

**Supplementary Planning Document (SPD)  
to the East Herts Local Plan Second Review  
(April 2007)**

# Planning Obligations

Supplementary Planning Document



October 2008

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# **1 INTRODUCTION**

- 1.1 This Supplementary Planning Document (SPD) outlines the Council's approach to planning obligations in relation to planning applications and reflects the Council's corporate priorities and objectives. It aims to enable developers and landowners to be aware at an early stage what infrastructure, services and public facilities may be sought to cope with additional demands brought on by new development and offset any harmful effects to the natural, historic or built environment. The cost of these requirements can then be taken into account when land is acquired and development schemes are prepared. The document also provides guidance for all other parties involved in the consultation, submission and determination of planning applications.
- 1.2 This SPD comprises seven parts: Section 1 introduces the document; Section 2 describes the overall approach to planning obligations; Section 3 explains the contributions sought by East Herts District Council; Section 4 describes contributions sought by East Herts Community Safety Partnership; Section 5 describes contributions sought by East and North Herts Primary Care Trust; Section 6 describes contributions sought by Hertfordshire County Council; and Section 7 explains East Herts District Council's procedures regarding planning obligations.
- 1.3 Practical guidance on procedure together with legal templates are available on the Council's website at [www.eastherts.gov.uk/planningobligations](http://www.eastherts.gov.uk/planningobligations). This material does not form part of this SPD but is referred to within the SPD. For more information see Section 7 below.

## **2 APPROACH**

### **2.1 Objectives**

2.1.1 The main aims of this document are to:

- Set out the requirements for planning obligations to ensure that the additional demands upon infrastructure, services and facilities arising from new development are provided for and are put in place at the right time;
- Meet the relevant sustainability objectives contained within the Sustainability Appraisal to ensure that existing communities are not significantly harmed as a result of new development and prevention, compensation or mitigation measures are secured where it is necessary to protect or enhance the natural, built and historic environment;
- Ensure the Council provides a more consistent, transparent, practical and streamlined approach to the negotiations of planning obligations in accordance with *Circular 05/2005: Planning Obligations*;
- To provide information on planning obligation requirements by East Herts and other relevant bodies in one document.
- To inform and guide planning applicants, the public, elected members, planning officers and all other professionals involved in the planning process;
- To contribute towards achieving the aims and objectives of the *East Herts Community Strategy* and those of the Local Strategic Partnership.
- To provide evidence of and promote good practice.

### **2.2 Consultation**

2.2.1 This document has been produced in consultation with all statutory consultees and parties with whom a planning obligation is usually entered.

2.2.2 Further information on the consultation undertaken during the preparation of this SPD can be found in the SPD Consultation Statement. This document is available on request from the Planning Policy Team and can be viewed on the East Herts Council website [www.eastherts.gov.uk/localplan](http://www.eastherts.gov.uk/localplan)

## **2.3 Sustainability Appraisal**

- 2.3.1 The Government is committed to creating sustainable communities; communities that will stand the test of time, where people want to live and which enable people to meet their aspirations and potential. The Council has a role in delivering the four principles of sustainable development – economic development; social inclusion, environmental protection; and prudent use of resources.
- 2.3.2 A Sustainability Appraisal incorporating the requirements of the European Strategic Environmental Assessment (SEA) Directive (2001/42/EC) has been carried out. This is to ensure that the SPD supports the delivery of social, environmental and economic aspects of sustainability. This document is available upon request from the Planning Policy team and can be viewed online at [www.eastherts.gov.uk/planningobligations](http://www.eastherts.gov.uk/planningobligations).

## **2.4 Scope**

- 2.4.1 The scope of planning obligations is not covered in detail in Circular 05/2005 (see section 2.7.2 below). However, the Audit Commission report entitled *Securing Community Benefits through the Planning Process: Improving Performance on Section 106 Agreements* (2006) provides a list of common examples of community benefits secured through planning obligations. The document states that “in practice, what councils can secure will depend on the local development context, the infrastructure needs generated by the proposed development and how comprehensive their policy is.”
- 2.4.2 The items considered within the scope of this SPD are therefore wide-ranging but reflect the specific needs of East Herts District.
- 2.4.3 The main topics covered within the SPD are identified below. Community-based Transport contributions may be required at both District and County level depending on the scale, nature and location of the development.

### **East Herts District Council**

- Affordable housing
- Open space, sport and recreation
- Nature conservation and landscape
- Town centre environmental improvements
- Recycling facilities
- Sustainable construction
- Community Centres and Village Halls
- Surface Water Drainage
- Other

**Herts County Council**

- Transport
- Education
- Libraries
- Youth
- Childcare
- Fire and Rescue services
- Special needs housing and services
- Other

**East Herts Community Safety Partnership**

- Crime and safety initiatives
- Policing infrastructure

**East and North Herts Primary Care Trust**

- Healthcare

- 2.4.4 In addition, there are other areas negotiated on a case-by-case basis and these are grouped under the heading 'other issues'. Whilst this document provides the types of obligations sought by the Council, it must not be considered as a definitive list and is not in order of any particular priority. Each site will be assessed on an individual basis.
- 2.4.5 Hertfordshire County Council's Planning Obligations Toolkit was approved by the County Council's Cabinet in January 2008. The Toolkit provides further guidance on the County Council's requirements, and should be read alongside this SPD. However, it should be noted that the Toolkit is produced for guidance purposes only and is not a statutory planning document. East Herts Council as Local Planning Authority has the responsibility of weighing up planning obligations against competing requirements/issues when considering planning applications. It is available at [www.hertsdirect.org/planningobligationstoolkit](http://www.hertsdirect.org/planningobligationstoolkit) (see also Section 6.1 below).
- 2.4.6 The Government is currently proposing to introduce a Community Infrastructure Levy (CIL). Community Infrastructure Levy – Initial Impact Assessment (January 2008) set out the Government's interim advice to Local Planning Authorities. A copy of this (or its successor) will be posted on the Council's website with this SPD. Based on this guidance the current SPD may be seen as part of an evolving "evidence base" which will place the Council in a strong position when the CIL is eventually introduced.
- 2.4.7 Provision of basic infrastructure will be addressed through the Local Development Framework, which is scheduled to replace the Local Plan in 2010/11. The Council will work with key infrastructure providers to ensure that the infrastructure requirements generated by new development are adequately provided for.

## **2.5 Status of the SPD**

- 2.5.1 This SPD has been prepared in accordance with PPS12: Local Development Frameworks (2004) which was replaced by PPS12: Local Spatial Planning (June 2008). PPS12 indicates that an SPD must relate to a policy in a local plan. This SPD provides further details and guidance on Policy IMP1 of the East Herts Local Plan Second Review (April 2007). Further Local Plan policies supporting specific uses of Planning Obligations are listed in Appendix B: *List of Relevant Local Plan Policies*.

### **Policy IMP1 – Planning Conditions and Obligations**

As part of development schemes, developers will be required to make appropriate provision for affordable housing, open space and recreation facilities, education facilities, health care facilities, sustainable transport modes, highway improvements, nature conservation and landscape improvements, sustainable construction issues and other infrastructure improvements. The Council will use planning conditions and/or planning obligations (or as subsequently revised) to require developers to provide, or to finance the cost of, such provision, which will be fairly and reasonably related in scale and kind to the development, and necessary to the grant of planning permission. This may include, as appropriate, on-site and/or off-site facilities.

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- 2.5.2 This SPD is also based on the Government guidance on planning obligations at the time of writing, which comprises of *Circular 05/2005: Planning Obligations*, and the DCLG *Planning Obligations: Practice Guidance* (2006). This guidance brings together a range of case study examples illustrating how local planning authorities (LPAs), developers and others are working together to deliver planning obligations effectively. The aim of the guidance is to provide LPAs and anyone carrying out development ('developers') with practical tools and methods to help improve the development, negotiation and implementation of planning obligations. The guidance will also be of interest to others involved in the obligations process, such as solicitors and consultants.

## **2.6 What Are Planning Obligations?**

2.6.1 Planning obligations can be agreements that are negotiated between the developer and the local planning authority, usually as a result of a planning application. They are intended to make development acceptable, which would otherwise be unacceptable in planning terms. Developers may offer benefits over and above what is required. However, these may not make a development to which there are fundamental planning concerns acceptable. Where this is the case, planning obligations will not be used to compensate for substandard development. Planning obligations may be used to:

- prescribe the nature of development, as a requirement that a given proportion of housing is affordable or restricting the development or use of land;
- compensate for loss or damage caused by development, such as the unavoidable loss of open space or natural habitat, this could be by habitat protection, enhancement or creation;
- mitigate the impact of development, for example the provision of infrastructure, such as sustainable transport measures or a financial payment (contribution) towards education facilities.

2.6.2 Further detail of the legal background, terminology and principles concerning planning obligations, together with practice guidance concerning their use and also procedure in East Herts, can be found in *Planning Obligations: A Practical Guide* on the Council's website. The guidance note also deals with the practical differences between unilateral undertakings and their application at East Herts.

## **2.7 National Guidance and Legislation**

2.7.1 The Town and Country Planning Act 1990 (as amended by section 12 of the Planning and Compensation Act 1991) sets out the current legal framework for planning obligations under Section 106. The Planning and Compulsory Purchase Act 2004 has given the Secretary of State the power to replace Section 106 with Sections 46 and 47, but the Secretary of State has not yet made regulations to do so.

### ***Circular 05/2005 – Planning Obligations***

2.7.2 Circular 05/2005 is the main source of Government guidance on the use of planning obligations. It clarifies the basis on which planning obligations should be assessed for their acceptability. It also gives guidance on the process of securing obligations by encouraging local authorities to introduce changes to promote speed, predictability, transparency and accountability. The use of standard charges and formulae where appropriate, together with standard clauses and agreements is recommended to provide greater clarity for developers. The approach taken within this SPD is consistent with the advice given in Circular 05/2005.

2.7.3 The Circular sets out the following tests that must be satisfied in order for planning obligations to be required. The obligations must be:

- relevant to planning;
- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development;
- fairly and reasonably related in scale and kind to the proposed development; and
- reasonable in all other respects.

2.7.4 This guidance requires planning authorities to ensure that sustainability through social inclusion, economic development, environmental protection and enhancement and the prudent use of resources are at the forefront of policy making and implementation.

## **2.8 Community Strategy and Council Priorities**

- 2.8.1 The Council has worked with its partners in the Local Strategic Partnership to develop a vision for East Hertfordshire, which determines the aspirations for the future of the District. The Vision for the District set out in East Herts Community Strategy (2003) is - *“To conserve our rich and diverse natural environment, and to improve the quality of every resident’s life.”*
- 2.8.2 Six themes are identified in the *Community Strategy Action Plan 2007-2010*, which aim to achieve this overall Vision:
- Neighbourhood and Environmental Management
  - Economic Development and Learning
  - Leisure and Cultural Development
  - Services for Vulnerable People
  - Healthier Lifestyles
  - Community Safety

### **Corporate Priorities**

- 2.8.3 The planning process provides mechanisms by which the Council’s corporate priorities can be addressed when they are related to the need arising as a result of proposed development. Planning Obligations cover a wide range of issues and therefore will address directly or indirectly all of the following corporate priorities:

**Table 1: East Herts Council’s Corporate Priorities**

<b>Corporate Priority</b>	<b>Strapline</b>
Enhance the quality of life, health, and well-being of individuals, families and communities, particularly those who are vulnerable.	Promoting prosperity and well-being; providing access and opportunities
Deliver customer focused services by maintaining and developing a well-managed and publicly accountable organisation.	Fit for purpose, fit for you
Improve standards of the neighbourhood and environmental management in our towns and villages.	Pride in East Herts
Care for and improve our natural and built environment.	What we build, where we build
Safeguard and enhance our unique mix of rural and urban communities ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.	Shaping now, shaping the future
Deliver responsible community leadership that engages with our partners and the public.	Leading the way, working together

## **2.9 Thresholds**

- 2.9.1 The standard threshold for all District, County, and PCT contributions will be set in accordance with the definition of Major applications as defined in the General Development Procedure Order (GDPO): for residential development, all sites where the number of dwellinghouses to be provided is 10 or more, or the development is to be carried out on a site having an area of 0.5 hectare or more and it is not known whether the development falls within the above; for commercial development, the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more. These thresholds were derived through Sustainability Appraisal of alternative levels. The Sustainability Appraisal is contained in the *Supporting Document* accompanying this SPD.
- 2.9.2 Reaching the threshold does not automatically mean monetary contributions will be sought; it is the trigger to examine the likely impact of the development where a contribution may compensate or mitigate that impact. The value of a particular monetary contribution will be ascertained according to the criteria relevant to calculation of that type of contribution. Other considerations may be taken into account to offset planning obligations requirements e.g. remediation costs or the costs of meeting other obligations (see section 7.8 on viability).

### **Threshold exceptions**

- 2.9.3 The standard thresholds do not apply to all planning applications. For example, nature conservation measures may be required for a very small but sensitive site<sup>1</sup>. For affordable housing and sustainable construction the Local Plan specifies a different threshold. A higher threshold has been set in respect of Community Recycling facilities for the reasons given in paragraph 3.5.6 below. Table 2 sets out the threshold levels in the six main settlements.

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<sup>1</sup> Paragraph B16 of Circular 05/2005 provides examples of compensation for loss or damage caused by a development, for example to a landscape feature of biodiversity value, open space or a right of way. However, in many cases such issues will be addressed by means of planning conditions in preference to obligations.

**Table 2: Thresholds in the six main settlements**

Item	Residential Threshold	Commercial Threshold
Affordable Housing (section 3.1)	15 dwellings or over 0.5 ha in the six main settlements; 3 or more dwellings or over 0.09 ha in the Category 1 and 2 villages (policy HSG3)	N/A
Nature Conservation and Landscape (section 3.3)	May be as low as 1 unit	May apply to any development
Sustainable Construction (section 3.6)	15 units or 0.5 ha	250m <sup>2</sup>
Community recycling facilities (section 3.5)	100 units	N/A
All other (including healthcare and County Council contributions)	10 units	1000m <sup>2</sup>

2.9.4 In Category 1 and 2 villages where a specific need has been identified, the threshold for contributions towards community facilities, play areas and community-based transport may be lowered to one residential unit. Specific need may be identified through the Council's ongoing Play Audit, Parish Plans or other audits and reports. This is in recognition of the importance of such facilities to the vitality of villages as described in the Local Plan paragraph 17.6.4. Such contributions may be pooled with contributions from developments in neighbouring villages and in accordance with Circular 05/2005 paragraphs B21-B24.

**Table 3: Villages where thresholds may be lowered**

Category 1 Villages (Local Plan Policy OSV1)	Braughing; Hertford Heath; High Cross; Hunsdon; Much Hadham; Puckeridge; Tewin; Walkern; Watton-at-Stone
Category 2 Villages (Local Plan Policy OSV2)	Aston (excluding Aston End); Bayford; Benington; Brickendon; Dane End; Datchworth; Furneux Pelham; Great Amwell; Hadham Ford; High Wych; Little Hadham; Standon; Stapleford; Thundridge; Wadesmill; Widford.

## **2.10 Standard Charges for Residential Development**

2.10.1 Larger houses tend to accommodate more residents and therefore are likely to have a greater impact on infrastructure provision and require a higher level of mitigation. To reflect this, standard charges have been developed to differentiate between dwellings based on the number of bedrooms. The East Herts Housing Needs Survey 2004 indicates the occupancy rates of houses within the District by number of bedrooms. These numbers are slightly lower than the average national rates according to the 2001 Census. Average occupancy rates per number of bedrooms have been calculated as follows:

- 1 bedroom = 1.08
- 2 bedrooms = 1.32
- 3 bedrooms = 1.77
- 4 bedrooms = 2.48
- 5 bedrooms = 2.92
- 6 bedrooms + = 3.45

These numbers have been used as a multiplier for standard charges where the per-person contribution has first been derived.

2.10.2 A summary table showing standard charges is included below. Standard charges are limited to Open Space, Sport and Recreation (Parks and Public Gardens, Outdoor Sports Facilities, Amenity Green Space, and Provision for Children and Young People); Recycling Facilities; Community Facilities; and Accessibility Contributions (Sustainable Transport).

**Table 4: Summary of Indicative Standard Charges**

<b>Number of Bedrooms per dwelling</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6+</b>
<b>Occupancy rate (multiplier)</b>	<b>1.08</b>	<b>1.32</b>	<b>1.77</b>	<b>2.48</b>	<b>2.92</b>	<b>3.45</b>
Parks and Public Gardens (section 3.2)	£207	£253	£340	£476	£561	£662
Outdoor Sports Facilities (section 3.2)	£573	£701	£940	£1,317	£1,551	£1,832
Amenity Green Space (section 3.2)	£89	£108	£145	£203	£239	£283
Provision for Children and Young People (section 3.2)	£0	£103	£138	£193	£228	£269
Recycling Facilities (section 3.5)	£72	£72	£72	£72	£72	£72
Community Centres and Village Halls (section 3.7)	£153	£187	£251	£352	£415	£490
Accessibility (section 6.2)	£625	£750	£1125	£1500	£1500	£1500
<b>Total if all standard charges are applied</b>	<b>£1719</b>	<b>£2174</b>	<b>£3011</b>	<b>£4113</b>	<b>£4566</b>	<b>£5108</b>

- 2.10.3 The basis of calculation of standard charges is detailed in the relevant sections below. The requirement for standard charges will only be applied where compliance with the five tests of Circular 05/2005 (paragraph 2.7.3 above) can be demonstrated.
- 2.10.4 Accessibility Contributions towards sustainable transport are calculated using a separate methodology (explained in section 6.2) but the headline figures are included here for convenience. The methodology presented in this SPD replaces the Sustainable Transport section of the Hertfordshire County Council Planning Obligations Toolkit<sup>2</sup>. The approach taken differs slightly from the Toolkit in that it is based on car parking provision rather than car parking requirements, in accordance with East Herts Local Plan Policy TR8.
- 2.10.5 In addition to the items in the Table 4 above, the Council may seek planning obligations for the following items, for which standard charges have not been developed:
- Nature Conservation and landscape Improvements (section 3.3)
  - Town Centre Environmental Improvements (section 3.4)
  - Sustainable Construction (section 3.6)
  - Surface Water Drainage (section 3.8)
  - Transport First Strand – Traditional Section 106 contributions (section 6.2)
  - Canals and waterways (see footnote for further information)<sup>3</sup>
  - Community safety (section 4)
  - Other (if required in order to make the development acceptable in planning terms)

### **Applications involving demolition**

- 2.10.6 Where applications involve demolition, the standard charge will be discounted to reflect the net increase in residential or commercial development. In such cases the Council will make a site-specific assessment of the application to ensure that the obligations sought are fairly and reasonably related in scale and kind to the proposed development.

