

# Hertfordshire County Council

## Guide to Developer Infrastructure Contributions



2021



## Foreword

Planning for infrastructure provision is critical to ensure infrastructure is in the right place, made at the right time and sufficient to unlock opportunities into the future. The future approach to infrastructure planning and delivery in Hertfordshire will necessarily need to be funded by a variety of funding mechanisms and promoters of development sites will need to play their part. It is important that the infrastructure requirements identified to mitigate the impact of development are funded by developer contributions. This is fundamental to ensuring the delivery of good places, designed sustainably and without adding further stress to the infrastructure network.

Hertfordshire authorities have identified housing growth needs over the 13-year period to 2031 of on average requiring delivery of 6,425 dwellings per annum. This is a total housing supply of 83,530 dwellings that are expected between 2017/18 and 2031/32. ONS Population projections forecast a population increase of 107,400 people and 44,650 additional jobs are projected by the East of England Forecasting Model.

The Hertfordshire Infrastructure & Funding Prospectus 2018–2031 is a comprehensive piece of work documenting the scale of the growth challenging and highlighting infrastructure priorities for Hertfordshire. The document outlines a total projected infrastructure funding cost of £5.7bn and a projected funding gap of £3.59bn. To assist in bridging the gap, this Guide provides a transparent approach to how Hertfordshire County Council will work with developers through early engagement in the planning process.



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## 1.0 Introduction

### 1.1 The Purpose of this Guide

- 1.1.1 The town planning process makes places better and more sustainable balancing the social, economic and environmental effects to shape the way new communities grow. Healthy place making is supported by the development of infrastructure to support the way in which new communities will live. Planning obligations play a key part in the process of development, ensuring that infrastructure is timely, well-located and accessible.
- 1.1.2 This Guide provides a Hertfordshire overview of obligations which may be sought as part of the planning process followed by a focus on those obligations which might be sought by the county council to mitigate the impact of development. It replaces the previous Hertfordshire County Council policy document “Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements)” approved in January 2008.
- 1.1.3 This Guide reflects the changes brought about by the introduction of the Community Infrastructure Levy (CIL) Regulations 2010 and includes changes to county council service delivery. It is further designed to identify the county council’s approach to the negotiation, preparation and completion of planning obligation agreements to developers; the District/Borough Councils; and other interested parties.
- 1.1.4 Following the publication of the Government White Paper, Planning for the Future<sup>1</sup>, it is clear that significant changes may be proposed. Until such time as a new mechanism is enacted, the county council intends to refer to this Guide to support requests for developer contributions.
- 1.1.5 This Guide will be considered for review to reflect legislative changes, government guidance and as guidance and evidence to support county council representations is developed. Significant changes will be subject to further consultation.

### 1.2 The Status of this Guide

- 1.2.1 This Guide is not a statutory planning document unless adopted as such. It is a Guide with reference documents. Hertfordshire local planning authorities have the responsibility of weighing up the importance of this Guide and the identified planning obligations against competing requirements/issues when considering planning applications.

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<sup>1</sup> <https://www.gov.uk/government/consultations/planning-for-the-future>

## 1.3 The Legislative Framework

- 1.3.1 **The Town and Country Planning Act** (1990) sets out the statutory provisions for planning obligations in Section 106 agreements (more commonly known as S106). Planning obligations may:
- restrict development or use of the land in any specified way;
  - require specified operations or activities to be carried out in, on, under or over the land;
  - require the land to be used in any specified way; or
  - require a sum or sums to be paid to the authority on a specified date or dates or periodically.
- 1.3.2 **The Planning Act** (2008) introduced a new system for approving major infrastructure of national importance, such as waste facilities, and replaced current regimes under several pieces of legislation. A key area of the Act was the introduction of CIL to finance infrastructure.
- 1.3.3 **The National Planning Policy Framework** (NPPF) is designed to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. The NPPF cross references the specific legislative framework outlined in the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.3.4 **Planning Practice Guidance** adds further context to the NPPF and it is intended that the two documents should be read together. There are more than 40 pieces of guidance, including on CIL and Planning Obligations.
- 1.3.5 This Guidance is clear that plans should 'seek to meet the development needs of their area, including community facilities such as schools'<sup>2</sup>.
- 1.3.6 The **Community Infrastructure Levy Regulations** (2010) were introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. The CIL Regulations came into force on 6 April 2010 and a development may be liable for a charge under CIL, if a local planning authority (LPA) has chosen to set a charge in its area. CIL is not mandatory and under the current legislative context, county councils are unable to adopt a CIL.
- 1.3.7 The legal tests for when a planning obligation can be applied are set out in Regulation 122 (R122) of the CIL Regulations. The three tests of R122 are summarised below. A planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.

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<sup>2</sup> [Healthy and safe communities, paragraph 8.](#)

1.3.8 Further information on CIL and CIL charges in those areas adopting a charge are available on the District and Borough websites. Links to those websites can be found in Appendix 1.

## **1.4 The interaction between S106 and CIL**

1.4.1 Where a local planning authority has adopted a CIL Charging Schedule, the way in which service providers seek developer contributions changes. Projects which may have previously been funded by planning obligations in S106 agreements might now be funded via the CIL mechanism. Except where charging authorities expect specific projects or types of project to be wholly funded by a CIL, the county council will use this Guide to outline the process for seeking planning obligations on behalf of service areas.

1.4.2 The CIL Regulations (as amended in September 2019) no longer impose a 'pooling restriction' on the use of planning obligations to fund the same type of infrastructure or infrastructure project, and an infrastructure project may receive funding from both CIL and Section 106.<sup>3</sup>

1.4.3 The collection, distribution and prioritisation of CIL funding is the responsibility of each charging authority. In coordination with our local authority stakeholders, the information within this Guide and the technical appendices may be referred to by the county council when seeking the allocation of CIL funding from a CIL charging authority. This may assist in the justification of appropriate levels of CIL towards projects which reflect the impact of growth.

1.4.4 In line with the current legislative context, the county council will ensure its obligations are handled in a fair, open and reasonable way and that they enable development to go ahead which would otherwise be refused. Planning obligations can relate to matters other than those covered by the planning permission provided there is a relationship between the planning obligation and the planning permission. Unacceptable development should never be permitted because of unnecessary or unrelated benefits offered by applicants.

