the progress of development, noting how many dwellings are under construction or completed. The County Council uses the shared system to monitor progress with developments and to check whether trigger points for planning obligation payments have been reached.

When trigger points for planning obligation payments are reached, the County Council uses Form 1 - Planning Obligations Payment Request to request that the payment is made (see Appendix A). The County Council states which development the request relates to, how much the request is for, and specifies a project to demonstrate how the monies are to be spent in accordance with the Section 106 Agreement.

The contribution is received by the County Council's Corporate Finance Team (Capital) and attributed to the relevant service. The County Council's records are updated. The County Council monitors expenditure to ensure that contributions from planning obligations are spent in accordance with the Section 106 Agreement. Where specified in the Legal Agreement, any contributions that are not spent are returned to the developer (usually within five or seven years).

Data on developer contributions under this Protocol is reported internally each quarter. Data on developer contributions relating to the Highway Authority can be made available on request.

6. Education

Assessing the Proposed Development

The County Council, as the Local Authority, has a statutory duty to plan for and provide a school place for each child at their normal area school(s). This duty applies across all schools and includes academies. Although a new school must be established as a Free School, and some existing schools have opted to become an Academy, the statutory duty to plan provision remains with the Local Authority. The provision of additional school places is required to ensure that proposed housing development is acceptable.

When the County Council responds to a consultation on a proposed development, it assesses the total gross number of dwellings proposed within the application site. One bedroom dwellings are excluded from the assessment as it is unlikely that families with children would occupy these dwellings. Dwellings that will be restricted to occupation by people aged 55 and over are excluded from the assessment also.

The County Council's response includes information on the number of pupils that the development is expected to generate, the net capacity of the normal area school, the current number of pupils on roll and the projected number of pupils on roll for the next five years at the normal area school.

The number of pupils that the development is expected to generate is calculated using the formula that for every 100 dwellings there will be 20 primary, 15 secondary and 6 post-16 pupils. This formula is based on a statistical assessment of birth rate and housing occupancy data in Derbyshire.

The net capacity of the normal area school is the nationally agreed measure of a school's ability to accommodate pupils. Following any building work at the school, the net capacity is reviewed and may change to reflect refurbishment, extensions or adaptations to the building.

The information on the current and projected number of pupils on roll is kept as up-to-date as possible, but many factors impact on pupil numbers and the situation can change very quickly. Therefore, pupil projection information is a snapshot in time. At any time during the year, families may move into or out of a school's normal area, the Head Teacher or other staff may change, or the Office for Standards in Education (OfSTED) may publish a report which influences public perception of a school. These factors, amongst others, can impact on pupil numbers and can change projection trends.

The pupil projection information only accounts for trends within the existing population. The projections **do not** account for planned new housing developments (with or without planning permission) within the normal area of a school.

Therefore, when assessing a proposed development, the County Council must consider the impact of other development within the normal area over and above any impacts anticipated as a result of demographic trends within the existing population. The County Council looks at the impact of all major residential development with extant planning permissions within the normal area to assess the impact that committed development coming forward will have on school capacity.

The County Council's assessment advises the LPA on whether the normal area primary and secondary (including post-16) schools can accommodate the additional pupils arising from the proposed development or not.

Where a development proposal is within the normal area of a Derby City school, the County Council will consult Derby City Council for their views on the education impacts of the proposed development and incorporate those views into its assessment.

Mitigation

Where the County Council's assessment concludes that the normal area schools would have sufficient capacity to accommodate the pupils arising from the proposed development, the County Council will advise that no mitigation is required.

Where the County Council's assessment concludes that the normal area schools would not have sufficient capacity to accommodate the pupils arising from the proposed development, the County Council will request financial contributions to provide additional capacity.

To deliver the additional capacity, the County Council looks first at whether the existing accommodation at the school can be reconfigured. If it is not possible to reconfigure existing accommodation, the County Council next looks at whether the existing school can be expanded, for example by providing new classroom accommodation.