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<sup>2</sup> [www.hertsdirect.org/planningobligationstoolkit](http://www.hertsdirect.org/planningobligationstoolkit)

<sup>3</sup> Appendix 3, Part 2, Paragraph 8 of *Waterways for Tomorrow* (DETR, June 2000) provides details of the use of Planning Obligations and waterways. Paragraph 7.8 of *Waterways & Development Plans* (British Waterways (February 2003) also deals with Planning Obligations. The document can be viewed at:  
[www.britishwaterways.co.uk/images/Waterways\\_and\\_Development\\_Plans\\_.pdf](http://www.britishwaterways.co.uk/images/Waterways_and_Development_Plans_.pdf)

## Standard charges – key principles

- 2.10.7 This SPD provides details regarding several formulae and standard charges. Paragraph B35 of Circular 05/2005 provides guidance on the use and application of standard charges.

### **Circular 05/2005 Paragraph B35**

Standard charges and formulae applied to each development should reflect the actual impacts of the development or a proportionate contribution to an affordable housing element and should comply with the general tests in this Circular on the scope of obligations. Their main purpose is to give greater certainty to developers and increase the speed of negotiations. Standard charges and formulae should not be applied in blanket form regardless of actual impacts, but there needs to be a consistent approach to their application. Whether local authorities seek a standard charge will depend upon the nature of the proposed development.

- 2.10.8 The Council has developed standard charges only where
- a suitable evidence base currently exists
  - such charges are likely to provide a useful quantitative indication of the likely level of obligations sought

The range of standard charges is therefore limited. For East Herts District the standard charges relate to Open Space, Sport and Recreation, Recycling and Community Facilities. Section 6.2 on Transport-Related Contributions also includes standard charges. Indications of the level of contributions sought by the County Council are set out in the *Planning Obligations Toolkit* (see section 6.1 below).

- 2.10.9 The standard charges presented here are not a “tariff” or “levy” but rather a “framework for negotiation” (Circular 05/2005 Paragraph B33), providing “quantitative indications of the level of contributions likely to be sought” (ibid). Planning applications will be considered as a whole and on a case-by case basis, without “blanket” application of charges. This will take into account viability constraints of a site (see section 7.8 on viability) and the benefits of development proposals, for example where these have been designed-in from the outset. The Council will assess the impacts generated by each proposal and exercise planning judgement and adopt a flexible approach to negotiation of site-specific considerations. In some cases discounts to the standard charges may be applied, or indeed site-specific circumstances may obviate the need for some or all planning obligations. However, it should be noted that the pooling of contributions for developments without a Transport Assessment in respect of accessibility contributions will make it difficult to pinpoint specific projects at the time of signing the agreement (for more information see paragraph 6.2.14 below).

## **2.11 Types of Obligation**

2.11.1 National Guidance on types of Planning Obligation is set out in Paragraphs B17-B24 of Circular 05/2005 and Chapter 2 of the Practice Guidance.

### **In-kind vs Financial Obligations**

2.11.2 Planning obligations may be in kind (where the developer builds or provides directly the matters necessary to fulfil the obligation), by means of financial payment, or in some cases a combination of both. Planning Obligations: Practice Guidance (DCLG, 2006) states that when considering the most appropriate type of obligation, LPAs should consider their capacity and expertise to provide the infrastructure themselves or to have it undertaken by the developer or another party. Planning Obligations: Practice Guidance (DCLG, 2006) Table 3.1 provides a check-list for choosing between in-kind and financial contributions.

### **Pooling of Contributions**

2.11.3 Paragraphs B21-B24 of Circular 05/2005 contain provisions on pooling of contributions. In summary, the Circular allows that pooling of contributions may occur between developments (paragraph B21), pooling for future provision (paragraph B22), pooling for the cumulative impact of development (paragraph B23). Paragraph B24 requires that any pooled contributions towards specific infrastructure provision not provided within an agreed timeframe will be repaid. Accessibility contributions in respect of smaller developments without Transport Assessments may be sought under the pooling provisions of Circular 05/2005 (section 6.2.11 below).

### **Maintenance Payments**

2.11.4 Where infrastructure is transferred to a public body (e.g. the Council), maintenance payments may be sought where they are for the physical upkeep of facilities which are predominantly for the benefit of the users of the associated development. This may include strategic facilities at some distance from the proposed development, where a direct link may be established. The Council will advise applicants, ideally at pre-application stage, on the preferred method of payment (eg a one-off payment, commuted sum or regular payment –including frequency of payment).

2.11.5 The Council will provide a clear audit trail of maintenance payments. This will be made available to developers upon request.

- 2.11.6 The maintenance period covered will often be 10 years (e.g. for open space). Commuted sums will be calculated using current maintenance contract prices and will be index linked (see section 7.6 below). The level of likely maintenance payments for Open Space, Sport and Recreation is set out in Table 5 and paragraphs 3.2.6 – 3.2.9 below. Appendix F provides details of the estimated costs of maintenance. Details of the Council's other current commuted maintenance requirements are available on request.

### **Phased Payments/Contributions**

- 2.11.7 The DCLG Practice Guidance (paragraphs 2.9-2.14) provides guidance on phased payments. The Guidance suggests that where payments are significant or the development is phased over a significant period of time, it may be appropriate to consider the phasing of payments.
- 2.11.8 Phased payments will be linked to the relevant index as set out in section 7.6 below. For Hertfordshire County Council contributions details of index linking may be found in the *Planning Obligations Toolkit* (see section 6.1 below). The Council will maintain a monitoring system and will alert parties to outstanding contributions in respect of phased payments.

### **3 EAST HERTS DISTRICT CONTRIBUTIONS**

#### **3.1 Affordable Housing**

- 3.1.1 In order to go some way towards meeting the identified need for affordable housing in East Herts, the Council is seeking to achieve up to 40% of the new properties built to be affordable housing in partnership with identified social housing providers. Local Plan Policy HSG3 sets out thresholds and definitions:

#### **Local Plan Policy HSG3: Affordable Housing**

I) Affordable housing is defined as housing provided, with subsidy, both for rent and low cost market housing, for people who are unable to resolve their housing requirements in the local private sector housing market because of the relationship between local housing costs and incomes.

II) Affordable housing provision will be expected on sites:

- a) proposing 15 or more dwellings, or over 0.5 hectares, in the six main settlements; and
- b) proposing 3 or more dwellings, or over 0.09 hectares, in the Category 1 and 2 villages.

(Where development of a site is phased or divided into separate parts, it will be considered as a whole for the purposes of affordable housing.)

III) On suitable sites (in accordance with Policy HSG4) the inclusion of up to 40% affordable homes will be sought as part of the proposed development of the site.

- 3.1.2 An explanation of the Council's strategy on Affordable Housing provision is contained in the Affordable Housing and Lifetime Homes SPD (January 2008). The overall purpose of this SPD is to provide guidance to aid the provision of Affordable Housing and Lifetime Homes within East Herts.
- 3.1.3 Together, the 2004 *Housing Needs Survey* and *Housing Needs Survey Update* (published 2005) form the evidence base to inform the Council's policies on affordable housing. The greatest need in the District is for social rented units. This is because of the backlog of unmet affordable housing need and the loss of social rented units through the right-to-buy initiative. Further detail and information on affordable housing is set out in the Council's *Affordable Housing & Lifetime Homes SPD* (January 2008) and 'New Affordable Homes

Commissioning Brief' which sets out the Council's requirements for the affordable housing element of new development including tenure split, size proportion thresholds, space standards, Design & Quality Standards, and Social Housing Grant. Any deviation from the Council's requirements as set out in this policy document will be determined by the Council on a case-by-case basis. There is also a requirement, in accordance with Policy HSG6 of the Local Plan Second Review that 15% of all new homes should be built to Lifetime Homes Standards.

- 3.1.4 The Housing Corporation build requirements are set out in their Design and Quality Standards for affordable housing, which should be met in order to obtain grant monies ([www.housingcorp.co.uk](http://www.housingcorp.co.uk)).
- 3.1.5 In line with *Planning Policy Statement 3: Housing* (PPS3) there is a presumption that affordable housing should be provided on site and mixed with the private housing in order to create an integrated and sustainable community. Occasionally exceptional circumstances, where robustly justified, may arise where off-site provision or a financial contribution may be a suitable alternative. Whether exceptional circumstances exist will be determined by the Council on a case-by-case basis. For further information, refer to the Council's *Affordable Housing & Lifetime Homes SPD*.

<b>Summary Box: Affordable Housing</b>	
Threshold/type of development which may trigger need	See Policy HSG3: Affordable Housing (above)
Current policy guidance on the issue	PPS3: Housing Local Plan policies HSG3 and HSG4 Affordable Housing and Lifetime Homes SPD
Basis of assessing need and contributions	Housing Needs Survey Final Report 2004 Housing Needs Survey Final Report Update 2005 Strategic Housing Market Assessment (forthcoming)
Standard charge or to be negotiated on a case by case basis	East Herts Council has a standard schedule of rates for Social Housing Grant available from the Housing Development Manager.

## **3.2 Open Space, Sport and Recreation**

- 3.2.1 New residential development places increased pressure on open space, sport and recreation provision within the District. The Council's responsibility is to enable and co-ordinate the provision of these, to ensure that they are located in the right places, are of high quality, offer opportunities for biodiversity and are well maintained to meet the needs of the community. Planning obligations play a role in ensuring that these facilities can cope with additional demand placed upon them by new development.
- 3.2.2 *PPG17: Planning for Open Space, Sport and Recreation* (July 2002) encourages Local Authorities to undertake audits of open space, sport and recreational facilities as "they form the starting point for establishing an effective strategy for open space, sport and recreation at the Local Level (tied to the Local Authority's Community Strategy), and for effective planning through the development of appropriate policies in plans". Following the methodology set out in PPG17 and the PPG17 Companion Guide, the Council prepared a PPG17 "Audit and Assessment" (2005) including quantitative and qualitative standards. The full report is available at [www.eastherts.gov.uk/localplan](http://www.eastherts.gov.uk/localplan). These standards were then adopted in the Local Plan (Appendix IV). Table 6 below reproduces these adopted standards as the basis for calculation of standard charges.
- 3.2.3 Local Plan policy LRC3 describes the role of planning obligations in provision of open space, sport and recreational facilities.

### **Local Plan Policy LRC3: Recreational Requirements in New Developments**

The Council will seek to negotiate for the provision of adequate and appropriately located open space, sport and recreation facilities in conjunction with new residential development, in accordance with the standards outlined in Appendix IV of this Plan.

Indoor sports facilities may also be sought on larger developments, as identified in the Settlement Chapters.

Developers will be expected to provide either on site provision or, where appropriate, a financial contribution towards either off-site provision, or the enhancement of off-site facilities.

### **Thresholds in Category 1 and 2 Villages**

- 3.2.4 In Category 1 and 2 villages where a specific need has been identified, the threshold for contributions towards play areas/provision for children and young people may be lowered to one residential unit. Specific need may be identified through the Council's internal Play Audit (updated annually), Parish Plans or other audits and reports. This is in recognition of the importance of such facilities to the vitality of villages as described in the Local Plan paragraph 17.6.4. Such contributions may be pooled with contributions from developments in neighbouring villages and in accordance with Circular 05/2005 paragraphs B21-B24.

### **On-Site Provision**

- 3.2.5 In assessing planning applications, the location of development in relation to existing facilities close to the site and whether there are deficiencies will be taken into account to determine whether on-site provision will be required. As an example, if a new residential development is close to an existing play area, it may be more appropriate to seek an off-site contribution towards the improvements of that existing facility rather than a new facility within the development area. In addition, the Council will consider the types of dwellings proposed and the likely requirements of the future occupants. Off-site contributions will not be required if appropriate provision is provided for within the development.

### **Maintenance Charges**

- 3.2.6 Circular 05/2005 provides for maintenance facilities "which are predominantly for the benefit of the users of the associated development" (paragraph B18).
- 3.2.7 The Council is normally prepared to adopt and maintain properly laid out public open space, recreation and play areas. This will be subject to a commuted sum (usually ten years) paid by the developer on the transfer of the land. The commuted sum will be calculated using the current maintenance contract prices, taking into account inflation and investment earnings. The conditions of the site, existing features and proposed features will be assessed on an individual basis.

**Table 5: Open Space – basis for 10-year commuted sums**

Facility	Annual Maintenance Cost per m <sup>2</sup> (2007 prices)
Parks and public gardens	£7.99
Outdoor Sports facilities (not including pavilions)	£3.52
Amenity Green Space	£4.18
Provision for children and young people	£7.53

*Source: East Herts 2006/7 contract prices*

- 3.2.8 A breakdown of the maintenance figures above is provided in Appendix F.
- 3.2.9 Any open space to be transferred would need to have been laid out, planted and maintained to the satisfaction of the Council. For equipped play areas a *Register of Play Inspectors International* (RPII) inspector (or suitable alternative organisation) will be required to undertake post installation certification inspections to confirm construction of any equipped play area is to appropriate British Standards or EN1176 and EN1177. Any recommendation of any such inspection will need to be implemented to the satisfaction of the Council prior to adoption. Alternatively a sum of money will need to be paid to the Council to bring areas of open space up to a standard that can be adopted. If developers do not intend to offer areas for adoption, the Council needs to be assured that satisfactory alternative arrangements are in place for maintenance in perpetuity.

### **Off-Site Provision**

- 3.2.10 Contributions collected will relate to the area of open space that serves the development and will be ring fenced for that purpose. However, a number of parks, play areas, open spaces and sports pitches within the District serve the wider community and are for the benefit of the residents of the whole town and in some cases the surrounding villages. Therefore, if there are any of these areas of open space identified within a town or surrounding village where a particular development is proposed, contributions may be spent on these as well as or instead of in the immediate locality.

### **Methodology for Calculating Contributions**

- 3.2.11 The East Herts PPG17 Audit and Assessment (2005) identifies provision standards for the District which have been adopted in the Local Plan and hence supersede the National Playing Field Association (NPFA) Six Acre Standard. Quality and Quantity standards are shown in Appendix IV of the Local Plan. The Quantity standards are used as the basis for the standard calculation in Table 6 below.

**Table 6: Open Space Standards (Local Plan Appendix IV)**

PPG17 Typology (ref. Appendix G and H)	Quantity Provision standard in hectares per 1000 population (1 ha = 10,000m <sup>2</sup> )
Parks and Public gardens	0.53
Natural and semi-natural green space	7.64 (7.76) <sup>4</sup>
Outdoor sports facilities	3.79 (3.90)
Amenity green spaces	0.55
Provision for children and young people	0.20
Allotments	0.21 (0.22)
Cemeteries and churchyards	No standard set
Green Corridors	No standard set

*Source: PPG17 Audit and Assessment (2005)*

3.2.12 Quantity standards per 1000 population have been converted to a provision standard per person in Table 7 below. Where no provision standard has been set, or where conditions vary, contributions will be negotiated on a case-by-case basis.

3.2.13 Contributions towards the provision or improvement of open space are calculated using the capital cost of provision. The same charges apply to both provision of new facilities and the upgrading/improvement of existing facilities. This is in line with Paragraph B9 of Circular 05/2005, according to which obligations “should be fairly and reasonably related in scale and kind to the proposed development”. Contribution per person is therefore taken to be a reasonable measure of that impact, irrespective of whether new provision or improvement of existing facilities is required. This is set out in Table 7:

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<sup>4</sup> Whilst the above Standards have been agreed as part of the Local Plan Second Review 2007, due to an administrative error, they deviate slightly from the Standards (in brackets) set out in the PPG17 Audit & Assessment. However, the evidence base of the PPG17 Audit & Assessment remains sound and valid. All calculations of surplus and deficiency as quoted in this SPD are based upon the PPG17 Audit & Assessment Standards, the justifications for which are included in the Audit & Assessment itself.

**Table 7: Standard Charge: Open Space per person**  
 (including new/improved open space)

<b>Facility</b>	<b>Provision Standard per person</b>	<b>Cost per m<sup>2</sup> (1<sup>st</sup> April 2007)</b>	<b>Contribution per person</b>
Parks and public gardens	5.3 m <sup>2</sup>	£36.20	<b>£191.86</b>
Outdoor sports facilities	37.9m <sup>2</sup>	£14.02	<b>£531.36</b>
Amenity green space	5.5m <sup>2</sup>	£14.86	<b>£81.73</b>
Provision for children and young people	2 m <sup>2</sup>	£39.24	<b>£78.48</b>

*Source: East Herts 2006/7 contract prices*

- 3.2.14 Table 7 shows how the contribution per person is calculated based upon the cost per square metre multiplied by the quantity standard set out in the East Herts PPG17 Audit (Local Plan: Appendix IV. See Table 7 above). Table 8 below shows how the cost per person is then multiplied by the occupancy rate per size of dwelling by number of bedrooms. Charges have been rounded to the nearest Pound.
- 3.2.15 The costs for Outdoor Sports Facilities and Provision for Children and Young People are based on the 2007 East Herts Contract Prices for Open Space. The costs for Parks and Public Gardens and Amenity Green Space are based on figures from a recent tender. Appendix F contains a breakdown of the items included in these costs.
- 3.2.16 Contract prices on which the figures in Tables 5 and 7 are based are revised annually on 1<sup>st</sup> April in line with inflation. The increase in prices may be calculated using the Retail Price Index.

