

Planning Obligations Supplementary Planning Document

April 2008

Local Development Framework



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Summary

1 Introduction

The Supplementary Planning Document (SPD) on planning obligations provides advice to developers and applicants on the use of planning obligations in the planning application process in Herefordshire. It specifically provides guidance on how the Council will implement Herefordshire Unitary Development Plan (UDP) Policy DR5 on Planning Obligations and identifies the types of community infrastructure where developer contributions will be sought as part of a proposed development. Appendix 1 of the document contains a list of other specific UDP policies, which also relate to planning obligations. The SPD will form the basis for pre-application discussions and negotiation when determining planning applications. To provide further help with its use a simplified summary user guide is separately available.

2 Planning Obligations

Planning obligations, sometimes called “Section 106 Agreements” are legally binding agreements entered into between a local authority and a developer and are an established and valuable way of bringing development in line with the objectives of sustainable development as articulated through relevant local, regional and national planning policies. Planning conditions may also be used to help deliver sustainable developments, for instance, which embrace enhanced energy and environmental standards. Part 1 of the SPD sets out the policy context of planning obligations and explains what they are and the purpose of this document. Part 2 explains the Council’s overall approach to dealing with planning obligations and securing developer contributions. Part 3 of this document sets out the different types of community infrastructure or policy areas that provide further clarity for negotiations on planning obligations, or in the preparation of development briefs and area action plans.

3 Any new development may require mitigation to make it acceptable. Such mitigation could be the subject of an obligation involving a contribution. The Council have deemed it necessary for contributions to be sought from all additional new residential units (unless exceptions apply) and industrial / commercial developments (including retail) above certain size thresholds and where a need is identified. Figure S1 below lists the types of development most commonly expected to make a contribution and the types of community infrastructure and facilities affected. The provision of affordable housing either through UDP Policy H9 or Policy H10 (rural exception sites) is excluded from developer contributions in this policy document. Similarly, residential units arising through the conversion of existing buildings within the central shopping and commercial areas of Hereford and the market towns (defined in the UDP), such as units over retail premises, are also excluded from the payment of developer contributions.

Figure S1 - Contributions for different types of development

Development Type (Use class)	Transport	Affordable Housing	Community Services	Children and Young People	Open Space/ Sport	Town Centres	Waste	Bio- diversity	Landscape
Residential (1 or more dwellings including flats)	√	√ ²	√	√	√	√	√	√	√
Retail (A1)	√				√	√		√	√
Financial and Professional Services (A2)	√				√	√		√	√
Offices (B1)	√				√	√		√	√
Industrial (B1, B2)	√							√	√
Warehousing/Storage (B8)	√							√	√

Notes:

1.This table is not comprehensive and other contributions may apply.

2.Applies to residential schemes of 6 or more dwellings in Kington and Main Villages and 15 or more units in Hereford & Market Towns (except Kington) as per UDP policy H9.

- 4 On site affordable housing, open space, community facilities and some transport infrastructure should normally be provided as part of any new, particularly larger, development and will be made a condition (or agreement) of any planning permission. In some cases, however, off-site provision or a financial contribution towards these facilities/infrastructure may be more appropriate and will form an agreement of the permission. However, for smaller developments, which will have a cumulative impact, it will be more cost effective to make a single improvement after a number of such developments have been carried out. Therefore, where appropriate, a fund will be created for the pooling of financial contributions. They will be ring-fenced to the programmes and schemes identified in the relevant planning agreements. In the unlikely event that financial contributions secured from developers cannot be spent within the timescale provided for in the agreement, the money will be refunded.
- 5 The Council will seek to ensure that where off-site provision of a facility is required there is a functional or geographical relationship with the development proposed. To assist in this process it is proposed to prepare a list of programmes and schemes – a “Programme of Works” for the County covering a five-year period for which developer contributions will be sought. The document will relate to the objectives set out in the Community Strategy and be reviewed annually to ensure it remains up to date.
- 6 Circular 05/2005 states that ‘local authorities are encouraged to employ formulae and standard charges where appropriate, as part of their framework for negotiating and securing planning obligations.’ The Circular recommends that the levels for such charges be published ‘in advance in a public document’. Figure S2 at the end of this summary provides a quick reference tool for applicants and developers of the contributions expected from particular types of development and the formulae and/or standard charges, which will apply to assess a contribution. More information on the policy justification, thresholds and, where appropriate, the formulae used to calculate the appropriate level of contribution for the various types of community infrastructure, are set out in Part 3 of the SPD. Not all types of contribution are included in this summary; others may apply on a site-by-site basis e.g. contributions towards biodiversity or landscaping. Where formulae have been used to determine standard charges, the costs applied in each formula will be kept under review and periodically adjusted to ensure that the cost price index is maintained.
- 7 The contributions described are those the Council would expect to seek from typical forms of development. Applicants are advised to discuss the potential for planning obligations with Council officers at the earliest possible stage in preparing their development proposals. Negotiations for the purchase of land should be undertaken on the basis that any developer contributions which may be sought can only be finally determined through the planning application process.
- 8 **Negotiating Planning Obligations**