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<sup>3</sup> [Securing developer contributions for education \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

## 2.0 Hertfordshire

### 2.1 The making of place

- 2.1.1 “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve.”<sup>4</sup> The NPPF clearly sets out that the Local Plan will set out the overall strategy for the pattern, scale and quality of development and this will involve the scale of infrastructure required to support the successful delivery of the Plan.
- 2.1.2 Investment in good place-making and masterplanning can be financially rewarding for developers and ultimately emotionally rewarding for residents. Whether in the physical design characteristics, the creation of new homes or businesses, job creation, biodiversity, addressing climate change or a place which provides a general sense of well-being, there are many factors which combine to create a place. New neighbourhoods are supported by fundamental buildings blocks, infrastructure, and the timely and appropriate location of that infrastructure can provide the foundation of the future place.
- 2.1.3 The county council is wholly supportive of masterplanning, to define and illustrate a vision for the place which is understood by all of the stakeholders in the development process. This includes existing residents and potential future residents.
- 2.1.4 Designing higher densities at transport nodes, walkable neighbourhoods which prioritise walking and cycling as the natural first option requires careful masterplanning, helps support healthier lifestyles, promotes community engagement in places where people can come together, children can play and supports local businesses. And overall can increase land value. People should be prioritised over cars.
- 2.1.5 Schools can play an important part of the masterplanned design, helping shape a focus at neighbourhood centres, combined with other community uses, parents drop kids off by foot, use shops, coffee shops etc.
- 2.1.6 Place-making and good design is supported by the timely delivery of infrastructure. Unlocking development and achieving housing delivery is sometimes restricted by financial cashflows. Government has recognised this issue through opportunities to bid for funding streams which unlock development schemes through the early delivery of infrastructure projects. The county council encourages the early delivery of infrastructure to support place-making, creating new neighbourhoods with the opportunity for residents to come together in shared space, community buildings and the public realm.
- 2.1.7 The continued stewardship of the place also creates a sustainable legacy, maintaining a high-quality place. This might cover a wide range of assets ordinarily managed by a variety of organisations. A commitment to the long-

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<sup>4</sup> [Paragraph 124, National Planning Policy Framework, 2019](#)

term stewardship of assets is part of the development process. Particularly for larger development sites, long-term funding for community assets needs to be explored at an early stage to ensure these considerations are protected, from the outset, in new developments.

- 2.1.8 A commitment to long-term stewardship puts people at the heart of delivering successful places, maintaining the quality of new facilities for new and existing residents. For developers it can add value to a development from the outset, create confidence in the place. For local authorities this can assist in minimising financial liabilities enabling any surplus to be reinvested, providing greater value to the community.
- 2.1.9 The county council is able to coordinate with developers to discuss how stewardship might best be approached. Not every situation is the same but there are various stewardship models available and the county council welcomes early engagement to protect these principles.

## **2.2 Sustainability and Climate Change**

- 2.2.1 In 2019 the Climate Change Act was amended to include the legislative target for the UK to be a net zero greenhouse gas emissions country by 2050. Like many organisations (including the District and Borough Councils in Hertfordshire), Hertfordshire County Council declared a Climate Emergency in July 2019 and committed to preparing the [Sustainable Hertfordshire Strategy](#). This declaration was made in response to the need to act locally, having observed the global impacts of climate change including those from within Hertfordshire; dry riverbeds, reduced water supply, intense weather events, localised flooding and Hertfordshire specific loss of habitat and species.
- 2.2.2 The county council is very aware that we cannot take action alone and in parallel to the work of the county council, the Leaders and CEXs of each Hertfordshire local authority unanimously agreed that a countywide approach to tackling climate change and ensuring sustainable development principles are at the forefront of the growth agenda. The Hertfordshire Climate Change and Sustainability Partnership consists of all the Hertfordshire local authorities and the Local Enterprise Partnership (LEP). Four priority areas for action are identified as: Water, Carbon, Biodiversity and Transport. Officer working groups support the partnership to prepare action plans for each of the priority areas and these action plans will cover; resilience, mitigation and adaptation. It is very keenly recognised that planning has a significant role to play in the development and implementation of suitable policies and this will be reflected in engagement and the delivery of projects required to mitigate the impact of development.

## **2.3 Infrastructure Contributions**

- 2.3.1 Hertfordshire County Council is responsible for delivering and maintaining much of the large-scale infrastructure that its residents and businesses require, such as roads, schools, waste disposal services and libraries.



- 2.3.2 Local services are also provided by the appropriate local authority (City, Borough or District Councils). There are eleven local planning authorities in Hertfordshire (including the County Council). These local authorities plan for services such as affordable housing, waste collection, leisure and recreation services. The local authorities may seek developer contributions towards the infrastructure for which they are responsible.
- 2.3.3 The authorities also consult with other infrastructure providers to understand the complete needs of infrastructure required to mitigate the impact of development. This might, for example, include Highways England, the NHS, the Hertfordshire Constabulary and the Environment Agency.
- 2.3.4 The following paragraphs briefly outline those types of infrastructure which may be secured by developer contributions in Hertfordshire. This chapter does not necessarily present an exhaustive list. The level and range of developer contributions will be the subject of negotiation between the local planning authority and developer.

Not all of the infrastructure types indicated below are requested by the county council, this chapter is intended to be an indication of the different types and organisations involved in this work for Hertfordshire generally. Developers should contact the local planning authority for further advice.

### **Affordable housing**

- 2.3.5 Affordable housing includes social rented, affordable rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. It can be a new-build property or a private sector property that has been purchased for use as an affordable home. Most residential development proposals in Hertfordshire will require the provision of on-site affordable housing provision that meets the needs of all resident groups. Local planning authorities will define affordable housing policies through their Development Plan and further information is available from each Hertfordshire authority using the links shown in Appendix 4.

### **Adult Care Services**

- 2.4 There are a number of proposed projects which are identified to meet very specific needs of people accessing adult care services in Hertfordshire. For mental health needs, these might include small blocks of 12 or so flats with an on-site office, in a number of areas. In addition, there is a need for move-on accommodation of self-contained flats in general needs accommodation. For vulnerable people this includes support currently provided to a range of groups such as women fleeing domestic violence; homeless single people

and families, and people with substance misuse problems. Where there is an identified local need which will be exacerbated by new development, contributions will be sought towards on-site or off-site projects to meet new demand.

- 2.5 The county council has developed design guidance which details the preferred geographical location and layouts for some adult care services and developers are advised, particularly for larger strategic sites where on-site provision may be sought, to seek early engagement to support the development of masterplans.

### **Air quality**

- 2.6 Local authorities in the UK have a responsibility under Local Air Quality Management (LAQM) legislation to review air quality. Where concentrations exceed national objectives, measures should be put in place to reduce emissions, and be reported in the local Air Quality Action Plan (AQAP). Most such Action Plans are designed to address difficulties in complying with national objectives for either NO<sub>2</sub> or PM<sub>10</sub>. In some instances, it may be necessary to seek developer obligations towards improvement measures either via direct delivery of a project or via a financial contribution to a project serving a wider local area.

### **Ambulance service**

- 2.7 Where new development would require improvements to expand provision and/or the redistribution or re-organisation of ambulance services to meet new areas of demand it may be necessary to seek obligations towards the ambulance service. This may be part of hub projects to co-locate blue-light services (with the police and fire services).

### **Archaeology**

- 2.8 In most cases, the investigation and recording of archaeological remains can be covered by planning condition. However, in some circumstances a planning obligation may be necessary and could cover, for example, the deposit and storage of archaeological artifacts. Early engagement with specialist county council officers is advised.

### **Community centres/ halls**

- 2.9 Community centres can act as a social focus for new communities and they may play an important part in the development of new relationships for residents. A community centre might act as a hub for a variety of public and private uses and where there is an identified need for a new centre or hall a variety of infrastructure providers might be interested in accessing space.
- 2.10 Community centres can provide for a co-location of many services such as: blue-light services (with access to lockable storage space for equipment); health services (with access to private consulting space); libraries (with

potential to support roll-able shelving for books or storage for digital project work); play space for early years education groups; community meeting groups; and youth clubs.

- 2.11 Where community centres or halls are required, the transfer of land and buildings might be dealt with via a S106 agreement. Where existing centres or halls can expand or improve their provision to meet additional demand, it may be appropriate to provide financial contributions for off-site provisions.