**Table 8: Standard Charge: Open Space per dwelling**  
 (includes new/improved open space)

Number of Bedrooms per dwelling		1	2	3	4	5	6+
Item	Occupancy Rate	1.08	1.32	1.77	2.48	2.92	3.45
	Per Person						
Parks and Public gardens	<b>£192</b>	£207	£253	£340	£476	£561	£662
Outdoor sports facilities	<b>£531</b>	£573	£701	£940	£1,317	£1,551	£1,832
Amenity Green space	<b>£82</b>	£89	£108	£145	£203	£239	£283
Provision for children and young people	<b>£78</b>	£0	£103	£138	£193	£228	£269
<b>Total if all charges applied</b>	<b>£883</b>	<b>£870</b>	<b>£1,166</b>	<b>£1,563</b>	<b>£2,190</b>	<b>£2,578</b>	<b>£3,046</b>

3.2.17 Off-site contributions outlined in Table 8 will not be required for development that meets all the open space requirements on-site. In cases where some, but not all the open space is provided on-site, the standard charge will be scaled down accordingly. Contributions towards children's play space will not be required for rest homes, nursing homes and hostels. Requirements for other specialist housing will be considered on its merits.

**Natural and Semi-Natural Green Space; Allotments; Cemeteries and Churchyards; and Green Corridors (including waterways)**

3.2.18 Contributions towards Natural and semi-natural Green Space; Allotments; Cemeteries and Churchyards; and Green Corridors (including waterways) will be negotiated on a case-by-case basis.

**Indoor Sports**

3.2.19 Local Plan Policy LRC3 makes provision for indoor sports facilities. The Local Plan does not contain quantitative provision standards for indoor sports and therefore this SPD does not attempt to derive standard charges. The level of indoor sports contributions will be

based on an assessment of additional need generated by the proposed development. For further advice on the provision of new indoor sports facilities please refer to the Council's *Open Space, Sport and Recreation SPD* (forthcoming).

### Non-Residential Contributions

3.2.20 Non-residential schemes will be required to make a contribution towards open space provision. This is because a number of employees may use these facilities before and after work hours. These contributions will be negotiated on a case-by-case basis and will be dependent on the use proposed and the number of employees.

<b>Summary Box: Open Space, Sport and Recreation</b>	
Type of facility for which provision may be needed	Any and all items described in PPG17: parks and public gardens; natural and semi-natural green space; outdoor sports facilities; amenity green space; provision for children and young people; allotments; cemeteries and churchyards; and green corridors.
Likely to apply to residential and/or commercial development?	Primarily residential. Contributions from commercial development will be agreed on a case-by-case basis, in recognition of the fact that employees may use facilities before or after work.
Threshold/type of development which may trigger need	10 residential units; 1000m <sup>2</sup> commercial floorspace
	Provision for children and young people: Threshold may be set at one residential unit within Category 1 and 2 villages where a need has been identified. Contributions may be pooled from development in surrounding villages.
Current policy guidance on the issue	PPG17 – Open Spaces, Sport and Recreation Local Plan Policies: LRC1 – Sport and Recreation Facilities; LRC3 – Recreational Requirements in New Residential Developments Sport England Planning Obligations Toolkit Open Space, Sport and Recreation SPD (forthcoming)
Geographical areas where known issues	See PPG17 Audit and Assessment (2005); 2007 Play Audit
Standard charge?	See Table 8 for standard charges. Other items to be negotiated on a case-by-case basis. Maintenance charges may also apply – see above.
Further information	Appendix F: Open Space, Sport and Recreation Costs; Appendix G: PPG17 Definitions; Appendix H: Open Space Standards: Justification of Table 6

### **3.3 Nature Conservation and Landscape Improvements**

- 3.3.1 Local Plan paragraph 18.5.2 (supporting policy IMP1: *Planning Conditions and Obligations*) establishes provision for planning obligations to mitigate impacts upon habitats and landscape features. The Council as Local Planning Authority has a duty regarding biodiversity issues under section 40(1) of the Natural Environment & Rural Communities Act 2006, Regulation 3(4) of the Conservation (Natural Habitats &c.) Regulations 1994, and Section 74 of the Countryside & Rights of Way Act 2000, to ensure that any potential impact of development on species and habitats of principal importance is addressed.

#### **Local Plan paragraph 18.5.2 (extract)**

Where existing habitats or landscape features are adversely affected by development, developers may be required to provide suitable enhancement or replacement schemes, including long-term management arrangements. As a specific example, Greenfield development on the periphery of the six main settlements and Category 1 Villages will usually be required to make provision to enhance the quality of, and access to, adjoining areas of countryside to compensate for the loss of green space. Improvements could include appropriate habitat creation and tree planting.

- 3.3.2 Local Plan Policy GBC14: *Landscape Character* requires new development to “improve and conserve” local landscape character and states: “Where damage to local landscape character is unavoidable, appropriate mitigation measures will be sought. The relevant Landscape Character Assessment will inform the nature of these measures”. This reinforces the concept of compensation for Greenfield development on the periphery of towns and villages referred to in Local Plan Paragraph 18.5.2 in support of policy IMP1: *Planning Conditions and Obligations*.
- 3.3.3 On-site landscaping will usually be sought through planning conditions (Policy ENV2 IV: *Landscaping*). However, financial contributions may occasionally be required, usually for off-site provision, for example in the case of habitat creation, tree planting or access provision in compensation for the loss of green space.
- 3.3.4 Policy ENV16: *Protected Species* states that “in exceptional circumstances” where permission is granted despite demonstrable effects on protected species, planning conditions and/or obligations may be sought in order to a) facilitate the survival of existing populations of species as well as encouraging the provision of new

habitats; b) reduce disturbance to a minimum; c) provide alternative habitats to sustain at least the current levels of populations.

- 3.3.5 Even small-scale development may have detrimental impacts on habitats and landscapes. In recognition of this, thresholds may be waived for any development which has an immediate or resulting impact on landscape or nature conservation in the immediate vicinity, where this meets the provisions of the five tests in Circular 05/2005. This applies both to the main settlements and the villages.

### **Off-site Provision**

- 3.3.6 Offsite provision for tree planting or habitat creation may be required in 'exceptional circumstances':

#### **Local Plan paragraph 8.5.3**

In exceptional circumstances where existing landscape features, such as trees, shrubs and hedgerows are in poor health, of little amenity value or not worthy of retention, and development would result in the loss of such features, the Council will seek compensatory planting and/or habitat creation by the developer, either within or outside the development site. When this is not appropriate, financial payment will be sought to enable compensatory planting and/or habitat creation.

- 3.3.7 Further information on the use of planning obligations in nature conservation is provided in a 2006 report by English Nature (now Natural England) and the RSPB.<sup>5</sup>

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<sup>5</sup> ENTEC UK LIMITED (2006) Using a planning gain supplement for nature conservation purposes. English Nature and the Royal Society for the Protection of Birds. *English Nature Research Reports*, No 672

<b>Summary Box: Nature Conservation and Landscape Improvements</b>	
Type of facility for which provision may be needed	<p>Any habitats or landscape directly affected by a proposed development. Planning obligations may be used to establish compensatory landscape or habitats.</p> <p>Greenfield development on the periphery of the six main settlements and Category 1 villages</p>
Threshold/type of development which may trigger need	10 residential units; any development which has an immediate or resulting impact on landscape or nature conservation in the immediate vicinity.
Current policy guidance on the issue	<p>PPS7 – Sustainable Development in Rural Areas; PPS9 – Biodiversity and Nature Conservation; Local Plan Policies: SD4 – Sustainable Development and Nature Conservation; ENV2 – Landscaping; GBC14 – Landscape; ENV10 - Planting New Trees.</p> <p>Historic Parks and Gardens SPD; Landscape Character Assessment SPD.</p>
Standard charge	None

### **3.4 Town Centre Environmental Improvements**

3.4.1 Planning Obligations may be used to tackle the problems of traffic congestion, poor public realm and environmental improvements in the District's historic town centres, where these are reasonably related in scale and kind to the proposed development. Local Plan Policies supporting this include:

- Policy TR19: Towns and Villages
- Policy BH7: Street Furniture and Traffic Calming in Conservation Areas

3.4.2 Planning Policy Statement 6: *Planning for Town Centres* (March 2005) seeks to promote high quality design, improve the quality of the public realm and protect and enhance the architectural and historic heritage of town centres. It also states that town centres should provide a sense of place that is attractive, safe and accessible.

3.4.3 The Council will often seek contributions from proposals for town centre uses as defined in PPS6 (Table 9 below). However, the Council may also seek contributions from residential or other development where a direct link with the town centre can be demonstrated. This reflects the fact that the inhabitants of new developments are likely to visit the town centre and that the additional usage attributable to the proposed development will require mitigation.

**Table 9: Town Centre Uses**

Convenience Shopping	Supermarkets, Superstores
Comparison Shopping	Retail warehouses; retail parks; warehouse parks; factory outlet centres; regional and sub-regional shopping centres.
Leisure Parks	Often feature a mix of facilities, such as multi-screen cinema, indoor bowling centres, night club, restaurants, bars and fast-food outlets, with car parking.
Business Parks	A grouping of purpose-built office accommodation and other business uses with some shared facilities and car parking.

Source: PPS6 Annex A

3.4.4 Town centre environmental improvements may include the following:

- High quality paving and surfacing
- Planting
- Street furniture
- Signposting

- Refuse bins
- Canal/river towpaths

3.4.5 Direct works to town centre environmental improvements may be accepted instead of or in addition to monetary contributions. In addition, large-scale developments will also need to provide areas of public realm within the application site. This could also be dealt with as part of the planning application.

3.4.6 Developers will be responsible for the maintenance of the areas of public realm provided as part of the application site. All parts of the public realm including any street furniture and signage and/or planting, would need to have been laid out and maintained to the satisfaction of the relevant authority. Alternatively a sum of money would need to be paid to the relevant authority to bring areas of the public realm up to a standard that can be adopted. Once it has been agreed that an area is to be adopted, a commuted sum in respect of maintenance (usually covering 10 years) will also need to be agreed. In such cases, payment of the commuted sum will normally be required at the time of adoption. If developers do not intend to offer areas for adoption, the relevant authority needs to be assured that satisfactory alternative arrangements are in place for maintenance in perpetuity.

<b>Summary Box: Town Centre Environmental Improvements</b>	
Type of facility for which provision may be needed	High quality paving and surfacing; planting; street furniture; signposting; refuse bins; canal/river towpaths.
Threshold/type of development which may trigger need	10 residential units; 1000m <sup>2</sup> commercial floorspace
Likely to apply to residential and/or commercial development?	Primarily town centre uses defined in PPS6 However, residential development within the town/village may cause a demonstrable need.
Current policy guidance on the issue	PPS6 – Planning For Town Centres Local Plan Policies: BH7 – Street Furniture and Traffic Calming in Conservation Areas; TR19 – Towns and Villages.
Standard charge?	None

### 3.5 Recycling Facilities

- 3.5.1 Local Plan paragraph 18.5.2 allows for contributions towards recycling facilities in the last bullet point under “other appropriate infrastructure provision”. *PPS10 – Planning for Sustainable Waste Management* encourages treatment of waste as a resource.
- 3.5.2 Standard charges for provision of recycling boxes have been developed on the grounds that these are one-off capital costs which are directly attributable to the impact generated by the new development, and are directly related to the development in scale and kind, in accordance with Circular 05/2005.

**Table 10: Standard Charge: Recycling boxes**

Item	House	Flat with Self-Contained Garden	Flat with Shared Amenity Space
Supply and delivery of refuse bin	£31.36 <sup>6</sup>	£31.36	£55.66 <sup>7</sup>
Supply and delivery of Garden Waste Bin	£31.36	£31.36	-
Supply and delivery of green 55l recycling box	£7.78	£7.78	-
Supply and delivery of 240l recycling bin (paper)	-	-	£6.27
Supply and Delivery of 240l Recycling Bin (Glass)	-	-	£6.27
Supply and Delivery of 240l Recycling Bin (Cans)	-	-	£6.27
Leaflet	£1.50	£1.50	£1.50
<b>TOTAL</b>	<b>£72</b>	<b>£72</b>	<b>£76</b>

Source: 2006/7 contract prices

- 3.5.3 The cost will be index linked to the Retail Price Index. Note: the Council has a policy to purchase new rather than refurbished bins.
- 3.5.4 The revenue costs of collection will be 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.

<sup>6</sup> £13.90 supply; £17.46 delivery

<sup>7</sup> 1100 litre steel bin for multi-occupancy use at £191 each, based on use by 5 dwellings = £30.20 per dwelling. Plus £127.30 total delivery fee = £278.30 total supply and delivery (£55.66 x 5).

3.5.5 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.

### Community Recycling Facilities

3.5.6 For developments exceeding 100 residential units the standard charge may be replaced by a financial contribution towards provision of community recycling facilities (where these are not provided directly by the developer) since they may improve accessibility and reduce the need to travel to recycling facilities. A higher threshold has been specified because in practice the revenue costs of emptying a large number of bins for small developments will be prohibitive, together with issues concerning concealment of bins in small developments. Standard charges have not been developed for Community Recycling facilities since these may vary depending on the scale and type of development.

<b>Summary Box: Recycling Facilities</b>	
Type of facility for which provision may be needed	Residual waste bins; Recycling boxes; Garden/kitchen waste bins. The Council may seek planning obligations for Community Recycling Facilities instead of the standard charge on developments over 100 residential units
Threshold/type of development which may trigger need	10 residential units Does not apply to commercial development
Likely to apply to residential and/or commercial development.	Residential only.
Current policy guidance on the issue	PPS10 – Planning for Sustainable Waste Management 2008 Hertfordshire Waste Local Plan; Local Plan Policy SD1 - Making Development More Sustainable
Standard charge?	<ul style="list-style-type: none"> <li>• Individual house £72</li> <li>• Flat or maisonette with individual garden £72</li> <li>• Flat with shared or no amenity space £76</li> </ul>

### **3.6 Sustainable Construction**

- 3.6.1 Local Plan policy *SD1: Making Development More Sustainable* requires all developments over 15 residential units or for commercial development of 250m<sup>2</sup> floorspace or more to submit a Sustainability Statement as part of the application.

**Local Plan Policy SD1:  
Making Development More Sustainable**

All proposals for development of 15 dwellings or more (or sites of 0.5 hectares or more irrespective of the number of dwellings), or for commercial development (including changes of use) of 250 sq metres floorspace or more, will be expected to be accompanied by a Sustainability Statement which explains how the proposed development will:

- create healthy, socially integrated communities;
- encourage sustainable movement patterns through design and transport infrastructures;
- achieve the sustainable use of resources such as land, water, energy, materials and waste;
- be physically well integrated and respond to local character and distinctiveness;
- protect and enhance the natural and built environment; create a flourishing and healthy local economy.

- 3.6.2 Sustainable Construction issues will normally be included within planning conditions. However, for large developments that may include, for example construction of Combined Heat and Power (CHP) stations, district heating systems, reed bed sewer systems, integrated waste and recycling facilities, or renewable energy production grids, planning obligations may be required, as described in paragraph 18.5.2:

**Local Plan Paragraph 18.5.2 (extract)**

Sustainable Construction issues: such as renewable energy and energy conservation features (solar panels, CHP systems, energy efficiency measures), and water conservation measures. Planning conditions and/or planning obligations (or as subsequently revised) will be used to secure the implementation of features described in applicants' Sustainability Statements, submitted in accordance with Policy SD1.

- 3.6.3 The Council adopted the *Sustainability Appraisal: Indicators and Targets* SPD in September 2007. The Site Level Indicator Model contained within the SPD is expected to form the basis of Sustainability Statements, and to identify scope for improvements to

applications. The assessment includes targets relating to “Sustainable Resource Use”. Where these targets may be achieved through the use of planning obligations this may form the basis of a section 106 agreement, subject to negotiation on a case-by-case basis.

- 3.6.4 Where nearby developments may share facilities such as renewable energy grids, CHP stations, recycling or water/drainage systems, the pooling of contributions may be sought under the provisions of Circular 05/2005 paragraphs B21-24 .
- 3.6.5 Hertfordshire's eleven local authorities have jointly produced *Building Futures* to provide practical, user-friendly guidance for planning officers and developers on how to make development in Hertfordshire as sustainable as possible. The Guide comprises eight modules covering the following areas: air; design; noise; waste; safety; energy; materials; and water. The Guide provides an easy reference for different development sectors, including residential, commercial, health, leisure, infrastructure, and education. It also contains many helpful case studies. The *Building Futures* website can be accessed at [www.hertslink.org/buildingfutures](http://www.hertslink.org/buildingfutures).
- 3.6.6 The PPS1 Supplement: *Planning and Climate Change* draws a distinction between areas where planning obligations may be sought and those which are dealt with under building regulations (including the Code for Sustainable Homes):

**Planning and Climate Change -  
Supplement to PPS1 (paragraph 45):**

It is not necessary to use planning conditions to control those aspects of a building's construction and fittings that will be required to be in place to meet environmental standards set through the Building Regulations. Planning conditions or planning obligations can be used to secure the provision and longer-term management and maintenance of those aspects of a development required to ensure compliance with the policies in this PPS.

<b>Summary Box: Sustainable Construction issues</b>	
Type of facility for which provision may be needed	District Heating Systems, CHP stations, reed bed sewer systems, integrated waste and recycling facilities, renewable energy production grids.
Threshold/type of development which may trigger need	Dwellings of 15 dwellings or more; commercial development 250m <sup>2</sup> or more.
Likely to apply to residential and/or commercial development?	May apply to both residential and commercial development
Current policy guidance on the issue	PPS1 – Sustainable Development PPS1 Supplement: Planning and Climate Change PPS22 – Renewable Energy The Code for Sustainable Homes (DCLG 2006) Local Plan Policies: IMP1: Planning Conditions and Obligations SD1 – Making Development More Sustainable Sustainability Appraisal: Indicators and Targets SPD
Standard charge	None

### **3.7 Community Centres and Village Halls**

- 3.7.1 For the purposes of planning obligations, the term “Community facilities” is taken to refer primarily to “halls and meeting places” as described in Local Plan paragraph 10.1.3, specifically Town and Village Halls and Community Centres. Paragraph 18.5.2 supports the use of planning obligations in the provision and maintenance of “Community Halls”.
- 3.7.2 The additional population generated by new development puts pressure on existing community facilities as well as necessitating new provision. Provision of village halls may enable the Council to achieve core priorities. The Community Strategy details how village halls provide a venue for parenting classes and lifelong learning, thereby supporting Parents and families (Community Strategy Priority 6) and lifelong learning providing Opportunities for Older People (Community Strategy Priority 9). The Cultural Strategy 2007-2012 identifies the provision of village halls and community centres as a focal point for activities. Planning obligations will be sought both for provision of new facilities and improvement of existing facilities. This is supported by Local Plan paragraph 10.12.2 which supports the “expansion and upgrading” of facilities and paragraph 10.12.3:

#### **Local Plan Paragraph 10.12.3**

Adequate community facilities should be provided to support new development, particularly new housing development. This can be either through the provision of new buildings or facilities within development sites, or through developers making a financial contribution to improve existing or provide alternative facilities. The specific needs of the whole community should be taken into account when planning new community facilities, including the elderly and those with disabilities.

