



# DEVELOPER CONTRIBUTIONS

## SUPPLEMENTARY PLANNING DOCUMENT

ADOPTED OCTOBER 2023



**High Peak Borough Council**  
*working for our community*





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## Introduction

**1.1** New development plays a key role to meet the changing needs of communities, creating new homes, services and employment opportunities for instance. There may be resultant impact on the capacity of local infrastructure such as schools, health facilities or community spaces depending on the scale of development and existing provision of infrastructure in the area. Local Plans should set out the level and type of contributions expected from development.

**1.2** Developer contributions, also known as planning obligations or S106 agreements, represent a formal commitment entered into by the developer to mitigate the impacts of proposed new development. Developer contributions should only be used where it is not possible to address unacceptable impacts through a planning condition. Developer contributions must only be sought where necessary to make the development acceptable, directly related to the development and fairly and reasonably related to the development.

**1.3** This Supplementary Planning Document (SPD) provides detailed guidance on the type and extent of developer contributions that High Peak Borough Council may seek to secure from development. This document is intended to facilitate the developer contribution process between the Council and developers to provide transparency on the Council's approach.

**1.4** The specific areas set out in this document are the most common types of developer contributions that are required; however, other infrastructure requirements not identified may also be considered necessary in certain circumstances where appropriate evidence is apparent to mitigate development impact. The Council will also work closely with delivery partners to plan for required public service infrastructure facilities.

**1.5** This document will sit alongside the adopted High Peak Local Plan 2016 and whilst relating to Local Plan policies, in instances where more recent national planning policy or targets have been published, the latter may take precedence where appropriate. Supplementary Planning Documents (SPDs), whilst not part of the development plan itself, are documents which add further detail to the policies in a Local Plan. They are capable of being a material consideration in planning decisions and can be used to provide further guidance for development on specific sites or on particular issues, such as developer contributions.

**1.6** The main purpose of this SPD will be to set out the Council's approach to the use of Section 106 (S106) agreements used to secure developer contributions from new developments. This will assist all stakeholders with an interest in the development process, including planning officers, developers, service providers, Councillors and members of the public. More specifically, it will:

- Outline the mechanisms for securing developer contributions and explain the relevant legislative and planning policy context within which contributions are sought.
- Provide certainty and transparency by explaining what is expected of applicants and what the applicant can expect from the Council in relation to securing S106 planning agreements.
- Ensure the developer contributions process is fair and applied consistently.

**1.7** Formulation of this document has been informed by a variety of methods of engagement and consultation with key stakeholders throughout the process.

## Legislation and Policy

**2.1** The current legislative framework for developer contributions is set out under section 106 of the Town and Country Planning Act 1990 <sup>(1)</sup>. Developer contributions, or planning obligations, can be secured via Section 106 (S106), which are agreements between the developer and/or landowner, the local planning authority and other service or infrastructure providers linked to a proposal or mitigation scheme. Developer contributions are legally binding obligations entered into to mitigate the impacts of a development proposal and should only be used where it is not possible to address the unacceptable impacts of development through planning conditions or other statutory controls.

**2.2** As set out in Reg 122(2) of the [Community Infrastructure Levy \(CIL\) Regulations 2010](#) and paragraph 57 of the NPPF, S106 obligations should only be used to secure infrastructure where all of the following tests are met:

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

**2.3** Developer contributions via S106 can be provided on or off-site via financial contributions; affordable housing provision; or the direct delivery of facilities. For example, contributions made 'in-kind' could include a new area of green space within a housing scheme, or in the form of a financial contribution, such as payment towards the increased requirement for school places.

**2.4** A Section 278 agreement, which relates to Section 278 of the Highways Act 1982, is another form of developer contribution that is specific to works on existing adopted highways such as provision of junction improvements or traffic calming measures required as a result of development. Section 278 agreements are between the developer or landowner and the highway authority (i.e. Derbyshire County Council) and are out of the scope of this SPD.

### National Planning Policy

**2.5** The National Planning Policy Framework (NPPF) <sup>(2)</sup> sets out the Government's planning policies for England and how these should be applied, with the key purpose of the planning system to promote sustainable development. The NPPF highlights the importance of setting out the levels and type of contributions expected from development, including affordable housing and other supporting infrastructure such as education, health, transport and digital infrastructure.

**2.6** Further guidance is provided by the National Planning Practice Guidance (PPG) <sup>(3)</sup> on Planning Obligations and the Use of Planning Conditions. Amongst other matters PPG guidance also outlines the importance of identifying infrastructure that an authority intends to fund, the different sources of funding proposed and recording this information in an up to date Infrastructure Delivery Plan (IDP). An Infrastructure Funding Statement (IFS) <sup>(4)</sup> is also prepared annually to set out income and expenditure relating to developer contributions. The IDP and IFS may be found on the Council's website.

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1 [Town and Country Planning Act 1990](#)

2 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005759/NPPF\\_July\\_2021](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021)

3 <https://www.gov.uk/government/collections/planning-practice-guidance>

4 <https://www.highpeak.gov.uk/article/847/Monitoring>

## Legislation and Policy

### Local Planning Policy

**2.7** High Peak Borough Council adopted their Local Plan in April 2016, setting out the spatial strategy, development requirements, site allocations and development management policies for the period 2011 to 2031. The previous Planning Obligations Supplementary Planning Document (SPD) was adopted in December 2005 and precedes the current Local Plan, therefore this SPD (once adopted) provides an update to take account of changes within the legislative and policy framework. The SPD will be reviewed when the 2016 Local Plan is superseded by a new Local Plan.

**2.8** Policy CF3 Local Infrastructure Provision provides the overarching framework for collecting developer contributions, including the requirement for new development to agree to the provision of necessary infrastructure before permission is granted. The Local Plan policies are supported by an Infrastructure Delivery Plan (IDP), to set out the specific infrastructure requirements needed to support the growth needs of the Borough.

**2.9** Local authorities are required to demonstrate that supplementary planning documents are in conformity with the adopted Local Plan. The High Peak Local Plan and its policies provide the overarching context for this document, which will set out more specific details on the Council's expectations for agreeing S106 contributions and further explanation on the type and level of contributions required. Further relevant local documents, including other SPDs, Council strategies and Neighbourhood Plans, which have formed the underpinning evidence in preparing this SPD.

**2.10** This SPD has also been prepared so as to be in conformity with the Derbyshire County Council Developer Contributions Protocol <sup>(5)</sup> which is updated on a regular basis. The protocol document supports the County Council's process of collecting developer contributions and provides overarching guidance on education, highways, public health, waste and library services.

### Sustainability Appraisal

**2.11** The 2008 Planning Act and associated regulations removed the requirement for a sustainability appraisal to be prepared alongside an SPD. Local authorities are still required to screen the supplementary planning document to establish whether there will be significant effect as defined by the Strategic Environmental Assessment (SEA) Directive. A Screening Statement has been produced to accompany the SPD.

