

# 1. Introduction

- 1.1 Following adoption of the Local Plan in September 2020, Capita have been appointed to review the Developer Contributions Supplementary Planning Document (SPD) for Staffordshire Moorlands. The current SPD dates back to 2004 and is therefore in need of updating to take account of changes within the legislative and policy framework.
- 1.2 As part of the initial work undertaken, a series of stakeholder engagement was carried out with key service areas across the Council and the County Council to gain a more detailed understanding of current processes, key issues and potential opportunities that could be addressed through the SPD.
- 1.3 This Issues and Options document is the next stage in the review process leading to production of an updated Developer Contributions SPD. It identifies key planning obligations that that could be sought to mitigate against the impacts of development and sets out a number of options for consideration and inclusion within the SPD, including the recommended approach taken where relevant. Where appropriate, a preferred option has also been given based on stakeholder engagement and desktop research. The next steps in this process will be refining these options and developing a first draft SPD document.
- 1.4 Once adopted, the SPD will help ensure that that development proposals make a positive contribution to sustainable development by providing social, economic and environmental benefits to the community as a whole that is in line with current local plan policies. In addition, it will also help to increase understanding of Planning Obligations and provide greater transparency in how they are applied, thereby enabling developers to take potential costs of proposed development into account at the earliest opportunity.

## Purpose of Supplementary Planning Document

- 1.5 Supplementary Planning Documents (SPDs), whilst not part of the development plan itself, are documents which add further detail to the policies in a Local Plan. They are capable of being a material consideration in planning decisions and can be used to provide further guidance for development on specific sites or on particular issues, such as developer contributions. Once finalised this document will therefore sit alongside the Staffordshire Moorlands Local Plan which was adopted in September 2020.
- 1.6 The main purpose of this SPD will be to set out the Council's approach to the use of Section 106 (s106) agreements used to secure developer contributions from new developments. This will assist stakeholders in the development process, including planning officers, developers, service providers, Councillors and members of the public. More specifically, it will:
  - Outline the mechanisms for securing developer contributions and explain the relevant legislative and planning policy context within which contributions are sought.

- Explain what is expected of applicants and what the applicant can expect from the Council in relation to securing S106 planning agreements.
- Ensure the developer contributions process is fair, transparent, and applied consistently.

## **S106 Planning obligations**

- 1.7 Developer contributions can be secured via Section 106 (S106), which are legal agreements between the developer and/or landowner, the local planning authority, and other service or infrastructure providers linked to a proposal or mitigation scheme. They are legally binding and enforceable.
- 1.8 Developer contributions via S106 can be provided on or off-site via financial contributions; affordable housing provision; or the direct delivery of facilities.
- 1.9 As set out in the Community Infrastructure Levy (CIL) Regulations 2010<sup>1</sup> and paragraph 57 of the NPPF, S106 obligations should only be used to secure infrastructure where all of the following tests are met:
  - necessary to make a development acceptable in planning terms;
  - directly related to a development; and
  - fairly and reasonably related in scale and kind to the development.

## **2 General approach to developer contributions**

- 2.1 The following section provides a summary of the approach to developer contributions, that will be outlined as an introductory section of the SPD.

### **Trigger points**

- 2.2 Trigger points are the stages within a development at which payment of a contribution or provision of infrastructure becomes necessary; examples include: 'prior to commencement' and 'prior to occupation'. During the negotiation stage of the S106 agreement, the triggers points for each obligation will be discussed between the developer, the Council and the County Council and any other infrastructure providers involved in the S106 agreement.
- 2.3 Infrastructure providers should suggest trigger points when submitting their requests for contributions which will aid the Council when drafting the S106 agreement. Trigger points should be both clear and reasonable, with the aim of securing the full delivery of both development and the necessary infrastructure when and where it is needed to mitigate the impacts of development. The Council will aim to ensure that trigger points are viable to the specific stage of the delivery of the development. By outlining specific guidance on trigger points, developer contributions can be monitored more consistently as expectations set are clear and consistent.

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<sup>1</sup> Regulation 122(2) of the CIL Regulations 2010

## **Indexation**

- 2.4 At present the approach to indexation applies two different methods across various agreements. Both the Retail Price Index (RPI), published by the Office of National Statistics (ONS) and the Construction Materials Price Index (CMPI), published by the Department of Business, Energy and Industrial Strategy (BEIS) are currently used in S106 agreements.
- 2.5 To ensure the real value of developer contributions is maintained up to the date of payment, given there can be delays in the planning process or for development to commence/complete, the principal sum should be index linked to ensure that inflation and fluctuations in market prices are reflected. The SPD should also state that contributions will be index linked from committee resolution to the trigger point and contributions should not be less than the amount originally agreed if the indexation decreases.

### ***Option to apply consistent methodology (as updated from current approach)***

- 2.6 As noted above, both the RPI and CMP index are applied at present; it is recommended that a consistent approach is endorsed, unless exceptional circumstances apply. As the CMPI reflects the cost of construction materials and therefore directly relates to development costs, this is considered to be more accurate than the general RPI if the contribution is to be used to fund infrastructure.

## **Prioritisation of contributions**

- 2.7 The NPPF states that planning obligations should only be used where it is not possible to address unacceptable impacts arising from a development through a planning condition. Planning obligations may only constitute a reason for granting planning permission if they meet all of the tests that they are necessary to make the development acceptable in planning terms.
- 2.8 There may be instances where contributions are not viable. Where sufficient developer contributions cannot be made to mitigate the impact of a development, and the contributions are considered necessary in order to make the development acceptable in planning terms, the Council may decide to refuse the application. In these cases, viability considerations will be irrelevant.
- 2.9 However, some developments may not be able to make contributions towards all of the infrastructure that is required but remain desirable for other reasons. Where such viability constraints exist, the Council could consider including a contributions priority table within the SPD. However, the relative importance of an obligation will depend on the development being considered and will require a judgement to be made by the Council when considering that planning application (e.g., a large-scale residential development will have different infrastructure priorities as opposed to a large-scale commercial development proposal).