In determining planning applications, the Council will have regard to government guidance as well as to local planning policies. It will consider whether a planning obligation is necessary or whether the use of planning conditions, attached to the planning permission, are more appropriate. It will also consider, in accordance with Circular 5/05, whether a planning obligation is:

 - 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.
- 9 The Council’s approach to seeking developer contributions is set out in a clear process, in Figure 1 in the main document below, which ensures that the negotiation of contributions is transparent and efficient for both the applicant, the authority and any other interested parties.
- 10 Drafting of planning obligations will be undertaken by the Council’s solicitors. In order to ensure that agreements are dealt with quickly and efficiently, the developer should provide, at the same time as the planning application is submitted, evidence of title to the land, a draft heads of terms for the agreement and a solicitor’s undertaking to pay the Council’s reasonable legal costs whether or not the matter proceeds to completion. Developers should also inform the Council immediately of any

change in ownership of the application site, as failure to do so can lead to delays in determining the application.

- 11 Later in the process, agreed heads of terms for the agreements (including when they will be triggered and a time frame for completion of the agreement) will be set out in the Planning Committee report and placed on Part 1 of the Statutory Register. This process helps to ensure a speedy completion of the agreement or undertaking following the Committee resolution.
- 12 If a developer considers that the level of obligations would render their proposal unviable, the Council will expect the detailed finances of the proposal to be shared with the Council in a financial appraisal. For the Council to consider such an argument, it will be essential that the developer shares information substantiating this on an “open book” basis. Any deviation from the standard obligations will need to be an unusual exception and the developer will be required to demonstrate the exceptional circumstances that give rise to the case made. If the Council agrees that a scheme cannot reasonably afford to meet all the normal requirements, these may be prioritised through negotiation with the developer and consultation with other parties, subject to the scheme being acceptable in all other respects. In determining the priority of contributions, the Council will have specific regard to the objectives of the Community Strategy and the various schemes/programmes to implement those objectives (see Para 5 above).
- 13 **Monitoring Planning Obligations**
The Council (through the appointment of a monitoring officer) will track compliance with each provision contained in a legal agreement as a development proceeds to ensure that all service departments are spending financial contributions and completing non-financial obligations in accordance with the terms of agreements. In order to provide this service, the Council will levy an administration charge on each legal agreement equivalent to 2% of the value of the contribution, unless agreed otherwise with the applicant in circumstances where the level of financial contribution exceeds £100,000. This will be in addition to the normal costs and any external specialist advice costs required for processing and completing the legal agreement.

Figure S2 – Summary of Developer Contributions for Residential (1 or more dwellings) and Business Development

	Community Infrastructure	Contribution (£)	Total Contribution
Dwellings			
1 bed dwelling	Transport*	1465-2092	£2,776 – 3,403
	Affordable Housing**	Up to 35% on site	
	Children and Young People	-	
	Open space***	1071	
	Library Facilities	120	
	Recycling and Refuse	120	
2 bed flat	Transport*	1,465 – 2,092	£7,517 – 8,144
	Affordable Housing**	Up to 35% on site	
	Children and Young People	2,845	
	Open space***	2,941	
	Library facilities	146	
	Recycling and Refuse	120	
2/3 bed dwelling	Transport*	1,720 – 3,686	£10,894 – 12,882
	Affordable Housing**	Up to 35% on site	
	Children and Young People	4,900	
	Open space***	3,978	
	Library Facilities	146-198	
	Recycling and Refuse	120	
4+ bed dwelling	Transport*	3,440 – 4,915	£17,600 – 19,075
	Affordable Housing**	Up to 35% on site	
	Children and Young People	8,955	
	Open space***	4,844	
	Library Facilities	241	
	Recycling and Refuse	120	
Businesses			
Retail (A1-5) per 100sqm	Transport >500sqm threshold*	5,052-39,671	£6,582 – 41,201
	Open space***	1,530	
	Town Centres/Public Realm	Direct improvements	
Offices (B1) per 100sqm	Transport*	6,087-11,178	£7,362 – 12,453
	Open space***(>500sqm threshold)	1,275	
	Town Centres/Public Realm	Direct improvements	
Industrial (B1/B2) per 100sqm	Transport*	2,369-3,385	£2,369- 3,385
Warehousing/Storage (B8) per 100sqm	Transport*	1,310-1,871	£1,310- 1,871

Notes:

* Transport contributions vary according to accessibility zones - see section 3.1

** Where 15 or more dwellings are proposed in Hereford and the Market Towns (except Kington) or 6 or more dwellings are proposed in the Main Villages (including Kington)

*** Open space contributions exclude any contribution towards sports facilities using the Sport England calculator

It should also be noted that the Council's actual legal costs of preparing agreements along with a cost for processing and monitoring them (2% of the total value of the contributions required) will also be expected.