Where a contribution is required to provide additional school place capacity at an existing school, the level of contribution is determined by using figures that are provided nationally by the Department for Education on the cost per pupil of capital development in schools. These figures are based on the Department for Education's analysis of national building costs per pupil and are adjusted to reflect regional variations in costs. The thresholds and level of contribution for providing additional school place capacity at an existing school in Derbyshire are below.

	Per 100 dwellings	Cost per pupil place	Cost per 1 dwelling	Cost per 10 dwellings	Cost per 100 dwellings
Primary school	20 places	£11,399.01	£2,279.80	£22,798	£227,980
Secondary school	15 places	£17,176.17	£2,576.42	£25,764.20	£257,642
Post-16 education	6 places	£18,627.90	£1,117.67	£11,167.70	£111,677

Where the County Council's assessment concludes that it is not possible to provide additional capacity by reconfiguring or expanding the existing school, the County Council will advise that a new school is required.

It is anticipated that a proposed development scheme of around 1,000 dwellings will require provision of a new one-form entry primary school and proposed development schemes of around 6,000 dwellings will require provision of a new secondary school. However, these thresholds are only a guide. As stated above, if existing schools cannot be expanded, the County Council may advise that a new school is required for smaller scale residential developments.

Currently, a new one-form entry primary school costs the County Council between £3.5 million and £5 million to build. Currently, a new secondary school of 900 pupils costs the County Council approximately £20 million+ to build. Where a new school is required, the County Council will require funding for construction **and** funding for or provision of suitable land for the new school. Developers may choose to provide the site and construct the school themselves, to the County Council's specification, as often they can deliver the school at a lower cost.

Where it is feasible and necessary to do so, the County Council will pool contributions from up to five sites towards provision of the new school, and pro-rata the cost of providing the new school between each development site accordingly. This approach would be dependent on the timing of housing delivery and the different developers working together with the County Council to deliver the new school. This approach is dependent on compliance with the CIL pooling restrictions.

Projects

The Derbyshire Infrastructure Investment Plan:

- shows where growth is expected to happen, the infrastructure required to support that growth, and how that infrastructure will be funded and delivered; and
- identifies areas where new residential development is likely to result in a need for the delivery of additional school places, either through expansion of existing schools or the provision of new schools, subject to financial contributions from developers.

The Derbyshire Infrastructure Investment Plan is updated regularly as the County Council's projections of pupil numbers are reviewed each year. However, the demand and need for additional places can change as a result of a number of factors (for example academic results, OFSTED inspections and parental preference, as well as demographic changes). Therefore, other areas not identified in the Derbyshire Infrastructure Investment Plan may require investment in the provision of school places and consequently, it should be used as an indicative guide only.

Where a financial contribution is requested towards the provision of school places, the County Council's response identifies which specific project would be funded by the contribution. This ensures compliance with the pooling restrictions introduced by the CIL Regulations. It provides certainty and clarity for developers and communities on how the funds are to be spent. See also sections 3 and 4 regarding pooling restrictions.

7. Broadband

Assessing the Proposed Development

Broadband service quality varies across the County and access to superfast broadband speeds in Derbyshire is limited. Investment in the County's broadband infrastructure, to support its future economic prosperity, continues to be a priority for the County Council.

The Digital Derbyshire programme is a partnership between Derbyshire County Council and BT to provide access to high speed broadband services for residents and businesses. The objective is that 98% of homes and businesses in Derbyshire will be able to access speeds of at least 24mb per second by the end of 2018.

The Digital Derbyshire programme applies to existing households and businesses. New residential developments coming forward will not necessarily be covered by the Digital Derbyshire programme.

Therefore, all developers proposing housing developments should look to provide for high-speed broadband infrastructure and services as part of the design of their development schemes at the outset.

Mitigation

Developers should look to provide for high-speed broadband infrastructure services as an integral part of the development scheme at the outset.