### **Proposed option 1**

- 2.10 A statement of recognition to make it clear that it is the Council’s discretion to decide what the priority is for contributions, should there be a viability issue preventing all requests from being fulfilled. The Council will base this decision on priorities in the Local Plan, Corporate Plan and other supporting Council strategies. There may also be requirements for sub-areas in the District, which will set specific priorities, and these will also be reflected through regular updating of the [Infrastructure Delivery Plan \(IDP\)](#) , which sets out current provision of infrastructure across the district and infrastructure requirements over the plan period to deliver growth.
- 2.11 Additionally, the type of development will influence which contributions are most important, for example a large residential development could identify education and affordable housing as priorities, whereas a retail development might prioritise highways/junctions, public realm and biodiversity etc.

### **Proposed option 2**

- 2.12 Table one below sets out ‘essential infrastructure’ and ‘desirable infrastructure’ as outlined within [the Infrastructure Delivery Plan](#) (IDP). These have been categorised into sub priority groups to demonstrate how contributions could be prioritised; however, it may be necessary to re-examine these categories following discussions with stakeholders and when considering any additional evidence in specific or exceptional circumstances.

Table 1: Example of priority contributions based on the IDP (2018)

Category	Priority subcategory	Contribution type
Essential infrastructure as identified in the IDP (necessary to make development acceptable in planning terms)	Priority 1a	Highway infrastructure
		Education
		Flood risk and drainage
		Waste management
	Priority 1b	Health / expansion of GP surgeries
	Affordable Housing	
Desirable (policy priority – improves the existing levels of capacity and generally which delivers place making benefits)	Priority 2a	Open space, sports and recreation Measures in Green Infrastructure Strategy
		Sustainable travel – i.e public transport, bus stops etc.
	Priority 2b	Public realm Playing pitches Community and cultural Emergency services

### **Proposed option 3**

- 2.13 The SPD could outline a ranking scale for infrastructure projects and types, defining categories that are i) critical, ii) essential, iii) a policy priority or iv) desirable; these categories could link in with the IDP and be updated regularly. [Runnymede Council](#)

have implemented a similar process and an example of this infrastructure priority matrix is outlined in table two below. The types of infrastructure to be included within each priority category below are only intended to be indicative at this stage and would therefore likely to require further discussion and agreement from key stakeholders.

Table 2: Example ranking scale for infrastructure and types

Prioritisation level	Description
Critical	Infrastructure which must happen to enable growth. Without critical infrastructure development cannot proceed and the Local Plan cannot be delivered.
Essential	Infrastructure required to mitigate impacts arising from the operation of development. Lack of delivery is unlikely to prevent development in the short-term but failure to invest could result in delays to development in medium-long term as infrastructure capacity becomes constrained.
Policy priority	Infrastructure supporting wider strategic or site-specific objectives as set out in Local Plan policies but lack of delivery would not necessarily prevent development.
Desirable	Infrastructure required for sustainable growth but unlikely to prevent development in short to medium term.

***Sub-option (as a proposed add-on to the options above)***

2.14 Depending on the proposed prioritisation option that is taken forward, the SPD could also consider a further step of evaluation within the process that will assess planning obligations and/or contributions according to their value. This would add a further level of consideration within the contributions prioritisation system to enable the Council to consider the most effective way to spend contributions based on their value, particularly where viability is an issue (e.g. for some development proposals, the council may consider that contributions below £10,000 may have a more meaningful impact when spent on green infrastructure or open space and recreation or towards a specific scheme or project identified in the IDP). This assessment would therefore be supported by the infrastructure requirements needed to make a development proposal acceptable in planning terms and should relate back to the wider policy and priorities for required infrastructure, supported by the IDP.

**Viability**

2.15 At present, the Council does not have a formal protocol in place to deal with viability issues that arise. Therefore, a consistent approach to this is recommended and one that ensures the Council does not bear the costs of having viability independently assessed.

***Requirement for viability measures within the SPD***

2.16 It is acknowledged that there may be occasions where, as a result of economic viability, the development is unable to meet the full developer contribution requirements, and applicants must demonstrate whether particular circumstances justify the need for a viability assessment. In addition, the time lag between

calculating contributions and real costs of delivering a project can have implications on viability.

2.17 As outlined in national guidance, where a viability assessment is submitted to accompany a planning application, this should be based upon and refer back to the viability assessment that informed the local plan, and the applicant should provide evidence of what has changed since then. Any viability assessment should reflect the government's recommended approach to defining [key inputs](#) as set out in NPPG, which also states that the price paid for land is no longer an input into viability assessments nor a relevant justification for failing to accord with relevant policies in the Local Plan. The SPD will clearly state the steps that developers/applicants must take when submitting a viability assessment, including:

- The requirement to engage with the Council as early as possible in relation to viability issues.
- The Council could also seek to test the development viability by seeking other viability enhancements such as deferring or phasing contribution payments to assist developers when necessary if it is agreed that viability is considered to be marginal.
- To substantiate a claim the Council will require a full financial appraisal through an informed and independent assessment of viability signed by an appropriately qualified and independent valuer or financial professional and that all costs incurred in undertaking such an assessment being paid for by the developer. The Council also reserves the right to appoint a suitably qualified person to undertake the review if required.

## Monitoring

2.18 The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 allow fees for monitoring obligations to be sought from developers where:

- the sum to be paid fairly and reasonably relates in scale and kind to the development; and
- the sum to be paid to the authority does not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to that development.

2.19 National guidance also states that fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation, or could be a fixed monetary amount per obligation in the agreement (for example, for in-kind contributions). Authorities may decide to set fees using other methods. However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. Authorities could consider setting a cap to ensure that any fees are not excessive.

2.20 Therefore, the Council could request a fee to cover the cost of monitoring and administration of developer contributions to cover:

- The maintenance and development of the planning obligations monitoring database system to assist in the co-ordination of obligation preparation, completion, monitoring and review.
- The monitoring of trigger points and development progress.

- Recovery of planning obligations that have not been fulfilled, including any necessary enforcement or legal action.
- Liaison between council service departments and with Derbyshire/Staffordshire County Council.
- Preparing the annual Infrastructure Funding Statement, which is a statutory requirement under the CIL regulations.

2.21 The most common approaches applied are:

- Option 1 - Apply a standard charge for monitoring, based on net additional dwellings.
- Option 2 - Apply a standard charge based on a cost per S106 head of term and or trigger point. This could also be applied to non-financial contributions.
- Option 3 - Apply a charge based on a percentage of the total value of financial contributions secured in the Section 106 agreement, although this approach seems to be applied to older SPDs with many updating their approach to monitoring fees based on option 1 or 2.