Floor areas and numbers of dwellings are based on net additional amount created.

Part 1 – Context

1.1 Purpose of Supplementary Planning Document

1.1.1 Supplementary Planning Documents (SPD) provide more detailed planning guidance to supplement the policies of the development plan and are a material consideration in the determination of planning applications.

1.1.2 The aim of this SPD is to:

- Provide as much certainty as possible to landowners, prospective developers and other interested parties;
- Ensure a uniform application of policy;
- Ensure the process is fair and transparent;
- Enable developers to have a ‘one stop shop’ approach to establishing likely contributions expected; and
- Facilitate a speedier response from the authority to development proposals.

1.1.3 The purpose of this document is to make clear to all interested parties the Council's policy on planning obligations – it supports and amplifies Policies S1 and DR5 of the UDP. This part of the document sets out what planning obligations are and their policy context. Part 2 details the Council's approach in using planning obligations and outlines the process for their negotiation, monitoring and review.

1.1.4 Part 3 of the document sets out different types of community infrastructure or policy areas that provide further clarity for negotiations on planning obligations, or in the preparation of development briefs and area action plans. “Community Infrastructure” is the term used for the purpose of this SPD to cover all the physical, environmental and social aspects required to support a community on a daily and long-term basis. Planning obligations are used when a proposal that would have an unacceptable impact on community infrastructure could be overcome by the use of a financial contribution or “in-kind” benefit. The types of community infrastructure include:

Community Infrastructure
Accessibility, Transport and Movement
Affordable Housing
Biodiversity
Community Services
Children and Young People
Flood Risk Management, Water Services and Pollution Control
Heritage and Archaeology
Landscape
Open Space, Sports and Recreation Facilities
Town Centres, Community Safety and Public Realm
Waste Reduction and Recycling

1.1.5 This document will therefore assist in pre-application discussions and will provide a transparent and accountable procedure by which planning obligations are negotiated and secured for development.

1.2 Consultation

1.2.1 This SPD has been the subject of extensive consultation in compliance with the Town and Country Planning (Local Development) (England) Regulations 2004. The processes undertaken and responses to this consultation are described in a separate “Consultation Statement” which can be found on the Council's website. The responses received to the consultation have shaped the final version of this document, specifically a greater focus on the priority of facilitating more affordable, local need housing provision in the County and the need to promote Herefordshire's business economy (with a consequent relaxation in contributions in both instances).

1.3 Definitions and Purpose of Planning Obligations

1.3.1 Definition

A planning obligation is a legally binding agreement between the local planning authority and a developer (and the landowner where the developer does not own the land) to use land in a specified way, or to restrict the development or use of the land, or to meet costs in connection with the development to enable it to become acceptable in planning terms. Planning obligations can be provided by developers “in kind” (where the developer builds or provides directly the matters necessary to fulfil the obligations), by means of a financial payment, or in some cases a combination of both. Planning obligations are enforceable by the local planning authority and are registered as local land charges.

1.3.2 Planning obligations are normally entered into under Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) and Section 299A of the Act where planning obligations relate to Crown or Duchy Land. Financial contributions towards the carrying out of highway improvements may also be secured under Section 278 of the Highways Act 1980.

1.3.3 Purpose

Planning obligations are the means by which a local planning authority can secure contributions, improvements or mitigation works to offset any adverse impact of new development. Whilst most new development is necessary and provides direct benefits for the communities to which they relate i.e. new and improved housing, shops or employment provision, it can sometimes place additional burdens on existing services and infrastructure as well as have adverse impacts on the local natural environment. For example, residential development can increase demand for new school places and community facilities and add to the number of people using open space and recreation facilities. New residential and commercial development will increase the number of people travelling in and around an area such as Hereford and will therefore add to congestion and pressure on public transport, car parking, air quality and public safety.

1.3.4 Therefore, it is the overriding objective of this SPD that, in the interests of sustainable development, it is reasonable to expect developers to contribute towards the financing of new or improved infrastructure directly related to new development proposals. These may include new build development as well as changes of use where planning permission is required. Each change of use case will be considered on its merits and against the Council’s priority of promoting regeneration. Contributions can often be secured on site by means of planning conditions attached to the planning permission, but where conditions cannot be used, improvements can be secured through planning obligations. In this way, the provision of new or additional infrastructure that is necessary to serve new development can be secured, so that planning permission can be granted for new development proposals which accord with the development plan.

1.4 Types and Use of Planning Obligations

1.4.1 Planning obligations comprise planning agreements and unilateral undertakings. A **planning agreement** is a legal agreement entered into by the planning authority and the applicant that sets out the form a planning obligation will take. For example, a planning agreement under s106 could set out in detail payments of a financial contribution towards local schools impacted by the development. Planning obligations run with the land and so bind successive landowners. If the applicant (developer) does not own the land then the landowner must also be involved in the planning agreement. Other parties with an interest in the land such as mortgagees must also join in the planning agreement. A standard form of planning agreement has been produced by the Department of Communities and Local Government (DCLG) in conjunction with the Law Society which can be found on their website at www.communities.gov.uk. This will also be made available on the Council’s web site.