### **Cultural facilities**

- 2.12 Demand for improvements to museums, galleries or theatres would ordinarily be outlined within the Development Plan although smaller projects such as public art installations may not. Where obligations can be supported by a clear evidence of need and/or policy, and where they meet the tests for S106, developer contributions or on-site provision (for example as part of town centre regeneration projects) may be identified as part of a S106.

### **Digital connectivity**

- 2.13 Digital connectivity has the ability to dramatically alter the way in which we live, work, travel, learn and access services. Some Hertfordshire authorities have adopted specific policy in their Development Plan which guides the expectations for new developments, further information is available from each Hertfordshire authority using the links shown in Appendix 4.
- 2.14 Whilst direct financial contributions might not be sought for the delivery of digital access (i.e. cabling in the ground), more and more infrastructure providers are developing projects which rely on fast connectivity to digital networks. Projects which enable access to digital services may be identified to support new development, for example improvements to WIFI projects at a local library or community centre.

### **Education: Early Years**

- 2.15 The county council currently has a number of statutory duties it has to meet regarding free early education (FEE) and childcare which are outlined in a technical appendix which accompanies this Guide. Financial contributions may be sought to help extend existing provision or provide a new facility. Where the development in question also triggers the need for other community facilities it is often appropriate to co-locate early years facilities.
- 2.16 Wholly new provision will be considered on a case by case basis but should be DfE compliant. County council officers can provide details of Ofsted complaint space requirements which can save time and money later in the process of delivery of FEE space. The ability to access known networks of FEE providers and how best to market new accommodation is also a service offered by the county council which can ensure timely provision of facilities to meet demand from early occupations.

## **Education: Mainstream**

- 2.17 The county council is the local authority which has the statutory responsibility for education. It has a duty to ensure that there are sufficient school places to meet the needs of the population now and in the future. Mainstream education provision includes nursery, primary, secondary and post-16 (up to the age of 19) education. In three tier areas primary and secondary education is divided into first, middle and upper education.
- 2.18 Where there is considered to be insufficient capacity in local schools to cater for the development (and other sites if appropriate) planning obligations will be sought. On strategic sites, the provision of land and build costs for on-site schools is usually required. Nursery provision is made at primary schools, while new secondary schools will also offer post-16 education.
- 2.19 Schools play an important part in the establishment of new communities. Community use agreements for school playing fields can also form an important part of on-site open space. This can be one example of providing a more flexible use of the space outside of school operating hours. The county council would advise early engagement for masterplanning purposes on strategic sites.

## **Education: Special Schools and Specialist Provision**

- 2.20 The county council has a duty to promote high standards of education, fair access to education and a general duty to secure the sufficiency of school places. It must consider the need to secure provision for children with Special Educational Needs and Disabilities (SEND), including the duty to respond to parents' representations about school provision. The county council must secure sufficient education and training provision for young people with an Education, Health and Care (EHC) plan up to the age of 25.
- 2.21 Where existing capacity is unable to mitigate the impact of development, the county council will seek planning obligations to create new provision, whether through the expansion of existing special schools or specialist provision, or through the creation of new special schools or specialist resource provision in mainstream schools.
- 2.22 Few, if any, new developments will generate the requirement for an entire new SEND school. However, on strategic sites the county council may seek land allocations for SEND provision through the local plan process to serve a wider need arising from growth across a district or other wider geography.

## **Fire and Rescue service**

- 2.23 The county council, in its capacity as the Fire and Rescue Authority, has a statutory duty to ensure that all development is provided with adequate water supplies for firefighting. This includes the provision of fire hydrants which may be secured through the planning process.

- 2.24 The ability of developments to be adequately served by fire and rescue services will be assessed on an individual basis and impacts may need to be addressed through financial contributions. This may include contributions towards a new blue-light hub, a new fire station or an extension to an existing facility or alternatively, the provision of sprinklers in commercial and/or domestic properties.

### **Green (and blue) infrastructure**

- 2.25 Green infrastructure (sometimes referred to as blue infrastructure in relation to watercourses) can include: parks; fields; woodlands; rivers; wetlands; allotments; and private gardens. Green infrastructure should be networked. Networking urban parks, footpaths and quiet country lanes to open access land provides better access to the countryside and therein provides greater positive benefits to health and wellbeing. Developments may be required to provide onsite projects to support and improve the green infrastructure network, and meet biodiversity net gain requirements, or financial contributions may be sought towards off site projects.
- 2.26 Contributions may also be sought by the local planning authority for the maintenance of green infrastructure as part of any development. On larger development sites, there may instead be a requirement for the establishment of a management company for ongoing maintenance and management of these networks.
- 2.27 Public Rights of Way can form important connections between open spaces and improvements are managed by the county council. Contact with specialist county council officers as part of the application process will confirm any requirements on a case by case basis.

### **Health**

- 2.28 The need for new health service facilities in connection with new development is assessed by NHS England, who will also consult with the local CCG. This would take into account the capacity of existing primary care/acute facilities provision and the demographic nature of the area. The scope of health care infrastructure may include capital provision and/or related funding and services. Opportunities for combining health service provision, with other infrastructure or facilities provision as part of shared floor space within a local centre, might also be explored.
- 2.29 Public Health functions and strategies are delivered by the county council and those responsibilities are set out with the Hertfordshire Health and Wellbeing Strategy and the Hertfordshire and West Essex Sustainability and Transformation Plan. The need for planning obligations is assessed on a case by case basis.
- 2.30 Further to this, the county council advocates the completion of Health Impact Assessments and sets out when it expects one to be undertaken, guidance

on appropriate methodology and clarity on how it will be assessed is available via the county council website.

### **Libraries**

- 2.31 As Local Libraries Authority, the county council has a duty to provide a comprehensive and efficient library service for everyone who lives, works, or studies in the county. The county council is committed to maintaining and modernising its libraries to continue to meet the changing needs of service users and to cope with additional demand brought about by new development. Where improvements and/or new provision is required to mitigate the impact of new developments, financial contributions will be sought on behalf of the library authority.
- 2.32 Where new community facilities are due to be built, the library service may also consider the use of space within that facility, where appropriate, supported by additional resources.

### **Mineral workings**

- 2.33 The county council identifies potential new sites for minerals extraction in the Minerals Local Plan. In instances where applications require mineral workings, it may be necessary to seek financial contributions or mitigation projects for the restoration and aftercare of mineral sites and to meet biodiversity net gain requirements. Each application is assessed on a case by case basis and developers are advised to seek professional guidance from the specialist county council officers.

### **Open space, sport and recreation**

- 2.34 The provision of outdoor space for sport and recreation will be outlined within a Development Plan and Sport England is a statutory consultee for any application for development affecting playing field land. Planning Practice Guidance also recommends consultation with Sport England on a number of other sports related applications.
- 2.35 Contributions may be requested by the local planning authority to support the maintenance of onsite provision and/or financial contributions towards off-site projects. This may include: play areas; playing fields; tennis courts; multi-use games areas; indoor sports facilities; and swimming pools.
- 2.36 Some uses can also be provided as part of school sites and where this would not affect the operation of schools, the county council will consider community use agreements for shared facilities. In some instances, it may be appropriate to provide additional funding to ensure that facilities for use by the wider community are compliant with Sport England standards. Each one is considered on a case by case basis.