- 3.7.3 East Herts contains many small rural villages. The Village Hall is a “vital part in the life of a village” (Local Plan paragraph 17.6.4) and yet the small size of new developments in villages will be insufficient to fund new or improved community facilities. Accordingly, contributions may be pooled from developments in neighbouring villages, and a lower threshold of 1 residential unit may be applied (see paragraph 2.9.4 above).
- 3.7.4 Contributions towards the provision of Village Halls and Community Centres will be calculated using a standard charge based on the BCIS Quarterly Review of Building Prices. The figures used are contract sums excluding external works and contingencies with preliminaries apportioned by value. They do not include land costs. According to the BCIS estimates of average building prices (2<sup>nd</sup>

Quarter 2007 estimates) the cost of general community centres is £1146 per m<sup>2</sup>. The Hertfordshire BCIS location factor of 1.08 has been added to this, plus 15% for professional fees. The cost per square metre therefore can be calculated as £1423. Using a ratio of provision of 0.1m<sup>2</sup> per person (see Appendix I: *Community Centres and Village Halls* for calculation) the total cost per person is £142. Using the District occupancy figures Table 11 below calculates the cost per unit by number of bedrooms:

**Table 11: Standard Charge – Community Centres/Village Halls**  
 (includes upgrading of existing community facilities and provision of new community facilities)

	<b>Occupancy Rate</b>	<b>Cost per person</b>	<b>Contribution per residential unit</b>
<b>1- bedroom</b>	<b>1.08</b>	£142	£153
<b>2-bedrooms</b>	<b>1.32</b>	£142	£187
<b>3-bedrooms</b>	<b>1.77</b>	£142	£251
<b>4-bedrooms</b>	<b>2.48</b>	£142	£352
<b>5-bedrooms</b>	<b>2.92</b>	£142	£415
<b>6-Bedrooms +</b>	<b>3.45</b>	£142	£490

- 3.7.5 The Average Build prices are taken from the 2<sup>nd</sup> Quarter 2007 estimates and are based on BCIS tender price index of 243.
- 3.7.6 As there exists no district-wide survey of village halls (such as, for example, the PPG17 Audit and Assessment used as the basis for the standard charge in section 3.2), assessment of specific proposals in relation to local provision will be made on a case-by-case basis in order to inform decision-making on whether the standard charge should be applied.

<b>Summary Box: Community Centres and Village Halls</b>	
Type of facility	Town and village halls; community centres
Threshold/type of development which may trigger need	10 residential units within the six main settlements. In Category 1 and Category 2 villages where a specific need has been identified, a threshold of one residential unit may be applied.
Likely to apply to residential and/or commercial development?	Primarily residential
Policy guidance	Local Plan paragraphs 10.1.1; 10.12.3; 18.5.2
Standard charge	See Table 11 for standard charges Maintenance charges will be applied where they meet the 5 tests of Circular 05/2005.
Further information	Appendix I: Village Halls and Community Centres

### **3.8 Surface Water Drainage**

- 3.8.1 Policy ENV21 of the Local Plan promotes best management practices in respect of surface water drainage.

#### **Local Plan Policy ENV21: Surface Water Drainage**

(I) Where appropriate and relevant, all development proposals will be expected to take into consideration Best Management Practices to surface water drainage, as advocated by the Environment Agency. Where applicable, planning obligations (or as subsequently revised) may be sought to ensure the on-going maintenance of such practices, including off-site provision.

(II) Proposals that do not take sufficient account of such techniques and/or are detrimental to the effectiveness of existing schemes based on such techniques, will be refused.

- 3.8.2 Paragraphs G4 and G5 of PPS25: *Planning and Flood Risk* provide further guidance on developer contributions. Surface water drainage measures such as Sustainable Urban Drainage Systems (SUDS) are likely to be required as planning conditions in order to reduce runoff rates.
- 3.8.3 Types of development likely to require surface water drainage measures in order to attenuate runoff will include both residential and commercial uses. Examples might include large-scale development such as supermarkets or warehouses and any development involving large areas of car-parking or other impermeable surfaces including large-scale residential development.
- 3.8.4 Table 12 provides examples of types of facilities which may be required. Where appropriate the Council are likely to require the more sustainable techniques.

**Table 12: The SUDS Hierarchy**

Most Sustainable	SUDS technique	Flood reduction	Pollution reduction	Landscape and wildlife benefit
	Living roofs	✓	✓	✓
	Basins and ponds <ul style="list-style-type: none"> <li>• Constructed wetlands</li> <li>• Balancing ponds</li> <li>• Detention basins</li> <li>• Retention ponds</li> </ul>	✓	✓	✓
	Filter strips and swales	✓	✓	✓
	Infiltration devices <ul style="list-style-type: none"> <li>• Soakaways</li> <li>• Infiltration trenches and basins</li> </ul>	✓	✓	✓
	Permeable surfaces and filter drains <ul style="list-style-type: none"> <li>• Gravelled areas</li> <li>• Solid paving blocks</li> <li>• Porous paviers</li> </ul>	✓	✓	
	Tanked systems <ul style="list-style-type: none"> <li>• Over-sized pipes/tanks</li> <li>• Storms cells</li> </ul>	✓		
	Least Sustainable			

Source: *SUDS A Practical Guide* (Environment Agency Thames Region 2006)

**Adoption, Maintenance and Commuted sums**

3.8.5 Where the Environment Agency or the Land Drainage Authority (LDA) advises that measures to address surface water drainage will be required in order to make a development proposal acceptable, the Council may consider adoption of the facility. The Surface Water Management Plan (forthcoming, by the Council’s Land Drainage Team) will identify areas where SUDS may be required. The Council may seek a commuted sum (between 10 and 30 years depending on the size and nature of the scheme) in recognition of the ongoing maintenance costs in respect of the adopted facility. The amount of the commuted sum will depend on the type of facility recommended by the Environment Agency or LDA. Table 12 provides examples of types of facilities which may be required. Table 13 provides example maintenance items based on “more sustainable” SUDS solutions such as Basins/Ponds and Filter Strips/Swales.

**Table 13: Maintenance of SUDS - example items**

Example Type	Maintenance operation	Estimated frequency
50m <sup>2</sup> Grass Swale/ Retention Basin suitable for small residential development or small business units /park	Strimming/grass cutting	Quarterly
	Silt removal	Annually
	Engineer's assessment	Twice yearly
	Safety inspection	Monthly/ as required
	Silt testing	As required
1.05m diameter by 5m in length Underground Storage Attenuation suitable for use in small scale/medium residential developments when connected to a controlled discharge	CCTV	Annually
	Silt removal by Vac unit	Twice yearly
	Engineer's assessment	Twice yearly
	Silt testing	As required
	CCTV	Annually
1.05m Diameter by 3.0m deep Lined Soakaway suitable for individual properties and small housing developments	Silt removal	Twice yearly
	Engineer's assessment	Annually
	Silt testing	As required
	Silt removal	Twice yearly
	Engineer's assessment	Annually

*Source: East Herts 2008/9 Land Drainage Contract and Grilles Maintenance Contract. Engineer's assessment based on 2008/9 oncost rates for EHDC officers*

3.8.6 PPS25: *Development and Flood Risk* states: "It is essential that the ownership and responsibility for maintenance of every sustainable drainage element is clear; the scope for dispute kept to a minimum; and durable, long-term accountable arrangements made, such as management companies. These issues should be addressed as part of the FRA [Flood Risk Assessment]. Where the surface water system is provided solely to serve any particular development, the construction and ongoing maintenance costs should be fully funded by the developer. Section 106 agreements may be appropriate to secure this." In accordance with Paragraph B18 of Circular 05/2005, such provision may be required in perpetuity where the facilities are predominantly for the benefit of the users of the associated development.

<b>Summary Box: Surface Water Drainage</b>	
Type of facility for which provision may be needed	See Table 13 above. Commuted sums are likely to be required where the Council agrees to adopt the facilities provided by a developer as a planning condition.
Threshold/type of development which may trigger need	10 residential units; over 1000m <sup>2</sup> commercial floorspace
Likely to apply to residential and/or commercial development?	Residential and commercial
Current policy guidance on the issue	Local Plan Policy ENV21
Standard charge	None
Further information	Early work on likely costs involved in maintenance of SUDS is included on the website supporting this SPD at <a href="http://www.eastherts.gov.uk/planningobligations">www.eastherts.gov.uk/planningobligations</a> .

## **4 COMMUNITY SAFETY**

- 4.1 The Crime and Disorder Act 1998 made it a statutory duty for local authorities to work with the Police and other partners to reduce and address crime and disorder in their areas. Amendments to this Act through the Police Reform Act 2002 and Police and Justice Act 2006 placed a responsibility on Community Safety Partnerships (CSPs) to produce a plan detailing how they intend to tackle crime and disorder and community safety challenges within their area.
- 4.2 The East Herts Community Safety Partnership will address crime and safety projects based on the priorities identified every year. This means community safety projects will be tailored to meet changing requirements and needs. The partnership meets on a regular basis to evaluate community safety issues as they occur. Every six weeks at a meeting known as the Joint Action Group (JAG), the following responsible authorities attend, as well as other authorities such as housing associations: East Herts Council; Hertfordshire Constabulary; Hertfordshire County Council (Crime and Drugs Strategy Unit); Hertfordshire Police Authority; Primary Care Trust; Hertfordshire Fire and Rescue.
- 4.3 The Community Safety Partnership produces the Community Safety Plan, a rolling 3-year plan (currently 2008-2011) and an Action Plan (updated annually). This may be used as the basis for seeking planning obligations towards community safety. Examples of projects within the Community Safety Plan which may make a development acceptable in planning terms include the provision of CCTV, (particularly in identified crime hotspots), lighting, and measures to protect the community and ensure public safety from issues arising from the night time economy. It is likely to apply to retail and town-centre development in particular.
- 4.4 An assessment will be made on a case by case basis for the need for contributions (pooled or otherwise) towards other infrastructure such as custody facilities. This is likely to take into account the additional population generated by the proposals in relation to the specific facility required as a direct result of the development. Appendix J provides justification of Police contributions in terms of the 5 tests of Circular 05/2005, together with a rationale for population-based approaches. These would be in the form of capital facilities or “pump-priming” payments on the basis that there is a time lag of 3 years before central funding comes on-stream and there is no programmed provision for capital projects. The police will seek such contributions only where it can be demonstrated that there is no unutilised capacity within existing facilities. Contributions may be in-kind and/or financial and may be on-site or off-site depending on the scale of the development and the circumstances of the case.

- 4.5 Local Plan Policy ENV3 encourages the incorporation of crime prevention measures such as Secured by Design ([www.securedbydesign.com](http://www.securedbydesign.com)) in development proposals. Where such measures are incorporated, the level of contributions may be reduced or waived altogether if the design makes the proposals acceptable in planning terms. The Council consults the Hertfordshire Police Architectural Liaison Officer on all major development proposals. Further information on design and community safety is also available in the “safety” module in the Hertfordshire *Building Futures* website at [www.hertslink.org/buildingfutures](http://www.hertslink.org/buildingfutures)
- 4.6 A clear audit trail between the contribution made and the infrastructure provided will be published within the Council’s Annual Monitoring Report for any authority within the Community Safety Partnership. The Partnership members agree to provide full and up-to-date details upon request.
- 4.7 Any unspent monies will be returned by the responsible authority within the Community Safety Partnership directly to the developer within the period specified in the Section 106 agreement (see section 7.10 of this SPD for further information).
- 4.8 In seeking contributions towards Community Safety and other planning obligations, the Council will also have regard to the viability of the development proposals. This is covered in section 7.8 of this SPD.

<b>Summary Box: Community Safety</b>	
Threshold/type of development which may trigger need	10 residential units; 1000m <sup>2</sup> commercial floorspace; Especially proposals involving extensive areas of car parking or night-time gatherings. Likely to apply to retail development.
Standard charge?	None
Likely to apply to residential and/or commercial development?	Primarily commercial. However, likely to be especially needed for any town centre development, whether residential or commercial.
Further Information	Appendix J: Justification of Police and Healthcare contributions

## **5 HEALTHCARE CONTRIBUTIONS**

- 5.1 The levels of housing and population growth planned for East Herts will place additional pressure on existing health and social care provision. Whilst in some instances, existing infrastructure has capacity to cope with growth, the East and North Herts Primary Care Trust (PCT) has indicated that a number of communities will need new or extended primary care facilities to cater for this growth. Circular 05/2005 Paragraph B15 provides for contributions towards community infrastructure. Appendix J provides justification of healthcare contributions. The adopted East Herts Local Plan also provides for contributions towards health care:

**Local Plan Paragraph 18.5.2 (extract)**

A contribution towards health care provision will be required from all appropriate development in relation to its impact. The local Primary Care Trust will offer guidance on specific requirements.

- 5.2 Standard thresholds for East and North Herts PCT contributions will be set at 10 or more residential units or 1000m<sup>2</sup> or more for commercial floorspace.
- 5.3 This SPD does not provide for a standard-charge approach in respect of healthcare contributions. The PCT has indicated that in future it aims to pursue a standard charge approach to planning obligations in accordance with paragraphs B33-B35 of Circular 05/2005, or the emerging Community Infrastructure Levy (CIL). The PCT is currently preparing an evidence base to support such a charge, and this will be examined through the Local Development Framework. Any standard charge developed under Circular 05/2005 will require the PCT to demonstrate that there is no existing capacity within existing healthcare infrastructure, as is currently the case with education contributions for example.
- 5.4 The PCT will demonstrate local need arising as a direct result of any development proposal in respect of any contributions sought.
- 5.5 East Herts Council as Local Planning Authority (LPA) will decide whether the evidence submitted meets the requirements of Circular 05/2005 and is likely to make the proposed development acceptable in planning terms.
- 5.6 For any planning obligations received in respect of a particular development, the PCT will agree to make monitoring information on the use of such monies publicly available.

- 5.7 The PCT will return any unspent monies directly to the developer within the period specified in the Section 106 agreement (see section 7.10 of this SPD for further information).
- 5.8 In seeking contributions towards healthcare costs the Council will also have regard to the viability of the development proposals (see section 7.8 of this SPD for further information).

<b>Summary Box: Healthcare</b>	
Threshold/type of development which may trigger need	10 residential units; 1000m <sup>2</sup> commercial floorspace.
Likely to apply to residential and/or commercial development?	Primarily residential or any developing generating a significant increase in population.
Standard charge?	None.
Further Information	Appendix J: Justification of Police and Healthcare contributions.

## **6 COUNTY COUNCIL CONTRIBUTIONS**

### **6.1 County Council Services**

6.1.1 Hertfordshire County Council is responsible for ensuring the provision of a range of services and seeks contributions and/or facilities from development which would have an additional impact on service provision, including:

**Table 14: County Council Services**

<b>County Council Department</b>	<b>Service</b>
Hertfordshire Property	Education; libraries; youth; childcare; fire and rescue services; special needs housing and services
Historic Environment Unit	Archaeology
Biological Records Centre	Biodiversity and other environmental issues
Highways – Development Control	Sustainable Transport measures such as highways and rights of way improvements (including payments for the provision of roads, byways, footpaths, bridleways, cycle ways, bridges, bus infrastructure and/or traffic signals as may be required)
Area Highways	Highways maintenance

6.1.2 Although Policy IMP1 within the East Herts Local Plan does not include specific mention of all of these areas, East Herts Council endorses the County Council’s right to seek planning obligations where these are required to make the development acceptable in planning terms, and where the County Council is able to demonstrate need in accordance with the tests set out in Circular 05/2005. This approach accords with the wider objectives of the Circular 05/2005 to “make acceptable development which is otherwise unacceptable in planning terms” and PPS1: *Delivering Sustainable Development*.

6.1.3 The County Council will assess demand generated by development. It will also assess whether the capacity and quality of the existing services, facilities or infrastructure can cope with that additional demand. Applicants are encouraged to contact the County Council to determine whether contributions are required in each case. The County Council will undertake a review of services on a regular basis to check whether contributions are necessary.

## Planning Obligations Toolkit

- 6.1.4 Hertfordshire County Council's approach to Planning Obligations is set out in *Planning Obligations Guidance – Toolkit for Hertfordshire* (2008). It includes details of standard charges for several types of contributions. The Toolkit was approved by the County Council's Cabinet on 21<sup>st</sup> January 2008 and it is available on the County Council website at [www.hertsdirect.org/planningobligationstoolkit](http://www.hertsdirect.org/planningobligationstoolkit).
- 6.1.5 As Local Planning Authority (LPA), East Herts Council endorses the approach taken by the County Council in the Toolkit, including the justifications in respect of particular types of planning obligations sought, as detailed therein. The Toolkit is not a statutory planning document but the endorsement of the Local Planning Authority gives it additional weight.
- 6.1.6 This SPD takes precedence over the County Council's toolkit for any development within East Herts (acknowledged in the toolkit, paragraph 4.5). This also applies to the Toolkit's advisory threshold of 1 residential unit (see paragraph 10.1 of the Toolkit). Therefore standard thresholds for County Council contributions will be set at 10 or more residential units or 1000m<sup>2</sup> or more for commercial floorspace. Finally, as noted below, accessibility contributions detailed below will be sought instead of sustainable transport contributions set out in the Toolkit.