1.4.2 A **unilateral undertaking** is an undertaking by the applicant offered to the authority to try to overcome obstacles to the grant of planning permission and may be offered at any point in the planning application process. They do not require any agreement by the authority, which therefore

may have no involvement in the drafting of the planning obligations. However, local authorities do not have to accept unilateral undertakings offered by the developers if they do not feel they overcome the objections to the granting of planning permission. At appeal against refusal they may be offered by applicants to overcome the local authority's objections, when it is up to the Planning Inspector to decide its suitability or otherwise. Such obligations may require payment of financial sums for a specific purpose either in a single sum or periodically for an indefinite or specified period. A standard form of a unilateral undertaking is available from the Council's Legal and Democratic Services.

- 1.4.3 Planning obligations can either be negative (preventing or restricting development or the use of land) or positive (requiring specified operations or activities to be carried out on the land). Obligations can be used to **prescribe** the nature of a development (e.g. indicating that a proportion of housing is affordable); or to secure a contribution from a developer to **compensate** for a loss or damage created by a development's impact (e.g. loss of open space); or to **mitigate** a development's impact (e.g. through increased public transport provision). The outcome of all of these uses of planning obligations should be that the proposed development concerned is made to accord with local, regional or national planning policies.

1.5 Grampian Conditions

- 1.5.1 Herefordshire Council makes full use of Grampian style conditions in lieu of planning obligations where these are relevant and can speed up decision-making. A Grampian condition is usually applied to link on-site development to actions that lead to delivery of off-site infrastructure. Examples of Grampian conditions include the submission of schemes detailing how school places, transport improvements or health facilities necessitated by the development shall be secured.

1.6 Planning Policy Context

1.6.1 National Context

Government guidance on planning obligations is provided in Circular 05/2005. The Circular gives guidance on the types of obligations that may be acceptable. Local planning authorities are also recommended to publish guidance themselves for potential developers in order that the Council's approach is clear and easy to understand. This information is provided in this document with the aim of providing a fast, predictable, transparent and accountable system. Central government encourages the use of formulae and standard charges where appropriate and the publishing of standard heads of terms, agreements/undertakings or model agreements wherever possible.

- 1.6.2 Circular 05/05 emphasises the need for contributions that are required from a development to meet five stringent tests set. They must be:

- Relevant to planning;
- Necessary to make the proposed development acceptable in planning terms i.e. required to bring a development in line with the objectives of sustainable development as set out in the UDP. These are the matters which, following consultation with potential developers, the public and other bodies, are agreed to be essential in order for the development to go ahead;
- Directly related to the proposed development (there should be a functional or geographical link between the development and the item being provided as part of the developer's contribution);
- Fairly and reasonably related in scale and kind to the proposed development (planning obligations should not be used solely to resolve existing deficiencies in infrastructure provision or to secure contributions to the achievement of wider planning objectives that are not necessary to allow consent to be given for a particular development); and

- Reasonable in all other respects (unreasonable requirements may be open to awards of costs).
- 1.6.3 These tests are to prevent developers being over-burdened by requests from local authorities as well as preventing a perception that developers may be “buying” planning permissions.
- 1.6.4 Additionally, there is further guidance on the issue of planning obligations in national policy statements (PPG’s and PPS’s). These set the context for including appropriate policies in development plans and for negotiating on planning applications. The Department for Communities and Local Government (DCLG) issued Planning Obligations Practice Guidance in July 2006 which can be viewed on their website www.communities.gov.uk.
- 1.6.5 At the time of writing, the government is considering the introduction of a **Community Infrastructure Levy** whereby a proportion of the increase in the land values of a particular site is used to manage the impact of growth in local communities and fund improvements in local infrastructure. If the Community Infrastructure Levy approach is implemented, then this SPD will need to be reviewed.
- 1.6.6 **Regional Context**
The latest version of the Regional Spatial Strategy for the West Midlands (RSS) was adopted in 2008 and has Development Plan status. It sets the land use policy direction for the County up to 2021. Policy UR4 (Social Infrastructure) stresses the importance of the role of local authorities in facilitating the co-ordination of land use and investment decisions with improved service delivery. The RSS is currently being reviewed and can be viewed on the website www.wmra.gov.uk.
- 1.6.7 **Local Context**
The Herefordshire Unitary Development Plan strategic policy S2 (Development Requirements) and development criteria policy DR5 (Planning Obligations) set out the circumstances where obligations will be used and the benefits that will be sought in furtherance of the Plan’s strategy.

DR5 Planning obligations

To further the strategy of the Plan planning obligations will be sought to achieve community, transport and environmental benefits where these benefits are reasonable, necessary, relevant, and directly, fairly and reasonably related to the proposed development. The circumstances in which such benefits will be sought will be identified in relevant Plan policies and may be further detailed in supplementary planning guidance.