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5 [Derbyshire County Council Developer Contributions Protocol](#)

## Council Approach to Developer Contributions

**3.1** Developer contributions will be negotiated on a site-by-site basis using the information contained within this SPD and in accordance with the legislative framework set out above. The Council will take into account the individual characteristics of the site, the availability, quality and capacity of the relevant and existing infrastructure that the development of the site will impact. This approach ensures that obligations are necessary and directly related to the development from which they are sought. The specific areas set out in this document are the most common types of developer contributions that are required; however, other infrastructure requirements not identified in this document may also be considered necessary in certain circumstances where relevant evidence is apparent that demonstrates the need to mitigate development impact.

### Pre-application stage

**3.2** Developers are encouraged to engage with the Council's planning team at the earliest possible time to discuss the likely requirement for contributions to be made and to ensure that proposals are policy compliant. Early discussions will ensure that all parties are clear on any issues that should be taken into account prior to submitting a planning application. If pre-application advice obtained is applied, it should also help avoid unnecessary delays once the application is submitted, as highlighted in PPG.

**3.3** The pre-application advice service is subject to a fee but long term can save costs and/or unnecessary delay by ensuring applications comply with policy and include all the relevant information to enable the consultation process and assist the decision maker. Further details are available on the Council's website<sup>(6)</sup>.

### Planning Applications

**3.4** As referred to, discussion on developer contributions should be undertaken at the pre-application stage where possible, particularly for larger, more complex proposals, which ideally will allow heads of terms to be agreed before the submission of an application to help avoid delays later on in the application determination process. The Council can also provide a precedent S106 agreement for applicants as guidance.

**3.5** Once a planning application has been submitted, the Council will liaise with the County Council (for major developments) and other relevant stakeholders, and discuss with the applicant specific obligations to be sought as Section 106 agreements.

### Triggers / Payment of Contributions

**3.6** Financial contributions are payable at specific stages in the development process, which are known as trigger points. Examples include 'prior to commencement' or 'prior to occupation'. During the negotiation stage of the S106 agreement, the trigger points for each obligation will be discussed between the developer, the Council and the County Council and any other infrastructure providers or consultees involved in the S106 agreement. Trigger dates will be included in the S106 agreement and will be discussed within each topic area where there may be a specific requirement in terms of payment. For example, larger housing developments may require payment on completion of a certain number of dwellings, or staged in line with the proportional impact of each phase of the development.

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6 <https://www.highpeak.gov.uk/article/209/Get-advice-before-making-an-application>

## Council Approach to Developer Contributions



**3.7** Infrastructure providers and/or statutory consultees may suggest trigger points when submitting their requests for contributions which the Council will then take into account when drafting the S106 agreement. The Council will aim to ensure that trigger points are viable to the specific stage of the delivery of development.

**3.8** If contributions have not been paid within the agreed time period, then late payment interest will be charged at rate of 3% above the Bank of England standard base rate. Once paid contributions must be spent within agreed timescales, and if not, details regarding repayment will be set out in the S106 agreement.

### Indexation

**3.9** All financial contributions contained in a S106 will be index linked from the date of the Planning Applications Committee to the trigger date when the contribution payment is due in order to ensure that the real value of developer contributions is maintained up to the date of payment. The indexation provisions will be detailed within the legal agreement. The preferred index that will be used is the latest Construction Materials Price Index (CMP Index), which is published by the Department for Business and Trade. As the CMP Index reflects the cost of construction materials and therefore directly relates to development costs, this is considered to be the most accurate measure. During any period when no such index exists, the index which replaces it or is the nearest equivalent will be used.

**3.10** For certain types of infrastructure there may be more bespoke information about costings or inflationary increases that is particularly relevant to a specific project or type of contribution, which could assist in informing and evidencing changes to costings. For example, Sport England publishes costing for certain types of sports facilities; therefore, if this information is available and supported by consultees then it could be used to support costing calculations. Contributions will not be less than the amount originally agreed if the indexation decreases.

### Prioritisation of Contributions

**3.11** All contributions required, in compliance with national or local policy, will be set out as a basis for assessment at pre-application or planning application stage. There may be circumstances where the total of all contributions sought might render the proposed development un-viable and therefore sufficient contributions cannot be made to mitigate the impact of development. As developer contributions are considered necessary in order to make the development acceptable in planning terms, the Council may then decide to refuse the application and in these circumstances viability is not considered a valid justification.

**3.12** It may however be the case that some developments are not able to viably make contributions towards all of the infrastructure that is required but that the benefits of development are considered by the Council to outweigh the failure to provide policy compliant obligations. In such cases, where there are viability issues, contributions may be prioritised by the Council, who will seek to achieve a well balanced package of contributions to best address mitigation. Whilst each case needs to be assessed on its own merits, the general approach that will be taken to prioritise contributions is outlined below:

- Critical on and off-site infrastructure needed to achieve the development of the site (e.g. highways, open space, sewer/drainage, nutrient mitigation).

## Council Approach to Developer Contributions

- On-site affordable housing.
- Contributions for education provision.
- Biodiversity <sup>(7)</sup> and other green infrastructure, playing pitches /leisure facilities, sustainable transport provision directly serving the site.
- Off-site affordable housing.
- Other infrastructure not specifically required by the Local Plan but reasonably requested by an infrastructure provider / consultee such as mitigation of a heritage asset.

**3.13** The contributions will be assessed using the above framework; however, this is on a case by case basis and will also relate to priorities outlined in the Local Plan, Neighbourhood Plans, Corporate Plan and other supporting Council Strategies. There may also be priorities and/or requirements for sub-areas in the Borough, which will be reflected through regular update of the Infrastructure Delivery Plan (IDP). The IDP sets out current provision of infrastructure across the Borough and the infrastructure requirements necessary over the plan period to deliver the level of growth identified. Specifically, it outlines what infrastructure is needed and where, when it is needed, who is responsible for providing it, how much it will cost and how it will be funded. The IDP should be seen as an iterative document and will support the SPD by providing a regular review and update of infrastructure requirements.

**3.14** A further consideration within the prioritisation process is to assess contributions according to their value. This would add a further level of assessment within the evaluation to enable the Council flexibility to maximise the overall contribution in terms of the most effective way to spend contributions based on their value, particularly where viability is an issue (e.g. for some development proposals, the council may consider that contributions below £10,000 may have a more meaningful impact when spent on green infrastructure or open space and recreation or towards a specific scheme or project identified in the IDP). This assessment would therefore be supported by the infrastructure requirements needed to make a development proposal acceptable in planning terms and should relate back to the wider policy and priorities for required infrastructure, supported by the IDP and where possible agreement with consultees.

### Viability

**3.15** The Council expects development to be delivered in accordance with national and local policies, including policies relating to affordable housing and infrastructure provision to support growth and development. Provision of supporting infrastructure, including affordable housing, is a necessary cost that should be factored into overall development costs. The NPPF highlights the expectation that compliance with local plan policies setting out developer contributions should assume that the proposal is viable. The applicant must demonstrate any particular circumstances to justify the need for viability assessment at application stage. The price paid for land is no longer an input into viability assessments nor a relevant justification for failing to accord with relevant policies in the Plan (see the PPG, guidance on 'Viability') <sup>(8)</sup>

**3.16** Where the applicant has reason to believe that there are viability issues they should engage with the Council at the earliest stage possible. The Council will seek to address any valid concerns by seeking other viability enhancements, such as deferring or phasing contribution payments to

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7 Under the Environment Act 2021, all planning permissions (with a few exemptions) will be required to deliver at least 10% biodiversity net gain from 2023 (date TBC likely Nov/Dec).