## 6.2 Transport-Related Contributions

- 6.2.1 PPG 13: *Transport* promotes accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and seeks to reduce the need to travel, especially by car. New development should be located so as to help achieve this objective. The County Council's Local Transport Plan (LTP) 2006-2011 (available at [www.hertsdirect.org/ltp](http://www.hertsdirect.org/ltp)) has developed strategies and plans for the County and towns and areas within it, which identifies sustainable transport and accessibility measures for which contributions may be sought.
- 6.2.2 The East Herts Local Plan provides for close cooperation between the District and County Council in the area of transport contributions (see especially Local Plan Paragraph 5.15.18). Local Plan Policy TR19 provides guidance on areas for cooperation. This SPD supercedes Section 11 ("Sustainable Transport") of the County Council's *Planning Obligations Toolkit*.
- 6.2.3 Large scale developments have traditionally been associated with making provision via Section 106 agreements. However, while smaller developments often do not require Transport Assessments

(TAs), the cumulative impact of these can be very significant and may well exceed those of larger developments in total. The East Herts Local Plan encourages a large-scale modal shift away from the car, as the use of these vehicles has many negative environmental impacts (Paragraph 5.11.1). There is a need, therefore, for all developments (within the threshold outlined in paragraph 6.1.6 of this document) to contribute towards maximising accessibility by non-car modes in line with the Hertfordshire Local Transport Plan 2006-2011 objectives.

- 6.2.4 East Herts Council's approach to accessibility contributions seeks to reinforce the locational policies in its adopted Local Plan Second Review, April 2007, by rewarding development in more sustainable and accessible locations.
- 6.2.5 The District and County Councils will employ a two-strand approach in seeking accessibility contributions.

### **First Strand – Traditional Section 106 Contributions**

- 6.2.6 The first strand of the Council's approach involves the traditional process of seeking developer contributions for specific off-site improvements related to the development. Contributions facilitate development by making it work operationally in highways and accessibility terms. This conventionally involves achieving safe access and egress to a development and is typically met by road and other infrastructure improvements in the area around the development where safety issues and traffic impacts are most concentrated and significant. Such requirements are usually identified through Transport Assessments or via site specific negotiations. Other measures that can also be included under this first strand category include pedestrianisation, street furniture and lighting, footways and bus shelters.
- 6.2.7 Contributions towards community-based transport initiatives may be sought by either Herts County Council or East Herts District Council. Coordination between District and County will be required in such cases in order to avoid duplication or confusion. Further guidance is available in Local Plan Paragraph 5.20.2. Contributions towards community-based transport initiatives may be pooled under Circular 05/2005 paragraphs B21-B24.
- 6.2.8 Larger developments may also be associated with planning obligations to support or improve rail and bus services and/or stations and park and ride schemes.
- 6.2.9 First strand contributions will be secured under S.106 agreements in accordance with the Town and Country Planning Act 1990 (or as subsequently revised).

- 6.2.10 It should be noted that first strand measures often sit alongside highways works also funded by the developer under S.278 agreements in accordance with the Highways Act 1980. S.278 agreements are not planning obligations.

### **Second Strand: Accessibility Contributions**

- 6.2.11 Second strand contributions will be applied in addition to first strand contributions as they are intended to fund a different range of accessibility measures which are aimed at making an impact towards achieving a modal shift away from the private motor vehicle. Further justification of this approach, including compliance with Circular 05/2005 is provided in Appendix C. Paragraph B23 of Circular 05/2005 allows for the pooling of contributions to address the “cumulative impact of a series of developments”, as described in paragraph 6.2.3 above. This approach is reflected in policies contained in the Transport Chapter of the East Herts Local Plan Second Review, Adopted April 2007. Policy *TR8 Car Parking – Accessibility Contributions* is particularly relevant in this respect:

**Local Plan Policy TR8:  
Car Parking - Accessibility Contributions**

Using a formulaic approach, accessibility contributions, based directly on the number of on-site car parking spaces provided, will be applied to all new developments that generate a need for new parking provision. Such contributions will be used towards investment in schemes within the Local Transport Plan to improve passenger transport, cycling and pedestrian facilities in the travel catchment of the development. The District Council may also require measures to ensure the protection of existing residential areas and traffic routes from displacement parking.

- 6.2.12 Contributions achieved under the second strand will therefore be used to fund network-related accessibility improvements in line with local transport strategies, which are co-ordinated with LTP programmes. Typical uses include:
- footpath network development and/or improvement;
  - cycle network development and/or improvement;
  - traffic speed reduction measures;
  - Safer Routes to School initiatives;
  - passenger transport information systems;
  - other passenger transport infrastructure improvements;
  - maintenance work that can be linked to schemes to improve accessibility;
  - personal security improvements e.g. CCTV and lighting;

- provision of moorings alongside navigable waterways (as appropriate);
- appropriate parking management schemes e.g. residents' parking schemes and other on-street related initiatives, including schemes involving traffic order provision; and
- other transport-related schemes that feature in other recognised strategies and a need has been identified that would relate to the new development.

6.2.13 Such improvements are aimed at enhancing accessibility by non-car modes within the catchment of the development. These may or may not be designed in detail at the time the contribution is paid. Nevertheless, such funding should relate reasonably to new development and remain necessary to ensure its acceptability, thus conforming with current obligation criteria and PPG 13: *Transport* requirements. This approach:

- rewards developers who locate new development in accessible locations where on-site parking provision is reduced below unfettered demand levels without threatening viability;
- penalises developers who locate new development in sub-optimal locations; and
- makes town centre development cheaper than that in out-of-town locations.

6.2.14 The measures outlined in 6.2.12 above will be achieved via pooled funding derived from a rate per parking space. This funding is intended to be modest in scale on an individual basis but will cumulatively enable the achievement of non-car accessibility schemes within the catchment of new development. Funds will be spent on local transport strategy schemes, which are co-ordinated with LTP programmes.

#### **Accessibility contributions: Standard charges**

6.2.15 The Council will seek a standard accessibility contribution of £500 per on-site car parking space at new development. The basis of calculation for this figure is set out in Appendix D. (The £500 figure will be index-linked using SPONS from the date of the Local Transport Plan upon which the figure is based i.e. 1<sup>st</sup> March 2006. Therefore, as of May 2008 for example, the total index-linked figure would be £603). This would apply to all new developments that generate a need for new parking provision, subject to the threshold of 10 residential units or 1000m<sup>2</sup> as set out in section 2.9 above. This is applicable for both Residential and Non-Residential development. The charges set out in this SPD supercede the charges in the Sustainable Transport section of the Hertfordshire County Council *Planning Obligations Toolkit*. The approach taken differs slightly from the Toolkit in that it is based on car parking provision rather than car

parking requirements. Therefore, car-free development will incur no accessibility contributions.

- 6.2.16 In applying such charges, a means of reflecting the accessibility of different locations is required to ensure reasonableness and to ensure compliance with Circular 05/2005. This should ensure that obligations relate to development impacts, and benefit from reduction in those locations that are more accessible by non-car modes i.e. the better the existing accessibility by non-car modes, the lower the charge should be. Consequently, the Council's charging regime is based on the number of on-site car parking spaces, as this can be taken as a good proxy for traffic impact: the better the accessibility, the fewer the spaces needed; the fewer the spaces, the lower the traffic impact. This approach is consistent with Adopted Local Plan Second Review Policy TR8.
- 6.2.17 The standard charge applies to development up to 50 residential units or the equivalent in commercial floorspace. The County Environment Unit will advise on commercial development. For larger developments a Transport Assessment will be required in accordance with Local Plan Policy TR3. The County Environment Unit will advise where this will be required, which will often be over 100 residential units but in some cases may be required for developments between 50 and 100 units.

### **Town Centre Parking Provision**

- 6.2.18 Central areas of Bishop's Stortford, Hertford and Ware have been identified in the Council's SPD: *Vehicle Parking Provision at New Development* as accessible locations where lower maximum parking standards apply to both residential and non-residential development. The overall level of accessibility contributions will be lower in these areas, reflecting this reduced parking provision. Further details on vehicle parking standards (including maps showing the location of zones where reduced maximum parking standards apply) are available in the *Vehicle Parking Provision at New Development* SPD, available on the Council's website at [www.eastherts.gov.uk/localplan](http://www.eastherts.gov.uk/localplan). A worked example of the application of these lower maximum standards to planning obligations for residential development within these town centre zones is provided in Appendix E to this SPD.

### **Quarterly Progress Report**

- 6.2.19 A Quarterly Progress Report on Accessibility Contributions (Sustainable Transport Contributions) is compiled by Hertfordshire County Council and presented to the East Herts Council and Hertfordshire County Council Highways Partnership Joint Member Panel. This document is available for public inspection by viewing

committee reports in relation to the Joint Highways Committee on the Council's website at [www.eastherts.gov.uk](http://www.eastherts.gov.uk)

## Travel Plans

6.2.20 Where Travel Plans are secured as part of the planning permission, the Council will seek contributions towards Travel Plan measures and the cost of on-going monitoring within a conventional s106 agreement. This is in accordance with policy TR4 of the Local Plan. Travel plans are normally required when an application is supported by a Transport Assessment (TA) for developments that have significant transport implications.

### Policy TR4: Travel Plans (extract)

Applicants will be expected to enter into a planning obligation/legal agreement to ensure that the proposals of the travel plan:

- a) are fully implemented
- b) where feasible last in perpetuity
- c) fund the monitoring of the modal shift and other benefits achieved by implementing the travel plan.

6.2.21 Further guidance is contained within the Council's SPD: *Vehicle Parking Provision at New Development* (2008).

<b>Summary Box: Sustainable Transport Measures</b>	
Type of facility for which provision may be needed	<p><b>First strand: traditional section 106 agreements</b>                      Any items identified in a Transport Assessment; pedestrianisation; street furniture and lighting; footways and bus shelters; community-based transport initiatives; road and/or junction improvements; car clubs (may include pump-priming maintenance payments – re DCLG <i>Practice Guidance</i> Case study 3.2)</p> <p><b>Second strand: accessibility contributions</b>                      See section 6.2.13 above for examples. Schemes within the Local Transport Plan <a href="http://www.hertsdirect.org/ltp">www.hertsdirect.org/ltp</a></p>
Threshold/type of development which may trigger need	<p>10 residential units;                      1000m<sup>2</sup> commercial floorspace.                      Accessibility contributions will not be required on developments where a Transport Assessment is provided in accordance with Local Plan Policy TR3 (usually developments larger than 50 residential units or equivalent in commercial floorspace).</p>

<b>Summary Box: Sustainable Transport Measures</b>	
	<p><b>Community-based transport</b>                      In category 1 and category 2 villages where a specific need has been identified, a threshold of one residential unit may be applied. Contributions from retail development over 1000m<sup>2</sup> in the six main settlements may be used to support community-based transport projects serving those settlements from rural areas.</p>
Current policy guidance on the issue	<p>PPG13: Transport                      East of England Plan (May 2008):                      Policy T1: Regional Transport Strategy Objectives and Outcomes                      Policy T2: Changing Travel Behaviour                      Local Plan Policies: TR1 – Traffic reduction in new settlements; TR2 – Access to New Developments; TR3 Transport Assessments; TR4 Travel Plans; TR6 Car Parking Strategy; TR7 Car Parking – Standards; TR8 Car Parking – Accessibility Contributions; TR13 Cycling – Facilities Provision (Non-Residential); TR14 Cycling – Facilities Provision (Residential); TR19 - Towns and Villages; TR20 - Development Generating Traffic on Rural Roads</p>
	<p><b>Community Based Transport</b>                      Local Plan section 5.20 Rural Transport</p>
	<p><b>Home Zones</b>                      TR18 – Home Zones</p>
	<p><b>Cycle Routes</b>                      TR1 – Traffic Reduction in New Developments                      TR9 – Cycling: Cycle Routes                      TR12 – Cycle Routes – New Developments</p>
Basis of assessing need and contributions	<p>See appendices C, D and E.                      Local Transport Plan 2, 2006-2011 (LTP). The Bus and Intalink Strategies, the Rail Prospectus; Passenger Transport in New Developments (2000); Quality Bus Infrastructure in Hertfordshire (2004).                      For all HCC documents related to transport see <a href="http://www.hertsdirect.org/ltp">www.hertsdirect.org/ltp</a>. Hard copies of the LTP are available from the Environment Section and Passenger Transport related documents are obtainable from the Passenger Transport Unit (PTU) of Hertfordshire County Council.</p>
Standard charge?	<p>First strand – traditional section 106 – agreements will be negotiated on a case-by-case basis. In some cases as part of a Transport Assessment.                      Second-strand charges will be levied at a standard</p>

**Summary Box: Sustainable Transport Measures**

	rate of £500 per car parking space for both Residential and Non-Residential development. For residential development incremental adjustments may be made to allow for dwelling size and accessibility. Calculation methodology is available in Appendix E.
Further Information	Appendix C: Justification of the Second Strand Approach Appendix D: Calculation of Vehicle Parking Standard Charges Appendix E: Car Parking – basis of the accessibility charge

## **7 EAST HERTS DISTRICT COUNCIL PROCEDURES**

### **7.1 Planning Obligations – A Practical Guide**

- 7.1.1 The Council's legal team have devised a Practical Guide to planning obligations (*entitled 'Planning Obligations – A Practical Guide'*) which does not form part of this SPD but is available as a separate document. The *Practical Guide* is posted on the Council's website at [www.eastherts.gov.uk/planningobligations](http://www.eastherts.gov.uk/planningobligations).
- 7.1.2 The Council's *Practical Guide* explains the law and practical application of planning obligations generally and details procedure at East Herts. In its appendices it provides downloadable forms for parties to use for circulation of information throughout the process; pre-application information checklist; detailed description of procedural stages. Also provided is a bank of standard template draft section 106 agreements and unilateral undertakings.
- 7.1.3 Appendices 4 and 5 of the Council's *Practical Guide* are intended to be downloaded for use in the course of the planning obligation process to speed up communications.
- 7.1.4 Appendix 4 (Developer to complete and submit to the Council) provides a pre-application information checklist to be completed and submitted to the Council as soon as the need for a planning obligation has been identified.
- 7.1.5 Appendix 5 (Development Control Case Officer to complete and circulate):
- Part 1 – provides an at 'at a glance' update on progress and sets out the timetable and deadlines.
  - Part 2 – sets out the 'heads of terms' ('scope') with a checklist for each type of obligation. The information entered against the checklist will accumulate as it becomes available/agreed.
  - Part 3 - sets out the names and contact details of all the people involved in the process for that application. This acts as a directory of the persons to be included in the circulation list.

## 7.2 **Procedural Stages**

7.2.1 The steps in preparation of a planning obligations agreement are listed below:

### **Pre-application**

- Stage 1: Preparation – Plans and Title
- Stage 2: Initial Contact with Council
- Stage 3: Subject Heads of Terms & Timetabling to submission of planning application
- Stage 4: Negotiation and drafting
- Stage 5: **Submission and validation of planning application**: consolidation; timetabling to completion

### **Post-application**

- Stage 6: Grant or refusal of planning permission
- Stage 7: Final negotiation and checking
- Stage 8: Completion and dating of document

### **Post-completion**

- Stage 9: Compliance and monitoring

7.2.2 The order of the above stages is not definitive, but represents the ideal sequence of events. A detailed description of each procedural stage (together with practical points) is contained in Appendix 1 of the Council's *Practical Guide*. Developers are encouraged to read and follow this appendix. In particular, on submission of an application, the Council's adopted Local Validation List requires that a list of Heads of Terms of a legal agreement is included. However, formulation of a list through the pre-application process in advance is preferable.

7.2.3 One of the objectives of this SPD is to establish ways to speed up the planning obligation process. Timing and communication are key to achieving these objectives.

## **Timing**

7.2.4 Developers are encouraged to discuss proposals with the Council and other identified stakeholders (such as the County Council) before submitting a planning application and as early as possible in the process. This is so that the likely need for an obligation can be identified early on. The exchange of information and negotiation of the terms can then be advanced alongside the details of the proposals to streamline the planning obligation process. In the case of an outline application, the requirement for an obligation will generally be introduced at this stage rather than reserved matters stage.

## Checklist of Information Required

7.2.5 The checklist below provides guidance as to the type of information needed for a planning obligation:

- Site plan drawn according to title (see the Council's *Practical Guide*);
- Proposed heads of terms of a s106 legal agreement. The main aspects of the heads of terms can permit the document to be drafted, with details inserted as matters become agreed;
- Proof of owners' Title. All the owners of the site will need to enter into the agreement. If the land is registered, this will be by recent, original office copy entries. If it is unregistered, an epitome of title should be provided by solicitors;
- Names and addresses of all persons who 'have an interest' in the land. This includes all owners/part owners; mortgagees; lessees; tenants; persons with an option to purchase or purchasers who have exchanged contracts or other holders of security on the land;
- Solicitor's undertakings to pay the Council (and where applicable, the County Council's) reasonable legal costs in connection with the negotiation and preparation of the legal agreement/unilateral undertaking;
- Contact details if there is a solicitor acting on behalf of the applicant;
- The agreed details of the heads of terms, when available.

7.2.6 Where it is considered that a planning obligation is necessary to enable planning permission to be granted, ideally the matter should proceed as outlined in paragraph 7.2.1. Whether the document is an agreement or a unilateral undertaking, the following will usually be expected to occur (the Council's *Practical Guide* sets each step out in more detail, with practical points):-

- The Development Control Case Officer will raise the potential requirement for an obligation with the applicant/landowner and request a completed pre-application information checklist and information sheet from the applicant, together with a site plan (drawn according to the title plans) and title details to be passed on to the Council's solicitors. (A) solicitor's undertaking(s) will be required;
- The heads of terms ('scope') of obligations will be identified in list form. Ideally, obligations from consultees such as Hertfordshire County Council will be identified at this time. Solicitors can at this stage be instructed to start drafting the document, using the Council's standard template and bank of clauses (see paragraph 7.3 below concerning Legal Templates).