- 1.6.8 A number of other UDP policies refer specifically to the use of planning obligations in considering development proposals. These are listed in Appendix 1. The UDP was formally adopted in March 2007. Following changes to the planning system, the Council is now preparing a new spatial plan called a Local Development Framework comprising a Core Strategy document as well as other development plan documents. This SPD will be reviewed accordingly, when the Core Strategy is finalised.

1.7 Council Priorities

- 1.7.1 The government suggests a transparent process for developer contributions based on achieving the policy priorities for a particular area. The Herefordshire Community Strategy (June 2006) is the result of extensive consultation with local communities, local businesses, the cultural community, public sector providers and the voluntary and community sector. The strategy sets out how a range of partnerships can work together to help ensure the overall economic, social and environmental well being of the County.
- 1.7.2 The Council’s Corporate Plan (2006 to 2009) translates the outcomes contained in the Community Strategy into Council “priorities” with targets, indicators and actions. Together, these documents articulate the needs of the community and consideration of the weight to be given to the provision of infrastructure or use of contributions should be linked closely to the Council’s top priorities. The

Corporate Plan can be seen on the Council's web-site at www.herefordshire.gov.uk and the Community Strategy can be seen on the Herefordshire Partnership web-site at www.herefordshirepartnership.com.

1.7.3 The top priorities that specifically relate to land-use planning issues link to the following outcomes in the Herefordshire Community Strategy. Those that are most relevant to this SPD on Planning Obligations are:

- More and better paid employment;
- More adaptable and higher skilled workforce;
- Reduced traffic congestion through access to better integrated transport provision;
- Reduced health inequalities and promotion of healthy lifestyles;
- Children and young people have healthy lifestyles and engage in positive behaviour;
- Reduced levels of, and fear of, crime, drugs and anti-social behaviour;
- Fewer accidents;
- Cleaner, greener communities; and
- People are active in their communities and fewer are disadvantaged.

1.7.4 Although developments will have a wide-ranging impact on a local community, the Council will need to consider whether the degree of impact is so great that permission would not be granted. The Council will identify those matters, which will require prioritisation in a particular location, given the extent and context of a development proposal and the needs of the local community. This will be balanced against the benefits of a proposal e.g. environmental enhancement, conservation or provision of facilities with an overall view taken on the merits of the proposal. A "Programme of Works " highlighting priority needs in specific areas will be prepared and updated annually by the Council. This will establish the context for the negotiation of benefits. However, contributions towards children and young people, transport, employment, community facilities and affordable housing are almost always necessary in Herefordshire at present.

1.8 Community Involvement in Pre-Application Consultation

1.8.1 The aim of the Herefordshire Statement of Community Involvement (SCI) (March 2007), is to set out details for greater community involvement in the plan making and development control process. It states that if development proposals fall within certain definitions of significant development and are therefore more likely to require developer contributions, the Council will expect applicants and developers to have engaged the local community at an early stage.

1.8.2 These consultations should include details of prospective developer contributions. This reflects national advice which states that the process of negotiating planning obligations should be conducted as openly as possible and members of the public should be given every reasonable assistance in locating and examining planning obligations which are of interest to them. The SCI can be viewed at www.herefordshire.gov.uk.

1.8.3 Where Parish Plans or Village Design Statements are adopted by the Council as further Planning Guidance, they can also be used to inform the Council's position regarding developer contributions associated with development proposals within the area. This would make contributions in line with the European Union Landscape Convention i.e. "an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors".

1.9 Sustainability Appraisal

1.9.1 In accordance with government guidance, this SPD has been subject to a Sustainability Appraisal, which can be found at www.herefordshire.gov.uk. The Sustainability Appraisal tests the performance of this SPD against a series of environmental, social and economic objectives. These were devised as part of the General Scoping Report of the Sustainability Appraisal of the Herefordshire Local Development Framework which can also be found on the Council's website.

Part 2 – Code of Practice

2.1 The Council's Approach

2.1.1 In the context of legislation, government guidance and the UDP, the Council's approach to the negotiation of planning obligations is based on the following **key principles**:

- i. The procedures will be operated in accordance with the fundamental principle that planning permission may not be bought or sold.
- ii. A planning obligation will only be sought when it is material to the planning decision on a proposal and, where a particular planning obligation is required to make a development proposal acceptable, planning permission will not be granted without it.
- iii. A planning obligation will not be sought when a planning condition may be more appropriately used. It is likely that each application will have to be considered on an individual basis. In the following cases however, conditions are generally insufficient and a planning obligation may be used:
 - 1 Where action is required beyond the normal scope of a condition;
 - 2 Where there is a need to facilitate the transfer of land through the use of appropriately worded negative covenants;
 - 3 Where the obligation relates to off-site works and a Grampian style condition is not appropriate; and
 - 4 Where there is a requirement to pay financial contributions.
- iv. A planning obligation will not be sought to redress existing deficiencies or lack of capacity in existing facilities, services or infrastructures (except in respect of open space deficiencies in accordance with Para 33 of PPG17).
- v. The nature of a planning obligation likely to be required will be made known as early as possible in the planning process.
- vi. The overall extent of the planning obligation sought will have regard to what is reasonable in terms of the scale of the development and its impact.
- vii. The acceptability of the development proposal will be decided on the balance of its planning merits, taking into account the planning application and whether the planning obligation, which has been negotiated as a whole, is sufficient to overcome and satisfactorily address any impact arising from that proposal.
- viii. As referred to above, a vital test of proposed planning obligations is that they must be necessary to make a proposal acceptable in land-use planning terms. They should not be sought where the connection does not exist or is too remote.