8 <https://www.gov.uk/guidance/viability#standard-inputs>

## Council Approach to Developer Contributions



assist developers when necessary, if it is agreed that viability is marginal. To substantiate a claim, the Council will require the applicant to appoint on behalf of the Council and the applicant together, an independent assessor. With instructions to be agreed by the Council in advance, a full financial appraisal should be conducted with all costs incurred to be paid for by the developer. The Council also reserves the right to appoint a suitably qualified person to undertake a review if required.

**3.17** Where an applicant is able to robustly demonstrate to the satisfaction of the Council that the requirements of a planning obligation would cause a development to be unviable the Council will consider whether there is a legitimate planning reason to be flexible in seeking developer contributions or whether the need for policy compliant infrastructure contributions outweighs the planning benefits in developing the site. Further consideration will be given to the prioritisation process in order to determine if the contributions are critical and therefore not acceptable to negotiate, or whether there can be further agreement in terms of the level of contribution that can viably be provided.

### Monitoring

**3.18** The [Community Infrastructure Levy \(Amendment\) \(England\) \(No.2\) Regulations 2019](#) allow fees for monitoring obligations to be sought from developers where:

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

**3.19** Fees collected will cover the cost of monitoring and administration of developer contributions including:

- The maintenance and development of the planning obligations monitoring database system to assist in the co-ordination of obligation preparation, raising invoices, calculation of indexed payments, collection, monitoring and review.
- Administration of S106 agreements, including affordable housing assessment of applications for discount market sale properties, calculation of OMV on disposal of shared ownership properties and resale of discount market sale properties and the cost of registering First Homes notifications at the Land Registry.
- The monitoring of trigger points and development progress.
- Recovery of planning obligations that have not been fulfilled, including any necessary enforcement or legal action.
- Liaison between council service departments and with Derbyshire County Council.
- Preparing the annual Infrastructure Funding Statement, which is a statutory requirement under the CIL regulations.

**3.20** Where the Council uses S106 legal agreements to mitigate development proposals, it is important that they are monitored to ensure trigger points are adhered to. The monitoring fee will normally be £298.52 for every obligation trigger in the S106 agreement. The fee will be based upon the occurrence of triggers for compliance of planning obligations (rather than each obligation individually). As there is additional time spent on residential applications relating to external (resale) valuations and Discount Market Sale S106 valuations there is an additional fee of £638.58 per S106 agreement for residential schemes. The monitoring fee is to be paid at completion of the



## Council Approach to Developer Contributions

s106 legal deed, to enable the council to cover the costs of monitoring the commencement of development. The fee will be index linked and periodically reviewed to ensure the administrative costs associated with monitoring and managing developer contributions are covered by the fee, which is proportionate to the complexity of the proposal. This approach is considered a reasonable and fair basis to account for officer time to effectively monitor trigger points and carry out the tasks outlined above, which need to be done regardless of the size of development.



## Planning Obligations Guidance

**4.1** When considering the impact of proposed development there are certain key areas of infrastructure that will be affected by most major schemes. As necessary the Council will also consider any cumulative impacts of development, if there are various phases or a number of proposed developments in an adjacent area. This document therefore addresses the evidence, policy justification and scope of potential requirements associated with these infrastructure types in each of the following sections. As noted above, the SPD does not cover every circumstance where developer contributions may be sought to make a specific new development acceptable in planning terms; however, the most common areas will be outlined in as much detail as possible.

### Affordable Housing

**4.2** To support the Government's objective of significantly boosting the supply of housing, the NPPF emphasises the importance of meeting the needs of groups with specific housing requirements. Where there is a need for affordable housing, planning policies should specify the type of affordable housing required and expect it to be met on site unless:

- off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
- the agreed approach contributes to the objective of creating mixed and balanced communities.

**4.3** The Council's overall approach to affordable housing is set out in Policy H4 of the Local Plan and supporting text. This policy states that residential developments of 25 dwellings or more should provide 30% affordable housing and that sites of 5-24 dwellings (0.16 hectares or more) should provide 20% affordable housing. Since the Local Plan was adopted the NPPF update in 2018 stated that affordable housing should not be sought for residential developments that are not major developments<sup>(9)</sup> (other than designated rural areas). In light of the ministerial statement, High Peak's requirement for affordable housing is therefore applicable to sites of 10 or more dwellings, with 20% provision expected on proposed sites of 10-24 homes. Where affordable housing proposed is below the requirement, applicants will need to provide robust evidence by way of a financial appraisal as justification. Affordable housing should be provided on site, unless in exceptional circumstances when off-site commuted sums may be considered towards affordable housing on alternative suitable sites. If a proposed scheme is considered to fall within Use Class C2 (residential institutions) there will not be a requirement for affordable housing.

### First Homes

**4.4** The Government's First Homes scheme came into effect on 28th June 2021, setting the national policy requirement for at least 25% of all affordable homes provided by developers under S106 agreements to be First Homes. First Homes are a specific type of discounted market sale housing that:

- must be discounted by a minimum of 30% against the market value;
- are sold to a person(s) meeting the First Home eligibility criteria<sup>(10)</sup>

9 NPPF definition of major development for housing, where 10 or more homes will be provided or the site has an areas of 0.5 hectares or more

10 <https://www.gov.uk/guidance/first-homes>

## Planning Obligations Guidance

- on their first sale, will have a restriction registered on the title at HM Land Registry to ensure the discount (at a percentage of market value) and certain other restrictions are passed on at each subsequent title transfer; and
- after the discount has been applied, the first sale must be at a price no higher than £250,000.

**4.5** First homes are the Government's preferred discounted market tenure and should therefore be the priority for delivery to meet the minimum requirement of at least 25% affordable housing. In light of the ministerial statement, High Peak's affordable housing requirement will be 25% First homes and the remaining units delivered in line with the adopted local plan, 80% affordable rent and 20% shared ownership.

**4.6** Government guidance allows local authorities to set local eligibility criteria to enable First Homes to work effectively in the area, although these only apply for a maximum of three months of marketing. To align with our existing approach to affordable housing, we will therefore require purchasers (at least one person within the household) of First Homes to have a local connection to the Borough (including priority for defined key workers\*) in line with the following criteria:

- Being a current resident of the Borough;
- Permanently employed within the Borough; or
- Needing to move to take up employment within the Borough.

\*as defined by ONS.

**4.7** Percentages will be rounded to the nearest whole unit. If the affordable housing contribution is not a whole number; up to 0.49 will be rounded down, whilst 0.5 and above will be rounded up to the nearest number with the table below providing a guide to the affordable housing requirements for sites of different sizes.

Scale of development (dwellings)	Total number of Affordable Homes required (Policy H4) (Sites 10 - 24 -20% Sites >25 - 30%)	First Homes (25%)	Remainder in line with Local Plan - Policy H4 (75%)	
			Affordable Rent (80%)	Shared Ownership (20%)
10	2	1	1	0
15	3	1	2	0
20	4	1	2	1
25	8	2	5	1
50	15	4	9	2
100	30	8	18	4

**Table 1**



# Planning Obligations Guidance

## Calculating Commuted Sums

**4.8** In exceptional circumstances, the Council may accept a commuted sum in lieu of on-site provision to facilitate the delivery of affordable housing on an alternative site. Financial contributions will be calculated on the basis of the values that registered providers of affordable housing normally pay to acquire affordable housing. The Open Market Value (OMV) should be the value of each whole unit, which reflects the anticipated net achievable price i.e. net of any discounts or marketing incentives. Sources of information that should inform the OMV are RICS local valuer, internet research, local estate agents and other similar developments.

