

NORTH HERTFORDSHIRE DISTRICT COUNCIL



***Developer Contributions Supplementary
Planning Document***

Draft

January 2020

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Note

This draft Supplementary Planning Document (SPD) has been written on the assumption that the emerging Local Plan will be adopted, incorporating the proposed Main Modifications. It also anticipates that Hertfordshire County Council's Guide to Developer Infrastructure Contributions document, recently consulted upon in draft form, will be published. The Council will monitor progress on these matters and will reflect any changes as necessary in any future iterations of this document.

References to the Local Plan in this version of the SPD are to the Plan as proposed to be modified. Should the Plan proceed to adoption some paragraphs, policies and / or criteria in any final version of the Plan may have different numbers or notations to those shown in this document.

DRAFT

1 INTRODUCTION

1.1 Overview

- 1.1.1 North Hertfordshire District Council (NHDC) is committed to ensuring that the necessary infrastructure, services and facilities are provided to support growth and development in the District.
- 1.1.2 This Supplementary Planning Document (SPD) sets out detailed guidance on the type and scale of developer contributions that will be sought to support new development in our area.
- 1.1.3 The aim of the document is to assist Council Officers, applicants, agents and Members through the planning application process in a fair, transparent and consistent way.

1.2 Background and status of the SPD

- 1.2.1 This document has been produced by North Hertfordshire District Council to provide further information on requirements set out in our next Local Plan. In particular, it expands upon proposed Local Plan Policy SP7: Infrastructure Requirements and Developer Contributions.
- 1.2.2 This draft SPD will be widely consulted upon, including with developers and members of the public, before a final document is produced.
- 1.2.3 This SPD will be a material consideration when determining planning applications in the District and will be used when securing obligations, whether by Section 106 agreements or unilateral undertakings.

1.3 Legislative context

- 1.3.1 SPDs are documents which add further details to policies in a Local Plan. They can be used to provide further guidance on particular issues, but they cannot introduce new policies. SPDs are a form of Local Development Document produced under the 2004 Planning and Compulsory Purchase Act (as amended). Government regulations set out the requirements for producing SPDs¹.
- 1.3.2 Section 106 of the Town and Country Planning Act 1990 allows local planning authorities to enter into agreements with persons with an interest in land. These agreements can be used (but are not necessarily limited) to:
- Restrict the development or use of the land;
 - Require (parts of) the land to be used in a specific way;
 - Require the payment of a sum to the local authority.

¹ The Town and Country Planning (Local Planning) (England) Regulations 2012

1.3.3 The Community Infrastructure Levy Regulations 2010 (as amended) set out the requirements that planning obligations must fulfil. Planning obligations can only be used:

- To make the development acceptable in planning terms
- Where they are directly related to the development; and
- Are fairly and reasonably related in scale and kind to the development.

1.3.4 Paragraph: 4, reference ID: 23b-004-20190901 of the planning practice guidance on planning obligations makes clear that it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. Whether or not an obligation meets this test will be assessed on a case by case basis considering the project, harm or stress added to such facilities (in the round) from the development proposed, and considering the residual S106 figures arising from the viability evidence supporting the Local Plan².

1.3.5 The pooling limits previously imposed by regulation 123 of the above Regulations have been omitted by way of regulation 11 of The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019. This omission now allows more than five obligations to fund a single infrastructure project.

1.4 National policy context

1.4.1 The National Planning Policy Framework (NPPF) says that Local Plans should set out the contributions expected from development. This should include the levels and types of affordable housing and other infrastructure requirements. These policies should not undermine the deliverability of the plan³.

1.4.2 Local Planning authorities should consider whether otherwise unacceptable development can be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition⁴.

1.4.3 Where up-to-date policies set out the contributions expected from development, planning applications that comply with them should be assumed to be viable⁵.

1.4.4 The Government has already introduced changes by reforming the approach to viability, which is set out in the revised National Planning Policy Framework and in associated national planning practice guidance. This new approach ensures that local plans clearly set out the contributions that developers are expected to make towards infrastructure and affordable housing; introduces a standard approach to

² DSP – North Hertfordshire District Council – Local Plan Viability Assessment – Update – Final Report (August 2016); DSP – North Hertfordshire District Council – Local Plan Examination Addendum (Viability) (Proposed policies HS4 and HS5) (January 2018)

³ NPPF Paragraph 34

⁴ NPPF Paragraph 54

⁵ NPPF Paragraph 57

establishing land value; and increases transparency and accountability through the publication of viability assessments and through improvements to the monitoring and reporting of Section 106 planning obligations⁶.

1.5 The Local Plan and Neighbourhood Plans

- 1.5.1 The North Hertfordshire District Council Local Plan was submitted to the Secretary of State in June 2017 for Examination in Public. The initial hearing sessions for the Examination concluded in March 2018. Proposed Main Modifications were issued in November 2018 and consulted upon between January and April 2019. Following review and consideration of representations made in response to the draft Main Modifications, the Inspector wrote to the Council setting out the next stages of the examination in July 2019 with additional questions in a further letter sent by the Inspector in August 2019. The Council have responded to both letters, in November and December 2019. Further hearings are expected following the Inspectors response in regards to matters, issues and questions for additional hearing sessions expected in late January.
- 1.5.2 Emerging policy SP7 of the Local Plan provides the main policy ‘hook’ for this SPD while other Local Plan policies have further requirements for developer contributions. Policy SP7 (as proposed to be modified) is shown on the following page. This document has been structured to broadly follow the chapters and topics set out in the emerging Plan.
- 1.5.3 Developer contributions may also be required by policies set out in Neighbourhood Plans and applicants should have regard to such policies when formulating development proposals.
- 1.5.4 Should the new Local Plan not proceed for any reason or be subject to substantial delay, the Council will determine the most appropriate way forward. In particular, it will give consideration as to whether it is practicable for this SPD to be adopted in support of Saved Policy 51: Development Effects and Planning Gain of the District Plan No.2 with Alterations as an interim or transitional measure.

1.6 Developer contributions, planning obligations, S106 and Community Infrastructure Levy (CIL)

- 1.6.1 Developer contributions are normally secured through planning obligation agreements under Section 106 of the Town and Country Planning Act 1990.
- 1.6.2 The terms ‘developer contributions’, ‘planning obligations’ and ‘Section 106’ (s106) are used interchangeably but generally refer to the same things. Agreements may be used to ensure that the impacts arising as a result of a new development can be addressed. They are also a valuable way of ensuring that a development complies with planning policies contained in the Local Plan and any Neighbourhood Plans.

⁶ <https://www.gov.uk/guidance/viability>, accessed May 2019

- 1.6.3 Planning obligations may be set out in a Section 106 agreement between the Council and the developer (and any other relevant parties) or in a unilateral undertaking offered by the developer. Section 106 agreements and unilateral undertakings are individual, scheme-specific, legal documents. Such agreements or undertakings can contain a number of planning covenants which can relate to both financial and non-financial obligations.
- 1.6.4 This document and the guidance contained within will remain a material planning consideration in the assessment of future development management applications if a CIL is subsequently adopted. Whilst some elements of this document may be superseded by any future CIL, this guidance will remain relevant and some form of legal agreement will still be required to secure affordable housing provision, on-site infrastructure delivery and/or any site specific obligation which falls outside of any future adopted CIL. In the case of adoption of CIL in the future, legal agreements securing obligations will work alongside CIL for the above reasons in a hybrid fashion.

1.7 Sustainability Appraisal

- 1.7.1 This draft SPD has been reviewed against the European Directive relating to Strategic Environmental Assessments 2001/42/EC. This scoping exercise has shown that this draft SPD does not require an SEA to be undertaken. To the extent that applies, this document shall be reviewed against any replacement legislation related to Brexit arrangements⁷.

⁷ <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-environmental-assessments-and-miscellaneous-planning-amendment-eu-exit-regulations-2018>

Policy SP7: Infrastructure requirements and developer contributions

The Council will require development proposals to make provision for infrastructure that is necessary in order to accommodate additional demands resulting from the development. We will:

- a. Require developers to provide, finance and / or contribute towards provision which is fairly and reasonably related in scale and kind to the development, including:
 - i. On-site and/or off-site improvements and infrastructure necessary as a result of the development in order to:
 - ensure appropriate provision of facilities and infrastructure for new residents;
 - **contribute toward help-addressing** cumulative impacts that might arise across multiple developments;
 - avoid placing unreasonable additional burdens on the existing community or existing infrastructure;
 - mitigate ~~any~~ adverse impacts **where appropriate**; and/or
 - enhance critical assets or make good their loss or damage; and
 - ii. Maintenance and/or operating costs of any such new provision;
- b. Ensure **essential** new infrastructure to support new development is **will be** operational no later than the completion of development or **during the** phase in which it is needed, **whichever is earliest** ~~unless otherwise agreed with relevant providers~~;
- c. Refuse planning permission where appropriate agreements or processes ensuring criteria (a) and (b) can be met are not in place;
- d. Have regard to ~~any~~ **relevant national** guidance or requirements in relation to planning obligations and any Community Infrastructure Levy **or successor funding tariff** which may be introduced **by the Council**;
- e. Work with landowners, developers and other agencies in facilitating the delivery of sites identified in the Local Plan **and associated infrastructure** and seek to overcome known obstacles; and
- f. ~~Take a stringent approach~~ **Need robust evidence to be provided** where developers consider that viability issues impact **upon** the delivery of key infrastructure and/or mitigation measures. **This evidence will be used to determine whether an appropriate and acceptable level of contribution and / or mitigation can be secured.**

1.8 Cross-boundary issues

- 1.8.1 There may be instances where the impacts of development that lie within other local authority areas may affect areas within the District. When notified of developments that could potentially have an effect on the delivery of services by North Hertfordshire District Council, the authority will discuss these with the relevant local authority and seek obligations from the developer accordingly. In these cases, the Council would expect a clause enabling money to be transferred for spending in the District if necessary.
- 1.8.2 The Council will make reciprocal arrangements to those set out above should a development falling within the North Hertfordshire administrative boundary have cross-boundary impacts affecting another authority area(s).
- 1.8.3 The above approaches will also apply, having regard to the general principles in this document, in relation to any Nationally Significant Infrastructure projects (NSIPs) in or affecting the District.

1.9 Other providers that may seek S106 contributions

- 1.9.1 A range of infrastructure providers may seek contributions from new development. This includes, but is not limited to, Hertfordshire County Council, the NHS and local Parish, Town or Community Councils. These are indicated under the relevant topic areas below.
- 1.9.2 These providers may also be signatories to the s106 agreement. The decision to make any other provider a signatory will be based on the level of financial contribution sought by the other provider. For clarity, any financial contribution to be made to a provider other than North Hertfordshire District Council in excess of £150,000 will usually require the other provider to be a signatory to the Section 106 agreement.

1.10 Infrastructure Planning and Funding

- 1.10.1 An Infrastructure Delivery Plan (IDP)⁸ is part of the Local Plan evidence base and sets out the requirements for infrastructure over the plan period. The IDP will need to be updated over time to take into account the infrastructure needs of the District, including any updating of costs that is required.
- 1.10.2 The IDP examines the supply and demand for infrastructure based on forecasts of population growth.
- 1.10.3 Individual Council departments have priority projects that are set out in relevant strategies and action plans. These are identified under specific topics elsewhere in this SPD. Applicants should also have regard to other plans and strategies prepared by other service providers.

⁸ Infrastructure Delivery Plan to support the North Hertfordshire Local Plan 2011-2031 (2016) - <https://www.north-herts.gov.uk/files/ti1-infrastructure-delivery-planpdf>

1.10.4 In addition to updating the IDP, Annual Infrastructure Funding Statements are a requirement of Regulation 121A of the Community Infrastructure Levy Regulations 2010 as amended by Regulation 9 of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019.