2.2 Procedure for Negotiating a Planning Obligation (See Figure 1)

2.2.1 Pre Application Stage

The planning case officer assigned to the application will direct the applicant during any pre-application discussions to the UDP policies relevant to the proposal and to any relevant supplementary planning guidance/documents, including this SPD on Planning Obligations. Having regard to the guidance contained in this SPD, applicants will also be encouraged to come forward with proposals for planning obligations (agreements/undertakings or conditions) that are relevant and related to their development proposals before submitting a formal proposal in order to speed up the application process.

2.2.2 From 1st April 2008 developers will be required to submit draft Heads of Terms of any necessary agreement with their planning application when they first submit it in order for it to be validated. Heads of Terms will include:

- The sums of money, where required for off-site expenditure to meet planning policy objectives;
- A period (usually 10 years) within which the expenditure must take place and/or the essential infrastructure is provided;
- Provisions for repayment of any sums not used within the set time periods;
- Details for the provision of affordable housing (where relevant) including phasing requirements (see Affordable Housing section in Part 3 of this document);
- A commitment to cover the Council's reasonable legal and planning costs in preparing the agreement; and
- The timetable for completing the agreement (which must be done before the permission can be issued).

2.2.3 **Application Appraisal Stage**

Once an application is submitted, the negotiation on any potentially appropriate obligations will proceed at the same time as consideration of the planning application, and will include an assessment of whether or not planning conditions will suffice instead of an obligation. This process is without prejudice to the determination of the application. Where there have been no pre-application discussions, the case officer will also direct the applicant to the UDP policies and supplementary planning documents, including this SPD on planning obligations.

2.2.4 Where the need for an agreement or undertaking has been identified, the Heads of Terms must be agreed before the application can be reported to Committee. Where the Council's constitution allows for agreements to be varied or entered into under delegated powers then the agreements must be finalized before the permission can be issued. Where applications are reported to Committee for determination the Heads of Terms will be included as an appendix to the Committee report. Any negotiations over the Heads of Terms are without prejudice to the final determination of the application by the relevant committee. The key element of the negotiation will be to confirm that the applicant agrees with the matters to be included in the obligation. The case officer will ensure that the nature and scale of matters for inclusion as obligations are identified and will notify Members, Parish Councils and other interested consultees after validation.

2.2.5 **Committee**

By the time the proposal is considered by the relevant Committee, the Heads of Terms must be agreed. This process helps ensure a speedy completion of the agreement or undertaking following the Committee resolution. Any recommendation to grant planning permission will be made subject to the completion of a satisfactory legal agreement or undertaking within a specified time period, and will authorise Legal Services to complete the legal agreement or accept the undertaking. The relevant Committee will decide whether to approve the application as set out in the report and whether the proposed obligations are appropriate. If an agreement is required in order to meet planning policy objectives, and/or other material planning considerations, but is not signed within the agreed timetable, then the planning application will be regarded as "Deemed Refused" and no further action will be taken on it.

2.2.6 **Completing the Legal Agreement or Undertaking**

A legal agreement or undertaking may be drafted prior to the relevant Committee resolution in the above circumstances or following the Committee resolution. The draft obligation will be sent to the applicant's solicitor for comment and any negotiations will be progressed through each party's legal team. The agreement or undertaking will have a unique planning application reference number that will be used on all correspondence and monitoring arrangements for the planning obligations.

2.2.7 Prior to completion of the obligation, the Council's legal team will ensure that all financial and title and other matters are in order. The legal agreement or undertaking will need to be signed by all parties with an interest in the land – as well as the owner this will include mortgagees, tenants and developers with options to purchase, conditional contracts etc. When the legal agreement is completed, the planning case officer will issue the planning permission.

2.2.8 Post Completion

The Council will register the agreement or undertaking and consents as a local land charge and the applicant may be required to register the agreement or undertaking as a charge against the title to the property at HM Land Registry through his/her solicitor in accordance with the terms of the agreement or undertaking. The Council will also update the statutory registers.

2.3 Monitoring

2.3.1 The S106 monitoring officer, case officer and the legal officer will hold a copy of the completed obligation. The monitoring officer will be the first point of contact for an applicant when making payments or serving notices as required by an agreement. The monitoring officer will then ensure that payments are allocated to the appropriate funds or supplied to the service provider as appropriate and will issue receipts and acknowledgements of compliance where necessary.