**4.9** On this basis, commuted sums will normally be calculated at a minimum rate of 50% OMV for affordable rent and 30% for shared ownership, which relates to a notional affordable unit in order to reflect the 'developer subsidy' element of affordable housing provision.

**4.10** To assist in the calculation, the Council will determine what proportion of each house type (1,2,3,4 bed house/apartment/bungalow) would be required to be affordable to meet Policy H4. As an example only, a site for 20 units gives rise to an affordable housing component of 4 units (2x2 bed and 2x3 bed houses). First homes will always be expected to be delivered on site, which would be one unit on a site of this size. The remaining three units would be paid as a financial contribution broken down by the 80% rent and 20% tenure split in line with policy. In this example, 2 rented and 1 shared ownership unit. If the OMV of a two bedroom open market property was £170,000 and the three bedroom £230,000 the following commuted sum would be due:

- 50% of £170,000 = £85,000 (2 bed affordable rent)
- 50% of £230,000 = £115,000 (3 bed affordable rent)
- 30% of £170,000 = £51,000 (2 bed shared ownership)

Total contribution = £251,000

## Space Standards for Affordable Housing

**4.11** Policy H3 New Housing Development, applies the nationally described space standards (NDSS) set out in the Technical Housing Standards requirements (DLUHC, 2015) <sup>(11)</sup> for internal space within new dwellings across all tenures. Individual dwelling types are expressed with reference to the number of bedrooms and the number of bedspaces (or people) that can be accommodated within these bedrooms. This allows for different combinations of single and double/twin bedrooms to be reflected in the minimum Gross Internal Area. The breakdown of the minimum Gross Internal Area therefore allows not only for the different combinations of bedroom size, but also for varying amounts of additional living, dining, kitchen and storage space; all of which are related to the potential occupancy. In order to comply with space standards and maximise the number of affordable housing bedspaces, dwellings should aim to provide larger bedrooms to allow for greater flexibility and better living conditions for their occupants. For example, providing a 2 bedroom, 4 person dwelling rather than a 2 bedroom, 3 person dwelling; and a 3 bedroom, 5

11 <https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard/technical-housing-standards-nationally-described-space-standard>

## Planning Obligations Guidance

person dwelling rather than a 3 bedroom, 4 person dwelling. Provision of bedspaces should meet the identified needs, as set out in the Strategic Housing Market Assessment (SHMA) or successor document, supported by annual monitoring of provision and/or latest evidence on housing need. RPs will expect proposals to meet the NDSS. Therefore, the S106 will require all affordable housing to meet NDSS requirements.

### Registered Providers

**4.12** The Council expects all developers to ensure that they identify a Registered Provider (RP)<sup>(12)</sup> to support the delivery of affordable housing on site as soon as possible in the development process. If the Council requests, the landowner/developer shall endeavour to provide evidence of the financial and management capabilities of the proposed Registered Provider(s). RP's will be required to own and manage the affordable housing units directly.

### Vacant Building Credit

**4.13** To support the use of brownfield land, the NPPF makes provision for vacant buildings being reused or redeveloped to reduce affordable housing contributions by a proportionate amount. Vacant Building Credit (VBC) is designed to encourage this type of development for a qualifying building or land to be brought back into use. PPG provides further guidance, stating that where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. A vacant building is considered to be a building that has not been in continuous use for any 6 month period during the last 3 years. This means the whole building must be vacant, not just a single planning unit or part of the building. The building must be vacant at the time the application is validated for the VBC to be applied.

**4.14** Affordable housing contributions will be sought for any additional increase in floorspace, which will be calculated in the same way as any other development. 'A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation (PPG). A worked example is provided in Appendix 1.

**4.15** Satisfactory evidence should be provided to demonstrate that the site meets the definition of 'previously developed land' in the NPPF. VBC will only apply when in the Council's opinion the building has not been abandoned, the assessment for which will take into consideration the following factors:

- the condition of the property
- the period of non-use
- whether there is an intervening use; and
- any evidence regarding the owner's intention, including attempts to sell the property.

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12 A provider of affordable housing registered with Homes England pursuant to the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act



## Planning Obligations Guidance

**4.16** The Council will also consider whether the building has been made vacant for the sole purpose of redevelopment and may require the applicant to provide records to demonstrate that vacancy has arisen for other reasons. Relevant planning history will also be assessed to ensure that the building isn't covered by extant or recently expired permission for the same or similar development.

### Rural Exception Sites

**4.17** Policy H5 Rural Exception Sites allows for affordable housing development on rural sites that would not normally be released for housing development. A S106 used to secure the affordable housing on these sites will require the affordable housing to be prioritised for those who can demonstrate local need. 'Local need' in the context of this policy, is applied to the following:

- People who have lived continuously in the village or Parish for at least five years;
- People who have a strong local connection with the village or Parish by birth or upbringing or by a previous period of residence;
- People who need to support their family currently living in the village or Parish or are themselves in need of family support;
- People who are employed in the village or Parish

### Open Space Sport and Recreation

**4.18** The NPPF highlights the importance of having access to a network of high quality open spaces and opportunities for sport and activity in supporting health and wellbeing. The Council will seek to protect, maintain and where possible enhance existing open spaces, sport and recreational buildings and land including playing fields in order to ensure their continued contribution to the health and wellbeing of local communities. Policy CF4 states that new residential development will be required to provide or contribute towards public open space in line with the standards set out in the Peak Sub-Region Open Space, Sport and Recreation Study 2012 and successor documents. This will be requested on all major developments of 10 or more dwellings (or of 0.50ha or more).

**4.19** There are a number of evidence documents that consider the provision of open space and recreation and set out areas of need. These are updated periodically but currently comprise:

- High Peak Open Space Update Report (2017)
- High Peak Open Space Standards Paper (2017)
- Playing Pitch Strategy Assessment Report (2017)
- Playing Pitch Strategy and Action Plan (2018)
- High Peak Local Football Facility Plan (2018)
- Parks Strategy 2021-2031
- Play and Outdoor Facilities Investment and Delivery Plan (2021)
- Leisure Facilities Plan (2022).

**4.20** The Council's Service Commissioning team will ensure that obligations sought for open space and recreation are based on a tailored approach relevant to each development site, using the evidence base provided within the most recent studies in order to justify the needs arising,

## Planning Obligations Guidance

how they are to be met and ensuring that requests are reasonably related and proportionate in scale and kind. The IDP will set out key priorities and projects identified in the above studies and strategies and will be updated as new studies and strategies become available.

### Open Space

**4.21** The 2017 Open Space Study (Standards Paper) identified a total of 232 open space sites across High Peak, equating to over 471 hectares. However, the study also identified a number of shortfalls in quality and accessibility standards across the Borough for different types of open space. In order to maximise opportunities to successfully deliver strategic outcomes consultation with Service Commissioning should take place at pre-application stage. Unless agreed otherwise with the Council, open space will be provided on site. If agreed, off-site provision of part or all the requirements will be provided by means of a commuted sum to the Council based on a monetary figure per dwelling.