1.11 Strategic sites

1.11.1 The Local Plan identifies six Strategic Sites, for which there are detailed policies. For these sites a masterplan should be provided for the whole allocation to ensure that infrastructure provision fully reflects the demands arising from development. The Strategic Sites are:

- Policy SP14: Site BA1 – North of Baldock
- Policy SP15: Site LG1 – North of Letchworth Garden City
- Policy SP16: Site NS1 - North of Stevenage
- Policy SP17: Site HT1 - Highover Farm, Hitchin
- Policy SP18: Site GA2 - Land off Mendip Way, Great Ashby
- Policy SP19: Sites EL1, EL2 & EL3 East of Luton

1.11.2 The Strategic Sites will need to address any specific contribution requirements set out in their individual policies, in the Plan as a whole and in this document. Developers should be aware that obligations may be required to secure details outside of the scope of this document, such as securing a masterplan, final location and use splits of local neighbourhood centres, or management plans for the maintenance and sustainability of any new neighbourhood centres required as a result of the development.

1.12 Nationally Significant Infrastructure Projects (NSIPs)

1.12.1 Since the production of the Local Plan, work to expand Luton Airport has commenced. The District Council has been involved in ongoing engagement regarding this project. The project has been registered with the National Infrastructure Commission and a Development Consent Order is anticipated in 2020. The expansion of Luton Airport and any further NSIPs will be dealt with by the Planning Inspectorate, as set out in the Planning Act 2008.

1.12.2 The Council may seek appropriate contributions from any part of any NSIP in or affecting the District in line with the advice and principles in this document.

2 PROCESS, PROCEDURE & MANAGEMENT

2.1 Pre-application stage

- 2.1.1 Pre-application discussions offer the opportunity for the council to clarify the planning policies and material considerations that will be relevant to determining an application, as well as enabling issues to be resolved through a collaborative process.
- 2.1.2 Discussions regarding the type and level of developer contributions should take place at the pre-application stage. Draft S106 Heads of Terms should also be considered at this stage. The Council would expect a draft Heads of Terms with any pre-application advice for housing developments expected to exceed 10 units of 1,000sqm in floor space, or any other form of development for which an obligation may be expected on a fair reading of this guidance. The level of detail included will depend on the specific issues relating to the proposed development, as well as whether an Outline or Full planning permission to be is sought. Where proposals are general in nature, for instance unit mixes are not yet specified, indicative S106 contributions will be calculated on the assumption that any future scheme would be fully policy-compliant.
- 2.1.3 Where an application triggers developer contributions that would be delivered by an organisation other than the Council or the applicant, pre-application discussions will be required with that organisation also. This may include, but is not limited to, discussions with: Registered Providers, Hertfordshire County Council, utility providers and the NHS. Applicants should be aware that as well as the Council's pre-application fees, other consultees may charge pre-application fees.
- 2.1.4 For schemes where viability is raised as an issue by the applicant, a draft viability appraisal will be required at pre-application stage. For further advice, please see section 2.3 of this guidance document.

2.2 Application stage

- 2.2.1 Where pre-application discussions have identified that developer contributions will be required, applicants should submit heads of terms with their planning application.
- 2.2.2 Any developer contributions required will be considered at application stage by the case officer, other Council directorates, Hertfordshire County Council and any other external service providers and statutory consultees as relevant to the application. **All developer contribution requests and requirements will be coordinated by the relevant case officer.** This is to ensure that
- correct processes are followed;
 - applications can be dealt with in a fair and consistent way; and
 - schemes are considering in the round having regard to all relevant policy requirements.

- 2.2.3 This holistic approach may require compromise between competing interests (for example the preferred approach of the highway authority vs urban design and place-making considerations). For this reason, applicants are advised not to coordinate or otherwise seek to agree developer contributions directly with those involved in infrastructure delivery without the involvement of the Council.
- 2.2.4 The case officer will discuss the required developer contributions with the applicant, ensuring conformity with CIL Regulations 2010 (as amended). Where agreement cannot be reached between the applicant and the Council regarding the required obligations, or the applicant does not sign the S106 legal agreement ('legal agreement) within the required timescales, the planning application may be refused by the Council⁹. For this reason, close dialogue between case officers and specific Council service areas and applicants is recommended from an early stage.
- 2.2.5 Planning applications that require obligations and that are determined by the Council's Planning Control Committee will not be recommended favourably to the Planning Control Committee until all parties to the agreement have agreed the content of the document. The legal documents which secure the obligations, whether via section 106 or unilateral undertaking, must be agreed in regards to wording of definitions, scale, phasing of delivery and trigger points of any obligations prior to the deadline for draft reports for the targeted Committee date.
- 2.2.6 Standard templates for the legal agreements and Unilateral Undertakings can be found on the Council's webpage at: <https://www.north-herts.gov.uk/home/planning/apply-planning-permission/planning-obligations/>.
- 2.2.7 Developers / applicants will need to produce satisfactory proof of title for their particular site and all persons with an interest in the development site including owners, mortgagees, tenants and option holders must be party to the agreement.
- 2.2.8 Applicants will be required to pay the Council's legal costs as well as their own for drafting and checking legal agreements, and will need to provide a solicitor's undertaking to do so. Applicants should also be aware that a solicitor's undertaking and proof of title will be required by Hertfordshire County Council where applicable.
- 2.2.9 Where an applicant challenges the contributions required at application stage on viability grounds, a viability appraisal will be required. For further advice, please see section 2.3 of this guidance document.

2.3 Viability

- 2.3.1 Applicants should ensure that development proposals adhere to Local Plan and Neighbourhood Plan policies and that these requirements are factored into land value. The Local Plan should be treated as the starting point, with the underlying

⁹ Where planning applications are refused in this way on the advice of a consultee, that consultee will be responsible for defending their advice to the Council at any future appeal by the applicant. Consultees can have costs awarded against them at appeal in specified circumstances. See <https://www.gov.uk/guidance/appeals>, accessed May 2019

viability evidence demonstrating overall viability¹⁰. This reflects Planning Practice Guidance, which states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is therefore up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage and where needed, provide evidence of what has changed since then.

2.3.2 A viability appraisal should cover and consider whether viability enhancements could improve the situation, for example deferring triggers for contribution payments. It should be an ‘open book’ assessment which should include information covering (but not necessarily limited to) the following:

- Existing use values;
- Proposed use values (sales and rental);
- Demolition and construction costs;
- Finance and marketing costs;
- Assumed yield;
- Construction site abnormalities;
- Development phasing/timetable.

2.3.3 A viability appraisal should be submitted at application stage for any planning application where viability is a factor in determining the application. The viability appraisal will be independently assessed by consultants acting on behalf of the Council and the cost of this will be covered by the applicant.

2.3.4 A revised viability appraisal will be required where material changes are made following the submission of the planning application, or where there are delays where issues have not been resolved within the timescales originally envisaged.

2.3.5 Planning Practice Guidance provides further information on the expected requirements in relation to viability appraisals, including but not limited to: assessment of land value, inputs and assumptions as well as an open book approach and ensuring accountability. The viability assessment shall be treated as a public document and made available on the Council’s planning portal.

2.3.6 Overpayment for land will not be accepted as a reason for reducing contributions.

2.4 Viability review mechanisms

2.4.1 The Council will consider using a viability review mechanism where obligations or covenants are agreed at lower than policy compliant levels on viability grounds. A viability review mechanism can trigger a review of the originally agreed contributions where there is an improvement in viability and/or broader economic conditions since the original viability appraisal was undertaken.

2.4.2 A viability review mechanism may be used for multi-phased or long-term development schemes. Viability review mechanisms may also be appropriate

¹⁰ DSP – North Hertfordshire District Council – Local Plan Viability Assessment – Update – Final Report (August 2016)
DSP – North Hertfordshire District Council – Local Plan Examination Addendum (Viability) (Proposed policies HS4 and HS5) (January 2018)

whereby there are large scale, estimates or bespoke costs which may be subject to change or further surety upon investigation. The trigger point(s) for review will be set out at application stage, and be relevant to the reason for the inclusion of the viability review mechanism. Further developer contributions will only be required if a surplus is identified during the review over and above the returns necessary to be deemed viable.

- 2.4.3 The applicant will be expected to pay for the full cost of a viability appraisal required by a viability review mechanism. The appraisal should meet the requirements set out above. The viability review mechanism would be included in the S106 agreement.

2.5 Policy priorities and planning obligations

- 2.5.1 This SPD outlines in further detail the type of planning obligations that may be required. The coverage of likely obligations is not exhaustive, and each application will be considered on its merits on a case-by-case basis. Nonetheless, in every instance, the obligations sought will be in line with the CIL Regulations 2010 (as amended or subsequently replaced).
- 2.5.2 Paragraph 4.83 of the Local Plan identifies that there may be instances whereby policy requirements are prioritised. Where an agreed viability study has been produced in accordance with relevant policies, the Council will consider the requirements most critical to securing development and meeting the overall objectives of the Local Plan.
- 2.5.3 The Council will normally prioritise those contributions that have been properly tested through the Local Plan, in accordance with Planning Practice Guidance. The Council will have regard to potential alternative sources of funding and / or the likelihood of direct funding (in whole or part) of infrastructure for which s106 requests have been received.
- 2.5.4 Whether contributions have been subject to appropriate levels of consultation, examination and / or testing, is a significant factor in the viability of a scheme. The Council reserves the right to continue to require fully policy-compliant affordable housing provision (and other forms of properly tested contributions) at the expense of other requests.
- 2.5.5 The Council will seek to work with the relevant infrastructure provider to understand other potential forms of funding to fill any shortfall and negotiate an appropriately reduced level of contribution from the applicant.

2.6 Deeds of variation

- 2.6.1 In some cases, it may be necessary to change the contents of an agreement after it has been completed and signed. In such instances, the variation would need to be agreed by all parties affected by the variation prior to the submission of any application under Section 106B of the Town and Country Planning Act 1990 (as amended). This will result in additional costs to the applicant to take into account the negotiation, preparation and drafting of the variation. These costs include the costs of

the applicant's legal representation, the reasonable costs of the Councils legal representation as well as the costs of the application to vary or modify an obligation in of itself.

2.7 Monitoring, enforcement and allocation

- 2.7.1 The Council monitors all agreements, taking into account the trigger points and the different obligations included. Monitoring fees will be sought through S106 agreements and will meet the requirements of Part 11 Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended by Regulation 10 of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019. Those requirements are that the sum to be paid fairly and reasonable relates in scale and kind to the development and does not exceed the authority's estimate of its costs. Fees may be required to cover the cost of land transfer, where applicable.
- 2.7.2 The authorities estimate of costs for monitoring of obligations will, necessarily, be bespoke and context dependent. The estimated costs may include the monitoring costs of other departments in and or outside of the District Council. Fees for monitoring will be negotiated by the case officer.
- 2.7.3 The Town and Country Planning Act 1990 (as amended) outlines provisions for local authorities to enforce planning obligations. Due to this, the applicant may be required to provide evidence as the development progresses that all financial and non-financial obligations have been met.
- 2.7.4 The Council will charge interest on any payment that is paid late, and this will be payable from the date that the payment was due to the date of payment. Interest will be applied at two percentage points above the base lending rate of Lloyds Bank, as varied from time to time.
- 2.7.5 A S106 agreement and Unilateral Undertaking report is produced by the Planning Department and the information is reported to the Area Committees annually. This information can be found on the following webpage: <https://democracy.north-herts.gov.uk/mgListCommittees.aspx?bcr=1>
- 2.7.6 The Council will comply with the requirements of Part 10A, Regulation 121A of the Community Infrastructure Levy Regulations 2010 as amended by Regulation 9 of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 in so far as it relates to planning obligations. The Council will provide an annual infrastructure funding statement in the form of a "section 106 report", the first being due, at the time of writing, the 31 December 2020.

2.8 Indexation

- 2.8.1 Commuted sums will be indexed linked from the date of the agreement to the date when the contribution is requested. Where the contribution relates to a commuted maintenance payment, this will be index linked from when maintenance costs are agreed. The Retail Price Index (RPI) will be used for ongoing revenue costs, and PubSec for all capital costs. This is to ensure that the value of an obligation does not reduce over time. This information is correct at the time of writing, but is subject to change.
- 2.8.2 For contributions required by Hertfordshire County Council, indexation will be calculated having regard to any relevant requirements in their own planning obligations guidance¹¹.