2.3.2 The monitoring officer will track compliance with each obligation in the agreement as the development proceeds. All agreements/undertakings will be monitored through the use of a Planning Obligations database.

2.3.3 An Annual Report on planning obligations will be produced detailing the status and use of planning agreements, monies received and spent, works carried out and future priorities. This will form part of the Corporate Plan process within the Council and the Scrutiny Committee will also consider the Report.

2.3.4 The planning obligation database will also refer to the UDP policies used in determining the application. This can then be used for monitoring the policies of the UDP in appraising their effectiveness in working towards sustainable development and referred to in the Annual Monitoring Report.

2.4 Development Viability

2.4.1 The Council recognises that the impacts of a development that may need to be accompanied by a planning obligation must be weighed together with all other material considerations including any positive benefits of the development, in determining whether planning permission should be granted. Therefore, in exceptional circumstances, the Council may consider that the benefits from a development outweigh the need for mitigation and may waive or reduce contributions. However, it will be for the developer to provide robust evidence, possibly in the form of a financial appraisal, to support their case.

2.5 Management

2.5.1 Pooled Benefits

Where appropriate and particularly on small residential schemes, contributions from several developers will be pooled to enable the necessary benefits to be secured. The pooled benefits will still relate to the development from which they were raised. This is consistent with Circular 5/05 paragraph B22. The pooled benefits approach facilitates the realisation of benefits from smaller, cumulative developments as well as being able to effectively manage larger developments on a case-by-case basis. This approach will be particularly relevant to the regeneration of the Edgar Street Grid area in Hereford, Green Infrastructure Strategy and rural communities.