- Details of the obligations become negotiated and agreed between the applicant/landowner and the Development Control Case Officer (and where appropriate other parties), then communicated to their solicitors. The solicitors will negotiate and draft the terms of the document according to these instructions.
- Once a planning application has been received and verified, the Development Control Case Officer will communicate a timetable for completion of the planning obligation, by reference to the Government targets for the issue of planning permission: within 8 weeks (minor applications) or 13 weeks (major applications) of verification of the planning application. The Council expects planning obligations to be completed on time to meet these targets.
- Where a planning obligation fails to be completed on time, planning permission might be refused. If a draft document is not already available at the time of submission of an application the developer will be encouraged to submit a draft agreement/unilateral undertaking as soon as possible. The draft can be prepared by either the developer's solicitors or the Council's solicitors.
- The obligations are negotiated/agreed. Well within the deadline period, the Development Control Case Officer will write a report for the Development Control Committee agenda, either recommending the granting of the planning permission subject to a Section 106 being entered into or recommending refusal. (The process for appeals is dealt with at Appendix 3 of the Councils 'Planning Obligations Practical Guidance Note')
- Once Committee authority has been obtained, the terms of the planning obligation can be finalised and the documents prepared for signature/sealing. Note: an identical document will need to be prepared for each party to sign/seal so that each party can receive an identical completed document.
- Completion of the planning obligation will take place when all parties to the document have signed/sealed the document and the Council's solicitors are satisfied as to title. The Council will be the last party to seal the document or in the case of a unilateral undertaking, the Council will hold the signed *undated* document for final title checking. The Council's solicitor will then contact the other parties' solicitors to agree completion and insert the date.

- Upon completion of the planning obligation the Council's solicitor will notify the Development Control Case Officer that the planning permission can be granted.
- The Council's solicitor will then distribute the documents to the parties.

7.2.7 Planning permission will not be issued until the planning obligation document has been completed and dated.

7.2.8 The Council is required by legislation to put planning obligations on the planning register so that the decision-making process is as transparent and open as possible. Planning obligations are also registerable as Local Land Charges.

7.2.9 The Council's *Planning Obligations: A Practical Guide* outlines alternative processes for appeals and Fast Track Unilateral Undertakings.

### **7.3 Legal Templates and Bank of Clauses**

- 7.3.1 In order to speed up the planning obligation process, keep preparation costs down and ensure a consistent approach to developments within the District, the Council will seek to use its standard form of legal templates in dealing with all planning obligations. Copies of the Council's templates may be downloaded from the Council's website<sup>8</sup> or are available from the legal team.
- 7.3.2 The following templates and provisions are available to download:
- Agreement
  - Unilateral undertaking
  - Fast track unilateral
  - Affordable housing \*
  - Hertfordshire County Council provisions\*
  - Bank of clauses\*
- Items marked with an asterisk are provisions to 'bolt on' to the standard templates. This list is subject to change from time to time as the bank of templates is added to or updated.
- 7.3.3 In addition, County Council templates are available in the appendices of the Planning Obligations Toolkit, available to download at [www.hertsdirect.org/planningobligationstoolkit](http://www.hertsdirect.org/planningobligationstoolkit)
- 7.3.4 The Council recognizes that the drafting of agreements and unilaterals should always be tailored to meet relevant circumstances and therefore some variation from the pro-forma templates will be required. However, developer's solicitors are encouraged not to amend specific standard definitions or provisions relating for example to "application site" or "walkaway" clauses within the Council's template because this creates unnecessary work and can cause delay. Unnecessary amendments to standard provisions will incur a costs penalty unless the amendment can be justified. Guidance is provided on the front sheet of the standard template.
- 7.3.5 The templates provide spaces for customised clauses and relevant details to be inserted.
- 7.3.6 In most cases, the Council will require an agreement rather than a unilateral undertaking. For further guidance regarding which template to use, please refer to the Councils *Planning Obligations: A Practical Guide*. The guidance note will be updated according to current practice and will set out any changes in practice affecting which template to use, such as may be the case eg for small contributions required by the County Council.

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<sup>8</sup> [www.eastherts.gov.uk/planningobligations](http://www.eastherts.gov.uk/planningobligations)

- 7.3.7 Drafting of planning obligations should be clear and precise, with clear triggers. Wherever possible, planning obligations should be negatively drafted, preferably 'Grampian' style (i.e. not to..until...). The Council's templates give guidance on drafting. This can be found at the end of the 'schedules' section.
- 7.3.8 **IMPORTANT NOTE:** Planning obligations (whether in the form of agreements or unilateral undertakings) are legally binding and will form part of the deeds to the property. They 'run with the land' which means they are enforceable against future landowners. Planning obligations can remain enforceable against the original person who enters into the Section 106 deed and can affect the value of land. Landowners are advised to take independent legal advice before entering into a planning obligation. The Council's *Practical Guide* provides further information on the effect of planning obligations and planning obligations generally and their effect.

## **7.4 Costs**

- 7.4.1 Whether the Council initially prepares the legal document, or it is drafted by the applicant's solicitor and whether the document takes the form of an agreement or a unilateral undertaking, the Council will expect to recover its full costs in preparing and/or negotiating and concluding the agreement. An undertaking will be required from the solicitor acting on behalf of the applicant to pay the Council's legal costs for preparing a legal agreement regardless of whether it is completed. The legal fee will be collected at the time of completion of the document.
- 7.4.2 The Council will charge applicants to cover the legal costs of concluding legal agreements and unilateral undertakings. 'Fast track' unilaterals will normally be charged at £500 each. Legal fees for agreements and other unilateral undertakings will be decided on a case-by-case basis depending on the amount of time spent on the matter.
- 7.4.3 Details of Hertfordshire County Council's costs may be found in the *Planning Obligations Toolkit*, available at [www.hertsdirect.org./planningobligationstoolkit](http://www.hertsdirect.org./planningobligationstoolkit)

## **7.5 Timing and Phasing of Payments**

- 7.5.1 The provision of infrastructure and the timing of payment of contributions will be negotiated on an individual basis for large developments. This may involve a phased programme of payments relating to development progress, commencement and completion/occupancy trigger points.
- 7.5.2 Applications involving a unilateral undertaking may be expected to pay contributions prior to commencement of development.
- 7.5.3 Interest will be payable if contributions are not paid to the Council at the agreed time. This will be 4% above the Bank of England base rate. This is in addition to any index linking.
- 7.5.4 If prior to receipt of monetary contributions expenditure is incurred in relation to matters of the type or description and location to be funded from such contribution where the need has arisen from or in anticipation of the development, the Council may following receipt of the relevant contribution deduct that expenditure from the contribution.

**7.6 Index Linking and Receipt of Monetary Contributions**

- 7.6.1 The commencement of development may not take place immediately following completion of the legal document. Consequently, all contributions will be index linked to ensure that their value stays in line with inflation and reflects changes in costs.
- 7.6.2 Monetary contributions shall be index linked from the date of the Resolution to the date of payment.

**Table 15: Indexation**

<b>Standard charges</b>	<b>Index</b>	<b>Index Base</b>	<b>Date</b>
Open Space, Sport and Recreation (section 3.2)	RPI	200	1 <sup>st</sup> April 2007
Recycling facilities (section 3.5)	RPI	200	1 <sup>st</sup> April 2007
Community Centres and Village Halls (section 3.7)	BCIS	243	1 <sup>st</sup> April 2007
Accessibility Contributions (section 6.2)	SPONS	-	1 <sup>st</sup> March 2006
County Council Contributions (7.7.4 below)	PUBSEC	175	-

- 7.6.3 Payments should be made directly to the responsible authority as set out in Table 16 below. County Council Contributions should be sent in the first instance to the County Secretary. All payments should be sent with a covering note detailing the purpose of the payment, the site and the planning application number.

**Table 16: Receipt of Financial Contributions**

<b>Contribution</b>	<b>Responsible Authority</b>
Affordable Housing; nature conservation and landscape; town centre environment; recycling facilities; sustainable construction; community facilities; surface water drainage	East Herts Council
Education; libraries; youth; childcare; fire and rescue services; special needs housing and services; archaeology; biodiversity and other environmental issues; minerals and waste; waste management;	Hertfordshire County Council (send payment to County Secretary)
First and second strand transport	Hertfordshire County Council

Contribution	Responsible Authority
contributions	Environment Department (send payment to County secretary)
Police	Hertfordshire Constabulary
Healthcare	East and North Herts Primary Care Trust

7.6.4 For County Council contributions indexation will be calculated by the County Council, not the District Council. County contributions are index linked to the Department for Business, Enterprise and Regulatory Reform (BERR) (formerly DTI) tender price index of public sector non-housing (PUBSEC) smoothed all-in index. Currently these contributions are all based on and index linked to PUBSEC index 175. Further information can be found within the Planning Obligations Guidance Toolkit – (Hertfordshire County council requirements) document<sup>9</sup>

## 7.7 **Bonds**

7.7.1 Bonds will be required where a developer intends to carry out work themselves instead of payment of contributions to the Council. For example, building a community building agreed as part of the development proposed. The bond sum can then be drawn upon by the Council to provide the facility if the works are not carried out as agreed.

7.7.2 Bonds will also be required where for example, the development is funding a school, where development is staged and not all in place prior to contract being let.

7.7.3 A bond may sometimes be required by the District or County Council, for example, where any s106 contributions are to be paid by way of phased payment or alternatively, for very large developments, when the date for payment of any contributions is at a later point than the commencement of the development, such as on/prior to occupation. The form and size of the bond will be dependant on the contribution/s required for the development. Parent guarantors will not be accepted in lieu of a bond in any circumstances because in the event of a breach, the County Council must be sure that any financial contributions are available immediately and this cannot be guaranteed by a parent guarantor.

<sup>9</sup> Available online at [www.hertsdirect.org/planningobligationstoolkit](http://www.hertsdirect.org/planningobligationstoolkit)

## **7.8 Viability**

- 7.8.1 One of the purposes of this SPD is to provide developers with information on the planning obligations likely to be required in association with new development at the earliest stage. Where a developer considers that the requirements of the Council would significantly harm the viability of a proposal, the onus will be on the applicant to demonstrate this. Based on discussion of available evidence with the applicant, the Council will then decide on a reasonable level of contributions, in accordance with paragraph B10 of Circular 05/2005.

### **Independent Economic Assessments**

- 7.8.2 In instances where it is necessary to appoint an independent valuation advisor to assess the submitted viability evidence, the costs will usually be met by the applicant, in the same way that other reports and studies may be necessary to the grant of planning permission. The appointed advisor will deal with any confidentiality issues which may arise (see Circular 05/2005 paragraphs B37-B40). In such a scenario, the brief should be written jointly by the applicant and the Council, and all parties should agree on the selection of the assessor, and to jointly abide by the findings of the assessment (although determination of the application rests with the LPA – Circular 05/2005 Paragraph B40). The Council will require recognised industry standards to be applied and will nominate an appropriate recognised software package for use in such assessment. The Council's preferred model is the Housing Corporation Economic Assessment Toolkit ([www.housingcorp.gov.uk/eat](http://www.housingcorp.gov.uk/eat))
- 7.8.3 In some cases the imposition of all the legitimate planning obligations could render the development of a site unviable. This will often be the case where a site has abnormal constraints (e.g contamination and/or poor bearing capacity) or a development involves the re-use of an existing building, particularly if the building is listed or in a conservation area. In the worst case a development may be rendered unviable by the imposition of any obligations. In other cases it may be reasonable to impose some obligations but not all, or reduce their value. In such cases it will be necessary to prioritise the list or value of potential obligations.

## **An Holistic Approach**

- 7.8.4 As far as is practicable the Council will employ a holistic approach whereby the total costs as well as the benefits of the development proposal can be assessed in the round. For example, in situations where sustainability measures are “designed-in” or where the developer agrees to pay for infrastructure which may be essential for the proposal but also benefit the wider community.
- 7.8.5 Proven impact on the viability of the scheme may be a material consideration in the assessment of the planning application. However, it should be recognized that planning obligations are intended to make acceptable proposals which would otherwise be unacceptable in planning terms (Circular 05/2005 paragraph B3). Therefore, without certain planning obligations in place a proposal may by definition be unacceptable and will be refused. A considered judgement will be made after careful assessment of the impact generated by the proposals.
- 7.8.6 Wherever possible, viability negotiations (including the assembly of evidence) should be conducted pre-application, in order to disperse concerns from all parties, clarify the process and speed up the application (DCLG Practice Guidance section 7.7).

**7.9 Monitoring, Enforcement and Expenditure**

- 7.9.1 Planning obligations will be monitored to ensure that they are being undertaken or paid at the agreed times. If there is a failure to comply, the Council will take appropriate enforcement action and full cost recovery will be sought.
- 7.9.2 To cover its costs of monitoring, the Council may charge a monitoring fee which is payable upon completion of a section 106 deed (whether an agreement or a unilateral undertaking).
- 7.9.3 The originator of the planning obligation will be required to advise the Council if a site is sold on with the benefit of the planning permission and obligation. Where all or part of a development site is sold on, the original developer who entered the agreement is liable for fulfilling the obligation unless clear documentary evidence is provided to the Council to the contrary. These matters are dealt with in the Council's templates.
- 7.9.4 In accordance with Paragraph B50 of Circular 05/2005, the Council will ensure that planning obligations are implemented in an efficient and transparent way, and are spent on their intended purpose. Contributions will be closely monitored to ensure that they are spent by the Council or other agencies on what was agreed and within the correct time period. The Council will liaise closely with Hertfordshire County Council, Hertfordshire Constabulary, East and North Herts Primary Care Trust (PCT) and any other authorities to ensure appropriate monitoring and enforcement of all obligations covered by legal agreement. Monitoring reports will be available as detailed in Table 17 below.

**Table 17: Monitoring Reports**

<b>Source</b>	<b>Frequency</b>	<b>Information Available</b>
Annual Monitoring Report (AMR)	Annually	Headline indicators of annual financial contributions and annual expenditure, including opening and closing balance, and total number of agreements completed during the year.
Development Control Committee Section 106 Monitoring Report.	Every 6 months	Application-specific break-down of all receipts and expenditure by the District Council.
Highways Joint Member Panel Report	Quarterly	Site-specific reports on first-and second strand highways contributions.

## **7.10 Repayment of Unused Contributions**

- 7.10.1 In accordance with paragraph B24 of Circular 05/2005, contributions that have not been spent or released to another organisation for spending within the timeframe stated in the legal agreement) will be returned to the developer at a rate equal to the index applied. Contributions received by East Herts DC will be held in interest bearing accounts, with interest paid to the developer on return of the contribution.
- 7.10.2 Unilateral undertakings cannot secure covenants by the Council to repay to developers unspent sums of money.

## **7.11 Applications to Discharge or Vary**

- 7.11.1 In exceptional cases, where an agreement has been entered into and a change in circumstances has resulted in the inability for an obligation to be carried out, applicants can apply for an obligation to be discharged or varied. Unless it relates to a variation which resolves an irregularity within, clarifies or reinforces an extant obligation, an application to discharge or vary a planning obligation will only be agreed by the Council if it can be fully justified and is a last resort. This situation may arise where an anticipated need for a particular facility at the time of the grant of planning permission is no longer required. The variation or discharge of obligations will not be used as a means for developers to backtrack on obligations agreed where needs as a result of development still arise.

## **7.12 Unilateral Undertakings**

- 7.12.1 Planning Obligations can also be secured through a unilateral undertaking presented to the local authority. Although unilateral undertakings can be used in place of agreements at any time, they are most beneficial either (a) at an appeal as a means of offering appropriate planning obligations where agreement has not been reached or (b) as a tool of speed and reduced cost where the Council's Fast Track Unilateral process can be applied. The Council encourages the use of unilateral undertakings where appropriate in accordance with paragraph B47 of Circular 5/05. It is the choice of the landowner and applicant whether or not to opt for a unilateral undertaking.
- 7.12.2 In the case of appeals, it is the Council's usual practice to try and reach agreement insofar as possible on the terms of a unilateral undertaking. Where full 'in principle' agreement (i.e. in the event the inspector was minded to grant the appeal) is reached, if preferred, a planning agreement may be submitted to an inspector.
- 7.12.3 Unilateral undertakings can in limited circumstances be used as a tool for streamlining and speeding up the decision making process in situations where the only obligations required are monetary contributions. In such instances, a quicker, cheaper streamlined process ('Fast Track Unilateral') can be used. The receipt of cleared funds (to discharge all the planning obligations) for completion of the document enable the Council to dispense with the need for a site plan, title checks or Land Charge registration. Developers should note that there will be no reciprocal covenants to return unspent contributions. This disadvantage is shared by all unilateral obligations, because the Council cannot be a signatory to a unilateral undertaking. Other types of unilateral undertaking will always require a site plan, title checks and Land Charge registration.
- 7.12.4 Provided a unilateral undertaking fully meets requirements concerning enforceability and the planning obligations it contains, no less weight will be given to it than if it was an agreement.
- 7.12.5 The Council may refuse to grant planning permission if a unilateral undertaking is submitted with any of the following flaws:
- If the wording of the unilateral makes it unenforceable
  - If the unilateral undertaking fails to deal with matters relevant to the proposed development (for example, it does not resolve a crucial highways safety issue or fails to meet an appropriate policy requirement)
- Early discussion with the Council's Development Control Team is encouraged in order to identify (a) those proposals which can benefit

from the use of a unilateral undertaking and (b) the requisite planning obligations and their terms. Early legal advice should also be sought.

- 7.12.6 Further information on the use of unilateral undertakings, including more detail on the Council's Fast Track Unilateral procedure is set out in *Planning Obligations: A Practical Guide*, by the Council's Legal Team and available on the Council's website.