2.9 Bonds

- 2.9.1 A bond may be used in cases where a developer will be delivering the work or where payments are phased. For instance, where the contribution relates to Highway infrastructure works, a bond may be used to provide a guarantee to the Council that the infrastructure can be delivered and to required standards.
- 2.9.2 Bonds may also be requested by the Council to hold for future decommissioning works, such as a solar farm subject to a temporary planning permission or in other circumstances deemed appropriate.

¹¹ Hertfordshire County Council Guide to Developer Infrastructure Contributions, <https://www.hertfordshire.gov.uk/about-the-council/consultations/environment/draft-developer-contributions-guide-consultation.aspx>

3 ECONOMY AND TOWN CENTRES

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> ➤ SP3: Employment ➤ SP4: Town Centres, Local Centres and Community Shops ➤ SP9: Design and sustainability ➤ ETC3: New retail, leisure and other main town centre development ➤ ETC6: Local Centres ➤ D1: Sustainable design ➤ Site-specific policy criteria 	<ul style="list-style-type: none"> ➤ Hertfordshire LEP Strategic Economic Plan ➤ Hertfordshire Skills Strategy ➤ NHDC Economic Development Strategy ➤ Town Centre Strategies for Baldock, Hitchin, Letchworth Garden City and Royston

3.1 Policy context

- 3.1.1 The NPPF seeks to support economic growth and support the role that town centres play at the heart of local communities¹².
- 3.1.2 The Local Plan sets out our aspiration to provide an appropriate balance between skills, housing and economic development. It recognises the contribution of ‘footloose’ careers in sectors such as construction and the trades in the overall employment balance of the District.
- 3.1.3 The retail policies of the Plan seek to maintain the vibrancy and vitality of key centres within the District. This includes the main town centres of our largest settlements as well as smaller parades of shops serving a local function.
- 3.1.4 The Hertfordshire Local Enterprise Partnership (LEP) provides the strategic framework for economic growth within the county. This is supported by local strategies for economic development and our town centres.

3.2 Business, economic development, local employment and training

- 3.2.1 We will support and promote the use of local people and businesses through the construction and delivery phases of new developments. We will particularly encourage these on our larger and strategic sites. These will have build-out periods lasting a number of years and will deliver significant employment and supply-chain opportunities over a prolonged period. Once implemented they will provide ongoing employment opportunities in shops, schools and other facilities. On longer-running schemes we will also encourage the creation of apprenticeship programmes providing the opportunity for local people to develop skills and put these into practice. These approaches will help to deliver social value through the planning system.

¹² NPPF Paragraphs 80 and 85

3.2.2 Where these measures are pursued, we will incorporate a (commitment to the production of a Local Labour Agreement within the S106 agreement. The detail of the Local Labour Agreement should be informed having regard to recognised resources and toolkits such as the Construction Industry Training Board’s client based approach.

3.2.3 Any specific requirements relating to built development for B-class employment uses are set out in relevant policies and site criteria. Where appropriate and necessary, relevant measures may be secured in any legal agreement relating to the relevant planning application(s) for those schemes.

3.3 Regeneration, town centres and streetscapes

3.3.1 Each of the District’s four main towns has a recognisable town centre. Over time a range of enhancement works have been carried out to maintain their distinctive characters and vibrancy. Contributions towards future town centre public realm enhancements will be sought from relevant major development schemes potentially including (but not necessarily limited to):

- Schemes for development within existing town centres;
- Schemes for out-of-centre development where such contributions may help preserve the vitality and / or viability of the existing centre(s); and
- Schemes elsewhere that may result in a substantive increase in footfall in existing town centres.

3.3.2 Major residential or non-residential development schemes near town centres have potential to drive substantive increases in footfall in town centres. Schemes for out-of-centre development will have to meet the necessary policy tests in regards to the sequential and impact tests. It may be that within the impact tests, contributions could be nominated or sought to mitigate harm to the vitality or viability of an existing town centre to an acceptable level.

3.3.3 Contributions may be sought for improvements to the wider public realm, the installation of specific facilities such as bike racks or street furniture or features such as public art. Specific projects for which contributions may be sought will be identified in an updated suite of Town Centre Strategies. Work on these is due to commence during 2020.

3.3.4 Where potential improvements are identified adjacent or otherwise in close proximity to a development site it may be appropriate for the applicant to carry out works directly with the approval of any other relevant bodies (such as the freeholder of the land affected). Alternatively, financial contributions may be sought.

3.3.5 Improvements to public realm will not necessarily be confined to the main town centres. Where appropriate, we will seek contributions towards public realm improvements in smaller centres and other areas which play an important role in defining place and supporting the day-to-day function of the built environment. Priorities for public realm enhancements may be identified in Neighbourhood Plans

or other locally-led strategies or initiatives, such as Parish Plans. Applicants should have regard to any relevant policies or requirements applicable to their scheme.

3.3.6 The Council may seek contributions towards the ongoing maintenance of any public realm improvements to be provided.

4 TRANSPORT

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> ➤ SP6: Sustainable transport ➤ SP9: Design and sustainability ➤ SP10: Healthy communities ➤ T1: Assessment of transport matters ➤ T2: Parking ➤ D1: Sustainable design ➤ D4: Air quality ➤ Site-specific policy criteria ➤ Appendix 4: Car Parking Standards 	<ul style="list-style-type: none"> ➤ Vehicle Parking at New Developments SPD ➤ Transport and Parking SPD* ➤ Design SPD* ➤ NHDC Transport Strategy* ➤ NHDC Local Cycling and Walking Infrastructure Plan (LCWIP)* ➤ NHDC Parking Strategy* ➤ Hertfordshire County Council Guide to Developer Infrastructure Contributions¹³ ➤ Hertfordshire Local Transport Plan ➤ The North Central Hertfordshire Growth & Transport Plan* ➤ Roads in Hertfordshire: A Design Guide

*Forthcoming

4.1 Policy context

4.1.1 The levels of growth and development envisaged in the plan will place additional demands on transport and highway networks and planning obligations can be used to mitigate against these effects.

4.1.2 The NPPF asks that transport issues be considered from the earliest stages to allow development impacts to be addressed and so that opportunities to promote more sustainable modes of travel can be identified and pursued¹⁴.

4.1.3 Hertfordshire County Council is the local highway authority and has the primary responsibility for delivering transport provision in the District. Hertfordshire County Council as Highway Authority is consulted on all applications and is a statutory consultee.

¹³ Hertfordshire County Council Guide to Developer Infrastructure Contributions, <https://www.hertfordshire.gov.uk/about-the-council/consultations/environment/draft-developer-contributions-guide-consultation.aspx>

¹⁴ NPPF Paragraph 102

- 4.1.4 The County Council's Local Transport Plan (LTP4) states that sustainable transport modes such as walking, cycling and improving access to public transport are to be prioritised while working to reduce need for journeys overall. LTP4 is supported by a range of strategies. These are both topic-specific (e.g. rail strategy) and geographically based (e.g. area growth and transport plans).
- 4.1.5 The Local Plan sets out policies that align with LTP4 to ensure that transport provision across the District is sustainable, efficient and safe and that environmental impacts, such as noise and air quality impacts, can be avoided and mitigated against.
- 4.1.6 Local Plan Policy T1: Assessment of transport matters requires Transport Statements, Transport Assessments and/or Travel Plans along with supporting documents where required. These documents provide an assessment of the likely transport impacts of the development in question. Where impacts cannot be fully mitigated, sustainable transport and highways planning obligations will be sought.
- 4.1.7 The Plan is supported by a proposed Transport Strategy. This identifies a number of potential projects, recognising that these will be reviewed and refined on an on-going basis.
- 4.1.8 Highways England is responsible for the strategic road network. In some instances, private landowners may be responsible where the provision is not on public highway.

4.2 Financial and non-financial obligations

- 4.2.1 The District Council will be guided by the response(s) of Hertfordshire County Council in determining measures required to mitigate transport impacts. The County Council's Guide to Developer Infrastructure Contributions provides an indication of the scale of requests they are likely to make in response to planning application consultations.
- 4.2.2 (Prospective) applicants should review the relevant strategies and guidance documents to identify potentially relevant and suitable projects for which contributions may reasonably be sought. In particular, regard should be had to promoting modal shift as endorsed in LTP4, the Roads in Hertfordshire design guide, as well as the management of highway impacts arising from the Local Plan where those impacts would be directly related to the development proposed.
- 4.2.3 In addition to S106 agreements, Section 278 (S278) agreements can be used as a mechanism to secure highway measures that cannot be addressed through the design of the proposed development. S278 agreements are used when the proposed works relate to the existing highway network, and Section 38 of the Highways Act is used where new highways are to be created and this can be provided by way of commuted sum where necessary.
- 4.2.4 The applicant should discuss with the Council and other relevant service providers whether the developer is best placed to deliver the works on-site, or to provide a financial contribution for another party to deliver the infrastructure required.

4.2.5 The cumulative transport impact of development proposals will also be taken into account as set out in the Local Plan, which may mean that smaller schemes may be requested to make appropriate contributions towards schemes which are required to address the combined impacts of future growth.

4.2.6 Non-financial contributions towards sustainable transport may also be required and may include establishing car clubs, providing electric vehicle infrastructure, land for Rights of Way improvements, controlled parking zones and safe cycle storage. Where Travel Plans are required for a development, contributions may be sought for monitoring.

4.2.7 HOUSING

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> • SP8: Housing • HS2: Affordable housing • HS3: Housing mix • HS4: Supported, sheltered and older persons housing • HS5: Accessible and adaptable housing • Site-specific development criteria 	<ul style="list-style-type: none"> • Housing Strategy • Homelessness Strategy • Tenancy Strategy

4.3 Policy context

4.3.1 The NPPF stresses the importance of addressing the needs of groups with specific requirements for housing¹⁵.

4.3.2 The Council’s overall planning approach to Affordable Housing is set out in Policy HS2 of the Local Plan and supporting text. This section of the SPD provides additional information to aid interpretation of these requirements.

4.3.3 Further information on the Council’s approach to Affordable Housing is set out in our Housing Strategy and Tenancy Strategy. These, and other relevant documents, including the latest Strategic Housing Market Assessment, are provided on our website. Where relevant, this section of the SPD makes reference to the latest findings from these reports. However, these documents may be updated over the lifetime of this SPD and should always be referred to for the most up-to-date information.

4.3.4 Policies HS4 and HS5 contain specific requirements relating to housing for older persons and accessibility respectively.

¹⁵ NPPF Paragraph 59

4.4 Affordable Housing

Demonstrating compliance with Affordable Housing requirements

4.4.1 We encourage the submission of an Affordable Housing Statement alongside any relevant planning applications to demonstrate how the requirements of the Local Plan and this SPD have been met. Alternately, the approach to Affordable Housing should be clearly set out as a distinct section within one or more of the following documents (as applicable):

- Design & Access Statement
- Planning Statement
- Environmental Statement

4.4.2 The following details set out the Council's expectations in line with policy HS2 of the Local Plan. All expectations set out below will be secured in a legal agreement in any potential approval of a relevant application. In the event of an outline planning application with all or most matters reserved, these matters will remain secured in a legal agreement, up to, including and not limited to amount, tenure, mix and design.

Calculating the Affordable Housing requirement (Policy HS2(a)(i))

4.4.3 Policy HS2 sets the following target percentages of dwellings to be affordable:

Size of site (gross dwellings)	Target % of Affordable Housing
11-14 dwellings	25%
15-24 dwellings	35%
25+	40%

4.4.4 When calculating the number of affordable units, the general approach will be to round the requirement to the nearest whole number. Where the requirement is subject to rounding up, the target levels of Policy HS2 may be slightly exceeded. As a general principle, and having regard to the findings of our evidence¹⁶, this approach is unlikely to affect scheme viability. Subject to the exceptions below, the Council will not entertain viability appraisals or attempts to reduce the Affordable Housing contribution on this ground alone.

4.4.5 The impact of rounding the requirement can be more significant for smaller sites given the low numbers of units involved. We specifically recognise the potential impact upon schemes of 11, 14, 16 and 19 units. In these instances we will determine the most appropriate approach having regard to:

- The nature of the scheme;
- The tenure of any proposed Affordable Housing products; and
- The proposed / potential Affordable Housing floorspace as a proportion of the overall development, particularly where larger units are proposed for private sale with smaller units proposed as the Affordable Housing contribution.