## **Police service**

- 2.37 Local authorities have a statutory duty to work with the Police and other partners to reduce crime and disorder in their area. Carefully planned design would only mean that where sites are located near to crime hotspots contributions may be sought for community or locally based safety projects. For strategic sites there may also be potential for co-location with other blue-light services in a single location and proportionate financial contributions may be sought from individual applications in areas of demand.

## **Public realm**

- 2.38 Contributions may be sought towards improvements to the street scene which may include: hard and soft landscaping; street furniture; signage; public art. On-site improvements may also be sought by condition. Anticipated improvements may be set out within town centre or area specific strategies and developers should contact the local planning authority for further advice.

## **Sustainable drainage systems (SuDS)**

- 2.39 The county council is the Lead Local Flood Authority and is a statutory consultee in planning for all major development in relation to the management of surface water drainage. Further guidance is available on the county council website which includes SuDS design guidance.
- 2.40 The inspection and monitoring of drainage works during construction can be covered by planning condition. Whilst each development is assessed on a case by case basis, a planning obligation may be necessary to cover the future maintenance and adoption of the SuDS in the new development, by an appointed management company, for example.

## **Transport**

- 2.41 Planning obligations can be used to ensure developments maximise accessibility by sustainable modes. They can also be used to ensure developments have safe access/egress and minimise development-related impacts such as traffic congestion.
- 2.42 For larger strategic developments, it may be necessary for engagement with Highways England and/or the Department for Transport.
- 2.43 In line with the Local Transport Plan (LTP4) the county council will actively seek planning obligations which will improve sustainable transport facilities and services for passenger transport users who are using the development and generally for those users in the surrounding area. This will also include improvements to Public Rights of Way (see also green infrastructure).
- 2.44 Measures necessary to mitigate against the impact of new developments should be identified through Transport Assessments (TAs) or via site specific

negotiations. Further detail for county council functions is provided in Chapter 5 and the Technical Appendix for Transport.

### **Waste infrastructure**

- 2.45 The Hertfordshire district, borough and city councils are Waste Collecting Authorities (WCAs) and as such may seek financial contributions towards WCA receptacles which are used by householders for kerbside collections. Larger developments may also be required to support the development of community recycling points.
- 2.46 As Waste Disposal Authority, the county council is responsible for disposal of local authority collected waste arising in the county and collected by the WCAs. The county council achieves this via a network of waste transfer stations and household waste recycling centres. Where capacity is evidently reached, new development will exacerbate the function of the WDA and developers may be asked to contribute towards the expansion of existing or delivery of new sites.

### **Wildlife Sites, habitat and landscape improvements**

- 2.47 The Environment Bill will introduce a mandatory biodiversity net gain, to ensure that new developments enhance biodiversity; compensate for biodiversity loss where it cannot be avoided or mitigated.
- 2.48 Even small-scale developments may have detrimental impacts on habitats and landscapes and where onsite solutions to mitigate impacts cannot be met, contributions to offsetting via projects offsite will be sought.
- 2.49 A county-level shared service known as Hertfordshire Ecology, provided by the county council, provides ecological planning advice to eight Hertfordshire local authorities and the county council. This service can provide guidance on development impacts and advise on any likely solutions and/or contributions which could be sought via planning obligations.

### **YC Hertfordshire**

- 2.50 YC Hertfordshire provides a varied planned informal education programme across the county, in order to promote young people's personal and social development. This includes youth work projects and programmes, information, advice, guidance, work-related learning, outdoor education and one-to-one support. The service provides a statutory function in supporting the well-being of young people and where new development increases demand for young people's services, financial obligations will be sought.
- 2.51 A number of infrastructure providers are involved in the assessment of requirements necessary to make development acceptable. The local planning authority will weigh the balance of needs in the determination of each individual planning application. The following chapter outlines those service areas which are a responsibility of the county council. The chapter is



supported by a number of technical appendices available alongside the Guide.

- 2.52 This list is not exhaustive and you should contact the local planning authority for further advice.

## 3.0 Hertfordshire County Council: Contributions

### 3.1 Overview

3.1.1 The county council is responsible for ensuring the provision of a range of services and seeks contributions and/or facilities from development, where not covered by a CIL charge (to eliminate any occasion where infrastructure may be sought by S106 and CIL), which would have an additional impact on service provision, including but not limited to:

- Adult Care Services;
- Education:
  - Early Years;
  - Mainstream;
  - Special Schools;
- Fire and rescue services;
- Libraries;
- Transport;
- Waste Disposal;
- Youth.

3.1.2 Whilst not related directly to service provision, other matters such as: economic development; archaeology; green infrastructure; sustainable drainage systems; and public health may also attract the need for planning obligations.

3.1.3 Planning obligations towards the above can be in the form of financial contributions; works; on site provision; or land.

### 3.2 How we assess the impact of each development

3.2.1 Hertfordshire County Council has developed a demographic model to project the likely population of any given development. A Guide to the model and an online version of it are available alongside this Guide.

3.2.2 The model can operate at different levels of complexity to account for the level of information available at any given point in the planning application process. The more detail provided for input into the model, the more detailed the result.

3.2.3 The model methodology is consistently applied to assist in determining the impact of an individual development on an infrastructure project. For example, the model can estimate how many 11 to 19 year olds might reside in a development over time, and therefore allow the county council to indicate a reasonable contribution towards a YC Hertfordshire (youth) project.

3.2.4 The approach to pupil yield calculations (for school place projections) differs slightly and is explained within the relevant technical appendix.

- 3.2.5 Outputs from the demographic model can be provided to applicants on request. Details of the total number of units, number of flats and/or houses and the tenure of an application are helpful datasets to facilitate the modelling. Each of the (non-transport) service technical appendices will refer to the demographic model. Full detail on the model is available alongside this Guide at [hertfordshire.gov.uk](http://hertfordshire.gov.uk).
- 3.2.6 The technical appendices also provide information on the approach and justification for seeking planning obligations from new development on a service by service basis. They advise on thresholds, base charges and comment on the potential use of contributions. However, information regarding specific projects will be provided at the time of a pre-application enquiry or consultation on a case by case basis.
- 3.2.7 Although the CIL Regulations discourage the use of formulae to calculate contributions, the county council is not in a position to adopt a CIL charge itself. Accordingly, in areas where a CIL charge has not been introduced, planning obligations remain the only route to addressing the impact of a development where financial contributions or provision (e.g. land) is required. In instances where a development is not large enough to require on site provision but is large enough to generate an impact on service provision, an evidenced mechanism is needed to form the basis of any planning obligation sought. The methodology for county council services (see Technical Appendices) are considered appropriate for such a mechanism. This is particularly true in instances where an application has been submitted in outline allowing the mix and number of dwellings to change at the Reserved Matters stage. Where the cost of an identified project is known in advance of a Section 106 being agreed, bespoke calculations may also be considered.
- 3.2.8 Aside from thresholds identified in national guidance, the county council does not intend to set a specific county wide threshold in relation to seeking planning obligations. The need for planning obligations from individual applications will be assessed on a site by site basis and will be determined by local circumstances. This is compatible with the requirements of the CIL Regulations.
- 3.2.9 Local planning authorities may set their own thresholds or deem contributions inapplicable in certain instances. This should be checked with the relevant local planning authority.
- 3.2.10 Where an application involves demolition the obligations sought are assessed according to the net gain of dwellings or floor space. In instances where an application is made for a change of use which may not result in a change in floor space, an assessment of impact will still be needed, particularly in relation to Highway matters as, for example trips rates may be affected.