2.22 Appendix two includes examples of different approaches to monitoring fees implemented by other Councils to demonstrate the various methods that can be used.

***Preferred option***

2.23 Where the Council uses S106 legal agreements to mitigate development proposals, it is important that they are monitored to ensure trigger points are adhered to. The Council currently absorb the cost of monitoring S106 agreements. However, like other Councils, it is reasonable to expect the developers who benefit from the planning permission to meet these costs.

2.24 Based on the background research carried out, it is recommended that the Council apply a standard monitoring fee per obligation trigger (Option 2). The fee would be based upon the occurrence of triggers for compliance of a planning obligation rather than each obligation individually. The exact amount to charge per obligation trigger is an area of work that is still undergoing further research and engagement with stakeholders. Appendix two highlights that the monitoring fees charged by other councils varies widely. The rationale for applying this approach is based on officer time taken to effectively monitor these trigger points and carry out the tasks outlined in paragraph 3.7, which need to be done regardless of the scale and size of the development. Similarly, applying a percentage fee could result in a disproportionate monitoring fee that is not reflective of officer monitoring time. As there is currently no dedicated monitoring officer/resource within the Council there will be a need to provide an estimate on associated costs to robustly justify the level of monitoring fees requested.

2.25 In addition it is recommended that the SPD states that monitoring fees are payable upon the completion of a S106 agreement, to enable the council to cover the costs of monitoring the commencement of development. The fee should be periodically reviewed to ensure the administrative costs associated with monitoring and managing developer contributions are covered.

### 3 Potential contributions that could be sought within the SPD

#### Affordable Housing

Local Plan Policies	Other relevant Strategies and guidance
Staffordshire Moorlands <ul style="list-style-type: none"> <li>▪ H1 – New housing development</li> <li>▪ H2 – Housing Allocations</li> <li>▪ H3 – Affordable housing</li> <li>▪ H4 – Gypsy and Traveller sites and sites for Travelling show people</li> </ul>	<ul style="list-style-type: none"> <li>▪ Strategic Housing Market Assessment</li> <li>▪ Proposed Biddulph Neighbourhood Plan (and any future Neighbourhood Plans produced)</li> </ul>

#### **Key policies and strategies**

- 3.1 To support the Government’s objective of significantly boosting the supply of housing, the NPPF emphasises the importance of meeting the needs of groups with specific housing requirements. Paragraph 63 notes that where there is a need for affordable housing, planning policies should specify the type of affordable housing required and expect it to be met on site unless:
- off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
  - the agreed approach contributes to the objective of creating mixed and balanced communities
- 3.2 The Council’s overall approach to affordable housing is set out in Policy H3 and the supporting text. This policy states that residential developments of 10 dwellings or more (or 0.5ha) should provide 33% affordable housing but will consider a lower level subject to viability evidence. Affordable housing should be provided on site and/or through a commuted sum. Policy H1 makes reference to housing for people with specific needs such as older people and those identified within the SHMA as having specific needs.

#### **Interpretation of policy to inform guidance**

- 3.3 The affordable housing requirement within the District is clear and provides for a 33% target for developments over 10 dwellings. The Council’s preference is for affordable housing to be provided on site, but where this is not possible, the Council currently relies on the 2005 Affordable Housing SPD to calculate commuted sums, which is now outdated, but is based on an ‘equivalent value’ approach and therefore will be superseded once the SPD is adopted.

#### **Proposed options**

- 3.4 As there is no prescribed method for calculating commuted sums for affordable housing, a review of approaches has been taken, which includes assessment of example uses in other local authorities to help inform the preferred method. There are commonly four main approaches used, which are summarised below, and a more detailed review is provided in appendix one.



Table 4: Methods for calculating affordable housing contributions

Type	
Cost based	Applied either as a straightforward correlation between the cost of developing the affordable units and the commuted sum payable.
Residual value based	This is the residual value of a scheme with 100% market housing minus the residual value of scheme including affordable housing = commuted sum.
Gross development Value (GDV) based -	This is applied by establishing the Open Market Value of the equivalent affordable scheme minus value of affordable scheme as paid by the Registered Provider (RP) = commuted sum,  or  Calculating the GDV of whole scheme and multiplying by the percentage of affordable dwellings minus RP price paid = commuted sum
Development area based –	Expressed as the affordable percentage of each market unit multiplied by the build cost.

### **Preferred options**

- 3.5 There is a need to look at the potential options outlined above in more detail and receive further input from the Council's housing department before determining a preferred option. If possible, it would also be useful to mock test some of the approaches above to provide an indication of the likely levels of payments in lieu that would be generated.

### **Vacant building credit**

- 3.6 To support the use of brownfield land, the NPPF makes provision for vacant buildings being reused or redeveloped to reduce affordable housing contributions. To ensure that this financial credit is applied appropriately, it is recommended that the SPD sets out the relevant criteria that development proposals must meet. Table 5 provides a summary of this criteria in line with the NPPF and the government's National Planning Practice Guidance.

Table 5: Vacant Building Credit (VBC) Criteria

Criteria	Basis	Evidence required
Is the site brownfield?	Paragraph 64 of the NPPF  (to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped,	Satisfactory evidence that the definition of 'previously developed land' as set out in the NPPF glossary applies to the site.

	affordable housing contribution due should be reduced by a proportionate amount."	
The building(s) has not been abandoned	NPPG Paragraph: 029 Reference ID: 23b-029-20190901	The VBC applies where the building has not been abandoned. When deciding whether a use has been abandoned, the Council will consider: <ul style="list-style-type: none"> <li>▪ The condition of the property</li> <li>▪ The period of non-use</li> <li>▪ Whether there is an intervening use</li> <li>▪ Any evidence regarding the owner's intention.</li> </ul>
The building has not been made vacant for the purposes of redevelopment	NPPG Paragraph: 029 Reference ID: 23b-029-20190901	Applicants will need to demonstrate through formal records (e.g., Rates and/or council tax) that the building has been in continuous lawful use.