¹⁶ North Hertfordshire District Council Local Plan Viability Assessment Update 2016 (Dixon Searle Partnership (DSP))

4.4.6 These factors will also be considered in other instances where the proposed Affordable Housing contribution does not comply with policy.

Off-site provision of Affordable Housing

4.4.7 Where the off-site provision of Affordable Housing or a financial contribution is agreed in principle (see below), the requirements of Policy HS2 should be met when viewing the application site and the ‘donor’ site(s) (or other agreed alternate form(s) of contribution) as a single entity.

4.4.8 A scheme for 100 units would normally generate an on-site requirement for 40 affordable homes, with the remaining 60 homes available for market sale ($40 / 100 = 40\%$).

4.4.9 However, a scheme of 100 market sale homes with no on-site Affordable Housing would require off-site provision or a financial contribution equivalent to 67 affordable units to make the same contribution: $(67 / (67+100) = 40\%)$.

4.4.10 The table below summarises the equivalent percentages required to meet the targets in Policy HS2 where fully off-site provision or a commuted payment is to be made.

Size of site (gross dwellings)	Target % of Affordable Housing (on-site)	Off-site equivalent
11-14 dwellings	25% of all dwellings	33% of market homes
15-24 dwellings	35% of all dwellings	54% of market homes
25+	40% of all dwellings	67% of market homes

4.4.11 We will use bespoke calculations where it is agreed that the Affordable Housing is to be split between on-site and off-site provision.

Provision involving existing Affordable Housing

4.4.12 Where existing Affordable Housing is to be demolished or otherwise lost, we will normally expect that existing units will be replaced on a one-for-one basis with the targets of Policy HS2 then applied to any net additional units.

4.4.13 Exceptions to this approach will be considered on a case-by-case basis, for example when a scheme proposes replacement units that better meet identified Affordable Housing needs or where private sale units will cross-subsidise the scheme.

Vacant Building Credit

4.4.14 National policy provides an incentive for brownfield development on sites containing vacant buildings. This requires Affordable Housing requirements to be reduced based on the quantity of floorspace being brought back into use or replaced.

4.4.15 Vacant Building Credit is intended to incentivise the re-use of buildings or sites that would otherwise remain vacant or become derelict. It is not intended as a back-door means of reducing Affordable Housing contributions on otherwise viable sites.

4.4.16 Where Vacant Building Credit is applied for, the applicant should follow the principles set out for employment uses in Local Plan Policy ETC2(i) and provide evidence that the building has been actively marketed for its current use for a period of at least twelve months without success prior to submission of a planning application. This should demonstrate that the marketing has been conducted appropriately given the terms and rental / sales values compared to other similar properties.

4.4.17 Vacant Building Credit will not be applied where the above conditions are not met.

Viability

4.4.18 Our overall approach to viability is set out in Policy SP7 of the Local Plan and Section 2.8 of this SPD. Where a developer seeks to reduce Affordable Housing below target levels on viability grounds, the appraisal should demonstrate the impact of full compliance with the Affordable Housing Requirements in the Local Plan and this SPD on a 'nil grant' basis.

4.4.19 Any departure from policy compliant Affordable Housing provision on viability grounds will be negotiated on a case-by-case basis having regards to the findings of the viability study, scheme-specific circumstances and the potential for any alternate and / or reduced forms of contribution towards Affordable Housing.

On-site vs. off-site provision (Policy HS2(a)(ii))

4.4.20 Our presumption is strongly in favour of Affordable Housing provision being made on site. Although some sites will deliver relatively low numbers of affordable homes, Registered Providers operating in the District are normally willing to take these on as part of their wider portfolio.

4.4.21 We recognise that there can be specific circumstances where it is not possible or appropriate to make Affordable Housing provision on site. This might include in some smaller flatted developments or where specialised accommodation within Use Class C3 is being provided.

4.4.22 Any (proposed) departures from on-site provision will be considered on a case-by-case basis. Where it is accepted that on-site provision is not feasible, we will first seek provision on an alternate site. If this is not possible, we will seek a commuted sum in lieu of provision.

Approach to off-site provision

4.4.23 Off-site provision may be an appropriate alternative where an alternate site is in possession of, or can be reasonably acquired or otherwise accessed by, the applicant who can then deliver affordable homes upon it in partnership with a Registered Provider in the normal way. The Affordable Housing provision on the 'donor' site will need to comply with relevant planning policies and the requirements of this SPD. It will normally be secured with an appropriate clause(s) in the legal agreement and / or Grampian condition on the principal site to ensure delivery of both schemes.

4.4.24 The ‘donor’ site should be reasonably related to the application site. In considering the acceptability of potential alternate sites, we will have regard to the approach taken by the Local Plan to Rural Exception sites. Alternate sites should normally be located within both a 15-minute drive time and a 30-minute journey time using passenger transport of the principal application site.

Commuted sums

4.4.25 Where it is accepted that a commuted sum is required, the starting point for negotiation will be an equivalent payment sufficient to deliver the Affordable Housing requirement on an alternate site:

- The Affordable Housing requirement will be calculated in line with the requirements set out in this section of the SPD;
- The cost per required affordable unit (the unit cost) will be based upon the provision of a 2-bed house (including land);
- The unit cost will be derived from the costs set out in the Council’s most recent District-wide viability assessment.

4.4.26 At the time of writing this approach gives a unit cost of £123,000¹⁷.

C2 Uses and affordable housing

4.4.27 For the purposes of the new Plan, the Council has treated the need for and provision of housing within use-class C3 separately from the need for and provision of more specialist accommodation within use-class C2. The overall housing requirement and references to dwelling estimates for the Strategic Housing Sites and Local Housing Allocations are for C3 uses only. The Plan relies on delivery of the housing allocations with policy-compliant affordable housing to meet future market and affordable housing needs in full.

4.4.28 Requirements for C2 uses are set out separately and in addition. A minimum target for the overall provision of C2 bedspaces is set in Policy SP8(g).

4.4.29 The Council will not normally seek the provision of affordable housing or affordable housing contributions from:

- C2 uses where they satisfy a specific policy requirement on Strategic Sites; or
- C2 uses on windfall sites not identified in the Plan

4.4.30 However, where a C2 use is otherwise proposed on a site allocated in the Plan for housing, the Council will seek a commuted sum for affordable housing that

¹⁷ Taken from North Hertfordshire District Council Local Plan Viability Assessment Update 2016 (DSP). Figure based upon: a base build cost for a 79m² 2-bed home at £1,190/m²; £4,500 site prep and survey costs; a 17% uplift on the base build cost for contingencies, fees and sustainable design & construction standards; £2,447 to achieve M4(2) accessibility compliance; and £9,250 to purchase 1/40th hectare of land at assumed greenfield enhancement value of £370,000 per hectare. Total rounded to nearest £1,000.

compensates for any loss of affordable housing units that might otherwise have been provided if the site had been fully developed for C3 use in accordance with the Plan.

- 4.4.31 The relevant sum will be calculated on a case-by-case basis using the dwelling estimate and affordable housing policies in the Plan and the guidance above on commuted sums.

Expenditure of commuted sums for Affordable Housing

- 4.4.32 Any specific provisions relating to the expenditure of the commuted sum, including time limits, will be set out in the s106 agreement. In general terms, commuted sums for Affordable Housing might reasonably be spent upon (but is not necessarily limited to):

- The delivery of additional affordable units on other s106 schemes;
- The provision of new affordable homes on (up to) 100% Affordable Housing schemes by the Council or a Registered Provider;
- The acquisition of (serviced) land to facilitate such schemes;
- The adaptation or modification of existing stock to meet standards and / or specific identified housing needs;
- The acquisition of homes on the open market for Affordable Housing; or
- The provision of other forms of housing providing homeless or temporary accommodation;

- 4.4.33 Specific projects may be identified in our Housing Strategy or other relevant documents and expenditure can take place anywhere in the District regardless of the location of the development to which the commuted sum relates.

Ensuring affordability (Policy HS2(a)(iii))

- 4.4.34 Housing affordability is a significant issue in the District. The ratios of house prices to earnings are at the highest levels ever recorded. Even with discounts applied, rents and purchase requirements for intermediate products remain difficult to afford for many households.

- 4.4.35 The Local Plan recognises that it will be necessary to introduce rental caps at below 80% of market rates to ensure affordability, particularly for larger units. Our approach to rents, and seeking to ensure the affordability of all Affordable Housing products, is set out in our Housing Strategy and Tenancy Strategy. We currently require the following rental levels:

- 1 & 2 bed properties: 80% of market rents
- 3 bed properties: 70% of market rents
- 4 bed properties: social rents

- 4.4.36 All rents are to be within Local Housing Allowance Rates. Rents for 1-, 2- and 3-bed properties should achieve the percentages above inclusive of any service charges, management fees or similar.

- 4.4.37 The requirements in the Plan are based upon households allocating 35% of their gross income to housing. Applicants should demonstrate that any intermediate products, including the initial purchase percentage(s), will be affordable on this basis having regard to local income and house price data. House prices vary significantly across North Hertfordshire and district-wide price averages will generally not be considered an appropriate basis for making these calculations. In determining the affordability of products, any service charges, management fees or similar which may be applied should be included.
- 4.4.38 For shared ownership units, applicants should be able to purchase an initial equity share in the property of between 25% and 75%. The rent on unsold equity will be capped at 2.75% in accordance with Homes England requirements.
- 4.4.39 Due to the high cost of housing throughout the District, some forms of intermediate tenure products are considered unlikely to meet the affordability requirements of the Plan. This includes, but is not necessarily limited to, discounted market sales housing and Starter Homes.
- 4.4.40 The Government recognises that shared ownership products can be hard to replace, particularly in rural areas. To address this issue, regulations identify Designated Protection Areas¹⁸. Within these, any shared ownership products will be required to restrict 'staircasing' to a maximum 80% equity share in the property.
- 4.4.41 Where applicable, these requirements will be incorporated into the legal agreement. The following parishes within North Hertfordshire are currently Designated Protection Areas:
- | | |
|----------------|-------------------|
| ➤ Ashwell | ➤ Lilley |
| ➤ Barkway | ➤ Newnham |
| ➤ Barley | ➤ Nuthampstead |
| ➤ Bygrave | ➤ Offley |
| ➤ Caldecote | ➤ Pirton |
| ➤ Clothall | ➤ Preston |
| ➤ Codicote | ➤ Radwell |
| ➤ Graveley | ➤ Reed |
| ➤ Hexton | ➤ Rushden |
| ➤ Hinxworth | ➤ Sandon |
| ➤ Holwell | ➤ St Pauls Walden |
| ➤ Ickleford | ➤ Therfield |
| ➤ Kelshall | ➤ Wallington |
| ➤ Kimpton | ➤ Weston |
| ➤ Kings Walden | ➤ Wymondley |
| ➤ Langley | |

¹⁸ The Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009

Affordable Housing tenures (Policy HS2(b)(i))

- 4.4.42 Local Plan policy requires 65% of Affordable Housing units to be for rent with the remaining 35% other forms of Affordable Housing. The definition of the various housing types considered to be Affordable Housing is set out in Annex 2 of the NPPF.
- 4.4.43 When calculating the required tenure split, the number of rented units will normally be rounded to the nearest whole number. The number of intermediate units will normally represent the balance of the overall requirement.
- 4.4.44 On schemes of 25 units or more it should be possible to deliver the tenure split required by Policy HS2.
- 4.4.45 On schemes of less than 25 units, or in other instances where less than 10 Affordable Housing units are proposed or agreed, we will consider the most appropriate approach to tenure mix on a case-by-case basis having regard to the above advice. It may not, for example, be desirable for a scheme to deliver a single intermediate unit. Equally, it may not be practical to deliver affordable rented units within a small block of flats.
- 4.4.46 The most appropriate mix of intermediate products will be negotiated on a case-by-case basis having regard to relevant evidence (including upon affordability) and the type and size of Affordable Housing product(s) proposed by the applicant or otherwise considered realistic in the context of the site and overall scheme.
- 4.4.47 The NPPF allows for self-build housing to be Affordable Housing. For this to be the case, the self-build must fall within one of the Affordable Housing types contained in the NPPF definition. Where any self-build housing is accepted as being a form of Affordable Housing (and vice versa) it will count towards any relevant policy targets or requirements for both forms of provision. Self build not falling within the NPPF definition of Affordable Housing will not count towards, or otherwise be offset against, the Affordable Housing requirement.