### 3.3 How infrastructure projects are identified

- 3.3.1 In alignment with the NPPF, the county council would expect infrastructure to be planned and tested throughout the development of a Local Plan and therefore policy making. The county council will coordinate with Hertfordshire local planning authorities throughout plan production, and engagement is outlined in the Local and Strategic Plans Engagement Document.
- 3.3.2 This Guide outlines the approach of the county council at the decision-making stage, although infrastructure requirements, particularly from strategic development sites, should be outlined within Local Plan policies and supporting evidence such as Infrastructure Delivery Plans. This aligns with the NPPF.
- 3.3.3 When determining the impact of strategic sites, the county council would generally expect such sites to generate the need for a new infrastructure setting, for example a new school. However, to mitigate the impact of a selection of smaller sites, the county council may explore pooling of S106 contributions, subject to legislation, in order to fairly and efficiently mitigate their combined or cumulative effects.
- 3.3.4 In order to forward plan for infrastructure provision, the county council monitors the progression of allocated and potential windfall sites by coordinating with the Hertfordshire LPAs, and neighbouring planning authorities where appropriate. Local Plans form the basis for service-related infrastructure planning. The NPPF recognises that:

“  
34. Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.  
”

- 3.3.5 Strategic sites are usually supported by specific planning policy which dictates the key infrastructure required to mitigate a development's impact. Further supporting infrastructure may also be required and each service provider is expected to provide robust evidence to support the lawfulness of any request by illustrating how the project meets the three tests of R122<sup>5</sup>.
- 3.3.6 In support of a Local Plan, an LPA may publish an Infrastructure Delivery Plan (IDP). An IDP sets out the infrastructure required to support the development outlined within a Local Plan. The county council encourages collaborative working to develop a joint working approach to IDPs.

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<sup>5</sup> [CIL Regulations 2010 \(as amended\)](#).

3.3.7 In support of known infrastructure requirements to 2031, The Hertfordshire Infrastructure Funding Prospectus (HIFP) was completed in 2018. The HIFP key findings for Hertfordshire included:

“

- *an identified housing growth over the 13 year period to 2031 of on average 6,425 dwellings per annum. This compares to average annual completions of 3,189 dwellings per year across Hertfordshire from 2011/12 to 2016/17;*
- *a total housing supply of 83,530 dwellings that are expected between 2017/18 and 2031/32;*
- *an identified housing need for approximately 97,411 homes between 2018 and 2031;*
- *a forecast population increase of 107,400 people (an increase of 9%); and*
- *a forecast of 44,650 additional jobs, an increase of 6%.*

”

The HIFP is available online [via this link](#)

3.3.8 Circumstances may change if there are delays to developments coming forward as part of the town planning process. Service needs can fluctuate depending on a number of variables which may be beyond the control of a service provider, for example change in national policy, a sudden rise in birth rates or parental choice for a particular school. Applicants are therefore strongly advised to contact their local planning authority at the earliest opportunity to discuss potential infrastructure impacts.

3.3.9 Hertfordshire County Council welcomes engagement at the earliest opportunity and would expect the local planning authority to be included in discussions relevant to a planning application.

### **3.4 The scale of obligation**

3.4.1 The scale of each obligation will depend on the infrastructure project identified to mitigate the impact of an individual development site. The county council will only seek obligations towards a particular service area where there is an identified need. Developers and applicants are encouraged to contact the local planning authority in the first instance to coordinate this process.

3.4.2 The county council provides indications of costs within the Technical Appendices. As project costs will vary by application, and therefore mitigation measure, the county council will confirm precise obligations at the point of consultation. This enables the county council to ensure that it meets the three tests in seeking reasonable and proportionate obligations.

3.4.3 Before requesting a planning obligation, the county council will assess:

- a) If there is an identified need in the local area; and
- b) If the project identified to mitigate the impact of development aligns with the estimated costs shown in the Technical Appendix.

Where the scope of a project varies from the examples shown within each Technical Appendix these costs may change.

- 3.4.4 Additional service requirements may be identified on a case by case basis. Many issues such as the conservation and enhancement of public rights of way (PROW), archaeology, wildlife, geology, habitats and the landscape (as well as creating opportunities for new environmental features including biodiversity) are where the county council often advises the local planning authority. These issues are often equally as important as those which attract financial obligations but are likely to vary considerably depending on specific site circumstances.
- 3.4.5 Other matters may therefore be considered on a case by case basis and the county council advises early engagement to identify contributions as soon as possible.

### **3.5 Viability of development sites**

- 3.5.1 The county council would expect viability in the decision-making process to be assessed in line with national guidance.
- 3.5.2 It is recognised that it is the responsibility of the local planning authority to assess the reasonableness of the level of contribution sought by any individual S106 obligation. Only a local planning authority can consider the combined implications of all of the obligations on an individual application. Hertfordshire County Council requests that all discussions regarding a level of contribution are directed to the local planning authority in the first instance.
- 3.5.3 On occasion, it may be necessary for a local planning authority to take a view on the viability of a development to meet the infrastructure requirements outlined by each infrastructure provider. In these instances, and specifically where a County service need is reduced, Hertfordshire County Council would expect viability evidence to be prepared and shared in alignment with national guidance.
- 3.5.4 There should be no reduction to obligations where it is found that an applicant has paid too much for land.
- 3.5.5 County council officers will be required to report any departure from the normal approach for S106, as outlined within this Guide, to County Council senior teams and Executive Members. Hertfordshire County Council will be transparent regarding any and all S106 processes, decisions and procedures.

## 4.0 Hertfordshire County Council: Land transfers

### 4.1 The requirement for land

- 4.1.1 There are a number of circumstances under which the county council may need land to be transferred to its ownership. These might include new or expanded schools and nurseries, buildings for community services or land to be dedicated as Highway or other form of travel infrastructure.
- 4.1.2 In most cases land is needed to establish a new facility on the development itself but in some circumstances it may be needed to expand an existing service location. There may be instances whereby the total land area, for a new school as an example, is not required to make the planning application acceptable in planning terms. In those instances there may be a need for developers to work together to agree an approach to land equalisation. Each development will be considered on a site by site basis.

### 4.2 Location and suitability

- 4.2.1 To identify the most appropriate location for a particular infrastructure project, Hertfordshire County Council would encourage developers to discuss plans at the earliest opportunity. The applicant will need to work closely with Hertfordshire County Council and the local planning authority to identify potential locations for new services which should, for large strategic sites, include the production of a masterplan. The location of a potential Hertfordshire County Council service need will need to be carefully considered in relation to other potential non-compatible uses.
- 4.2.2 Once the location of a site has been agreed, ground conditions must be considered. The most current and relevant Hertfordshire County Council Land Specification should be referred to. A current version of the Education Land Specification is shown in Appendix 2 but developers should contact **growth@hertfordshire.gov.uk** for the most up to date version.
- 4.1.3 In order to confirm site acceptability, Hertfordshire County Council would request the opportunity to visit the site is provided to officers and that, specifically in relation to the site area in question, the following checklist of items is compiled into a report and provided to Hertfordshire County Council for review:
- Site boundary plan (must include GIS polygon file)
  - Development master-plan including partner organisation intentions
  - Site history & previous uses
  - Neighbouring land uses including ditches and power lines
  - Ground conditions including local geology maps
  - Topography including survey maps
  - Contamination including radiation, soil and ground water
  - Flood risk including Environment Agency flood zone designation
  - Mobile phone/radio mast locations

- Physical encumbrances
- Habitat, arboriculture & ecology study including site walkover report
- Archaeology
- Noise (for education sites assessment)
- Air quality including reference to local Air Quality Management Areas
- Access (pedestrian & vehicular) and public rights of way
- Utility and service connections/capacity including searches
- Proposed pre-transfer works.
- Pre-existing claims or evidence of past use as a highway or Right of Way.