### Open space, sport and recreation

Local Plan Policies	Other relevant Strategies and guidance
C1 – Creating Sustainable Communities C2 – Sport Recreation and Open Space	<ul style="list-style-type: none"> <li>▪ The Council's strategy for Physical Activity and Sport.</li> <li>▪ Open Space Study, Playing Pitch Strategy and Indoor Sports Facilities Assessment.</li> <li>▪ Sport England Toolkit.</li> <li>▪ Open Space Studies Standards Paper 2017.</li> </ul>

### Key policy and strategies

- 3.7 Paragraph 98 of the NPPF highlights the importance of having access to a network of high-quality open spaces and opportunities for sport and activity in supporting healthy lifestyles and communities.
- 3.8 Policy C2 of the Local Plan requires development of 10 dwellings (or 0.5ha) to make provision or a contribution towards the provision of open space, indoor and outdoor sports and children's play. It also states that future contributions should be based on the Sport England Toolkit and the recommended quantity standards set out in the Open Space Study, which are not currently used by the Council
- 3.9 Policy C1 states that the Council will support schemes that "protect, retain or enhance community facilities", which include sports and physical activity facilities under the Local Plan definition.
- 3.10 The 2017 [Open Space Study](#) identified a total of 236 open space sites across Staffordshire Moorlands, equating to over 665 hectares. However, the study also

identified a number of shortfalls in quality and accessibility standards across the District for different types of open space. A summary of the current provision against recommended open space quantity standards is outlined below in table six. This table highlights that there is currently a shortfall in parks and gardens in all geographical areas with the exception of Leek, and a shortfall in allotments in Biddulph, Cheadle and rural areas.

Table 6: current provision and recommended open space quantity standards

Analysis area	Parks and gardens 0.14 (ha per 1000 population)		Amenity greenspace 0.60 (ha per 1000 population)		Allotments 0.10 (ha per 1000 population)	
	Current provision	+/-	Current provision	+/-	Current provision	+/-
Biddulph	-	-0.14	1.44	+0.84	0.06	-0.04
Cheadle	-	-0.4	0.91	+0.31	0.06	-0.04
Leek	0.66	+0.52	1.00	+0.40	0.37	+0.27
Rural	-	-0.14	0.89	+0.29	0.04	-0.06
National Park	-	-0.14	0.51	-0.09	0.14	+0.04

- 3.11 The 2017 [Playing Pitch Strategy and Action Plan](#) provides an overview of current levels of provision within Staffordshire Moorlands across the public, education, voluntary and commercial sectors. This strategy recommends that where developer contributions are applicable, a Section 106 Agreement or equivalent must be completed that should specify, when applied, the amount that will be linked to Sport England's Building Cost Information Service from the date of the permission and timing of the contribution/s to be made. Contributions should also be sought towards the first ten years of maintenance on new pitches. It also identifies a number of shortfalls in playing pitches across the council area and gives an indication of future need.
- 3.12 Indoor sports facilities strategy identified a significant under supply of water space. Current swimming pool provision within the district is operating below the Sport England benchmark figure and there is a need for more swimming pools in the area, particularly in the west of the district.

### **Summary of existing method used**

- 3.13 Currently the existing method of requesting developer contributions only stipulates the requirements for two types of open space resulting from demands of new housing developments (playing fields and play areas). The approach used to calculate these contributions is based on the 2004 SPD which uses a monetary figure multiplied by the total number of bedrooms, with an annual increase of 3% to account for the average cost of living increases.

Table 7: summary of existing method used to calculate Play and pitch provision

Costs to provide or upgrade a play or sports pitch 2021/22	
Play area	£549.25 per bedroom
Playing pitch	£685.36 per bedroom

1 bedroom = Play Area 6m <sup>2</sup> Playing Field 16m <sup>2</sup>
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**Interpretation of policy to inform guidance**

3.14 Based on the local plan policy, it may be possible to expand the scope of developer contributions asked for under this topic to reflect future needs as evidenced in the Open Space Strategy, Playing Pitch Strategy and Indoor Sports Facility Strategy. The SPD should also refer to any forthcoming updates to evidence and the IDP, which will be updated regularly. The method in which contributions are calculated could also be reviewed to ensure that commuted sums reflect the costs of delivering infrastructure.

**Proposed options**

- Review of commuted sums – In line with policy C2, a review should be carried out regarding the method used to calculate commuted sums for open space, sports and recreation. This should consider the Sports England Toolkit and other relevant evidence as outlined in paragraph 3.10 – 3.12 above.
- Requirement for a wider range of contributions to help deliver open spaces, sports and recreation facilities. These could include contributions towards allotments, indoor facilities and open spaces.
- Maintenance of open spaces, sports and recreation facilities – it is understood that the Council currently does not take responsibility for maintenance or management of new on-site facilities. Therefore, the SPD could stipulate the maintenance responsibilities required of the developer. In instances where the Council receives a contribution towards existing off-site facilities and are responsible for maintenance, the SPD could make a requirement for maintenance costs to be included; however, further clarification of how this can best be incorporated is still being explored.

**Preferred option**

3.15 There is a need to look at the potential options outlined above in more detail and get input from officers within the leisure and recreation department to ensure alignment with the Leisure Strategy; however, a preferred approach would be a combination of all three options.

**Biodiversity**

Local Plan Policies	Other relevant local Strategies and guidance
<ul style="list-style-type: none"> <li>▪ EQ 8 Green Infrastructure</li> <li>▪ NE 1: Biodiversity and Biological Resources</li> </ul>	<ul style="list-style-type: none"> <li>▪ Green Infrastructure Strategy (2018)</li> <li>▪ Climate Strategy (2021) Part two</li> <li>▪ The Environment Act 2021</li> </ul>

**Key policy and strategies**

3.16 The NPPF specifies the need to protect biodiversity, including designated sites, priority habitats and wider ecological networks. It promotes the conservation, restoration and enhancement of priority habitats and ecological networks and priority

species. In accordance with paragraph 174 of the NPPF, planning policies, and development decisions should minimise the impacts on and provide net gains for biodiversity.