**Appendix A: Contact Information**

Item(s)	Contact details
Affordable Housing	Housing Development Manager East Herts District Council 01992 531602
Open Space, Sport and Recreation	Environmental Manager East Herts District Council 01992 531525
Nature Conservation and Landscape	Landscape Officer East Herts District Council, 01992 531538
Town Centre	Head of Planning and Building Control East Herts District Council 01992 531407
Recycling	Waste Services Manager East Herts District Council 01992 531 549
Sustainable Construction	Environmental Co-ordinator East Herts District Council 01992 531621
Community Facilities	Community Planning and Partnerships Manager East Herts District Council 01992 531605
Surface Water Drainage	Land Drainage Engineer East Herts Council 01992 531457
Education; Libraries; Youth; Childcare; Fire and Rescue Services; Special Needs Housing and Services	Planning Obligations Officer Hertfordshire Property Hertfordshire County Council 01992 588104
Minerals and waste; waste management.	Minerals and Waste Planning, Environment Department Hertfordshire County Council 01992 556227
Biodiversity	Hertfordshire County Council Hertfordshire Biological Records Centre biorec.info@hertscc.gov.uk 01992 555220
Archaeology and the Historic Environment	Historic Environment Unit Hertfordshire County Council 01992 555245
Highways and Transportation Cycle routes	Area Highways Development Control Manager Environment Department Hertfordshire County Council 01992 556167

East Herts District Council  
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<b>Item(s)</b>	<b>Contact details</b>
Community-based transport	Community Transport Team Leader Hertfordshire County Council 01992 531605
	Community Planning and Partnerships Manager East Herts District Council 01992 531605
Police	Estates Manager Hertfordshire Constabulary 01707 354240
Healthcare	Strategy Director East and North Herts Primary Care Trust 01707 390855
Community Safety Partnership	Head of Community Safety East Herts Council 01992 531498

## **Appendix B: List of Relevant Local Plan Policies**

The following Local Plan policies all refer to Planning Obligations (in the order in which they appear in the Local Plan):

HSG3	Affordable Housing
TR8	Car Parking – Accessibility Contributions
ENV16	Protected Species
ENV21	Surface Water Drainage
BH3	Archaeological Conditions and Agreements
LRC3	Recreational Requirements in New Developments
IMP1	Planning Conditions and Obligations
BIS15	Eastern Hertfordshire Area Plan: Bishop's Stortford

## **Appendix C: Justification of the Second Strand Approach**

- a) Section 6.2 of this SPD sets out a two strand approach to securing planning obligations for transport-related contributions. This appendix provides background information to support the second strand approach. With regard to underlying policy justification for a second strand financial contribution for each new development, this Council notes that:
- Transport Assessments (TAs) provide a well-established basis for identifying the most significant impacts of the relatively small number of larger developments
  - there are well-established techniques for assessing, designing and costing measures to mitigate the safety and traffic impacts identified in TAs of larger developments to ensure such development is acceptable
  - smaller developments do not require TAs but the cumulative impacts of smaller developments are very significant and may well exceed those of larger developments in total
  - there are no well-established methods available for assessing, designing and costing the incremental impacts of new development on non-car transport networks
  - the Council seeks to enhance non-car transport networks via Local Area Plans in partnership with Hertfordshire County Council (HCC) but the resources to design, cost and consult on such measures are limited
  - HCC's Local Transport Plan (LTP) refers to funding for transport enhancements as part of its integrated transport budget but this is mostly to address existing deficiencies. New development will place further demands on the transport network and should therefore contribute towards mitigating this impact
  - The LTP recognises a need to secure other sources of funding via s106 agreements.
- b) The immediate and specific impacts of larger developments are established via a TA and funded via s106 and/or s278 agreements in the conventional way. This is the first strand. The second strand addresses the cumulative impacts of all development, large and small, on non-car networks and provides pooled funding, as supported by Circular 05/2005. This second strand funding is intended to be modest in scale and used to help implement sustainable transport programmes in the catchments of new development from which contributions are secured. Funds will be spent on local schemes, as identified in the LTP and specifically in the Lea Valley Area Plan (including Hertford, Ware, and Stanstead Abbots/St. Margarets) and the Eastern Herts Area Plan (including Sawbridgeworth and Bishop's Stortford).

## Compliance with Circular 05/2005

- c) The two strand approach complies with the tests in Circular 05/2005 as follows:
- **relevant to planning**  
*The supplementary funding is relevant because it serves a planning purpose, namely to maximise non-car accessibility and minimise car use.*
  - **necessary**  
*The supplementary funding is necessary to ensure that all access requirements of new development are met, without which the development would be unacceptable.*
  - **directly related to the development**  
*The supplementary funding sought will be used within the catchments of all new development, thus ensuring that the burden is not focused entirely on larger developments and that it is directly related to new development.*
  - **fairly and reasonably related in scale and kind to the proposed development**  
*The supplementary funding is of a scale that relates reasonably to development impacts and to the cost of mitigation measures, as indicated by the LTP. Contributions will also vary according to development scale and location – the least accessible or sustainable will contribute more.*
  - **reasonable in all other respects**  
*The supplementary funding approach is transparent, predictable and affordable, thus giving developers certainty whilst not threatening the viability of development. The need for second strand contributions will also be balanced against the level of first strand contributions and any other relevant planning matters.*

## **Appendix D: Calculation of Vehicle Parking Standard Charges**

- a) This appendix explains the Council's approach to the implementation of its vehicle parking standard charges scheme. It is based on the methodology set out by the consultants Harrison Webb in their 2003 report on Vehicle Parking commissioned by Hertfordshire County Council.
- b) The start point for setting a second strand charge is to look at the amount of residential development proposed for Hertfordshire in the *East of England Plan* (May 2008) and its likely impact on traffic growth. In addition it is then necessary to consider the planned amount of investment in sustainable transport measures per annum as set out in HCCs LTP. By looking at both it is possible to conclude on the amount of development related traffic growth that needs to be addressed by development contributions and balance that against the planned amount of LTP spending to address existing issues to provide a guide on required funding levels.
- c) The current Government Transport White Paper: *The Future of Transport*, July 2004 sets out the Spending Review 2004 allocation and Long Term Funding Guideline to 2014/15 but does not quantify the expected additional private sector contributions to the overall programme. The previous White Paper: *Transport 2010, The 10 Year Plan* assumed that 30% of the total transport programme would be funded by the private sector.
- d) The *East of England Plan* (May 2008) proposes an average annual house building allocation for Hertfordshire of 4380 new dwellings per year up to 2021<sup>10</sup>. East Herts is currently expected to accommodate about 15% of the County total<sup>11</sup> meaning it will experience considerable development related travel demand and therefore traffic growth over the next 15-20 years.
- e) The Local Transport Plan for Hertfordshire identifies a number of Integrated Transport capital programmes for the period to 2010/11. These amounts are not bids, as in the previous generation of LTP programmes, so the notion of funding to be bridged by the private sector (as adopted by a number of authorities in guidance) is no longer applicable. The total programme value is the provisional indication from Government of funding over the next five years, based on its formulaic approach.

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<sup>10</sup> *East of England Plan (May 2008)*. The total figure for Hertfordshire is 65,720 in the period 2006-2021, or 4380 completions per year on average.

<sup>11</sup> According to the *East of England Plan* (see ref 9 above) East Herts is expected to provide a minimum of 660 new dwellings per annum in the period 2000-2021.

- f) Set out below is the planned LTP integrated transport programme to 2010/11. The highlighted LTP programmes below are relevant in this context because they relate to sustainable transport measures.

**Local Transport Plan 2 (2006-2011) Integrated Transport Funding**

Target	2006/07 (£'000)	2007/08 (£'000)	2008/09 (£'000)	2009/10 (£'000)	2010/11 (£'000)
Safety	2,245	2,245	2,245	2,245	2,245
Passenger Transport	1,660	750	1,350	1,450	1,400
Cycling Trips	1,235	700	820	1,900	620
Mode Share of Journeys to School	2,012	2,100	2,300	2,500	2,700
Rights of way	150	250	400	550	650
Speed Limit compliance	1,765	1,200	1,200	1,200	1,200
Accessibility	540	2,029	500	422	727
Congestion	1,250	750	1,020	1,150	2,450
Air Quality	50	50	50	50	50
Abbey Line	95	1,060	1,060	65	65
Quality of Life	420	370	920	700	500
<b>Total</b>	<b>11,422</b>	<b>11,504</b>	<b>11,865</b>	<b>12,232</b>	<b>12,607</b>

**Source: Local Transport Plan 2006-2011 (Page 100)**

- g) Based on these figures, the sub-totals relating to sustainable transport show an average county-wide annual funding requirement of around £6 million per annum:

Target	2006/07 (£'000)	2007/08 (£'000)	2008/09 (£'000)	2009/10 (£'000)	2010/11 (£'000)
Passenger Transport	1,660	750	1,350	1,450	1,400
Cycling Trips	1,235	700	820	1,900	620
Mode Share of Journeys to School	2,012	2,100	2,300	2,500	2,700
Rights of way	150	250	400	550	650
Accessibility	540	2,029	500	422	727
<b>Sub-total (sustainable transport only)</b>	<b>5,597</b>	<b>5,829</b>	<b>5,370</b>	<b>6,822</b>	<b>6,097</b>
Total	11,422	11,504	11,865	12,232	12,607
Percentage (sustainable transport only)	49%	51%	45%	56%	48%

- h) This suggests that match funding (between £5m and £7m) needs to be raised annually and Countywide from the second strand obligation.

This is based on the assumption that half of all traffic growth (and therefore half of the investment in transport infrastructure) is attributable to new development but is relatively localised. By way of comparison, East Sussex County Council has estimated (in a similar context) that new residential development contributes 51% of annual traffic growth on the County's roads.

- i) If each new dwelling shared equally the burden of the second strand obligation, each dwelling should be subject to an average charge of £6 million divided by 4,380<sup>12</sup>, or £1370 per dwelling.
- j) This figure has been taken into account as a benchmark. However, earlier consultancy work by Harrison Webb<sup>13</sup> together with comparative studies of rates per dwelling by other local authorities suggests a lower figure is currently considered acceptable. Hence a figure of £750 per average dwelling (1.5 car parking spaces) or £500 per parking space (index-linked) has been derived. This figure also has the added advantage of enabling predictability, speed and transparency in the calculation of charges.
- k) For residential development a flat rate per dwelling is not considered an equitable approach to securing the second strand contribution because it ignores the relative differences between transport impact of different dwelling sizes and locations. Appendix E examines the calculations used to introduce variation in charges to take account of these differences.

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<sup>12</sup> See paragraph D above.

<sup>13</sup> See the County Council's Best Practice Guide : Parking Provision at New Development (produced by consultants Harrison Webb, 2003: pp 34-36)

## **Appendix E: Car Parking - Basis of Accessibility Charges**

- a) This methodology is based on consultancy work conducted by Harrison Webb on behalf of Hertfordshire County Council.
- b) A means of varying charges relative to dwelling size, parking provided and location is needed to ensure compliance with Circular 05/2005. This should ensure that obligations relate to transport impacts of development, which should be reduced in those locations that are more accessible by non-car modes i.e. the better the existing accessibility by non-car modes, the lower the charge should be.
- c) Applying the proposed contribution of £500 to the average new dwelling (e.g. one with 1.5 parking spaces) would involve seeking a one-off contribution of £750. This is a very small proportion of total build or retail cost and compatible in order of magnitude terms with the cost of connecting to other essential services. Car-free housing would incur no such contributions.
- d) Consequently variation of the second strand contribution per dwelling is based on the dwelling size, location and therefore number of off-street car parking spaces provided. This is a good proxy for traffic impact: the better the accessibility, the fewer the spaces needed; the fewer the spaces, the lower the traffic impact, the lower the contribution. The East Herts District Council SPD on *Vehicle Parking Provision at New Development* (2008) illustrates variation in parking provision according to dwelling size and accessibility, as determined by the location of development. The SPD is available on the Council's website at [www.eastherts.gov.uk/localplan](http://www.eastherts.gov.uk/localplan) or to view or purchase at the Council offices, Wallfields, Hertford SG13 8EQ.

### **Explanation of Parking Provision Zones**

- e) The amount of car parking provision, and the related accessibility contributions, which will be required for any development will vary according to location within the district. The fair implementation of this policy is achieved via a zonal approach to assessment which makes reductions based on locational factors. The process, which is described fully in the Council's *Vehicle Parking Provision at New Development* SPD (paragraph 3.18), involves:
  - identifying parking provision based on unfettered car use
  - reducing this provision according to the location of the development, using zonal maps that take account of:
    - a. accessibility by non-car modes of transport;
    - b. economic health, based primarily on the position of the six main settlements in the retail hierarchy (as set out at

paragraph 7.2.1 in the 'Shopping and Town Centres' Chapter of the Local Plan Second Review, Adopted April 2007); and  
 c. associated environmental considerations, (e.g. historic cores and conservation area designations).

- f) The identification of zones for the six main East Herts settlements was undertaken in accordance with County Council policy and recommended practice, incorporating some local adaptations where appropriate, which reflect the fact that the more powerful local economies are better placed to impose travel demand management measures without incurring harm. The zoning also reflects accessibility by non-car modes and the quality of the local environment.
- g) A full explanation of the zonal approach, together with maps of the designated zones within the main settlements within East Herts, is included in the Vehicle Parking at New Development SPD. Any assessment of parking provision for new developments will be determined through reference to these maps. In brief, the central areas of Bishop's Stortford, Hertford and Ware include areas covered by Zones 2 & 3. Outside of these areas, the rest of the District, including the settlements of Buntingford, Sawbridgeworth and Stanstead Abbots/St. Margarets, fall within Zone 4.

**Worked Example**

- h) The SPD suggests nominal maximum residential standards and these are reproduced in the parking matrix below

<b>STEP 1: Maximum residential parking standards</b>				
Location	second strand charge per dwelling (£) X £500			
	number of bedrooms			
	1	2	3	4+
Town centre Zone 2	0.75	1.0	1.5	2.0
Elsewhere zones 3&4	1.25	1.5	2.25	3.0

(Source: *East Herts District Council SPD on Vehicle Parking Provision at New Development* (June 2008) Table 3.2)

- i) Using the relationships in this parking matrix, charges will vary as follows, using a two-bedroom house with a 1.5 off-street parking outside a town centre as the subject of the standard charge of £750 (and therefore 100%)

<b>STEP 2: Factor applied to standard charge</b>				
Location	Off-street parking space per unit			
	number of bedrooms			
	1	2	3	4+
Town centre zone 2	50%	67%	100%	133%
Elsewhere zones 3&4	83%	100%	150%	200%

- j) Applying these factors to the £750 standard charge means that the charges for residential development will be as follows:

<b>STEP 3: Standard charges for Sustainable Transport when applied to the Vehicle Parking SPD</b>				
Location	Off-street parking space per unit			
	number of bedrooms			
	1	2	3	4+
Town centre zone 2	£375	£500	£750	£1000
Elsewhere zones 3&4	£625	£750	£1125	£1500

**Appendix F: Open Space, Sport and Recreation Costs**

**A) Breakdown of provision/upgrade costs (ref. Table 7)**

Type	Cost per m <sup>2</sup>	Items included
Parks and public gardens	£36.20	Bulb planting; fencing; grass care; hedge planting; shrub beds; tree planting
Outdoor Sports Facilities	£14.02	Cost of installing new pitch. Not including pavilions.
Amenity Green Space	£14.86	Fencing; grass care; shrub beds; tree planting; litter bins x 2; seats x 2
Provision for Children and Young People	£39.24	Replacement cost of LEAP

Source: *East Herts 2006/7 Contract Prices*

**B) Breakdown of Maintenance Charges (ref. Table 5)**

Type	Cost per m <sup>2</sup>	Maintenance items
Parks and public gardens (e.g. Hertford Castle Gardens)	£7.99	Sweeping and litter collection; graffiti removal; grass maintenance; shrub and rose maintenance; tree maintenance; hedge maintenance; emptying dog bins; maintaining ditches/ponds; hard surface maintenance; depreciation of furniture and fencing; annual bedding installation and maintain
Outdoor Sports Facilities	£3.52	Litter collection; grass cutting, tree maintenance; hedge maintenance; dog bin emptying; hard surface maintenance; depreciation of furniture; football pitch maintenance
Amenity Green Space Eg Hartham Common (Hertford)	£4.18	Same as parks and public gardens above but lower specification on grass cutting and litter collection
Provision for Children and Young People	£7.53	Same as amenity green space plus additional cost of inspection and maintenance.

Source: *East Herts 2006/7 Contract Prices*

**Appendix G: PPG17 Definitions**

Please refer to Section 3.2, Table 6.

<b>PPG17 Typology</b>	<b>Definition</b>
Parks and Public gardens	This type of open space includes urban parks and formal gardens that, as their primary purpose, provide opportunities for various informal recreation and community events. Recreation grounds where there is, for example planting, and therefore elements of formal gardens, whilst their role is acknowledged, are not included under this typology.
Natural and semi-natural green space	This type of open space includes woodlands, urban forestry, scrub, grasslands (eg downlands, commons, and meadows), wetlands, open and running water, nature reserves and wastelands with a primary purpose of wildlife conservation and biodiversity. <b>Examples:</b> Amwell Nature reserve (Ware); Red, White and Blue (Bishop's Stortford); Kingsmead (between Hertford and Ware); Patmore Heath (Buntingford); Waterford Heath (Hertford).
Outdoor sports facilities	Outdoor sports facilities is a wide-ranging category of open space and includes natural or artificial surfaces either publicly or privately owned which are used for sport and recreation. Examples include playing pitches, athletics tracks, bowling greens and golf courses with the primary purpose of participation in outdoor sports.
Amenity green spaces	This type of open space includes woodlands, urban forestry, scrub, grasslands (eg downlands, commons, meadows), wetlands, open and running water, nature reserves and wastelands with a primary purpose of wildlife conservation and biodiversity
Provision for children and young people	This type of open space includes areas such as equipped play areas, ball courts, skateboard areas and teenage shelters with a primary purpose to provide opportunities for play and social interaction involving children and young people.
Allotments	This includes all forms of allotments with a primary purpose to provide opportunities for people to grow their own produce as part of the long-term promotion of sustainability, health and social inclusion. This type of open space may also include urban farms. There are a total of 34 allotment sites across the district
Cemeteries and churchyards	Churchyards are encompassed within the walled boundary of a church and cemeteries are burial grounds outside the confines of a church. These include private burial grounds, local authority burial grounds and disused churchyards. The primary purpose of this type of open space is for burial of the dead and quiet contemplation but also for the promotion of wildlife conservation and

PPG17 Typology	Definition
	biodiversity.
Green Corridors	<p>This open space type includes towpaths along canals and riverbanks, cycleways, rights of way and disused railway lines with the primary purpose to provide opportunities for walking, cycling and horse riding whether for leisure purposes or travel and opportunities for wildlife migration.</p> <p><b>Examples:</b> River Ash walk; River Lea walk; River Stort walk; Canal towpaths running through Bishop's Stortford, Ware, Hertford and Sawbridgeworth.</p>

**Appendix H: Open Space Standards: Justification of Table 6**

- a) The space standards set out in Table 6 are based on an Audit and Assessment carried out in 2005 in accordance with the methodology set out in PPG17 and the PPG17 Companion Guide. The following extracts from the Audit and Assessment provide clarification of the basis of the space standards in Table 6. For further information, the full PPG17 Audit and Assessment is available at [www.eastherts.gov.uk/localplan](http://www.eastherts.gov.uk/localplan).
- b) Quantitative standards are based on Analysis Areas established for the purposes of the PPG17 Audit and Assessment (see paragraph 2.20). Analysis Areas include Wards beyond the principle settlement in the area. Therefore population figures are higher than the 2001 Census. The table below shows the Wards included in each analysis area.