Evidence of housing need (Policy HS2(b)(ii))

- 4.4.48 The starting point for evidencing Affordable Housing need is the Council's latest Strategic Housing Market Assessment. This provides advice on overall requirements and advised tenure and mix requirements for the whole District. We supplement data from district-wide studies, with more localised information.
- 4.4.49 Prospective applicants should contact the Council's Housing team for up-to-date housing register data. We work with Hertfordshire County Council's Adults Supported Accommodation Strategic Board to identify and address specific housing needs. Surveys for individual parishes are conducted in partnership with Parish Councils and Community Development Action's Rural Housing Enabler. Applicants should have regard to the findings for any up-to-date Parish surveys relevant to their site. Where a prospective applicant is considering bringing forward a significant scheme in a parish where there is no survey, or the survey is out of date, they should liaise with

the Council at the earliest opportunity to determine whether it is practicable to produce or update a survey in advance of the submission of an application.

- 4.4.50 Where an applicant is considering gathering their own evidence to inform the assessment of housing needs for their own project(s), we encourage early engagement with the Council's Housing Team to ensure any survey is appropriately defined.
- 4.4.51 Any findings from the above will help inform whether there is justification to depart from the general tenure and mix requirements set out in the Local Plan and this SPD on a case-by-case basis.
- 4.4.52 Applicants will need to demonstrate compliance with any additional or alternate requirements in Neighbourhood Plans that are brought forward following adoption of the Local Plan¹⁹.

Affordable Housing Mix (Policy HS2(b)(v))

- 4.4.53 The aim of the Plan is to meet assessed district-wide needs for Affordable Housing over the period to 2031. The starting point for consideration of appropriate housing mix will therefore be our most recent Strategic Housing Market Assessment.
- 4.4.54 The current SHMA concludes that the requirements for Affordable Housing are split on an almost 50% / 50% basis between smaller (1- and 2-bed) and larger (3+bed) units. However, in calculating these requirements, it is assumed that current patterns of occupation will continue. Our Housing Strategy recognises there is evidence of 'under-occupation' of the existing Affordable Housing stock within the District. This is a particular issue with 3-bed homes given their prevalence across North Hertfordshire. The Local Plan recognises that increasing the proportion of smaller homes may, in particular, provide additional opportunities for older households to downsize. Most households in the top preference bands of the Council's Housing Register require smaller homes.
- 4.4.55 Reflecting these facts, we may seek a slightly higher proportion of smaller (1- or 2-bed) Affordable Housing units and a slightly lower proportion of 3-bed Affordable Housing units than suggested by a straight reading of the SHMA.
- 4.4.56 As set out above, we will consider whether any specific, local evidence justifies a departure from this general guidance on a case-by-case basis.
- 4.4.57 In considering the suitability of the proposed Affordable Housing mix, we will also have regard to other relevant policies of the Plan. Please refer to the following sections of this chapter in relation to self-build, older persons housing and housing accessibility.

¹⁹ If policies in an adopted Local Plan conflict with policies in an adopted Neighbourhood Plan (or vice versa) the most recent plan policy takes precedence.

Affordable Housing Design

- 4.4.58 Wherever practicable, affordable housing design should be tenure blind. It should be physically indistinguishable from the market housing and on larger sites be distributed across the site in small clusters, rather than concentrated on one of two parts of the site. Affordable Housing should be distributed in a way which ensures that access to key facilities such as schools, local shops and open space is equivalent to that provided for market homes.
- 4.4.59 Policy D1 of the Local Plan states that new homes must meet the Government's minimum nationally described space standards. In some instances, space requirements for Affordable Housing may be set at a higher level. Where there is conflict between two (or more) standards, the highest (most spacious) will be applied to the Affordable Housing.
- 4.4.60 The Local Plan requires that, where more than 10 Affordable Housing units are to be provided, 10% of these should be to the higher M4(3) wheelchair user standard. This requirement is in addition to the M4(2) standards above. The 10% requirement will be rounded to the nearest whole number based upon the Affordable Housing requirement. These should be provided within rented tenure units and to wheelchair accessible standards wherever possible. Where this approach is not considered viable (and subject to the general guidance on viability in the Local Plan and this SPD), we will consider whether provision of units to the wheelchair adaptable standard is an appropriate alternative.

Registered Providers

- 4.4.61 There are a large number of Registered Providers operating within the District. We do not have a preferred partner, nor do we recommend partners. We are able to provide contacts and facilitate introductions where required. The transfer of the Affordable Housing to the Registered Provider will normally be subject to a separate agreement with the applicant / developer. The Registered Provider will not normally be a signatory to the legal agreement.
- 4.4.62 Some forms of Affordable Housing do not need to be delivered by a Registered Provider. Where this is the case, we will consider whether it is appropriate to secure a bond or other form of guarantee in the legal agreement. Where the Council cannot secure nomination rights in accordance with the guidance below, we may request that the legal agreement restricts occupancy to households who cannot compete in the housing market.

Content of the legal agreement in relation to Affordable Housing

- 4.4.63 The key provisions relating to Affordable Housing will be secured through the S106 legal agreement and, to the extent that is appropriate, any associated Nomination Agreement. It is expected that the legal agreement will normally contain (but is not necessarily limited to) the following information:
- The overall amount of Affordable Housing to be provided;

- Details of the tenure and type of Affordable Housing to be provided;
- Details of any specific standards to be met by the Affordable Housing
- Details of any trigger points for the construction and / or transfer of the Affordable Housing;
- Any Mortgagee in possession (or other similar) clauses to safeguard the provision of Affordable Housing;
- Any specific requirements in relation to nomination rights, lettings and cascades including qualifying persons and local connection criteria (see below); and
- Details of any applicable staircasing restrictions.

4.4.64 Where development is anticipated to occur over a number of phases, the provision of Affordable Housing should not normally be backloaded into later phases. This will be addressed through the inclusion of appropriate trigger points in the legal agreement.

4.4.65 Where outline permission is sought on an “up to...” basis, we may seek to secure a guaranteed minimum number of Affordable Housing units within the legal agreement. This is to ensure that the anticipated provision of Affordable Housing is not subsequently undermined (for example by submission of a detailed application for an alternate use on part of the same site).

Nomination rights, lettings and cascades

4.4.66 The District Council will normally seek to secure 100% of initial nomination rights and at least 75% of nomination rights for subsequent re-lets. Nominations will be made in accordance with the Common Housing Allocations Scheme or any successor.

4.4.67 For development East of Luton (Local Plan Policy SP19), we will take this approach to a number of Affordable Housing units which will be calculated as follows:

$$\text{Agreed site-wide Affordable Housing provision (\%)} \times 150$$

4.4.68 This reflects the amount of that development required to meet the District’s own housing needs. Initial nomination rights for the balance of the secured Affordable Housing will be reserved for applicants on Luton Borough Council’s Housing Register or joint housing register as may be agreed. Any subsequent nominations will return to North Hertfordshire District Council.

4.4.69 Insofar as is practicable, the units designated to each authority will contain a proportionate mix of tenures, unit sizes and accessibility adaptation consistent with the overall requirements of our policies and this SPD.

4.4.70 In the event of any future developments that are specifically intended to meet the unmet housing requirements of another Local Planning Authority, a similar approach will be taken.

4.4.71 In the rural Designated Protection Areas, we normally operate the following cascade to prioritise the allocation of affordable housing:

- Applicants from within the Parish;
- Applicants from adjoining Parishes;
- Applicants from other rural parishes in North Hertfordshire;
- Applicants from elsewhere in the District.

4.4.72 This approach will normally be continued on smaller rural sites. However, some rural parishes have significant development allocations in the new Local Plan – either because they physically adjoin larger towns or because they have been identified as locations capable of meeting a wider-than-local need. In the following parishes and for the following developments we will determine the most appropriate cascade mechanism on a case-by-case basis:

- Barkway – Site BK3
- Bygrave – Site BA1
- Clothall – Sites BA2 and BA3
- Graveley – Site NS1
- Ickleford – Site IC3
- Offley – Sites EL1, EL2 & EL3
- Weston – Site GA2
- Wymondley – Site WY1

Subsequent occupiers

4.4.73 The measures above will normally secure the Affordable Housing provision on new development sites for subsequent occupiers. However, it is recognised that some units may eventually be lost from the Affordable Housing stock through Right to Buy, by achieving 100% ownership of intermediate products through 'staircasing' or through any additional or successor arrangements.

4.4.74 Presently, these rights and the recycling of monies received through these events are subject to their own regulation and will not normally need to be reflected in the legal agreement.

Deeds of variation

4.4.75 We sometimes receive applications to vary the conditions of the legal agreement following completion of the scheme and / or its transfer to the Registered Provider. In the past, these have mainly related to shared ownership units and / or the cascade mechanism where it has not been possible to allocate the Affordable Housing within the terms of the original agreement. In turn, this is often linked to the (un)affordability of the products.

4.4.76 By following the requirements of our Local Plan policies and the guidance in this SPD and other relevant strategies, the need to vary the legal agreement should only arise in exceptional circumstances.

4.4.77 Any Deed of Variation applications should be accompanied by robust evidence, including upon viability where relevant and follow the principles set out Section 2 of this document.

Review mechanisms (Policy HS2(c)(ii))

4.4.78 The general approach to review mechanisms for legal agreements is set out in Section 2 of this SPD. Where viability improves such as to trigger a review, we will take a fair and proportionate approach. Affordable Housing targets will be applied to the remaining phases or quanta of development at the point of review in line with the requirements of Policy HS2 and this SPD. We will not normally use review mechanisms to seek above target levels of Affordable Housing provision on future phases of development in order to make up for previous shortfalls.

4.5 Self-build

4.5.1 Our policies require that 1% of plots on Strategic Housing Sites are reserved for self-build. We will have regard to the self-build register and encourage the provision of self-build plots on other sites where there is proven evidence of demand. Neighbourhood Plans may set requirements for self-build. Councils may additionally need to have regard to statutory requirements relating to self-build in other, non-planning functions such as land disposal.

4.5.2 The delivery of self-build sites, or proportion of sites as self-build opportunities, brings complexities, as detailed below. Considering the depth of considerations for the appropriate delivery of self-build housing, it is highly likely that any approval of such housing will require planning obligations, rather than conditions, to secure the details of delivery. As a result, guidance in what is required to be considered in delivery of self-build housing is set out below to inform heads of terms and eventual agreed obligations.

4.5.3 For the purposes of planning policy, Custom and Self-build dwellings share the same definition and the terms can be used interchangeably. Custom Build is where a person appoints a specialist developer to help build their own home. Self-build is where a person is more directly involved in organising and constructing their own home.