- 3.17 The Environment Act 2021 supplements existing legislation and policy and introduces new incentives, actions and planning tools to drive further improvements for nature. A key component of the Act is the requirement for development proposals to deliver at least 10% improvement to biodiversity; grants of planning permission are to be accompanied by a condition stipulating biodiversity gain which is to be managed for at least 30 years.
- 3.18 Policy NE 1 already sets out the need for biodiversity to be protected and enhanced to achieve an overall net gain. In addition, development proposals that are deemed to have unavoidable adverse impacts on biodiversity will be required to ensure impacts are appropriately mitigated, with suitable compensation measures.
- 3.19 The Staffordshire Moorlands Local Plan Green Infrastructure Strategy (2018) identifies the level of green infrastructure (GI) provision across the district and area and where the protection, enhancement and delivery of green infrastructure should be brought forward.

#### ***Interpretation of the policy to inform guidance***

- 3.20 There are no explicit policies which link biodiversity or green infrastructure with developer contributions. However, biodiversity net gain is set to become a national requirement by 2023 and the Council should apply this in accordance with the relevant guidance.
- 3.21 It is expected that biodiversity and green infrastructure enhancements will generally be secured through planning conditions, however, there may be some circumstances where it is suitable to ask for specific mitigation or compensation to make a development proposal acceptable given that this is set out in national legislation and policy and policy NE 1 seeks to also deliver net gains in biodiversity proportionate to the size and scale of the development. In accordance with the Environment Act, the developer is required to maintain the enhancement for at least 30 years after the completion of works. The habitat should be delivered on-site, however, where this is not possible offsite contributions or statutory biodiversity credits may be applied.

#### ***Current approach***

- 3.22 The Council does not currently include any planning obligations under biodiversity and climate change.

#### ***Proposed options***

- Include a requirement within the SPD for at least 10% net gain in biodiversity where these cannot be secured via planning conditions. This could include off-site mitigation and enhancement measures for both the direct and indirect impacts of a development scheme. Given the national requirement by autumn 2023 to provide a biodiversity minimum net gain of 10% and the Council's green agenda as set out in local policy, the inclusion of this within the SPD will ensure that there is provision made to secure developer contributions for biodiversity net gain where it is not

possible to deliver these through development design or planning conditions. The SPD could encourage these measures in advance of them becoming a statutory requirement in 2023.

## **Climate change**

### ***Key policies and strategies***

- 3.23 Policy SS1 states that developments will be supported where they secure high quality, sustainable environments that contribute effectively to tackling climate change and reduced carbon emissions. Policy SD1 seeks to ensure that developments proposals adapt to climate change through the use of development design and a support for proposals that demonstrate energy efficiency, water conservation and a sustainable use of resources.
- 3.24 Policy SD5 also considers flood risk management and appropriate measures that should be taken to ensure that potential development does not increase the risk of flooding and natural features of the environment can be used to alleviate flooding and the impacts of climate change as far as possible.
- 3.25 Policy SD4 states that for development proposals that result in pollution, mitigation will be sought through the use of planning obligations. In addition, the Council's Climate Strategy (2021) has declared a climate emergency and aims to be carbon neutral by 2030.
- 3.26 The NPPF outlines the importance of the planning system in shaping places to reduce emissions, support renewable and low carbon energy, improve resilience, support resource efficiency and endorse sustainable design and construction methods.

### ***Interpretation of Policy to Inform Guidance***

- 3.27 Although there is no direct link to developer contributions within the Local Plan policy, there is opportunity to underpin the policy requirements with additional detail and specific elements that can be provided within a S106 agreement. The SPD should also refer to the Council's Climate Strategy and thereby ensuring that any potential obligations will be closely aligned to this strategy.

### ***Proposed options***

- **Sustainable design and construction** – in order to ensure that new development proposals make the fullest contribution to minimising greenhouse gas emissions, new developments will be encouraged to achieve the highest standards of sustainable design and construction. This could encourage measures such as energy assessments, CO2 reduction, environmental rating etc.
- **Electric Vehicle Charging** - in order to facilitate new technologies and future proof developments the provision of Electric Vehicle Charging Points should be incorporated into the design of major developments.
- **Air quality** – where a site has a particular impact on or exposure to potential air quality issues, measures to ensure appropriate monitoring and/or delivery of specific mitigation may be required via S106. Larger developments may be required to submit an Air Quality Neutral (AQN) assessment. Developers must fully mitigate the air

quality impacts of the new development by providing mitigation measures or offset the additional emissions by making a financial contribution. If a financial or in-kind contribution is deemed necessary, on a case-by case basis a project or sum will be identified and agreed to mitigate the effect on air quality from development.

- **Flood risk** – a Section106 Agreement may be identified as the most effective mechanism to ensure mitigation of flood risk and drainage issues and may include measures such as the provision of Sustainable Drainage Systems (SuDS). S106 may be sought on all proposals where the development requires off-site management of water to ensure no increase in flood risk elsewhere or off-site works to reduce the overall flood risk to an acceptable level, to the satisfaction of the Environment Agency (or other relevant authority).
- **Carbon off-setting** – mitigation measures that could be included to development proposals include tree planting schemes, community energy projects, retrofitting initiatives.
- **Provision of cycling and waling links and cycle parking** – in order to promote more sustainable transport modes, such as walking and cycling, developments that generate significant demand for travel could provide features such as cycle path links and cycle storage facilities.

### ***Preferred option***

- 3.28 The requirement to move towards a low carbon future and the need to mitigate and adopt to climate change is a key theme within national and local policy. The preferred approach would be to adapt a range of options outlined above to ensure a greater level of climate resilience.

### **Health**

- 3.29 The NPPF has a chapter dedicated to promoting healthy and safe communities and paragraph 96 states that planning authorities should work with delivery partners to plan for required public service infrastructure facilities.
- 3.30 Facilitating health and well-being is a key theme incorporated throughout the Local Plan. Policy SS 1 expects developments to contribute positively to quality local services, including health care facilities. The spatial strategy also notes that the settlements of Leek, Biddulph and Cheadle, which are expected to accommodate significant levels of growth over the plan period, should seek to increase health care provision. In addition, a key priority within the corporate plan 2019 -2023 is to ensure effective health provision.

### ***Interpretation of the policy to inform guidance***

- 3.31 The area strategies for Leek, Cheadle and Biddulph specifically require improved provision of health facilities. In addition, the long-term growth of the District set out within the Local Plan, will inevitably lead to increased pressure on primary healthcare infrastructure and will require specific interventions that can be provided within a S106 agreement.