The availability of any information in GIS files will improve the efficiency in reviewing the data and information.

4.2.4 Upon receipt of the requested information, the county council will provide feedback to the local planning authority on site suitability. Developers will be expected to adhere to the Land Specification shown in Appendix 2 (or its equivalent replacement), and for a 'Typical Standard' (also in Appendix 2) also to be included within any S106 agreement. Developers must obtain collateral warranties for any studies and works undertaken to support the site agreement or site preparation works. These warranties must be transferred to Hertfordshire County Council.

4.2.5 See also Appendix 2 for the current site sizes for education purposes.



## 5.0 Hertfordshire County Council: Process

### 5.1 Who to contact

- 5.1.1 Planning obligations in relation to all non-transport matters are sought by officers in the Growth and Infrastructure Unit. The team can be contacted via the following email address:

**[growth@hertfordshire.gov.uk](mailto:growth@hertfordshire.gov.uk)**

- 5.1.2 Planning obligations in relation to transport matters are sought by officers working within the Highways Development Management Team. The team can be contacted via the following email address:

**[highwaysplanning@hertfordshire.gov.uk](mailto:highwaysplanning@hertfordshire.gov.uk)**

- 5.1.3 The county council works closely with the Hertfordshire local planning authorities. The authorities receive and determine planning applications. When planning applications are made, the county council is consulted by each local planning authority and will provide appropriate advice and comments regarding the needs of infrastructure for which is it responsible. Those needs may be met through a S106 obligation, or, where one exists the Community Infrastructure Levy or through another alternative and appropriate mechanism. Where the needs of a development are not met by an individual development, the county council may object to the application.
- 5.1.4 Alternative mechanisms to a S106 agreement might reasonably include planning conditions, highway works carried out pursuant to agreements under section 38 or section 278 of the Highways Act 1980. The appropriateness of each approach and their interrelationship as a means of delivering infrastructure requirements will be considered on a case by case basis.

**In all scenarios, the county council encourages early and ongoing engagement throughout the planning process, whether this be through the plan-making or decision-making processes.**

### 5.2 Planning Performance Agreements and Service Specific Advice

- 5.2.1 In developing a planning application and the subsequent S106 legal agreement, applicants may request a planning performance agreement (PPA). PPAs are voluntary agreements that enable applicants and local authorities to agree timescales, actions and resources necessary to support the development of a planning application. For a large organisation such as

the county council, this has numerous benefits not least of which is a coordinated response from a number of internal service departments.

- 5.2.2 On a case by case basis, the county council will consider the need for PPAs alongside available resource. In some instances this requires securing external resources which are also chargeable through the PPA. Stakeholders are invited to contact the growth email address provided in paragraph 5.1 with details of the development site to discuss this in the first instance. Template examples of PPAs can be provided upon request. Fees may be incurred for legal checks if the format of the PPA varies considerably from the template document.
- 5.2.3 In some scenarios, applicants prefer to secure specific chargeable advice from one service area in advance of any other county council functions. This is sometimes referred to as pre-application advice. The most common areas and contact email addresses for specific service area requests are detailed in the table below:

<b>Service area</b>	<b>Email address</b>
Transport	highwaysplanning@hertfordshire.gov.uk
Flood and drainage	frmconsultations@hertfordshire.gov.uk
Ordinary watercourses	ordinarywatercourses@hertfordshire.gov.uk
Historic environment	historic.environment@hertfordshire.gov.uk
Ecology	ecology@hertfordshire.gov.uk
Landscape	landscape@hertfordshire.gov.uk
Sustainability	sustainableherts@hertfordshire.gov.uk
Public Health	publichealth@hertfordshire.gov.uk
All other enquiries	growth@hertfordshire.gov.uk

### **5.3 Developing the Legal Agreement**

- 5.3.1 Please refer also to the Legal Pack that accompanies this Guide.
- 5.3.2 Planning obligations must be included within a legal document often referred to as the Section 106 agreement (S106). This deed can also be in the form of a unilateral undertaking (the latter does not include reciprocal obligations from the receiving authorities).
- 5.3.3 The county council discourages the use of any legal agreement for which the county council is a receiving authority but not a signatory. This is to ensure that risk to public sector funding is minimised and planning obligations identified within the agreement are CIL compliant. The county council encourages early engagement in determining all planning obligations to ensure that they comply with the Regulations.
- 5.3.4 The first draft of a S106 can be produced by the county council, the local planning authority or the applicant/s. On behalf of the county council and the local planning authority S106s are usually handled by solicitors taking instructions from professional clients (e.g. planning and highway officers). The current county council model template document is included within the

legal pack that accompanies this Guide. However, some authorities have their own templates/standard clauses; accordingly it can be helpful to agree which template will be most appropriate in each case before the first draft is drawn up. The template/s attached to this document provide clauses which the county council regularly use and can be inserted into drafts based on alternative models where required.

- 5.3.5 Depending on the nature and complexity of the proposal, the attached templates may need to be amended and/or supplemented. Advice will be given on a case by case basis where necessary.
- 5.3.6 For land transfers, the county council would require an unencumbered freehold land transfer to form part of the S106 agreement.
- 5.3.7 Planning applicants are required to give an undertaking to pay costs for the preparation of legal agreements in advance of the S106 being drafted (fee rates are set out in the legal pack that accompanies this Guide). Further advice on the legal agreement process can be obtained by the contacts listed at paragraph 5.1, directly via the county council legal team at [environmentlaw@hertfordshire.gov.uk](mailto:environmentlaw@hertfordshire.gov.uk) or from the individual local planning authority listed at Appendix 1.

## **5.4 Appeals**

- 5.4.1 Where a planning application is submitted to the Planning Inspectorate for appeal and the county council has sought planning obligations from the proposal, the council should be involved in the process.
- 5.4.2 The county council will assist and encourage applicants to make contact regarding the production of S106 drafts in advance of the appeal so that agreement can be reached where possible. The council will communicate with the appellant, LPA and the Planning Inspectorate as appropriate, and prepare statements, or appear as witnesses at appeal hearings and inquiries where necessary in support of the obligations being sought. It will also provide any additional information (or updated information where there has been a significant period of time between responding to a consultation on application and an appeal) required in respect of the CIL Regulations.