4.5.4 Where self-build plots are to be delivered we will secure, by legal agreement or condition as appropriate in each instance:

- The number and location of plots to be delivered for self-build;
- The trigger point(s) for the provision and / or marketing of the serviced plots;
- The transfer of the plots where the developer does not wish to retain or market them for self-build;
- The means by which detailed permission(s) for the self-build plots shall be obtained;
- Reversion clauses or similar allowing for the return of the plot to the developer and / or the use of any unsold self-build plots for other forms of housing; and / or

- Time limits for the commencement and / or completion of development on any self-build plots.
- 4.5.5 The Council maintains a Self-Build and Custom Housebuilding Register in accordance with relevant regulations. This contains details of persons interested in acquiring plots of land for self-build.
- 4.5.6 The Council's preference is that developers will conduct the marketing and sale of any self-build plots themselves. In these instances, those on the Register will be asked to give their consent to be contacted by the developer. The Council will not be directly involved in disposing of the plots.
- 4.5.7 Where the developer does not wish to market self-build plots themselves, the freehold of the area that will contain the serviced plots should be transferred to the Council for a nominal sum. This sum may include the recovery of a reasonable proportion of the S106 costs attached to the site as a whole and / or the costs of providing services to those plots where this occurs prior to, or as a condition of, the transfer. The Council will then undertake the marketing and sale of the plots.
- 4.5.8 Prior to the marketing of any self-build plots, the body responsible for their disposal shall secure an appropriate permission or planning framework for the whole of the self-build area detailing:
- The highway layout
 - The provision of services;
 - Any incidental or communal landscaping, open space or similar;
 - The extent of the individual self-build plots
 - The unit type of the individual self-build plots
 - Vehicular access and parking provision
 - Key design parameters including
 - Fixed positions or zones for front and rear facades
 - Maximum building heights
 - Maximum internal floor areas
 - A palette of materials
- 4.5.9 This approach strikes a reasonable balance between individuality and ensuring the site as a whole remains coherent in design terms. The permission should be sufficiently flexible to allow for innovative design and methods of construction. It should also ensure sufficient scope remains for future plot owners to have a meaningful input into the final design of their home. The factors above may be identified and / or secured through a design code (or similar) attached to a hybrid application²⁰.

²⁰ In this instance, the final, detailed design of individual homes may be secured through a discharge of condition application (or similar) by the intended occupier upon, or prior to, acquisition of the plot.

- 4.5.10 The Council will consider whether it is expedient to introduce a Local Development Order, or other form of simplified planning framework, for self-build areas on a case-by-case basis.
- 4.5.11 Any marketing period should be of sufficient length to give interested parties reasonable opportunity to investigate likely acquisition and build costs and draw together appropriate funding. This may include securing in principle agreements for finance and / or quotes or expressions of interest from builders or developers to deliver the scheme where they will seek assistance in building their home. Plots should be made available at a reasonable market value so as to encourage, rather than deter, their uptake.
- 4.5.12 Our expectation is that any reversion clause will allow for a minimum two-year marketing period for self-build. Shorter periods will only be entertained when the applicant expects the remainder of the site to be completed more quickly. On Strategic sites, or other schemes where development is to be phased, it may be appropriate to seek longer clauses to maximise the opportunity for self-build plots to be taken up.
- 4.5.13 In all instances, self-build plots should be delivered in a timeframe that is compatible with the delivery of the site as a whole. Equally it is necessary to ensure that the site can be fully built out in the absence of interest in (all of) the self-build plots; unbuilt or incomplete plots on an otherwise completed scheme would detract from the Government's aim to create high quality places.

5 DESIGN

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> ➤ SP9: Design and sustainability ➤ D1: Sustainable Design ➤ D3: Protecting living conditions ➤ D4: Air quality 	<ul style="list-style-type: none"> ➤ Design SPD* ➤ Transport and Parking SPD* ➤ Baldock Air Quality Paper ➤ NHDC Note to Local Plan Inspector on Air Quality ➤ Hertfordshire Waste Strategy 2002-2024

*Forthcoming

5.1 Policy context

5.1.1 National policy recognises that good design is a key aspect of sustainable development²¹. The Local Plan contains policies focused on ensuring that design responds positively to local context and that suitable mitigation measures can be delivered through the planning process.

5.2 Design

5.2.1 The general design requirements of the Plan will normally be met through consideration of detailed Plan and, where appropriate, the use of planning conditions. However, there may be some instances where contributions are sought towards schemes which delivery upon the design aspirations of the Plan (see, for example, Section 3.4 on public realm).

5.3 Sustainable construction methods

5.3.1 Local Plan Policy D1 Sustainable design outlines that development proposals are required to consider the potential to minimise the impact on the environment during both construction and throughout the lifetime of the development. The Council may require planning conditions and/or legal agreements to achieve this.

5.4 Protecting living conditions

5.4.1 Policy D3 seeks to secure protection against potential statutory nuisances and other impacts which may adversely impact upon living conditions.

5.4.2 There may be requirement for reciprocal measures to be secured from proposed development in adjoining authorities under the arrangements set out in Section 1.8. This may include, but is not necessarily limited to, any future schemes at London Luton Airport.

²¹ NPPF Paragraph 124

5.5 Air quality monitoring

- 5.5.1 Legal agreements may be used to ensure that there are appropriate levels of mitigation to minimise development impacts in line with Local Plan Policy D4 Air quality. This is particularly relevant where development proposals are likely to create additional road traffic.
- 5.5.2 Policy D4 sets out the circumstances in which an air quality impact assessment will be required. Methods to reduce emissions may include: design of development, encouraging the use of public transport and car sharing, promoting low emission vehicle use, road and traffic management schemes as well as appropriate parking standards. These methods may be secured at planning application stage via planning conditions and/ or legal agreement.
- 5.5.3 Where air quality impact assessments are required and where those assessments predict that an adverse impact on local air quality will occur there will be a requirement for the Defra 'air pollution damage costs' approach to be applied. This air pollution economic analysis damage costs approach is founded upon the application of Defra's Emission Factor Toolkit and Central Government's Interdepartmental Group on Costs and Benefits (IGCB) guidance. Further information can be found in the NHDC Air Quality Planning Guidance Document and at www.gov.uk/guidance/air-quality-economic-analysis.
- 5.5.4 The financial contributions calculated by the 'air pollution damage costs' approach will need to be targeted to air pollution mitigation measures that are relevant to the development in question and of specific benefit to the local areas that have been identified as being adversely impacted by that development.
- 5.5.5 Identified measures or contributions will be secured by condition or legal agreement as appropriate in each instance.

5.6 Waste collection and recycling

- 5.6.1 A waste collection and recycling programme for North Hertfordshire is contained within the Hertfordshire Joint Municipal Waste Management Strategy 2007²². This has been modified since it was published and in September 2005 the Council agreed a programme that would ensure additional kerbside recycling facilities for all properties by September 2007.
- 5.6.2 Properties with no immediate access to the rear, together with flats may have no obvious means for storage of waste and recycling containers. This results in containers being permanently left in front gardens or by the roadside. Therefore, development schemes will be required to ensure appropriate arrangement for the storage of waste collection and recycling containers at the outset. This may be through communal shelters. This is to ensure conformity with Local Plan Policy D1 Sustainable design to reduce waste and consider the visual impacts of a development.

22 Hertfordshire Joint Municipal Waste Management Strategy 2007

- 5.6.3 The revenue costs of waste collection are covered through Council Tax. However, in the case of large-scale residential development, implementation costs may be required to cover the purchase of additional vehicles and setting up new or extended rounds. Contributions towards the provision of recycling banks and land to accommodate these will also be required for large development schemes.
- 5.6.4 Under the Environmental Protection Act 1990, Hertfordshire County Council is required to perform the statutory functions of the Waste Disposal Authority (WDA) for Hertfordshire. The WDA is also required to provide facilities in its area where residents may deposit their own household waste free of charge. In Hertfordshire, these facilities are known as Hertfordshire Waste Recycling Centres (HWRCs).
- 5.6.5 As WDA, Hertfordshire County Council is responsible for the disposal of Local Authority Collected Waste (LACW) arising in the county. LACW consists of household waste and commercial waste collected by the ten Borough and District Councils in their role as the Waste Collection Authorities (WCA's) for Hertfordshire and waste collected at the county's HWRCs.
- 5.6.6 To support this disposal function, the County Council manages a network of 17 Household Waste Recycling Centres (HWRC). An increase in population within Hertfordshire as a result of new residential development is likely to require increased investment in waste disposal infrastructure.
- 5.6.7 The impact of additional dwellings on waste management infrastructure will vary depending on the size of the development and its location. Therefore it may be necessary to develop new infrastructure or improve existing infrastructure. For example, should an existing HWRC be identified as having insufficient capacity to accommodate increased usage due to additional dwellings, financial contributions will be identified towards increasing the capacity of the local service provision. This may be achieved through improvements to existing facilities or the development of a new HWRC.

6 HEALTHY COMMUNITIES

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> ➤ SP4: Town Centres, Local Centres and Community Shops ➤ SP10: Healthy communities ➤ ETC3: New retail, leisure and other main town centre development ➤ ETC8: Tourism ➤ CGB2b: Community facilities, services and affordable housing in the Rural Area beyond the Green Belt ➤ HE4: Archaeology ➤ Site-specific policy criteria 	<ul style="list-style-type: none"> ➤ North Hertfordshire Indoor Sports Facilities Strategy and Action Plan ➤ Community Halls Strategy for North Hertfordshire ➤ Hertfordshire County Council Guide to Developer Infrastructure Contributions²³

6.1 Policy context

6.1.1 The NPPF requires us to plan positively for the provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities and residential environments²⁴.

6.1.2 The Local Plan recognises that the provision of adequate social infrastructure is essential to the successful delivery of the levels of growth over the plan period. Social infrastructure encompasses a range of facilities, including but not limited to: health services, educational facilities, libraries, arts and cultural facilities, community facilities, and indoor sports and leisure facilities.

6.1.3 Local Plan Policy SP10 Healthy communities states that the Council will work with

- Hertfordshire County Council as the Local Education Authority, as well as other education providers to ensure sufficient school places to meet the needs of the population. This includes nursery, primary, secondary and sixth-form education along with special needs services and facilities;
- the NHS Trust and Clinical Commissioning Groups (CCGs) and other relevant providers to ensure that adequate healthcare facilities are available; and
- Other providers to deliver appropriate levels of new community, cultural, leisure and built sport and recreational facilities.

²³ Hertfordshire County Council Guide to Developer Infrastructure Contributions, <https://www.hertfordshire.gov.uk/about-the-council/consultations/environment/draft-developer-contributions-guide-consultation.aspx>

²⁴ NPPF Paragraph 92

- 6.1.4 Policy ETC8 Tourism sets out that planning permission will be granted where development increases attractiveness of the District as a tourist destination and delivers sustainable tourist and visitor attractions in appropriate locations.
- 6.1.5 Hertfordshire County Council is responsible for collecting contributions towards a number of the facilities identified in this section. The District Council will be guided by their response(s) in determining measures required to mitigate impacts upon relevant social infrastructure. Hertfordshire County Council Guide to Developer Infrastructure Contributions²⁵ provides an indication of the scale of requests they are likely to make in response to planning application consultations, along with the associated justification.
- 6.1.6 Taken together, requests for social infrastructure are normally the largest single ‘ask’ of applicants on new development schemes. We will have regard to these requests in accordance with the general approach set out in Section 2 of this document. The Council will consider potential for other sources of funding, such as direct funding from Government departments or agencies, when planning new social infrastructure provision.

6.2 Education and early childcare facilities

- 6.2.1 Planning applications, especially those relating to the largest developments will be expected to contribute to education provision serving the development. This may include serviced land as well as financial contributions. Discussions should be undertaken at an early stage with Hertfordshire County Council to ensure appropriate and well located facilities²⁶ can be delivered in a timely way. This includes having regard to the Hertfordshire County Council Guide to Developer Infrastructure Contributions²⁷ to determine the demand for school and nursery places based on forecasted child yield.
- 6.2.2 Where education mitigation is required, the financial contributions from the development will be based on the proposed education project. In some cases, this may require contributions from smaller-scale developments towards new school provision, which will be based on the costs of new school provision. Where a development site includes new education provision on-site, be it expansion to an existing school or a new school, then serviced land will also be required.
- 6.2.3 A number of sites in the Local Plan contain policy requirements to provide land for education requirements arising from (planned developments in) the wider area. In

²⁵ Hertfordshire County Council Guide to Developer Infrastructure Contributions, <https://www.hertfordshire.gov.uk/about-the-council/consultations/environment/draft-developer-contributions-guide-consultation.aspx>

²⁶ Hertfordshire County Council will require a full consideration of the land needed for any proposed school provision, taking into account a range of criteria including flood risk and the gradient of the development site.

²⁷ Hertfordshire County Council Guide to Developer Infrastructure Contributions, <https://www.hertfordshire.gov.uk/about-the-council/consultations/environment/draft-developer-contributions-guide-consultation.aspx>

these instances, requests for financial contributions towards the construction of built facilities on this land will be proportionate having regard to the likely pupil yield of the individual development(s). The balance of funding to deliver the facilities will be derived from other developments in the area or other sources.