### ***Current approach***

- 3.32 Currently the Council have no set policy or formula for negotiating developer contributions towards health but it is understood that the NHS/ Clinical Commissioning

Group (CCG) are consulted during the planning application state, although responses received tend to be ad hoc.

### ***Proposed option***

- 3.33 The SPD should include a section on the provision of health to refine this process and ensure formal protocols are in place. Anticipating future need and increasing patient numbers is challenging, therefore, the Council should continue to work collaboratively with the CCG/ NHS to support the use of developer contributions to implement primary healthcare infrastructure, particularly for large strategic sites. It is also important that the IDP is up to date to provide clarity on future funding requirements.

### **Training and Employment**

- 3.34 The Local Plan encourages sustainable economic growth and maximising employment opportunities amongst Staffordshire Moorlands population. Policy E1 seeks to ensure that the District's workforce is suitably skilled and will, where appropriate, seek to enter into agreements with employers to contribute towards training programmes and employment support and employment access schemes.

### ***Interpretation of policy to inform guidance***

- 3.35 Based on policy E1, it is possible to include requirements within the SPD to help increase opportunities for local employment and training.

### ***Proposed options***

- **Training and employment opportunities** - Major developments over a certain threshold may be required to provide direct provision of employment and training initiatives. This provision would be for local people living within the administrative boundary of Staffordshire Moorlands and directly relate to the employment needs of the development with the aim to maximise opportunities to develop local skills, business performance and expand employment provision. This could be managed through a Training and Employment Management Plan that would promote training and employment opportunities at all stages of the development to meet specific needs identified locally.
- **Local procurement opportunities** – The SPD could seek opportunities to ensure that local businesses benefit from the construction and end use of developments. Through this, developers will be expected to work with the Council to promote and advertise tender opportunities and would be encouraged to achieve procurement of construction contracts and goods and services from companies and organisations within the district.
- **Financial contribution** - Where appropriate, seek a financial contribution for training co-ordination.

### ***Preferred option***

- 3.36 Depending on the size and nature of development proposals, the Council should seek a combination of the options outlined above. The threshold for requiring such



obligations will require further consideration and engagement with Council stakeholders.

## Transport and accessibility

Local Plan Policies	Other relevant Strategies and guidance
<ul style="list-style-type: none"> <li>▪ T1 – Development and sustainable Transport</li> <li>▪ T2 – Other Sustainable Transport Measures</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Integrated Transport Strategy</li> </ul>

- 3.37 Chapter nine of the NPPF requires the planning system to promote sustainable travel. It also states that transport issues should be considered from the earliest stages of plan making and development proposals. When assessing development proposals, it should be ensured that any significant impacts from the development on the transport network, or on highway safety can be cost effectively mitigated to an acceptable degree. Developments that generate a significant amount of movement should be required to provide a travel plan.
- 3.38 The Integrated Transport Strategy for Staffordshire Moorlands prioritises transport measures that are required to deliver the Local Plan. Policy T1 promotes sustainable transport and notes that development that generates significant demand for travel or is likely to have significant transport implications will be required to contribute towards transport infrastructure and travel plans.
- 3.39 Staffordshire County Council is responsible for collecting contributions in relation to highways. The County Council may seek planning obligations when there is a need for highway infrastructure improvements and/or to promote sustainable travel.

## Education

Local Plan Policies	Other relevant Strategies and guidance
<ul style="list-style-type: none"> <li>▪ SS1: Development Principals</li> </ul>	<ul style="list-style-type: none"> <li>▪ Staffordshire Education Infrastructure Contributions Policy</li> </ul>

- 3.40 The NPPF notes the importance of having a sufficient choice of school places available to meet the needs of existing and new communities. Paragraph 95 states that local planning authorities should:
- a.) Give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
  - b.) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.
- 3.41 Policy SS1 requires development to contribute positively to the social, economic and environmental improvement of Staffordshire Moorlands and will work in partnership with other agencies and services to delivers services such as education.

- 3.42 Staffordshire County Council is responsible for collecting contributions in relation to education. The [Staffordshire Education Infrastructure Contributions Policy 2021](#) provides a broad approach to identifying the impact of new residential development on education infrastructure and the necessary mitigation to make developments acceptable in planning terms. It provides the basis for calculating likely education infrastructure contributions.
- 3.43 The SPD will not set out the County Council's Education Infrastructure contributions policy. However, applicants will be advised and sign-posted where to refer to this separately.

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## Appendix 1

Summary of calculation of commuted sums used by other councils.

Approach	Local Authority	Summary of how this is applied
Cost based approach	Staffordshire Moorlands	<p>The contribution towards development of affordable housing elsewhere will be expected to reflect the provision that would have been required in the facilitating development.</p> <p>The Council will base the calculation of the commuted sum on the amount of the Social Housing Grant necessary to secure an affordable home of an equivalent size and type on another site.</p> <p>The calculation of the level of grant will be at normal grant levels as calculated from the regional Total Cost Indicator (TCI) calculation based on TCI 2002/3 levels, updated by Builders Cost Information Service indices. This provides a transparent way of calculating commuted sums that will realistically lead to the provision of affordable housing off site. Money collected will be kept in a specific housing fund managed by the Council and will only be used to fund affordable housing within the District. If not used within 10 years the contribution will be returned to the developer with accumulated interest.</p>
Gross Development Value (GDV)	Sefton Council	<p>Step A: The applicant must provide details of the different types and sizes of homes within the proposed scheme. The Council, in liaison with the developer, will determine what proportion of each of these house types would be required to be affordable if the Council's affordable housing policy were to be met. The key consideration should be meeting the overall provision of affordable bedspaces [30% outside Bootle] and the ratio between social and intermediate bedspaces of 80:20.</p> <p>Step B: The applicant must provide details of the open market value [OMV] of these identified affordable homes. This should be based on local evidence of similar schemes and supported by a valuation prepared by an RICS Registered Valuer.</p> <p>Step C: The applicant must submit evidence to demonstrate how much an appropriate Registered Provider [RP] would purchase the affordable housing units for on the basis that the dwellings remain affordable units. This can be provided as either a) as a cash price for each affordable unit or b) as a % of the OMV for affordable home types</p>