**4.22** The basis for calculating the level of developer contribution required under Policy CF4 is set out below, setting out how much open space provision (in hectares per 1,000 people) is needed to strategically serve the High Peak plan area in the future. This assumes the local average occupancy figure of 2.3 per dwelling.

Nature of open space	Provision required in hectares per 1,000 population	Standard per new dwelling m <sup>2</sup>	Cost per m <sup>2</sup> *	Contribution per dwelling
Amenity Greenspace	0.6	13.8	To be provided on site by the developer.	
Equipped children's play	0.13	3	a) To be provided on site by the developer or	
			b) £83.10	Off-site contribution £249.30
Allotments	0.24	5.5	a) To be provided on site by the developer or	
			b) £16.60	Off-site contribution £91.30
Parks and Gardens	1.15	26.4	£23.50	£620.40

**Table 2**

**\* costs are dated January 2023 and are subject to indexation.**

**4.23** All major developments should incorporate growing areas for residents as part of scheme design and where this is not possible a contribution for allotment provision off-site will be required in accordance with provision standards outlined.



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**4.24** Management and ongoing maintenance of areas of open space and any on-site play provision will be the responsibility of the developer. Before the commencement of development, the developer will confirm the details of maintenance responsibility with the Council. If a management company is chosen to have responsibility transferred, details will be required on the company structure, funding mechanisms (including any proposed management fees payable by dwelling owners) and contingency arrangements should the company cease to operate or exist. If in exceptional circumstances, on agreement with the Council, the developer wishes to transfer responsibility to the Council, a commuted sum contribution will be collected to cover a minimum 25-year period lifecycle costs to contribute towards maintenance and day to day costs.

### Outdoor Sports and Playing Pitches

**4.25** The Playing Pitch Strategy Assessment and Action Plan (2018) provides a strategic framework which ensures that the provision of outdoor sports facilities meet the local needs of existing and future residents within High Peak. The strategy produced in accordance with PPG, provides robust and objective justification for future needs throughout the Borough. It identifies likely demand for pitch sports generated from housing growth in the Local Plan, which is set out in the table below. The Council is due to review the 2018 Playing Pitch Strategy to ensure that demand and requirements for provision continues to be up to date.

Pitch Sport	Estimated demand by sport (2031)
Adult football	4.31 match equivalent sessions per week
Youth football	5.34 match equivalent sessions per week
Mini soccer	3.73 match equivalent sessions per week
Rugby Union	1.41 match equivalent sessions per week
Hockey	0.86 match equivalent sessions per week
Cricket	104.73 match equivalent sessions per season

**Table 3**

**4.26** The Local Football Facility Plan 2018 identifies opportunities to accurately target investment in football facilities across High Peak.

**4.27** Contributions towards playing pitches and outdoor sports facilities will be sought from residential developments of 10 or more dwellings (or of 0.5 ha or more) to ensure that the sporting needs arising from the residents of new developments are met where there is a demonstrable need for additional provision. The requirement will be considered on a case by case basis. The required level and mix of provision, and if this should be provided on or off -site, will be informed by up to date evidence from the Sports England Playing Pitch Calculator, Playing Pitch Strategy, Local Football Facility Plan and other sports needs assessments and/or any successor document(s).

## Planning Obligations Guidance

### Built Facilities

**4.28** Built sports facilities include sports halls, swimming pools and the use of community venues for activities. The Council have been working with Sport England in the preparation of the Leisure Facilities Plan and have followed the Sport England Strategic Outcomes Planning Guidance (SOPG) to undertake demand and supply modelling. Developer contributions should be provided where new development will increase the demand for such facilities and contributions will be directed to the nearest accessible facility to the development. S106 contributions will be assessed on a case-by-case basis in consultation with the Service Commissioning team with contributions informed by the Sport England facility calculator and the Council's Leisure Facilities Plan and/or any successor documents.

### Informal Recreation

**4.29** Greenways, woodlands and wildlife sites can provide informal opportunities for play, sport and recreation and in some instances these sites may be better placed to facilitate those wider experiences than traditional play areas, parks and gardens. Green infrastructure networks have a key role to play in providing opportunities for outdoor recreation and social interaction, improving accessibility for walking, cycling and horse riding. The greenways and canal network are important recreational facilities that support healthier and more active lifestyles. Increased use and footfall generated by residential development near greenways and waterways can often lead to increased liabilities for the County Council and the Canal and Rivers Trust respectively. It is important to be able to secure developer contributions to help maintain greenways and the canal infrastructure when it is impacted by development, to enhance quality and ease of access.

### Biodiversity and Green Infrastructure

**4.30** The NPPF highlights the need to protect biodiversity, including designated sites, priority habitats and wider ecological networks. It promotes the conservation, restoration and enhancement of priority habitats and ecological networks, including watercourses and priority species. In accordance with the NPPF, planning policies, and development decisions should minimise the impacts on and provide net gains for biodiversity including establishment of coherent ecological networks that are more resilient to current and future pressures.

**4.31** Policy EQ8 Green Infrastructure, sets out the requirements of new development to protect and enhance biodiversity and green infrastructure. This includes contribution to the creation or enhancement of existing green infrastructure, including a range of categories of provision. Policy EQ5 also sets out the need to meet the objectives and targets in the Peak District Biodiversity Action Plan or its successor. As well as the crossover to specific policy on Biodiversity in EQ5, the Environment Act supplements existing legislation and policy to introduce new incentives, actions and planning tolls to drive further improvements for nature. A key component of the Act is the requirement for development proposals to deliver at least 10% biodiversity net gain (BNG). The requirements of the Environment Act for BNG are expected to be mandatory from winter 2023.

**4.32** It is expected that biodiversity and green infrastructure enhancements will generally be secured through planning conditions; however, there may be some circumstances where it will be necessary to ask for specific mitigation or compensation to make a development proposal compliant with national legislation. By engaging with stakeholders to outline key requirements for 10% BNG for the development (in accordance with the Environment Act and EQ5), the IDP can help link



## Planning Obligations Guidance

objectives, strengthen ecological networks and create corridors to ensure environmentally-responsible land management and biodiversity value. In accordance with the Environment Act, the developer is required to maintain enhancements to the habitat for at least 30 years after the completion of works. Whether the net gain is delivered on-site or off-site will depend on how far on-site delivery can contribute to ecological networks. The Council will work with developers to proactively encourage that appropriate contributions are sought for BNG in advance of the 2023 date and in accordance with Policy EQ5. Developer contributions will also recognise the maintenance need of established sites to manage increased pressures from development additional to any net gains made by the development. Discussions will be informed by the Council's own emerging Biodiversity Strategy as well as the Local Nature Recovery Strategy for Derbyshire. The [Green Infrastructure Framework](#) launched in February 2023 by Natural England includes a set of principles and standards, design guidance and a mapping tool which will help identify priorities for GI enhancement and creation, and to address inequalities in access to green space.