6.3 Youth Provision

6.3.1 Given that youth work provided by YC Hertfordshire is predominantly delivered from locally accessible buildings and tailored to youth projects, developments may be required to contribute to increasing the services and capacity to accommodate the needs of any additional young people brought about through housing development. This is most likely to create a need for additional buildings or enhancing / improving / developing an existing centre or space.

6.4 Health

6.4.1 The largest development sites should make provision for new, on-site healthcare facilities and this will be secured through legal agreements. The East and North Hertfordshire NHS Trust deliver hospital services and GP surgeries and other secondary facilities are primarily managed by the East and North Hertfordshire Clinical Commissioning Group.

6.4.2 Requests for health contributions are normally based upon the following standard formula (correct at the time of writing):

Acute healthcare	£2,214.46 per residential unit
Mental healthcare	£194.46 per residential unit
Community healthcare	£182.03 per residential unit
GP / GMS costs	<ul style="list-style-type: none"> ➤ Multiply number of residential units by 2.4 to calculate number of new patients; ➤ Divide number of patients by 2000 to determine number of GPs required; ➤ Multiply number of GPs required by 199 to determine m² of additional space required ➤ Require m² of additional space required by £2,964 to calculate build cost including fit out and fees

6.4.3 Providers have identified that many practices still retain extensive paper records at their premises. This is space which could, subject to various considerations, be used to help provide additional patient capacity. Contributions may therefore be sought in future towards the digitising of records and / or offsite storage as a means of releasing additional capacity to meet demands generated by new development. It must however be demonstrated that the space saved can be meaningfully used as additional clinical space and how this new space can be secured through the digitisation project. If internal or external permanent alterations are also required it would be more appropriate for S106 contributions to fund the physical building works rather than the digitisation project itself.

- 6.4.4 For health contributions of less than £250,000 the Council will not require the NHS to be signatories to planning obligations. For strategic sites and any contributions greater than £250,000 the Council will require the NHS to be direct recipients of any funds from developers at payment stage, either as signatories to associated legal agreements or recipients of funds from unilateral undertakings from developers.

6.5 Indoor sports facilities

- 6.5.1 In line with Local Plan policy SP10: Healthy communities the Council will support the retention of existing leisure facilities and require appropriate levels of leisure and sport and recreation facilities to be provided in new development. Where replacement facilities are required by Policy HC1: Community facilities, these will be secured by legal agreement and / or Grampian condition upon the site which is to be redeveloped.
- 6.5.2 New developments will be expected to contribute proportionately towards the provision of additional facilities to meet future demands. The most up to date Indoor Sports Facilities Strategy and Action Plan sets out a series of management and programming actions and this should be used to identify projects for future developer contributions.

6.6 Arts, culture and public realm

- 6.6.1 Arts and culture contributions may relate to museums, arts or heritage assets. Contributions may also be sought for public realm improvements that improve the attractiveness and character of the District (see Section 3.4).
- 6.6.2 It is recognised that a number of the proposed allocations in the Local Plan are extensive greenfield sites. These may yield a significant quantity of archaeological material when they are explored in compliance with Policy HE4 of the plan. This is particularly the case in areas of known historic importance such as the land around Baldock.
- 6.6.3 Contributions may be sought towards new public facilities that allow the preservation and display of archaeological remains, or to deliver improvements to a heritage asset in situ.
- 6.6.4 The Council will seek contributions towards other public realm and public facilities, including public conveniences, where necessary. This is underpinned by policy D1 Sustainable Design that seeks to create or enhance public realm and design-out opportunities for crime and anti-social behaviour.

6.7 Libraries

- 6.7.1 Library provision can range from large central libraries within towns to community libraries, resource centres providing electronic access to services within multi-use buildings and mobile facilities.

6.7.2 Hertfordshire County Council has a statutory duty to provide a library service and applicants should have regard to Hertfordshire County Council Guide to Developer Infrastructure Contributions ²⁸ to inform the contributions required.

6.8 Community facilities including Town and Village Halls

6.8.1 The Plan's policies seek that appropriate community hall facilities are available and that new facilities are provided where needed as a result of development proposals.

6.8.2 The Council will encourage the development and use of such facilities as multi-functional community centres. These can act as 'hubs', offering a range of facilities to support the creation of sustainable communities.

6.8.3 The most up to date Community Halls Strategy for North Hertfordshire includes an Action Plan that can be used to inform required developer contributions. Further projects may be set out in Neighbourhood Plans, Parish Council strategies or similar. Engagement with the appropriate Parish, Town or Community Councils should be undertaken.

6.8.4 Where new community centres are to be provided within new development, the Council will expect the freehold of the new centre to be transferred to the Council for a nominal fee and for appropriate ongoing management arrangements to be demonstrated.

6.9 Fire and rescue services and community safety

6.9.1 Hertfordshire County Council is the Fire Authority and has a statutory duty to ensure that all developments are provided with adequate water supplies for fire fighting as well as provision is made for emergency response arrangements under the Fire and Rescue Services Act 2004²⁹.

6.9.2 Legal agreements will be used to ensure that the developer provides fire hydrants based on one hydrant within 90 metres of each property.

6.9.3 The provision of adequate water supplies for firefighting purposes e.g. suitable and sufficient water mains and hydrants should be determined at the same time as the water services are planned in detail. This is usually following planning consent.

6.9.4 The ability for large-scale developments to be adequately served by fire and rescue services will be assessed on an individual basis. Any impacts will need to be addressed through planning conditions and/ or obligations. This may be through the provision a new fire station or an extension to an existing facility.

²⁸ Hertfordshire County Council Guide to Developer Infrastructure Contributions, <https://www.hertfordshire.gov.uk/about-the-council/consultations/environment/draft-developer-contributions-guide-consultation.aspx>

²⁹ Fire and Rescue Services Act 2004

- 6.9.5 Hertfordshire Fire & Rescue Service on behalf of the Fire Authority would always recommend consideration for the placement of sprinkler systems in all buildings and new developments to form part of an integrated fire safety provision.
- 6.9.6 In line with Local Plan Policy D1 Sustainable Design applicants, should demonstrate that opportunities for crime and anti-social behaviour have been designed-out. Hertfordshire Constabulary will be consulted on planning applications where it is considered that there may be an impact in terms of community safety.
- 6.9.7 Where it is expected that the proposed development will generate a need for extra policing, resources and extensions to or new police buildings, this will be sought through legal agreements.
- 6.9.8 Contributions towards CCTV will be sought on a case by case basis where needed to cover the cost of equipment, installation, maintenance and running costs.

6.10 Information Technology

- 6.10.1 Internet and mobile coverage across the District is generally quite good, though there are pockets where this is not the case, particularly in more rural areas.
- 6.10.2 Most large new developments should be able to plan-in the provision of high quality (superfast) communication infrastructure in consultation with providers. Early engagement is recommended. This avoids the need to retrofit cabling or other required facilities in recently completed schemes. It also increases the saleability of new properties. Where appropriate, we will secure the provision of high-speed connectivity with new development, normally by condition.
- 6.10.3 Hertfordshire County Council have a programme to deliver connectivity to harder to reach areas³⁰. Where development is proposed in an area that currently has a lower quality of coverage, the Council may additionally seek contributions towards wider projects aimed at boosting high-speed communications coverage. This will help to ensure that North Hertfordshire residents have the best possible access.
- 6.10.4 This approach supports the rise in homeworking and the need to manage private vehicle use in accordance with local and county transport policy.

³⁰ <https://www.connectedcounties.org/>

7 NATURAL ENVIRONMENT

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> ➤ SP11: Natural resources and sustainability ➤ SP12: Green Infrastructure, landscape and biodiversity ➤ D1: Sustainable design ➤ Policy NEx: Strategic green infrastructure ➤ NEx: Biodiversity and geological sites ➤ NE4: Protecting open space ➤ NEx: New and improved open space ➤ NE7: Reducing flood risk ➤ Policy ➤ NE8: Sustainable drainage systems ➤ NE9: Water quality and environment ➤ NE10: Water conservation and wastewater infrastructure ➤ NE11: Contaminated land ➤ NE12: Renewable and low carbon energy development ➤ Site-specific policy criteria 	<ul style="list-style-type: none"> ➤ North Hertfordshire Playing Pitch Strategy and Action Plan ➤ A Green Space Management Strategy for North Hertfordshire ➤ Hertfordshire Rights of Way Improvement Plan ➤ NHDC Local Cycling and Walking Infrastructure Plan (LCWIP)* ➤ Planning for biodiversity and the natural environment in Hertfordshire: guiding principles ➤ Hertfordshire Biodiversity Action Plan ➤ Hertfordshire County Council Guide to Developer Infrastructure Contributions³¹ ➤ Therfield Heath SSSI Mitigation Strategy* ➤ North Hertfordshire Green Infrastructure Strategy ➤ NHDC Green Space Action Plans (various) ➤ Strategic Flood Risk Assessment Update (2016) ➤ Affinity Water Draft Drought Management Plan 2017 ➤ Hertfordshire Renewable and Low Carbon Energy Technical Study ➤ Thames and Great Ouse River Basin Management Plan

*Forthcoming

³¹ Hertfordshire County Council Guide to Developer Infrastructure Contributions (...TBC...) <https://www.hertfordshire.gov.uk/about-the-council/consultations/environment/draft-developer-contributions-guide-consultation.aspx>

7.1 Policy context

- 7.1.1 The NPPF identifies that access to a network of high quality open spaces is important for the health and well-being of communities³². It also seeks to minimise impacts on, and provide net gains for, biodiversity and advocates a proactive approach to mitigating and adapting to climate change³³.
- 7.1.2 Open spaces are a defining feature of North Hertfordshire and provide a valuable resource for recreation, sports and culture. The quality of the open spaces is critical to ensure that active lifestyles can be promoted.
- 7.1.3 The Local Plan contains a range of policy requirements relating to open space and the natural environment which, collectively, seek the provision and retention of a network of quality spaces.
- 7.1.4 These policy requirements are supported by a breadth of supporting strategies produced by the District Council, County Council and other bodies.

7.2 Biodiversity

- 7.2.1 Where biodiversity measures are provided in, or otherwise associated with, a development (e.g. through the provision of natural or semi-natural greenspace), a long-term maintenance and management plan will be required having regard to the advice provided in relation to open spaces above.
- 7.2.2 Similarly, planning conditions and legal agreements will be used to set out the required biodiversity mitigation measures (including during the construction phase) or as a last resort, compensation, as required by Policy NEx Biodiversity and geological sites.

7.3 Therfield Heath SSSI Mitigation Strategy

- 7.3.1 Therfield Heath is a popular destination for recreational walkers at the west of Royston. This site is also a Site of Special Scientific Interest (SSSI). It is necessary to manage recreational disturbance to protect the notified features of the site.
- 7.3.2 The Council is working with Natural England and the heath's Conservators to develop a planning mitigation strategy to inform new developments within the SSSI's identified Zone of Influence (ZOI). Sites within the ZOI may be required to make appropriate contributions towards projects or approaches identified in the Strategy, or any other management strategy (or equivalent) produced for this area.
- 7.3.3 This approach may require schemes to make provision for and / or contributions towards:
- Enhanced open space provision within the development scheme;

³² NPPF Paragraph 96

³³ NPPF Paragraphs 149 and 170

- Contributions towards provision or projects within the SSSI to be delivered in agreement with Natural England and / or the Conservators of Therfield Heath;
- Alternate recreation provision or projects within Royston and the surrounding area that provide alternate open space, leisure routes and / or recreational opportunities.

7.4 Open Spaces

General principles and standards

- 7.4.1 Contributions towards new or improved open space are required by the Local Plan. The priority is to secure on-site provision, however the policy recognises that financial contributions may be accepted in certain instances. The Local Plan identifies that long term maintenance and management plans are needed and planning obligations may be used to secure such arrangements. Engagement with the appropriate Parish, Town or Community Council(s) should be undertaken in relevant areas.
- 7.4.2 In determining the amount of open space required on development sites, applicants should have regard to the Council's open space standards. The current standards for on-site open space provision are outlined below. These standards may be updated over time.