BT Openreach is now offering fibre-based broadband to all new residential developments. In the majority of cases connection will be provided free of charge to developers although in some cases, a part-contribution from the developer may be required. BT Openreach will make a significant contribution before seeking any funds from developers.

High speed broadband connectivity is a crucial factor for homeowners when deciding to buy a house. The Home Builders Federation (HBF) is promoting and supporting the uptake of this funding amongst its members to ensure that high quality broadband services are provided as an integral part of new build homes. More information can be found here: <http://www.newdevelopments-openreach.co.uk/developers-and-architects/hbf.aspx>

BT Openreach is not the only provider of high-speed broadband services. Developers may wish to make enquiries with other service providers to explore whether other more cost-effective options are available.

LPAs should attach advisory notes to planning permissions to request that developers work with broadband providers to ensure high-speed broadband services are incorporated as part of the design of new development.

8. Health

Assessing the Proposed Development

Responsibilities for public health transferred from the former Derbyshire County Primary Care Trust to Derbyshire County Council in April 2013. The County Council is responsible for a range of services, including drug and alcohol misuse services; physical activity and tackling obesity; community safety; sexual health services; accidental injury prevention; seasonal mortality; public mental health; stopping smoking services; lifestyle interventions; health at work; children's public health; social exclusion; dental public health; fluoridation; prevention and early presentation in relation to cancer; and the commissioning of health visitors. Public health programmes are revenue funded and are delivered by the County Council. Therefore currently the County Council is not seeking developer contributions towards them. Developers, however, can make positive contributions to enhance the physical and mental wellbeing of future residents through the design and layout of their housing schemes. See comments on Health Impact Assessment below.

Primary care, typically provided by a general practitioner, paediatrician or nurse, is the first point of contact with health services for most people in most circumstances. It provides the gateway to a comprehensive system of care and treatment and when a patient needs to see a specialist it is the primary care clinicians that initiate the process by which patients can access that care. The Clinical Commissioning Groups (CCGs) coordinate the provision of primary care. Contact details for the CCGs will be added in due course.

The County Council is working with LPAs through the Derbyshire Planning and Health Steering Group to produce a health toolkit which can be used to review the health impacts of Local Plans during their preparation and review. The County Council is also supporting CCGs to develop a shared approach for assessing the impact of development proposed through planning applications on the delivery of primary care services and the health care facilities (buildings). This work is in the early stages and the Protocol will be updated once an approach has been agreed.

Once an approach has been agreed, the CCGs will consider the impact of the proposed development on healthcare services and facilities and will advise LPAs on potential mitigation.

Planning applications for major residential development of 100 dwellings or more should ideally be accompanied by a Health Impact Assessment (HIA). During 2016, the County Council has been working with the Homes and Communities Agency, North East Derbyshire District Council, Bolsover District Council, Chesterfield Borough Council, NHS Hardwick and North Derbyshire CCGs, Data Orchid and Lincolnshire County Council to pilot the use of a HIA of a major development scheme, which could then be used for this purpose. The final report will be published in the summer of 2016.

Mitigation

Mitigation will depend very much on the individual circumstances of the proposed development and the health care facility to which it directly relates. Mitigation could include, for example, the use of Section 106 planning obligations to secure financial contributions towards the improvement of existing or provision of new healthcare facilities.

9. Other Services

The following services and infrastructure **are not currently covered** in the County Council's response. For further information, developers and LPAs should contact the named organisation.

9.1 Highways and Public Rights of Way

As the Highway Authority, Derbyshire County Council must be consulted as a statutory consultee on highway matters, including Public Rights of Way. New development provides an opportunity to provide new strategic green infrastructure through the inclusion of Public Rights of Way within the design of a proposed development scheme. The County Council's Highways Development Control Team will advise separately on opportunities for development to contribute to the county's green infrastructure. Contact ETC.DevelopmentControl@derbyshire.gov.uk.