## **5.5 Monitoring fees, Indexation, Receipt and Spending of S106 Monies**

Monitoring fees for county council matters

- 5.5.1 Once the S106 is agreed, and the development starts to build, the county council incurs costs associated with managing and monitoring the agreement. The county council considers that it should reasonably be able to recover a degree of the costs incurred as part of this process. It is the aim of the county council to provide as transparent, efficient and cost-effective service as possible within the resources available. Costs may include:-

- The maintenance and development of its planning obligations monitoring system (via an integrated database), to help co-ordinate obligation preparation, completion, monitoring and review;
- Monitoring of trigger points and development progress;
- Pre-emptive alerts for obligations that are or are to become overdue;
- Recovery of obligation payments not made, including any necessary formal or legal action;
- Liaison between the county council and district/borough councils, where infrastructure and facilities are provided by one level of authority but the financial contribution is held by the other;
- Providing reports on the operation and outcome of county council developer contributions.

5.5.2 A charge would be made based on the number of triggers within each legal agreement. Each trigger will attract a charge of £340.00<sup>6</sup>. For example:

- a) a total of four obligations all due on commencement of development would require a total monitoring fee of £340 as the work associated with monitoring that trigger can be combined into one process;
- b) a total of four obligations due at different stages of development would require a total monitoring fee of £1,360 (4 x £340) as the work associated with monitoring each different trigger will be replicated four times in the process.

Monitoring fees will be adjusted for inflation against RPI. VAT is not charged on monitoring fees.

5.5.3 Where strategic housing development occurs of more than 500 dwellings a fixed negotiated monitoring administrative cost would be charged to reflect the associated costs of monitoring large schemes, which may have, for example, multiple builders, several phases of development and be built out over a longer time period.

5.5.4 Section 106 contributions are required to be paid in accordance with the terms of the S106 agreement. A form is attached to the model template shown in the legal pack which sets out this process, including how and where contributions should be paid.

#### Indexation

5.5.5 The county council requires contributions to be subject to indexation to account for inflation and ensure their value is retained. Historically a number of different indices have been used. To provide clarity and simplicity, the following indices will be used by the county council:

- Building Cost Information Service, BCIS (all non-highways/ transport infrastructure);

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<sup>6</sup> This figure is based on 8 hours for a Monitoring Officer and 4 hours for a Senior Planning Officer per trigger.

- SPON'S Index (Highways and transportation);
- Confederation of Passenger Transport Index, CPT (Passenger Transport i.e. bus services); and
- Retail Price Index, RPI (travel plans).

5.5.6 Indexation should be applied from the date at which the costs are set not at the point of committee or S106 agreement. Each agreement will detail specifically how indexation should be applied.

#### Receipts and spend

5.5.7 Once received, contributions are held and spent in accordance with the relevant S106. Financial contributions are monitored and tracked to expenditure on specified projects to ensure that it occurs within relevant timeframes as set out in the legal documents.

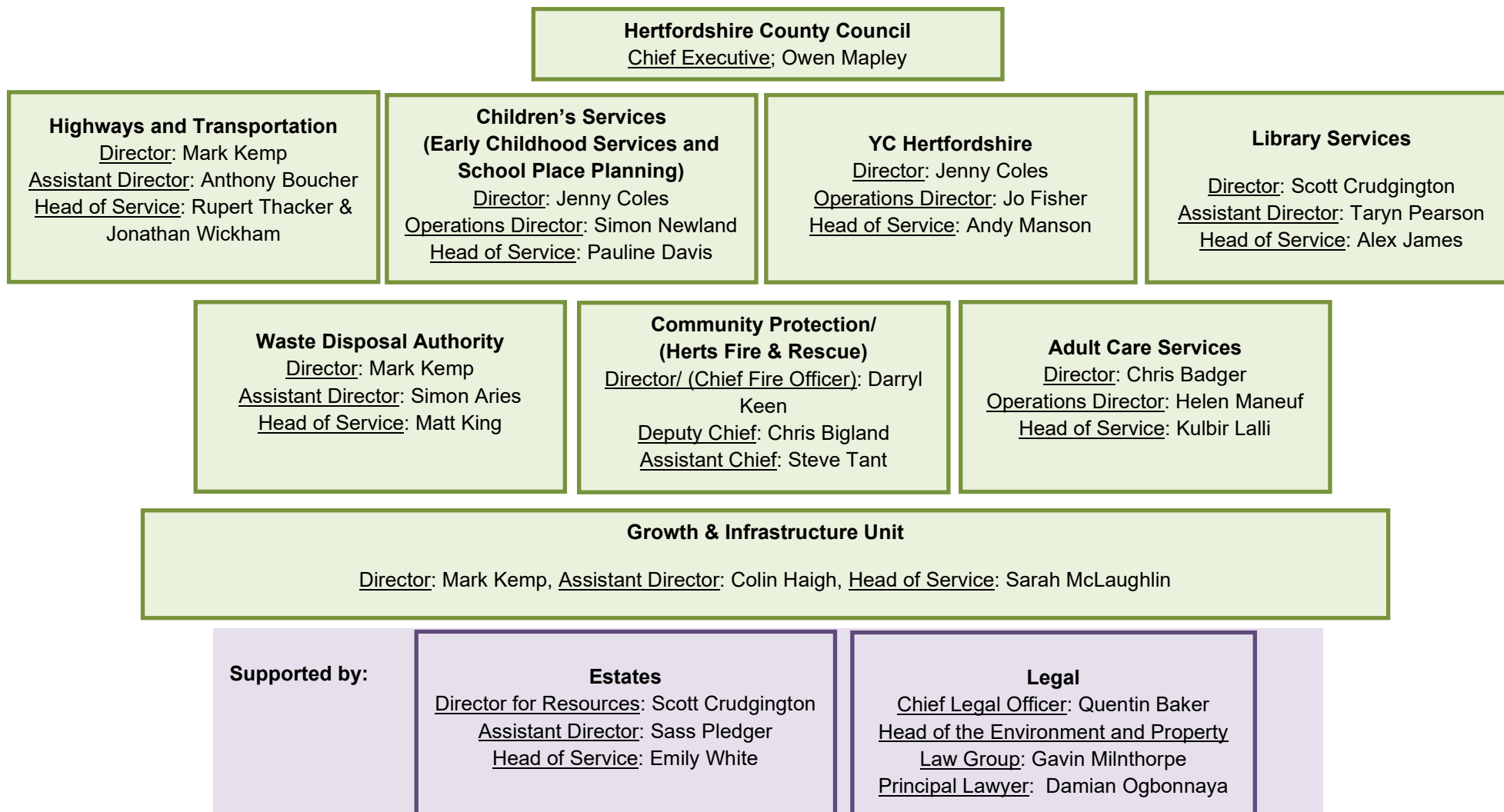
5.5.8 Annual Infrastructure Funding Statements will be published by the county council. If a contribution is not spent within the timeframes identified within the S106 it will be refunded to the relevant party as prescribed within the deed. Information on expenditure can be made available on request.

5.5.9 The county council maintains a register of all planning obligations and follows a clear internal process to approve spend. Its planning obligation processes are regularly audited and if necessary, recommendations made to senior officers to ensure improvements can be made where possible.