2016 Open Space Standards

Type of open space		Standard (per 1,000 persons)
Multi-functional Open Space	Amenity Greenspace & Recreation	2
	Natural and Semi-Natural Greenspace	
Provision for Children and Young People		0.57 ²⁹
Outdoor Sports Facilities		1.60
Allotments		0.25

- 7.4.3 For developments where the anticipated unit mix is known, the Council will have regard to the following household sizes when determining the level of open space provision in a particular development. These household sizes have been derived from average household sizes taken from the 2011 Census. Where the unit mix is not known (e.g. at pre-application or outline application stage), an overall occupancy level of 2.4 persons per home will be used.

	1 bedroom	2 bedrooms	3 bedrooms	4+ bedrooms
Affordable housing	1.3	2.1	2.9	4.0
Private housing	1.4	1.8	2.5	3.0

7.4.4 All schemes should have regard to these standards as a guide when proposals are developed. The open space standards should not be treated as a cap for open space provision. We will encourage provision at above minimum standards wherever possible.

Qualitative criteria: determining the type of open space provided

7.4.5 The Council will take a pragmatic approach to the application of the standards and the delivery of new open space. To streamline the open space standards, and to recognise the need to respond to specific site circumstances, the general ‘Multi-functional Open Space’ category is used. This category includes Amenity Greenspace & Recreation as well as Natural and Semi-Natural Greenspace. Provision can therefore be adapted depending on the site in question, taking into account deficiencies, surpluses and priorities, which will be variable over the plan period and in different locations.

7.4.6 It is acknowledged that some types of open spaces can only be delivered at a strategic scale due to the amount of space that would be required and that they may need to be grouped together to ensure the long term management.

7.4.7 No standards have been set for the on-site provision of the following types of open space. These are often either strategic in nature, more likely to be provided as standalone facilities and/or provided as part of other forms of open space or landscaping:

- Parks and Gardens
- Cemeteries and Churchyards
- Green Corridors

7.4.8 Provision towards these forms of open space will be considered on a case-by-case basis having regard to:

- The generated needs arising from the scheme suggested by recognised benchmark guidelines, such as the Fields in Trust standards;
- Any specific requirements set out in other adopted plans or strategies (such as the Green Space Management Strategy and any associated Action Plans); and
- The advice in this document

Parks and gardens

- 7.4.9 Parks and gardens includes urban parks (normally with formally laid out paths, planting and / or areas of maintained grass for general amenity and recreation), formal gardens and country parks.
- 7.4.10 Most proposed sites will not be large enough to accommodate a meaningful park or garden on-site or would be served by an existing facility or other strategic-scale open space provision. For this reason, we have not identified a specific standard for new developments. On non-strategic sites, contributions may be sought towards existing facilities having regard to specific projects identified in green space strategies or action plans, Neighbourhood Plans or other relevant documents.
- 7.4.11 Of the largest, strategic sites in the Local Plan, the proposed North of Baldock and East of Luton sites would each generate a requirement of five hectares or more open space provision when considering the Fields in Trust recommended standards and expected occupancy figures. The most appropriate approach to parks and gardens provision on these sites will be negotiated as applications are brought forward having regard to the standards mentioned above and other relevant information.
- 7.4.12 In relation to the remaining proposed strategic sites, provision for this type of open space may be dealt with as set out below and appropriate contributions may be sought towards relevant projects:
- The site North of Letchworth Garden City is located adjacent to the existing recreation ground which could provide opportunities for some more formal provision.
 - The site North of Stevenage would have access to the proposed Forster Country Park (within Stevenage Borough), which would provide strategic scale open space provision.
 - The Land off Mendip Way site in Great Ashby would have access to Great Ashby District Park.
 - The Highover Farm site in Hitchin is smaller in size and residents are likely to make use of existing strategic facilities in Hitchin or Letchworth Garden City.

Provision for children and young people

- 7.4.13 The Council will expect on-site provision for children and young People where application of the standards generates a requirement equal to or exceeding 0.8 facilities. In determining the size of facilities provided on-site, the Fields in Trust recommended facilities sizes should be used. These are as follows:

Type	Minimum size	Minimum dimensions	Buffer zones
LAP*	0.01ha	10x10m (minimum activity zone of 100sqm)	5m (minimum separation between activity zone and the boundary of dwellings)
LEAP	0.04ha	20x20m (minimum activity zone of 400sqm)	20m (minimum separation between activity zone and the habitable room façade of dwellings)
NEAP	0.1ha	31.6x31.6m (minimum activity zone of 1,000sqm comprising an area for play equipment and structures & a hard surfaced area of at least 465sqm (the minimum needed to play five-a-side football))	30m (minimum separation between activity zone and the boundary of dwellings)

*Due to the limited play value of equipped LAPS, the Green Space Management Strategy recommends a provision of amenity green space to the same size.

Outdoor sports facilities and allotments

- 7.4.14 In relation to Outdoor Sports Facilities and allotments, the Council will only seek on-site provision where this would generate a usable quantity of open space for a form of provision for which there is an identified requirement.
- 7.4.15 On strategic sites, where contributions towards sports facilities are provided, the Council will expect the inclusion of Community Use Agreements to ensure that the use of the facilities can be maximised,
- 7.4.16 The most up to date Playing Pitch Strategy and Action Plan sets out a series of management and programming actions and this should be used to identify projects for future developer contributions.
- 7.4.17 For allotments, the Council may accept provision in the form of informal community gardens or landscaping with space for residents to grow food rather than towards the provision of formalised plots, which tend to be grouped together in larger numbers. Where this is the case, a maintenance and management plan should be provided to ensure the long-term quality of such sites.
- 7.4.18 Where on-site provision is not deemed appropriate, financial contributions may be sought towards identified projects.

Payments in lieu towards any type of open space

- 7.4.19 Payments in lieu may be considered where the full amount of required open space cannot be realistically delivered on-site. Financial contributions may be directed

towards the creation of new, or improvements to existing open spaces. This may apply to any type of open space sought.

Management of open spaces

- 7.4.20 Long term management regimes should be demonstrated (such as private management companies secured through S106 Obligations), or arrangements made for a commuted sum to cover the cost of long term maintenance. This is important in light of the Council's current Medium Term Financial Strategy (MTFS), which recognises that significant savings in revenue expenditure in green spaces is required over the coming years. It should also be noted that the Countryside Management Service provides management support to deliver maintenance at many of the countryside sites through 'friends of...' or groups of volunteers.
- 7.4.21 The Council's approach will generally be to not adopt open spaces which are considered a long-term liability to the organisation. In un-parished areas, the Council will normally expect the applicant to make arrangements for a management company to take on responsibility for the ongoing maintenance of areas of open space within the development.
- 7.4.22 In parished areas, applicants should approach the relevant Parish, Town or Community Council(s) at an early stage in the process to determine whether they may wish to adopt any of the open spaces that are planned. If this approach is unsuccessful, a management company will be required as above.
- 7.4.23 Where any open spaces are to be transferred to the District, Parish, Town and / or Community Council(s), the developer will maintain ownership and management responsibilities throughout the construction phase. Upon completion of the development, the space(s) should be transferred. A payment to cover at least ten years maintenance costs will be required. For larger or strategic sites, the ten-year timeframe may be extended.
- 7.4.24 In the event of a legal agreement seeking a transfer of open space to the District Council, the Council will also seek to ensure that the legal / administrative costs of the transfer are secured through the S106 agreement as well as the on-going maintenance charge.

7.5 Flood risk and management

- 7.5.1 Policy SP11 Natural resources and sustainability expects that development is directed at areas of lowest risk of flooding and that Sustainable Drainage Systems (SuDS) and other appropriate measures are in place. Applicants are required to work with the Lead Local Flood Authority (Hertfordshire County Council), the Environment Agency and Internal Drainage Boards at the earliest opportunity.

- 7.5.2 It is expected that any necessary flood mitigation measures are to be provided by the developer through on or off site provisions to make the proposed development acceptable and this will be secured by planning conditions and/or legal agreement.
- 7.5.3 Where SuDS are required, on-going management and maintenance arrangements will need to be demonstrated. All management and maintenance arrangements for SUDs will be at nil cost to the Council and in no circumstances will the Council seek to adopt SUDs schemes as part of a wider open space transfer.

7.6 Waterways

- 7.6.1 Policy NE9 Water quality and environment requires river restoration and resilience improvements where proposals are situated close to a river or considered to affect nearby watercourses. In some instances contributions will be required towards these measures. These may also form part of a programme to deliver biodiversity gains associated with new development.
- 7.6.2 In particular there are a number of rare chalk streams in Hertfordshire. There are only around 200 such streams in the world of which 85% are found in the UK. The Environment Agency has been working with water companies and key partners to improve and restore chalk streams in the area. Contributions may be sought towards appropriate projects.
- 7.6.3 Developments may also need to incorporate improvements in the efficiency of water use, surface drainage systems and pollution prevention measures and such measures will be secured via planning conditions or legal agreement.
- 7.6.4 Applicants should work with the Council, the Internal Drainage Board and the Environment Agency where proposals affect water resources.

7.7 Other forms of Green Infrastructure

- 7.7.1 The subsections above refer to various forms of green infrastructure. However, these are not exhaustive. The provision of open space (in the context of Section 8.4), for example, relates to more formal, and mainly publically accessible, opportunities within settlements or proposed developments.
- 7.7.2 The definition of Green Infrastructure is much broader than this. It includes green spaces outside of settlement boundaries such as areas of woodland, other key habitats or species-rich areas. These may or may not be publically accessible. It also encompasses access links such as the rights of way network, long-distance paths and cycle routes and the broader setting of all of these assets in the landscape.
- 7.7.3 The District's Green Infrastructure Plan identifies a range of potential measures. Where it is reasonable to do so, the Council may also seek contributions towards identified projects in this or any equivalent successor document.

7.8 Water supply and waste-water infrastructure

- 7.8.1 Local Plan Policy SP11 Natural resources and sustainability requires that the water environment is protected, enhanced and managed. The Water Cycle Studies for both the Rye Meads catchment area and Royston identify technical solutions that will be secured via planning conditions and/or legal agreement.
- 7.8.2 The Environment Agency's Catchment Data Explorer should be used to identify contributions that may be required by development proposals towards improvements to water resources.
- 7.8.3 Residential schemes are required by Policy D1 Sustainable design to meet or exceed the optional water efficiency standards. This will be secured by planning conditions and/or legal agreement.
- 7.8.4 Mechanisms for delivering any necessary new or improved water and/ or wastewater infrastructure, including foul water treatment and disposal, may be required via planning conditions and/or legal agreement in accordance with Local Plan Policy NE10 Water Conservation and wastewater infrastructure.

7.9 Development on contaminated land

- 7.9.1 The Council will support proposals that involve the remediation of contaminated land in line with Local Plan Policy SP11 Natural resources and sustainability.
- 7.9.2 Where a contaminated land study/contaminated land risk assessment identifies required remediation works in accordance with Local Plan Policy NE11 Contaminated land, these will be secured through planning conditions and/or legal agreement. Remediation works may include measures to safely manage land contamination before, during and after development.

7.10 Climate change and renewable and decentralised energy

- 7.10.1 Local Plan policy SP11 Natural resources and sustainability supports proposals for low carbon energy and Policy D1 Sustainable design requires development proposals to reduce energy consumption and future proof for changes in technology and lifestyle. In securing such measures relating to design (including materials used) and the use of technology, the Council will use planning conditions and/or legal agreements.
- 7.10.2 Policy NE12 Renewable and low carbon energy development refers to renewable and low carbon energy development comprising wind, wave, tidal, hydro or solar power and biomass fuels. On larger schemes, there may be opportunities for decentralised energy. In line with the National Planning Policy Framework, any impacts of this type of development should be addressed. This may include the use of planning conditions and/or legal agreement to secure any mitigation measures.
- 7.10.3 The Hertfordshire Renewable and Low Carbon Energy Technical Study should be used when considering energy opportunity areas in the District.

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Appendix A: S106 process flow-chart