**4.33** The Council's Climate Change Action Plan, Aiming Low: The Way to Net Zero <sup>(13)</sup> also sets out its commitment to mandate implementation of Biodiversity Net Gain requirements through planning. The Council will continue to work with key stakeholders and engage as widely as possible to update the IDP which will identify and link priorities and objectives, to strengthen ecological networks and create corridors of biodiversity value.

### Air Quality

**4.34** Air pollution is the largest contributor to the burden of disease from the environment which impacts on the whole population. Current evidence indicates that air pollution is associated with cardiovascular disease, lung cancer, respiratory disease, asthma and stroke. In High Peak, the primary source of air pollution is from road traffic emissions and two [Air Quality Management Areas \(AQMAs\)](#) have been declared within the Borough, in Tintwistle and Dinting Vale, due to the exceedances of the annual mean objective for nitrogen dioxide (NO<sub>2</sub>) from this source.

**4.35** The impact on air quality is a material consideration in making planning decisions. Paragraph 181 of the NPPF highlights that planning decisions should ensure that new development in AQMAs is consistent with the Council's local air quality action plan, and local policies should contribute to meeting national objectives for air quality.

**4.36** In the case of larger developments that have the potential to impact on local air quality by creating exposure to road transport emissions to future occupants of a development, or where the proposed development scheme has the potential to increase concentrations of pollutants in the surrounding area, developers are expected to fully mitigate the air quality impacts of these developments by initially undertaking an Air Quality Assessment, to determine impacts of the proposal and then by providing mitigation measures to offset any identified impacts or by making a financial contribution. If a financial or in-kind contribution is deemed necessary, a project or sum will be identified and agreed on a case-by case basis, based on the [Air quality appraisal: damage cost guidance](#) issued by defra.

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13 [https://www.highpeak.gov.uk/media/7096/Draft-Climate-Change-Action-Plan-Part-2/pdf/HPBC\\_Draft\\_Climate\\_Change\\_Plan.pdf?m=1642781461800](https://www.highpeak.gov.uk/media/7096/Draft-Climate-Change-Action-Plan-Part-2/pdf/HPBC_Draft_Climate_Change_Plan.pdf?m=1642781461800)

## Planning Obligations Guidance

**4.37** Contributions could relate to the following:

- Mitigation of construction impacts such as dust control and related emissions.
- On or off-site monitoring of air pollution.
- Green travel plans.
- Measures identified in local Air Quality Action Plans (where relevant).
- Low emission vehicle refuelling infrastructure.
- Renewable fuel and energy generation projects.
- Public transport improvements.

### Health

**4.38** The NPPF outlines the importance of promoting healthy and safe communities, stating that planning authorities should work with delivery partners to plan for required public service infrastructure facilities.

**4.39** Facilitating health and well-being is a key theme incorporated throughout the Local Plan. Policy CF3 Local Infrastructure Provision, outlines the requirement to provide for health and social care facilities, in particular supporting the proposals that help to deliver the Derbyshire Health and Wellbeing Strategy and other improvements to support the Derbyshire Integrated Care System (ICS). The Central Sub-Area Strategy also identifies the importance of supporting enhancements and provision of new healthcare facilities in the area to meet the needs of community and support growth. In addition, a key priority within High Peak's Corporate Plan 2019-2023 is to ensure effective health provision.

**4.40** Housing development can add substantially to the demand for health care as it generates population growth in given areas. It is important that the planning system ensures not only that development creates an environment that supports health and wellbeing; but that there should be a reasonable level of developer contributions towards the capacity and resilience of health facilities. Additionally, demographic factors such as an ageing population and wellbeing needs of the population including secondary and specialist support services, should also be considered in terms of provision of health infrastructure to support the needs of an area.

**4.41** It is important that community meeting spaces and access points are included as part of health infrastructure, in recognition of their contribution towards prevention of ill health by providing spaces for exercise, health/wellbeing classes or other social activities which engender a sense of community and help avoid loneliness. Access to provision regarded as social care is also important, including personal care and support for individuals, such as home-based care or access to facilities within communities for those needing additional care and support (e.g. older adults, those living with dementia, working age adults with disabilities).

**4.42** The Council works closely with key stakeholders in the health and wellbeing sector, including NHS, ICS, Public Health and High Peak Place Alliance, to ensure a coordinated approach for effective collection of developer contributions. The ICS will be consulted on all major planning applications that are submitted to the Council. Generally, the ICS will ask that financial developer contributions are made from schemes of 50 dwellings or more towards improving healthcare where it can be demonstrated that these would meet the CIL Regulations.



# Planning Obligations Guidance

## Training and Employment

**4.43** It is important that local people have access to develop the skills, knowledge and qualifications to support the labour market and therefore equally contribute towards the economic growth in the area as well as benefit from the opportunities that comes with growth. The NPPF recognises the important role of economic growth to create jobs and prosperity.

**4.44** Policy S4 of the Local Plan considers the importance of supporting the economic base, which include improving workforce skills by encouraging provision of training facilities on employment sites. The Council has also adopted a Local Employment and Skills Charter, which aims to ensure that local people as well as local businesses, can access opportunities for jobs, on-going training, or local contracts as part of major developments within the Borough. Policy E1 outlines the need for developers to contribute towards training programmes, employment support and employment access schemes. Contributions towards employment, skills and training may be secured through S106 from residential or non-residential development that will create more than 20 temporary or permanent jobs (total number of jobs). The Council will work collaboratively with applicants and stakeholders to ensure that the aims of the charter are achieved and relevant initiatives are provided for proposals.

## Transport Infrastructure

**4.45** The NPPF requires the planning system to promote sustainable travel. It also states that transport issues should be considered from the earliest stages of plan making and development proposals. When assessing development proposals, it should be ensured that any significant impacts from the development on the transport network, or on highway safety can be cost effectively mitigated to an acceptable degree. Developments that generate a significant amount of movement will usually be required to provide a travel plan. Very large sites may also be required to employ a travel plan coordinator for a set period. A contribution towards the County Council monitoring of the plan will also be required based on the size of the development.

**4.46** Policy CF6 Transport and Accessibility seeks to ensure that development can be safely accessed in a sustainable manner. Proposals should minimise the need to travel, particularly by unsustainable modes of transport, such as diesel and petrol vehicles and help deliver the priorities of the Derbyshire Local Transport Plan. Developer contributions will be used to deliver transport and accessibility improvements required to accord with this policy.

**4.47** Derbyshire County Council are responsible for collecting contributions in relation to highways and guidance is set out in the Derbyshire Developer Contributions Protocol document. The majority of highways improvements and modifications are secured by planning conditions, in consultation with the County Council's highways department. Developer contributions sought through a S106 agreement may be used by the Highway Authority fund carrying out improvements to the highway network necessary to accommodate the development. This mechanism can also allow the Highway Authority to seek contributions towards Travel Planning, Public Transport services including bus stops, real time information and bus services, sustainable travel and pedestrian and cycle infrastructure, provided that the NPPF planning tests are met. Active and sustainable travel have also been considered under the Climate Change section.