<b>Analysis Area</b>	<b>Wards</b>
Bishop's Stortford	Bishop's Stortford All Saints; Bishop's Stortford Central; Bishop's Stortford Meads; Bishop's Stortford; Silverleys; Bishop's Stortford South
Buntingford	Braughing; Buntingford; Little Hadham; Mundens and Cottered; Walkern
Hertford	Datchworth and Aston; Hertford Bengoe; Hertford Castle; Hertford Heath; Hertford Kingsmead; Hertford Rural North; Hertford Rural South; Hertford Sele; Watton-at-Stone
Sawbridgeworth	Much Hadham; Sawbridgeworth
Ware	Great Amwell; Hunsdon; Puckeridge; Stanstead Abbots; Thundridge and Standon; Ware Chadwell; Ware Christchurch; Ware St Mary's; Ware Trinity

- c) Analysis Areas are used as the basis of the Populations in the quantity standards shown below.

**TYPOLOGY 1: Parks and Public Gardens (Source: PPG17 Audit and Assessment, 7.6-7.11)**

<b>Analysis Area</b>	<b>Total Population of Analysis Area</b>	<b>Current Provison (Ha)</b>	<b>Ha per 1000 population</b>
Buntingford	14,949	0.9	0.06
Bishop's Stortford	35,325	2.52	0.07
Hertford	37,023	28.28	0.76
Sawbridgeworth	10,791	33.70	3.12
Ware	30,831	2.32	0.08
<b>District</b>	<b>128,919</b>	<b>67.72</b>	<b>0.53</b>

**TYOLOGY 2: Natural and Semi-Natural Green Space (Source: PPG17 Audit and Assessment, 7.6-7.11)**

- d) “The provision of natural and semi-natural green space amounts to 1000.36 ha in total across the District, which gives a total provision of 7.76ha per 1000 population....significant sites include Brambles/Cowheath Wood, Hertford (92.46 ha), Highfield Wood, Hertford (56.87ha), Kings Mead (total 100.93 ha spread over both Hertford and Ware and Rye Mead Nature reserve (60.35 ha)....This standard is significantly higher than the ANGSt [Natural England Accessible Green Space Standard] recommendation and although it reveals an uneven spread of provision across each analysis area, it is recommended that due to the nature of this type of open space generally being located outside the urban area that provision is looked at on a district wide basis rather than per analysis area. This indicates adequate provision overall in line with the results of the public consultation.”

**TYOLOGY 2: Amenity Green Space: (Source: PPG17 Audit and Assessment, 8.6-8.12)**

Analysis Area	Total Population	Current Provison (ha)	Ha per 1000 population
Buntingford	14,949	8.71	0.58
Bishop's Stortford	35,325	15.34	0.43
Hertford	37,023	18.87	0.51
Sawbridgeworth	10,791	9.65	0.89
Ware	30,831	18.62	0.60
<b>District</b>	<b>128,919</b>	<b>71.19</b>	<b>0.55</b>

**TYOLOGY 3: Provision for Children and Young People: (Source: PPG17 Audit and Assessment, 9.4-9.9)**

- e) From the audit, the current provision for children and young people is 16.99 ha in total across the district. The current provision for children and young people per 1,000 population equates to 0.13 ha. The main national standard for the provision of children and young people comes from the NPFA Six Acre standard which stipulates 2.43 ha of ‘playing space’ per 1,000 population, consisting of 0.81 ha per 1,000 population for children’s playing space. The overall opinion, both in quantitative and qualitative consultation, is that there is not enough provision for children and young people. This is the open space type where provision was suggested as significantly ‘too little’ - 55% of respondents stated that they felt the current provision for children and young people was not enough, whilst only 27% indicated they thought this particular provision was ‘about right’.

- f) In each of the five analysis areas, a higher percentage of respondents indicated that there was 'too little' provision rather than 'about right'. Greatest levels of dissatisfaction were apparent in Hertford, where 67% of respondents believed that there is 'too little' provision, as well as in Ware where 60% of respondents suggested provision is 'too little'. Greatest satisfaction in terms of provision was apparent from respondents within the Buntingford and Bishop's Stortford analysis areas. The Community Strategy recognises the need to support children and young people through the provision of local facilities as a priority for the district. The Council have however, also stated that they would prefer to invest in high quality play areas in strategic locations rather than simply just increase the number of sites.
- g) In line with the results of consultation, the local provision standard has been set above the current level of provision at 0.20 ha per 1000 population. This local standard reflects the consultation and perceived lack of this typology across the district. It is worth noting that a minimum provision by size will be dependent on the type of play provision.

<b>Analysis Area</b>	<b>Total Population</b>	<b>Current Provison (ha)</b>	<b>Ha per 1000 population</b>
Buntingford	14,949	1.69	0.11
Bishop's Stortford	35,325	5.17	0.15
Hertford	37,023	4.69	0.13
Sawbridgeworth	10,791	1.63	0.15
Ware	30,831	3.81	0.12
<b>District</b>	<b>128,919</b>	<b>17.00</b>	<b>0.20</b>

**TPOLOGY 4: Outdoor Sports facilities (Source: PPG17 Audit and Assessment, 7.6-7.11)**

- h) Including golf courses in the district, the current provision of outdoor sports facilities per 1,000 population is 7.19 ha per 1,000 population. However, if golf courses are excluded, the current provision of outdoor sports facilities is 3.90 ha per 1,000 population. National standards indicate 1.62 ha per 1,000 population of outdoor sports provision.

<b>Analysis Area</b>	<b>Total Population</b>	<b>Current Provison</b>	<b>Ha per 1000 population</b>
Buntingford	14,949	135.36	9.05
Bishop's Stortford	35,325	106.07	3.00
Hertford	37,023	113.89	3.08
Sawbridgeworth	10,791	39.14	3.63
Ware	30,831	108.16	3.51
<b>District</b>	<b>128,919</b>	<b>502.62</b>	<b>3.90</b>

**TPOLOGY 5: Allotments**

**(Source: PPG17 Audit and Assessment, 11.6-7)**

- i) The audit of allotments identified 27.96 ha in total across the District. This equates to 0.22 ha per 1,000 population. The National Society of Allotment and Leisure Gardeners suggest a national standard of 20 allotments per 1,000 households (ie 20 allotments per 2,200 people or 2.2 per house or 1 allotment per 200 people. The 1969 Thorpe Report suggests 0.2 ha per 1,000 population.

## **Appendix I: Community Centres and Village Halls**

Please refer to section 3.7

	<b>Village Hall/Community centre</b>	<b>Floor area m<sup>2</sup></b>	<b>Population of Ward or Parish</b>	<b>m<sup>2</sup> per person</b>
1	St Michael's Mead, Bishop's Stortford	423	5,887	0.05
2	Bishop's Park, Bishop's Stortford	1080	5,887	0.12
3	Parsonage, Bishop's Stortford	225	5,887	0.03
4	Thorley, Bishop's Stortford	397	5,887	0.04
5	Markwell Pavilion, Castle Gardens, Bishop's Stortford	175	5,887	0.03
6	Havers, Bishop's Stortford	317	5,887	0.05
7	Pinehurst, Hertford	175	6,212	0.03
8	Hornsmill, Hertford	224	6,212	0.04
9	Sele Farm, Hertford	299	6,212	0.05
10	Corn Exchange, Hertford	442	6,212	0.07
11	Luyne Rise, Buntingford	500	5,245	0.10
12	Albury	315	537	0.59
13	Allens Green	78	746	0.10
14	Anstey	200	338	0.59
15	Ardeley	142	383	0.37
16	Aston	318	844	0.38
17	Bayford	241	435	0.55
18	Bengeo	154	601	0.26
19	Benington	219	922	0.24
20	Bramfield	267	255	1.05
21	Braughing	170	1,150	0.15
22	Brent Pelham	112	165	0.68
23	Brickendon	280	464	0.60
24	Burnham Green	66	1,480	0.04
25	Colliers End	89	4141	0.02
26	Cottered	445	634	0.70
27	Dane End	217	923	0.24
28	Eastwick and Gilston	138	355	0.39
29	Furneux Pelham	176	437	0.40
30	Great Amwell	111	2,239	0.05
31	Great Hornead	165	682	0.24
32	Great Munden	113	315	0.36
33	Green Tye	105	1994	0.05
34	Hertford Heath	315	2,549	0.12
35	High Cross	185	1,321	0.14
36	High Wych	262	746	0.35
37	Hunsdon	211	1,096	0.19
38	Little Berkhamsted	114	488	0.23

	<b>Village Hall/Community centre</b>	<b>Floor area m<sup>2</sup></b>	<b>Population of Ward or Parish</b>	<b>m<sup>2</sup> per person</b>
39	Little Hadham	124	1,081	0.11
40	Meesden	86	124	0.69
41	Much Hadham	472	1,994	0.24
42	Sawbridgeworth	495	8,007	0.06
43	Standon	630	4,141	0.15
44	Stanstead Abbotts	650	2,737	0.24
45	Stapleford	119	577	0.21
46	Stocking Pelham	155	163	0.95
47	Tewin	383	1,438	0.27
48	Thundridge	208	1,321	0.16
49	Tonwell	110	601	0.18
50	Walkern	419	1,364	0.31
51	Ware Drill Hall (Amwell End)	857	5731	0.22
52	Ware Priory	440	5731	0.12
53	Ware Priory – Fletcher’s Lea	459	5731	0.12
54	Wareside	202	678	0.30
55	Waterford	146	577	0.25
56	Watton-at-Stone	176	2,272	0.08
57	Westmill (near Buntingford)	144	264	0.55
58	Widford	261	507	0.51
	<b>total</b>	<b>16,001</b>	<b>136,341</b>	<b>0.12</b>

**Notes:**

Population data based on 2001 census

For settlements with more than one facility, the total population has been divided by the number of facilities in order to reflect the existing coverage. For example, Bishop’s Stortford has a population of 35,324 and six Community Centres. Therefore 5887 people have been allocated to each Centre.

**Definition of village halls and community centres:**

Publicly owned and funded halls for multi-purpose usage.

The above list of community centres and village halls has been used as a basis for calculation of the standard charge, using every reasonable effort to identify relevant facilities. The absence of further facilities from the above list does not prohibit the Council from seeking planning obligations in respect of such facilities.

## **Appendix J: Justification of Police and Healthcare Contributions**

- a) Police and healthcare contributions comply with the 5 policy tests in Circular 05/2005 (paragraph B5):
- **Relevant to Planning**  
It can clearly be argued that police and healthcare contributions are relevant to planning insofar as they provide physical infrastructure and set up costs required to deliver efficient and effective police and healthcare services to serve an expanding population. This point is acknowledged in Circular 05/2005 Paragraph B15, which states: “if a proposed development would give rise to the need for additional or expanded community infrastructure, for example, a new school classroom, which is necessary in planning terms and not provided for in an application, it might be acceptable for contributions to be sought towards this additional provision through a planning obligation”. Police contributions are relevant on the basis that a clear objective within PPS1 is to provide safe and crime free environments.
  - **Necessary**  
Police and healthcare contributions provide infrastructure to deliver an efficient and effective policing and healthcare service pursuant to objectives set out in PPS1. Furthermore there is no ready and direct source of funding available to provide infrastructure in the absence of such contributions.
  - **Directly related to the development**  
The Council will only support police and PCT claims for planning obligations where there exists a demonstrable link with the impact generated by the specific development proposals. For example, Police contributions may be sought in identified crime ‘hotspots’; or facilities identified as potentially creating crime issues such as car parks or issues relating to the night-time economy. The police and the PCT will seek such contributions only where it can be demonstrated that there is no unutilised capacity within existing facilities. The Council will not seek contributions towards remedy of existing deficiencies in police or healthcare contributions. Pooled contributions will provide a clear audit trail of expenditure.
  - **Reasonable in all other respects**  
It relates to the use of land and the provision of physical infrastructure necessary to contribute to securing safe, crime-free and healthy environments.

## Population-based approaches

- b) The methodology does not seek to address existing deficiencies in provision; it bases the approach on anticipated population increases, which would give rise to pressure on resources. On the basis that policing and healthcare are population-based services it stands to reason that if the population of an area rises the impact on delivery of the police and healthcare services will be affected. An anticipated rise in population will be driven to a greater or lesser degree, depending on the location, by planned residential development. The methodology seeks to establish a link between population increase and new dwelling provision, apportioning a proportionate cost per new dwelling based on a discounted new resident occupancy rate, calculated according to dwelling size. This methodology establishes the link between development and impact and therefore renders the approach acceptable having regard to the tests in Circular 05/05.
- c) In particular the methodology seeks to establish a functional link between development and proportionate increase in population and the impact on policing resources. The approach meets the 'fairly and reasonably related in scale and kind' test by ensuring that the level of the contribution levied for each dwelling is related to the anticipated population impact. The methodology responds directly to the guidance in paragraph B9 of Circular 05/05; the additional policing infrastructure would not be required if the population remained static and therefore no charge would be levied. However the increase in population (impact) translates to a requirement for additional infrastructure, which is required as a direct consequence of the population increase. Translating this into a proportionate charge per new dwelling satisfies this test.
- d) In the case of healthcare, the best-known population-based methodology is the Healthy Urban Development Unit (HUDU) Model. Although the model is primarily for the use of London Boroughs, access to the model is available to the Hertfordshire PCTs. For further details please see [www.healthyurbandevelopment.nhs.uk](http://www.healthyurbandevelopment.nhs.uk). Currently no population-based models exist for policing contributions, although Thames Valley Police are leading attempts to develop such models for future use.

### **Appendix K: In-Kind and Financial Contributions**

This checklist is based on Table 3.1 in the *Planning Obligations Practice Guidance* (DCLG, 2006). There may be circumstances where an alternative arrangement may be provided, as indicated in the Practice Guidance paragraph 2.5. This list should be viewed as general guidance and not prescriptive.

<b>Item</b>	<b>In-kind contributions</b>	<b>Financial Contributions</b>
Affordable Housing	✓	
Parks and Public Gardens	✓	✓
Outdoor sports facilities	✓	?
Amenity green space	✓	?
Provision for children and young people	✓	?
Allotments		✓
Cemeteries and churchyards		✓
Green Corridors		✓
Indoor sports facilities		✓
Nature conservation and landscape Improvements	✓	
Town centre Environmental Improvements	✓	
Recycling Facilities	✓	?
Sustainable Construction	✓	
Community facilities (Community Centres/Village Halls)		✓
Community Safety		✓
Healthcare contributions		✓
Transport – traditional S.106	✓	✓
Transport – accessibility contributions		✓
Education		✓
Libraries		✓
Youth		✓
Childcare		✓
Fire and Rescue Services		✓
Special needs Housing and Services		✓
Archaeology, Biodiversity and other Environmental Issues	✓	
Minerals and waste		✓
Waste management	✓	
Healthcare contributions		✓
Surface Water Drainage/SUDS	✓	

## **Appendix L: References and Further Reading**

### **National Planning Circulars**

Circular 05/2005: Planning Obligations  
Circular 04/2008: Planning-Related Fees

### **Planning Policy Statements and Guidance**

PPS1: Delivering Sustainable Development (2005)  
PPS1 Supplement: Planning and Climate Change (2007)  
PPS6: Planning for Town Centres (ODPM, 2005)  
PPS10: Waste Management (1999)  
PPS12: Local Spatial Planning (2008)  
PPG13: Transport (1994)  
PPG17: Sport and Recreation (2002)  
PPG17: Assessing Needs and Opportunities: A Companion Guide to PPG 17 (2002)  
PPS 22: Renewable Energy (2004)  
PPS 25: Development and Flood Risk (2006)  
PPS 25: Development and Flood Risk Companion Guide (2008)

### **Other National Documents**

The Code for Sustainable Homes (2006)  
Valuing Planning Obligations in England (DCLG, 2006)  
Securing Community Benefits through the Planning Process (Audit Commission, 2006)  
Community Infrastructure Levy – Initial Impact Assessment (DCLG, January 2008)

### **East Herts Council Planning Policy Documents**

East Herts Local Plan Second Review (East Herts Council, April 2007)  
Affordable Housing and Lifetime Homes Supplementary Planning Document (2007)  
Sustainability Indicators and Targets SPD (2007)  
Vehicle Parking Provision at New Development SPD (2008)  
Open Spaces, Sport and Recreation SPD (forthcoming)  
Annual Monitoring report

### **Other East Herts Council Documents**

East Herts Community Strategy; East Herts Together (2003)  
East Herts Community Safety Plan 2008-2011

## **Hertfordshire County Council**

Planning Obligations Guidance – Toolkit for Hertfordshire (Hertfordshire County Council, 2008)  
Hertfordshire Waste Local Plan (1999)  
Hertfordshire Minerals and Waste Development Framework (forthcoming)  
Local Transport Plan 2006/07 - 2010/11 (LTP2)  
Eastern Herts Area Plan  
Lea Valley Area Plan

## **Regional Planning Policy**

East of England Plan (May 2008)

## **Other relevant documents**

Waterways for Tomorrow (DETR, June 2000)  
Waterways and Development Plans (British Waterways, February 2003)  
Tariffs for Infrastructure Delivery: Building better Communities through a 'business plan' approach (Town and Country Planning Association, June 2007)  
Shaping and Delivering Tomorrow's Places: Effective Practice in Spatial Planning – Report, Findings and Recommendations (Royal Town Planning Institute, April 2007)  
Delivery of Affordable Housing through Section 106 Agreements (Cambridge Centre for Housing and Planning Research and Three Dragons (February 2008)  
Using a planning gain supplement for nature conservation purposes (English Nature and the Royal Society for the Protection of Birds. English Nature Research Reports, No 672. ENTEC UK LIMITED 2006)  
Planning Community Needs: A guide to effective Section 106 agreements & Statements of Community Involvement (Town and Country Planning Association, July 2008)