9.2 Travel Planning

Travel Plans are a cost-effective tool for encouraging behaviour change towards low carbon, healthier active travel. More information on Travel Plans can be found here: <http://www.nottinghamshire.gov.uk/transport/public-transport/plans-strategies-policies/travel-plans>. Travel Plans will be dealt with separately by the Highway Authority. Financial contributions may be required from developers to fund Travel Plan measures and costs incurred by the County Council in reviewing and monitoring the Travel Plan and agreeing any adjustments or additional measures that might be required. Contact ETC.DevelopmentControl@derbyshire.gov.uk.

9.3 Libraries

The County Council is not currently in a position to match-fund developer contributions that may come forward for improvements to existing libraries or the provision of new libraries. Therefore, the County Council is not currently seeking developer contributions for them. For more information on libraries, visit: <http://www.derbyshire.gov.uk/leisure/libraries/default.asp>

9.4 Waste

The County Council is not currently in a position to match-fund developer contributions that may come forward for improvements to existing waste facilities or the provision of new waste facilities. Therefore, the County Council is not currently seeking developer contributions for waste. For more information visit: http://www.derbyshire.gov.uk/environment/rubbish_waste/default.asp

Enquiries relating to waste collected by Local Authorities (e.g. domestic recycling collections) should be directed to the relevant borough or district council.

9.5 Flood and Water Management

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

9.6 Biodiversity

All LPAs in Derbyshire have Service Level Agreements (SLAs) with Derbyshire Wildlife Trust to provide advice on ecological issues. These SLAs should be used to obtain advice on request.

9.7 Archaeology and the Historic Environment

There are over 9,000 sites and features of archaeological interest in the County. LPAs have SLAs with the Derby and Derbyshire Development Control Archaeologist to provide planning advice on archaeological issues when requested. Where advice is required, details of planning applications should be emailed to: steve.baker@derbyshire.gov.uk.

9.8 Landscape Character

Derbyshire has a varied and diverse landscape. LPAs are responsible for determining whether a landscape character assessment and a study of the visual impact on the surrounding landscape is required. LPAs can use planning conditions and financial contributions to help secure long-term management plans and to conserve, enhance and manage landscape character.

9.9 Canals and Waterways

The canals and canal routes are an important element of the Derbyshire's green infrastructure. Derbyshire County Council has large land and asset liabilities on the Chesterfield, Derby and Sandiacre and Cromford Canals and is the Navigation Authority for the in-water sections between Chesterfield and Staveley and at Cromford. Refer to the County Waterways Strategy and the County Council's Countryside Project Officer (Waterways) for more information: Susan.White@derbyshire.gov.uk.

9.10 Fire and Rescue

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

Bolsover, Chesterfield and North East Derbyshire

northareaadmin@derbys-fire.gov.uk

High Peak and Derbyshire Dales

westareadmins@derbys-fire.gov.uk

Amber Valley and Erewash

eastareaadmin@derbys-fire.gov.uk

Derby City and South Derbyshire

south_area_admin_derby@derbys-fire.gov.uk

Appendix A: Form 1 – Planning Obligations Payment Request

Local Planning Authority:
Planning application or permission reference:
Site location:
Developer:
Date of Section 106 Legal Agreement:
Section 106 Legal Agreement schedule or paragraph numbers:
Infrastructure project:
Amount requested:
Cost of project:
Project delivery timescales:

I confirm that:

1. I am authorised to make this request to xxx District/Borough Council on behalf of Derbyshire County Council
2. The funds are to be spent on the scheme as set out and in accordance with the terms of the relevant legal agreement
3. In the event that it is found that the funds are not spent in accordance with the terms and/or timescales set out in the legal agreement the funds and interest accumulated will be returned to xxx Borough/District Council (or the developer as may be deemed most appropriate)

Name:

Job Title:

Email Address:

Funds should be paid via bank payment to:

Sort Code 30 00 02
Account Number 02055231

'S106' and the planning application number should be included in the payment reference. Remittance should be sent to County Council finance via email to income@derbyshire.gov.uk and copied to the Principal Planner via email to planningpolicy@derbyshire.gov.uk.