		<p>[i.e. social and intermediate] the RP would normally pay [i.e. the RP transfer rate].</p> <p>The applicant should calculate the 'cost to developer' if the affordable units were to be provided on site. The cost will be equivalent to the difference between the open market value and the price that the Registered Provider would be prepared to pay.</p> <p>e.g. e.g. If a house is worth £200,000 on the open market and a registered provider would purchase the property for £120,000 then the 'cost to developer' would be £80,000. Similarly if the RP would pay 60% of the OMV for a house the developer would bear the remaining 40% of the value, i.e. the 'cost to developer' would be £80,000.</p> <p>Step D: Once the total 'cost to developer' is calculated for the scheme the Council will include an uplift to the financial contribution to reflect the fact if the affordable homes are provided off-site the number of homes in the total scheme actually increases.</p> <p>Total Scheme [TS] = Market Homes [MH] + Affordable Homes [AH]  <math>\text{Market Homes [MH]} = 0.7 \times \text{Total Scheme [TS]}</math>  <math>\text{Affordable Homes [AH]} = 0.3 \times \text{Total Scheme [TS]}</math></p>
Gross Development Value (GDV)	Allerdale Borough Council – Developer Contributions SPD (2017)	<p>For the purposes of calculating commuted sums payable in lieu of affordable housing on-site, for affordable/social rented units the sum shall be equal to the difference between the open market valuation of the units for which a need has been identified and the purchase price that a Registered Provider would be willing to pay for those units. For intermediate (Low Cost Home Ownership) units the sum shall be equal to the difference between the open market valuation of the units for which a need has been identified and the discounted purchase price at which those units would be offered.</p> <p>With regards to affordable/social rented units, Registered Providers' purchase values typically based on a calculation from rental income, typically over a 30 year period. On average, across the Allerdale Plan Area, these purchase values equate to 50% of the open market value.</p> <p>However, the commuted sum sought by the Council will be calculated based on past evidence taking into account recorded purchase values and</p>

		<p>the level of discount achieved within the locality in which the development site is located (governed by the localities identified in Policy S6 of the Local Plan Part 1). In relation to intermediate units the commuted sum sought will be calculated based on the Council's most current discount schedule for Low Cost Home Ownership units. A worked example is provided in Figure 1.</p> <p>e.g Development of 40 dwellings</p> <p><b>Affordable/social rented units:</b> = 55% of OMV</p> <p><b>Intermediate rented units:</b> = 70% OMV</p> <p>Affordable requirement of 20% = 8 units (5 affordable rent; 3 intermediate) Open market value = £175,000 per unit</p> <p>Affordable value (affordable rent) = £96,260 per unit (£175,000 x 55%)</p> <p>Affordable value (intermediate) = £122,500 per unit (£175,000 x 70%)</p> <p><b>Commuted Sum = (£175,000 x 8) – (£96,260 x 5) – (£122,500 x 3)</b> <b>= £1,400,000 - £481,250 - £367,500</b> <b>= £551,250</b></p>
Gross Development Value (GDV)	Stroud Developer contribution SPD (2017)	<p>For simplicity, the Council suggests that financial contributions are calculated on the basis of the values that registered providers of affordable housing normally pay to acquire affordable housing.</p> <p>During the 2009 Lydney appeal in the Forest of Dean, the Inspector accepted that RPs would normally pay around 55% OMV for affordable units. On this basis, commuted sums will be calculated at a rate of 45% OMV of a notional affordable unit in order to reflect the 'developer subsidy' element of affordable housing provision.</p> <p>Worked example: A site for 12 units gives rise to an affordable housing component of 3.6 units. Three units are to be provided on site; the remaining 0.6 will be paid as a financial contribution.</p>

		<p>Open Market Value (OMV) of a two-bedroom open market property = £170,000  55% OMV = £93,500  £170,000 – £93,500 = £76,500  £76,500 x 0.6 = £45,900</p>
Residual value based	Castle Point (2014)	<p>Assumptions:  The Development Viability Assessment identifies that Affordable Homes sell to registered providers at approximately 70% of the market sale value. Therefore, the cost to the developer of on-site provision is approximately 30% of the market sale value. The level of contribution, consistent with the New Local Plan policy, is considered to be 25% in Benfleet, Hadleigh and Thundersley and 15% on Canvey Island. Should a different level of contribution be agreed, having regard to the section that follows, then the calculation should be adjusted accordingly.</p> <p>Calculation  15% or 25% x (30% market share value of total residential development) = financial contribution in lieu of on-site provision</p>
	Rushcliffe Commuted Sum Guidance Note – 2016 – Residual value based	<p>The calculation of the commuted sum should be based upon the gross development value of the proposal (based on local housing market evidence) compared against the combined cost of purchasing the land, construction, planning obligations and a competitive return for the developer.</p> <p>The required sum will be determined according to the difference between the financial return (profit) for the developer of the proposal with the affordable units on-site and the proposal without them. 19. When calculating the commuted sum the gross development value should include any rental incomes, the sale of properties, and any subsidies and grants.</p> <p>The cost of development should include construction costs, site costs (landscaping, roads and infrastructure), planning obligations (including affordable housing), professional fees, finance, sales and profit. Abnormal cost which are unique to the development should not be included within the cost of development as these costs should be reflected in the land value and absorbed by the landowner.</p> <p>The calculation of the commuted sum will be informed by:</p> <ol style="list-style-type: none"> <li>the particular circumstances of the site;</li> <li>the residential scheme proposed;</li> <li>current construction and finance costs;</li> </ol>

		<p>d) current house prices and land values; and</p> <p>e) current national and local policy requirements, including Community Infrastructure Levy (when adopted) and affordable housing requirements</p>
Development area based	Rutland District Council	<p>Equivalent value principle is used.</p> <p>Calculation is based on 35% (the affordable housing requirement) of the average cost per sqm of a market home up a maximum of 85sqm.</p> <p>“Developers will be charged per square metre based on the average size of market homes on the site, up to a maximum of 85m<sup>2</sup>. The use of a square metre rate up to 85m<sup>2</sup> means that developments of modest market homes will not be penalised. The same size was used in the modelling for developers” contributions for other services and is also within the Homes and Communities Agency’s range for a 5 person home.</p>