# Developer Contributions Guidance 2021

## Appendix 1 – Contacts












### Hertfordshire County Council Service Structures



## Hertfordshire County Council Contacts for Developer Contributions

Local Planning Authority	Non-transport services	Transport services	
	Lead: Sarah McLaughlin	Lead: Mark Youngman	Lead: Roger Flowerday
	Growth and Infrastructure Unit	Highways Planning	Local Plans, Strategic Development & Future Transport
	growth@hertfordshire.gov.uk	highwaysplanning@hertfordshire.gov.uk	
<b>North East</b>			<b>Countywide</b>
Borough of Broxbourne Council	Team Leader: Antony Proietti. Supported by: Ben Bowles, Sarah Burgess, Trish Lyons, Christine Perkins, Xavier Preston.  Garden Towns: Matthew Wood	Development Manager: Matthew Armstrong. Supported by Senior Development Officers: Ania Jakacka, Roger Taylor and a team of Development Officers.	Development Manager: James Dale.  Senior Development Officer: Oliver Sowerby.  Development Officers: Adrian McHale, Faye Panah and Jenny Applestone.
East Hertfordshire District Council			
Stevenage Borough Council			
North Hertfordshire District Council			
Welwyn Hatfield Borough Council			
<b>South West</b>			
Dacorum Borough Council	Team Leader: Russell Monck. Supported by: Terri Brooks, Jamie Alderson, Martin Wells and Velda Wong.  Garden Towns: TBC.	Development Manager: Alan Story. Supported by Senior Development Officers: Adam Whinnett, Samuel Tearle and a team of Development Officers.	
Hertsmere Borough Council			
St Albans City & District Council			
Three Rivers District Council			
Watford Borough Council			

## Hertfordshire Local Planning Authorities:

	Borough of Broxbourne	<a href="http://www.broxbourne.gov.uk">www.broxbourne.gov.uk</a> 01992 785555
	Dacorum Borough Council	<a href="http://www.dacorum.gov.uk">www.dacorum.gov.uk</a> 01442 228000
	East Hertfordshire District Council	<a href="http://www.eastherts.gov.uk">www.eastherts.gov.uk</a> 01279 655261
	Hertsmere Borough Council	<a href="http://www.hertsmere.gov.uk">www.hertsmere.gov.uk</a> 0208 207 2277
	North Hertfordshire District Council	<a href="http://www.north-herts.gov.uk">www.north-herts.gov.uk</a> 01462 474000
	Stevenage Borough Council	<a href="http://www.stevenage.gov.uk">www.stevenage.gov.uk</a> 01438 242242
	St Albans City & District Council	<a href="http://www.stalbans.gov.uk">www.stalbans.gov.uk</a> 01727 866100
	Three Rivers District Council	<a href="http://www.threerivers.gov.uk">www.threerivers.gov.uk</a> 01923 776611
	Watford Borough Council	<a href="http://www.watford.gov.uk">www.watford.gov.uk</a> 01923 226400
	Welwyn Hatfield Borough Council	<a href="http://www.welhat.gov.uk">www.welhat.gov.uk</a> 01707 357000
	Hertfordshire County Council	<a href="http://www.hertfordshire.gov.uk">www.hertfordshire.gov.uk</a> 0300 123 4040



# Developer Contributions Guidance 2021

## Appendix 2 – Land specification: education

Please refer to the notes below to support work on initial feasibility for the land/build requirement of a new two form of entry (2FE) primary school. For alternative school sizes, please contact Hertfordshire County Council at [growth@hertfordshire.gov.uk](mailto:growth@hertfordshire.gov.uk).

When working with developers on potential new school sites, the county council asks the developers to check the site against the following criteria which forms part of the draft summary terms used for the S106 agreements.

We are aware there may be site issues, such as gradient or drainage, and therefore such issues would need further investigation to clarify suitability of the space for external sports and other school facilities. The investigation findings will assist demonstrating the potential of the site to meet school standards.

### Typical standard initial draft - A 'suitable' site being one that is;

- of regular shape;
- relatively flat (not more than 1:20 gradient);
- free of physical landscape or topographical features or other things which might constrain its development and use for its intended purpose;
- the Owner shall provide results of site investigations for the proposed School Land carried out to the relevant current British and European Standards, including BS 5930, BS EN 1997 – 1 BSEN 1997 – 2 and all related standards referred to therein. This shall determine load bearing capacity of soils, soil types (and depths), type and location of any contamination and ground water level;
- insurances through collateral warranties will provide the county council with redress from the provider in the event of error or inaccuracy;
- drainage – there will be a requirement by the approving authorities to provide a drainage strategy. The Owner will design and install a network to facilitate additional and appropriate capacity including surface water storage. A connection will be available at the site boundary. Foul water capacity will be available to the site boundary and will connect to an adoptable drainage system. The connection points for both foul and surface water drainage will be located to avoid the need to provide pumping infrastructure;
- free from contamination (to such extent as is appropriate for the intended use of the site);
- free from any protected species (any appropriate mitigation measures to be wholly completed by the transferor);
- within flood Zone 1;

- noise level of the intended outdoor play areas within British Standard Requirements (based on after construction phase is finished);
- consistent low levels of air pollutants (gases and particulates) likely to adversely impact upon the health and wellbeing of all users. Baseline air quality monitoring of a nature and scope proportionate to the sensitivity of the proposed location and to be agreed by the county council should be undertaken in advance of a planning application; reliance solely upon modelled assessments will not be considered a sufficient method through which the exposure of the school community to poor air quality can be objectively considered;
- having direct access from a highway of an adoptable standard with achievable/viable opportunity for walking and cycling as the preferred mode of travel;
- vacant possession.

Sports England may also direct the approach to design and delivery of outdoor space and, for completeness, up to date Sports England guidance should also be referred to.

The transferor should prepare the necessary survey evidence required for Hertfordshire County Council to be satisfied that the site is suitable for educational use.

Developers/ site promoters are advised to consider access to the education land early in the masterplanning process. The county council would expect consideration of a construction access to the land, and direct access from a highway of an adoptable standard at the point the school becomes operational.

### **Initial Feasibility**

The county council's site standards are based on Department for Education guidance "Area guidelines for mainstream schools: Building Bulletin 103" (BB103).

As each site is different, there must be consideration to town planning requirements and any abnormalities such as:

- highways (access, constraints, improvements) car parking, cycle bays, drop off and turning circles;
- abnormalities leading to site constraints such as; topography, trees, ancient woodland, contaminated land, archaeological remains & ancient monuments;
- sewers, drainage and sustainable drainage such as balancing ponds or swales (which can require considerable land take depending on design);
- fencing and hedging; and/or
- external storage, refuse area and recycling point.

Hertfordshire County Council may require further detailed work to be completed to demonstrate deliverability, for example if significant on-site drainage solutions are required. This will be considered on a site by site basis.

### **School site sizes**

Hertfordshire County Council currently seeks land allocations of the following sizes for new mainstream school locations:

**Table 1: Hertfordshire School Land Areas for New Schools: 2021**

<b>School Size</b>	<b>Total School Area</b>
Primary 2 Form of Entry School	2.03ha
Primary 3 Form of Entry School	2.92ha
Secondary 6 Form of Entry School	8.36ha
Secondary 7 Form of Entry School	9.57ha
Secondary 8 Form of Entry School	10.78ha
Secondary 9 Form of Entry School	11.99ha
Secondary 10 Form of Entry School	13.20ha

Schools sites are expected to be provided as whole sites, with no barriers to movement. Exceptional circumstances will be considered on a case by case basis. Applicants are urged to seek advice from Hertfordshire County Council to ensure the most up to date information is available.