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**4.48** Further detail on developer contributions for highways and transport related infrastructure is set out in the Derbyshire Developer Contributions Protocol document, which is updated regularly to reflect any policy changes or fluctuations in costs. Greenways which constitute the Key Cycle Network (KCN) and Local Cycle Network (LCN) are included in the County Council's Developer Contributions Protocol. New development should safeguard existing routes, but also provide an opportunity to improve Greenway connectivity to encourage the use of healthier and more sustainable travel options. Where opportunities arise, the County Council will seek to secure on-site provision within new developments to provide new sections of the Greenways network, upgrade existing routes to adoptable standards, provide links from the development to an existing Greenway. Where the asset is adopted, commuted sums will be sought towards their maintenance. Increased use of cycleways by developments that directly link to existing cycle infrastructure place additional management and operational obligations on the managing authority. Where a development directly links to an existing KCN and LCN route a proportionate requirement for maintenance of the existing asset may be sought to account for the additional usage arising as a result of a development.

**4.49** Transport Assessments (TAs) should consider the potential for increased footfall at railway stations as a result of proposals for residential or commercial development. Where proposals are likely to increase footfall and the need for access, developer contributions should be sought, provided the NPPF planning tests are met. Contributions may also be sought where proposals impact on level crossings to mitigate the impacts of those developments.

### Education

**4.50** Schools are a crucial element of local infrastructure and therefore provision of school places must be considered alongside the delivery of new homes. The NPPF notes the importance of having a sufficient choice of school places available to meet the needs of existing and new communities. The NPPF states that local planning authorities should:

- give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

**4.51** Policy CF3 acknowledges the requirement for new development to consider existing capacity of existing infrastructure, which includes education facilities. Derbyshire County Council is the Local Education Authority (LEA) and has the statutory duty for the provision of education. The SPD will therefore not set out the County Council's education infrastructure contributions policy, as detailed guidance is provided in the Derbyshire Developer Contributions Protocol document, which is updated regularly and signed off by the Council.

**4.52** An important consideration that is particularly relevant for education provision, but may apply across other S106 typologies, is the requirement for 'forward funding'. The County Council may need to spend money from its budget in advance of receiving money in order to meet demand at a specific time. Accordingly, the S106 may provide for contributions due under the agreement to be spent in advance if required for the purposes set out in the S106 before the trigger in the S106 is reached to pay the money to the County Council.



# Planning Obligations Guidance

## Climate Change

**4.53** The NPPF outlines the importance of the planning system in shaping places to reduce emissions, support renewable and low carbon energy, improve resilience, support resource efficiency and endorse sustainable design and construction methods. High Peak Borough Council declared a Climate Emergency on 15th October 2019. The declaration commits the Council to become carbon neutral in its internal operations and the services it delivers by 2030, and to work with partners to help achieve this target for the High Peak as a whole. Since declaring the Climate Emergency, the Council has produced its Climate Change Action Plan <sup>(14)</sup> which outlines the key targets to reach its Net Zero aim by 2030. This includes tackling emissions and improving energy efficiency in buildings such as improving insulation and installing air source heat pumps or solar panels, as well as increasing public transport use, cycling and walking, managing waste and looking after the environment. Part two of the action plan, Aiming Low: The Way to Net Zero, refers to this SPD in terms of its role in securing developer contributions to support climate change adaptation and mitigation.

**4.54** The Derbyshire Developer Contributions Protocol notes its support for many elements of the County Council's Environment and Climate Change Framework (2019). The framework has been produced with the support of Councils across Derbyshire with the aim of reducing greenhouse gas emissions to net zero by 2050. The framework also cross-references the other supporting strategies that have (or will be) produced by the County Council and delivery partners, including energy, transport, waste, air quality, sustainable growth, biodiversity and natural capital.

**4.55** Policy EQ1 of the Local Plan considers the measures necessary for the Council to move to a low carbon future for the Borough, including renewable, low carbon and decentralised energy, sustainable locations for development, waste and water management and sustainable design and construction. The Council seeks to ensure that development proposals foster an approach to mitigate and adapt to climate change. Policy EQ6 also cross-references the requirement for development to meet environmental performance standards in accordance with EQ1.

**4.56** Policy EQ11 considers flood risk management and appropriate measures that should be taken to ensure that potential development does not increase the risk of flooding, whilst encouraging the use of natural features of the environment to alleviate flooding and the impacts of climate change as far as possible.

**4.57** The proposed measures outlined in the following section refer to the main ways that developer contributions will be sought to help adapt and mitigate against climate change, contributing to the Borough's targets and ambition to become carbon neutral by 2030, in accordance with the overarching policies and strategies at local, regional and national level.

## Other Greenhouse Gas Emissions

**4.58** As referred to in the Derbyshire Environment and Climate Change Framework, carbon dioxide is the most abundant of greenhouse gases; however, other gases such as methane and nitrous oxide also need to be reduced to limit global warming. Vision Derbyshire Climate Change

14 <https://www.highpeak.gov.uk/ClimateChange>

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Strategy 2022-25 <sup>(15)</sup> highlights that carbon dioxide emissions per person in the County is approximately a third higher than the UK average at 9.0 tonnes per person. Key sources of methane in the UK are agriculture, landfill waste, natural gas leakage and coal mining, whilst nitrous oxide is produced by agricultural soils, fuel combustion (particularly transport) and nitric acid production. Therefore, land use associated with these sources will need to consider appropriate action to help reduce emissions.

### Walking, Cycling and Public Transport Infrastructure

**4.59** Related to the above measures to improve air quality and in order to promote more sustainable transport modes, developments that generate significant demand for travel should provide features such as walking/cycle path linkages or improved access to public transport. All new developments should include appropriate cycle storage to facilitate and encourage this mode of travel. All new dwellings should be provided with secure and accessible storage, and new commercial development should be provided with storage for staff and visitors, in line with [LTN 1/20 Cycle Infrastructure Design](#).

### Electric Vehicle Charging

**4.60** In order to facilitate new technologies and future proof developments the provision of Electric Vehicle Charging Points should be incorporated into the design of development in accordance with Building Regulations <sup>(16)</sup>

### Decentralised Energy Networks

**4.61** In accordance with Policy EQ1 of the Local Plan, opportunities to deliver decentralised energy systems, will be supported by developer contributions, particularly for larger developments. Connection to an existing decentralised energy supply is supported by Policy EQ1 in addition to the delivery of a new or extended decentralised network, particularly those powered by renewable or low carbon sources. Developer contributions may also be applicable for renewable energy storage infrastructure associated to the development.

### Carbon Offsetting

**4.62** Cutting emissions should be the first priority; however, where some emissions are hard to avoid, carbon offsetting can be used. Carbon offsetting is based on achieving a carbon balance between emissions generated and emissions removed from the atmosphere. Carbon sequestration measures that are recommended for inclusion in development proposals include tree planting, restoration of improved grassland or heather moorland, green walls and roofs (particularly in urban areas) and community energy initiatives.

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15 <https://www.derbyshire.gov.uk/environment/climate-change/our-journey-to-carbon-zero/our-journey-to-net-zero-carbon.aspx>

16 <https://www.gov.uk/government/publications/infrastructure-for-charging-electric-vehicles-approved-document-s>



# Planning Obligations Guidance

## Flood Protection

**4.63** The NPPF outlines some of the key challenges of climate change and flooding. It states that planning authorities should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, water supply and demand considerations.