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## Appendix 2

### Approach to monitoring fees used by other councils

Local Authority	Fee / justification																												
South Oxfordshire	<p>South Oxfordshire council recovers the cost of the administration and monitoring of each agreement through Section 106 monitoring fees, which should be paid upon completion of the S106 agreement, as costs are incurred immediately. Costs are set out below and can also be viewed <a href="#">here</a>.</p> <table border="1"> <thead> <tr> <th></th> <th colspan="3">Site size</th> </tr> <tr> <th>Admin / monitoring fee required</th> <th>Under 40 dwellings</th> <th>40 – 399 dwellings</th> <th>400+ dwellings</th> </tr> </thead> <tbody> <tr> <td>Recording (per agreement)</td> <td>£78</td> <td>£1571</td> <td>£392</td> </tr> <tr> <td>Reporting (per agreement)</td> <td>£392</td> <td>£1,177</td> <td>£3,140</td> </tr> <tr> <td>Financial Monitoring (per financial obligation)</td> <td>£157</td> <td>£257</td> <td>£628</td> </tr> <tr> <td>Affordable housing monitoring fee</td> <td>£61</td> <td>£90</td> <td>£2 per unit</td> </tr> <tr> <td>On-site provision of open space</td> <td>£400</td> <td>£800</td> <td>£800+</td> </tr> </tbody> </table>		Site size			Admin / monitoring fee required	Under 40 dwellings	40 – 399 dwellings	400+ dwellings	Recording (per agreement)	£78	£1571	£392	Reporting (per agreement)	£392	£1,177	£3,140	Financial Monitoring (per financial obligation)	£157	£257	£628	Affordable housing monitoring fee	£61	£90	£2 per unit	On-site provision of open space	£400	£800	£800+
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Havant Borough Council	<p>Havant borough council charges a fee to monitor all planning obligations as set out in the CIL Regulations and this is decided at a cost per head of term contained within the obligation and is in addition to the legal charge for drafting and checking the obligation.</p> <ul style="list-style-type: none"> <li>▪ £753.80 per non-financial head of term (outside the scope of VAT)</li> <li>▪ 5% of cost per financial head of term (outside the scope of VAT)</li> </ul> <p>Monitoring fee is capped at a maximum of £10,833 per application. This cap only applies to major applications without long term ecological management which may be subject to separate negotiation.</p> <p>Further information on Havant’s monitoring fees can be found in the <a href="#">Developer Contributions Guide</a>.</p>																												
East Suffolk Council	<p>From 1 April 2021 East Suffolk Council will charge a monitoring fee of £408 per obligation trigger towards administration costs. The fee is based upon the occurrence of triggers for compliance of a planning obligation rather than each obligation individually. The monitoring fee</p>																												



	<p>is to be paid at completion of the s106 legal deed, to enable the council to cover the costs of monitoring the commencement of development. The fee will be periodically reviewed to ensure the administrative costs associated with monitoring and managing developer contributions are covered by the fee.</p> <p>Where RAMS Habitats Mitigation payments are paid in advance of the planning permission and are not included within a s106 agreement, these obligations will not be subject to the monitoring fee.</p>
Bedford Borough Council	Bedford Council charge £102.50 inc VAT to discharge each S106 contribution.
Maidstone Borough Council	<p>Maidstone apply the following S106 monitoring fees:</p> <ul style="list-style-type: none"> <li>For all non- residential development and for residential developments of under 40 units, the monitoring fee for s106 legal agreements with one planning obligation (for example, the provision of affordable housing) is £1000 and then £500 for each additional planning obligation.</li> <li>For residential development of 40 or more units, there will be a fee of £1500 for a s106 agreement incorporating one obligation and £750 for each additional planning obligation.</li> </ul>
Mid Sussex District Council	<p>The 2021/2022 fees for monitoring planning obligations are as follows:</p> <ul style="list-style-type: none"> <li>For developments up to 15 dwellings - £150 per obligation</li> <li>For larger developments between 16 and 100 dwellings, and including commercial developments - £450 per obligation</li> <li>For very large developments over 100 dwellings - £500 per obligation. Where an obligation is based on triggers, the fee will be £500 per trigger.</li> </ul> <p>On all developments there will be a £300 fee levied for each approval required either by Mid Sussex District Council or West Sussex County Council as set out in the planning obligation. For example, a management plan.</p> <p>There may be an additional fee for site inspections where land is being transferred to the District Council.</p>
Braintree District Council	Braintree District Council set monitoring fees at £400 per trigger for S106 agreements as of 1 <sup>st</sup> April 2020. Monitoring fees are reviewed annually.
South Holland District Council	<p>South Holland operate a three-tier cascade system for monitoring fees.</p> <p>1.) Minor developments monitoring fee: A minor development is classified as 'less than 10 residential units and where the gross floor space to be built is up to 1,000 square metres, or where the site area is less than 1 hectare'. Where the number of dwellings to be constructed or floor area proposed is not given in the application, a site area of less than 0.5 hectares is classed as a minor development.</p>

	<p>The fee for monitoring minor developments under Section 106 is <b>£1,500</b></p> <p>2.) Small scale major developments monitoring fee - Small scale major developments are classified as '10 to 199 residential units (inclusive) and where the gross floor space to be built is 1,000 to 9,999 square metres, or where the site area is 1 hectare and less than 2 hectares'. Where the number of dwellings to be constructed or floor area proposed is not given in the application, a site area of between 0.5 hectares and less than 4 hectares is classed as a small-scale major development.</p> <p>The fee for monitoring small scale major developments under Section 106 is <b>£2,500</b></p> <p>3.) Large scale major developments monitoring fee - Large scale major developments are classified as '200 or more residential units and where the gross floor space to be built is 10,000 square metres or more, or where the site area is 2 hectares or more. Where the number of dwellings to be constructed or floor area proposed is not given in the application, a site area of 4 hectares or more is classed as a large-scale major development.</p> <p>The fee for monitoring large scale major developments under Section 106 is <b>£3,500</b></p>
Gedling Borough Council	<p>Trigger Monitoring Charge (£315)</p> <p>X</p> <p>No. of Obligation Triggers requiring monitoring</p>