**4.64** Flood risk measures required to mitigate a development proposal should be managed on-site by way of S106 agreement or conditions. In some circumstances, a Section 106 agreement is the most effective mechanism to ensure mitigation of flood risk and drainage issues. These measures may cover design and maintenance of sustainable drainage systems (SuDS) or flood management features (Policies EQ11 and S1). The Council will expect any flood management measures to be agreed with the Environment Agency (or other relevant authority) and in place prior to occupation of the development if required through S106.

## Water Quality & Efficiency

**4.65** Pollution risks from surface water can be decreased by reducing the volume and rate of water entering the sewerage system and watercourse, which can also be managed by SuDs. Policies EQ1 Climate Change and S7 Buxton Sub-area Strategy recognise the need to protect the supply and quality of mineral waters in Buxton, as a significant contributor to the economy of the area and to ensure water efficiency measures are implemented to avoid negative ecological impacts on the River Wye. The Council expects new development to comply with the policy and SPD requirements. This includes a target of 110 litres per person per day in residential development, which would achieve around 20% reductions in the amount of water discharged to wastewater treatment works. The achievement of improved water efficiency would reduce the stress on the sewerage system, indirectly contributing to phosphate reduction in the River Wye and thereby reducing negative impacts on the ecological status of the Peak District Dales SAC.

**4.66** The Water in Buxton SPD sets out more detailed requirements in relation to mineral water resources, water quality and efficiency as well as guidance that could be helpful to applicants when proposing new development and the types of development that may be particularly sensitive. Other measures to recycle and minimise water consumption should also be implemented.

**4.67** As noted in the SPD, planning conditions may be applied when granting permission to ensure that water quality and resources aren't compromised. In certain circumstances, if a condition cannot effectively mitigate the impact of development, developer contributions could be sought to mitigate or compensate the impacts of development on this extremely valuable resource. Chapter 4 of the Water in Buxton Supplementary Planning Document sets out the recommended guidance with regard to early engagement to help understand any associated water management issues relating to development proposals.

**4.68** Template planning conditions are outlined in Appendix C of the Water in Buxton SPD; however, if it is considered by the Council that a condition cannot sufficiently mitigate the impact of development, discussions will take place as part of the pre-application engagement process to determine acceptability on the basis of suitable developer contributions.

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**4.69** On 16 March 2022, the Council received correspondence from Natural England and the Department for Levelling Up Housing and Communities (DLUHC) to outline that immediate action must be taken to address exceedances of phosphorus and/or nitrogen polluting protected sites under the Conservation of Habitats and Species Regulations 2017. Development within the catchment of the Peak District Dales SAC must now be nutrient neutral.

**4.70** Within the catchment, the Council cannot grant consent for development unless it is certain that the proposal will not have a significant effect on the SAC. A Habitats Regulations Assessment (HRA) will be required when the plan or project creates a source of water pollution or has an impact on water quality and when it is within the catchment of the SAC. Initially, a screening assessment will be required to consider if “likely significant effects” (alone or in-combination) on the SAC can be ruled out. If not, this will be followed by an “Appropriate Assessment” where the impact of the plan or project is considered in detail. If the Appropriate Assessment cannot rule out damage due to nutrient pollution, the plan or project cannot be approved unless mitigation to reduce or eliminate the impact can be put in place. Measures to ensure nutrient neutrality include:

- On-site measures such as SuDS (can also be retro-fitted to existing development)
- Agricultural land use change (e.g intensive agriculture to woodland)
- Treatment wetlands (waste water treatment works)
- Interceptor wetlands (agricultural run-off)
- Replacement of inefficient septic tanks

**4.71** When development cannot be mitigated on-site, off-site mitigation will be required. The Council is developing a Mitigation Strategy and Action Plan for the Peak District Dales SAC with the Peak District National Park Authority, Derbyshire Dales District Council, Derbyshire County Council and other stakeholders. Identified mitigation measures may be funded through developer contributions.

### Sustainable Design and Construction

**4.72** In order to ensure that new development proposals make the fullest contribution to minimising greenhouse gas emissions, new developments should aim to achieve the highest standards of sustainable design and construction. This could encourage measures such as energy assessments, CO2 reduction, environmental rating etc. Policy EQ1 Climate Change advocates the use of recycled materials in construction, which should be sourced locally when possible. The Local Plan implementation and monitoring framework also highlights the importance of S106 as a mechanism to reduce the rate of climate change and address impacts of development through sustainable construction methods and design.

**4.73** The Climate Change Action Plan also refers to the commitment of the Council to work with the Vision Derbyshire Climate Change Sub-group to review the Local Plan and further increase the focus on energy efficiency and carbon reduction in all new development.

### Retail and Town Centres

**4.74** The NPPF acknowledges the importance of town centres and the key role they play at the heart of local communities. It is therefore noted that planning policies should take a positive approach to their growth, management and adaptation. The NPPF also outlines the preference for locating main town centre uses in town centres rather than edge, or out of centre locations. In

## Planning Obligations Guidance



accordance with this, policy CF1 of the Local Plan also notes that developer contributions may be sought to mitigate identified impacts of town centre uses of 200 m<sup>2</sup> or more outside of defined centres. Contributions will therefore be sought for development that is considered to have a detrimental impact on town centres and their overall vitality.

**4.75** Specific measures will be identified and updated within the IDP that can help provide better connectivity, accessibility, street furniture, public realm, wayfinding etc to promote regeneration and vitality within town centres. Town centre improvements to increase accessibility for people with disabilities may also be sought through S106.

### Heritage

**4.76** In accordance with Policy EQ7, the Council will protect and enhance the built and historic environment. Where appropriate, contributions towards the conservation, restoration and enhancement of the historic environment and archaeological sites and monuments will be sought where an impact affecting a heritage asset, including its setting, is directly linked as a consequence of a development site and requires mitigation. There may be further opportunities to benefit the historic environment through works to public realm improvements, town centre improvements, green infrastructure and open spaces.

### Libraries

**4.77** See details in Derbyshire County Council [Developers Contributions Protocol Document](#)

### Waste

**4.78** See details in Derbyshire County Council [Developers Contributions Protocol Document](#)

# Appendix 1

## Example of vacant building credit calculation

Proposal	Housing development of 50 dwellings  Affordable Housing requirement 30%  The Proposed Gross Internal Floor Area (GIA): 5,000sqm  The existing Gross Internal Floor Area (GIFA): 1,000sqm	
Step 1	Calculate the affordable housing contribution based on the total number of eligible dwellings and the affordable housing percentage (30%) required by the council's planning policy	Affordable housing contribution 50 units x 30% = 15 units
Step 2	Calculate the amount of existing floorspace, if any, as a proportion of the floorspace provided by the development: $E/P \times 100$ (where E = existing floorspace and P = proposed floorspace)	$1,000 \text{ sqm} / 5,000 \text{ sqm} \times 100 = 20\%$
Step 3	Calculate the amount of AH credit: Step 1 AH units x Step 2 percentage	$15 \text{ units} \times 20\% = 3 \text{ units}$
Step 4	Deduct the AH credit from the policy compliant affordable housing contribution, Step 1 AH number – Step 3 AH credit	$15 \text{ units} - 3 \text{ units} = 12 \text{ units}$ (12 affordable dwellings to be delivered on-site)