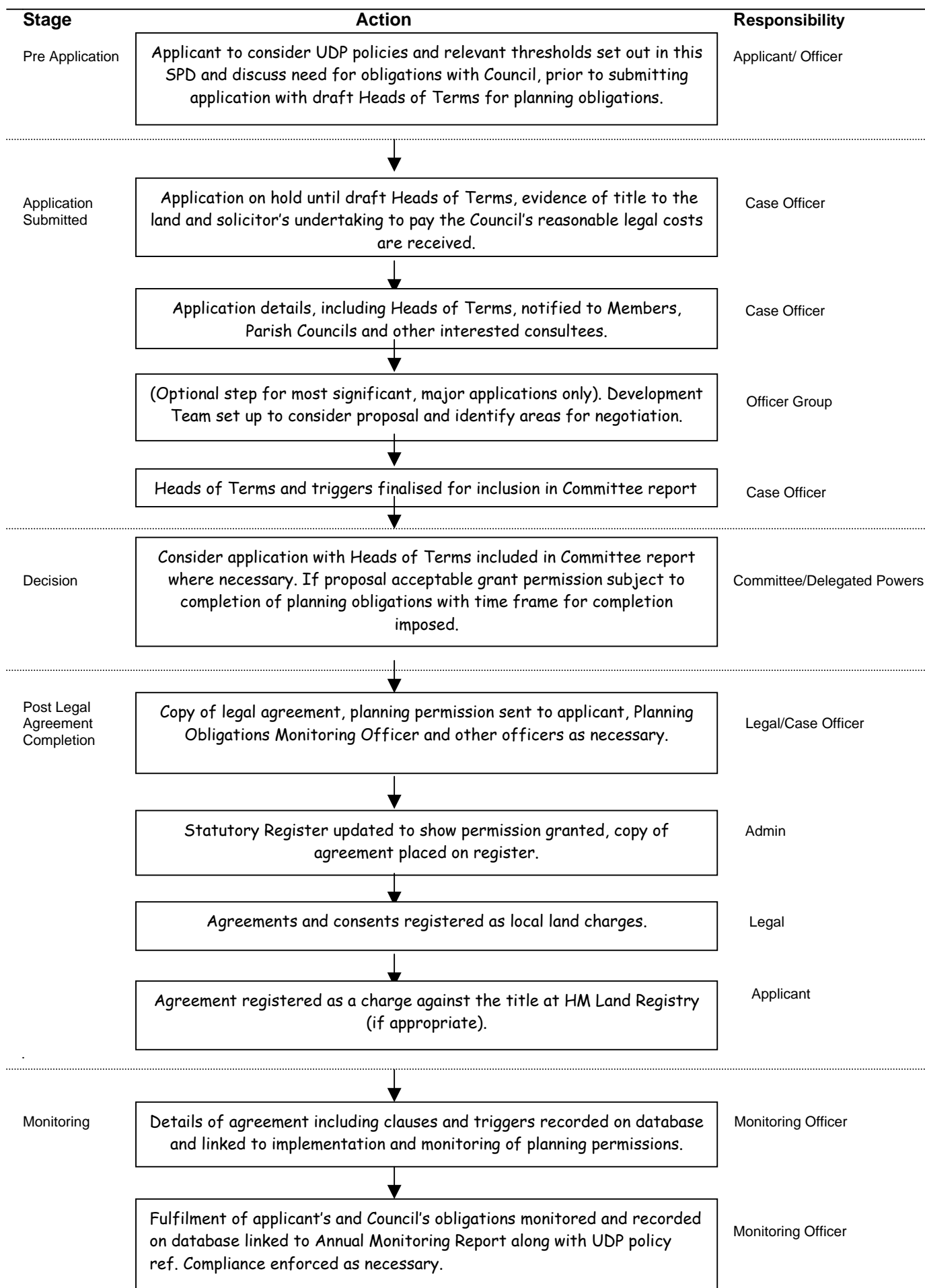
2.5.2 Ring Fenced Funds

For smaller schemes and where a cash sum is required as part of an obligation, this will be placed in a fund controlled by the organisation responsible for the provision of the service or facility, and reserved for that purpose. This will ensure transparency in the planning obligations process.

2.5.3 Unspent Funds

In the unlikely event that financial contributions secured from developers cannot be spent within 10 years of the completion of the development or as negotiated to suit the circumstances of the development, the contributions or such unexpended parts will be refunded. Developer's financial contributions will be adjusted for inflation in accordance with Building Costs Information Service (RICS) all in tender price index or such other indices as the Council consider appropriate, calculated from the date of the planning agreement or unilateral undertaking, to the date of payment.

Figure 1 – Procedure for Negotiating, Preparing and Completing a Planning Obligation



Part 3 – Community Infrastructure

3.1 Accessibility, Transport and Movement

3.1.1 Introduction

On-site provision of sustainable transport infrastructure and appropriate provision for disabled access should be incorporated into overall scheme design for most new development proposals. The quality and effectiveness of this provision will be a consideration in the determination of the planning application. Typically, sustainable transport infrastructure will include provision for cycle parking, pedestrian and cycle routes through the site and public transport waiting facilities. Dependent on the development, specific parking provision may be required for disabled users or residents.

3.1.2 Specific off-site works and contributions to sustainable transport services may also be required to mitigate the **direct impact** of the development scheme on the transport network. Contributions might be required for:

- Improvements to public transport services;
- Passenger waiting facilities;
- Improvements to junctions and the provision of traffic lights;
- Road widening/passing bays;
- Pedestrian and cyclists facilities;
- Pedestrian crossings;
- Pedestrian and cycle routes and links to existing routes;
- Traffic calming schemes; and
- The introduction of street parking restrictions.

Where a travel plan is required, the Council will seek contributions to cover the provision of sustainable travel information to site users and to support the ongoing development of the plan.

3.1.3 In addition to the above, new developments may also have **cumulative impacts** on the transport infrastructure of the County. This is particularly the case for developments that generate trips into and within Hereford City area, where traffic congestion, severance and poor air quality are significant issues. Where development impacts on these types of issue, the Council will seek contributions towards schemes such as park and ride, general traffic management improvements, public car park improvements and also towards sustainable travel infrastructure, promotional campaigns and literature. Contributions from development towards these schemes will be pooled to secure the future provision of the scheme or promotion activity, in accordance with Circular 05/2005.

3.1.4 Policy Justification

Planning Policy Guidance 13 (Transport, March 2001) states that “planning obligations may be used to achieve improvements to public transport, walking and cycling, where such measures would likely influence travel patterns to the site involved, either on their own or as part of a package of measures”. New development should therefore contribute to the improvement and development of a more sustainable and integrated transport system. This may include support for travel plans required as a result of a development proposal, or contributions to conventional public transport services.

3.1.5 Within the Regional Spatial Strategy, Hereford is identified as the key location in the County for future housing and employment growth. Outside of the city, almost the entire County is identified as a Rural Regeneration Zone where sustaining rural communities, tackling rural problems and addressing local needs are the main priorities.

3.1.6 The Council, as Highway Authority, seeks financial contributions where appropriate to promote specific schemes and types of schemes identified in the Local Transport Plan 2 (LTP2). The LTP2, which covers the period up to 2011, sets out as its objectives - delivering accessibility, tackling congestion, making roads safer, and improving air quality. Delivery is by implementation of a

number of measures set out in investment strategies. LTP2 can be viewed on the Council's website. The Herefordshire UDP has been prepared alongside LTP2 and wherever appropriate, obligations will be sought to bring forward proposals and to implement policies in these plans. The UDP policies considered particularly relevant to the development of a S.106 Strategy on transport are detailed in Appendix 1.

3.1.7 **Assessment of Need**

The LTP2 provides a comprehensive assessment of the transport needs of the County over the period 2006/7 to 2010/11 and sets out a longer term strategy for Hereford City and its immediate surrounding rural hinterland. The LTP sets out the following transport strategies to help address the needs of:

- Countywide accessibility strategy;
- Integrated transport strategies for Hereford and for the market towns and rural areas;
- Road safety strategy; and
- Asset management strategy for maintaining the transport network.

3.1.8 Whilst Herefordshire is a mainly rural area and is sparsely populated, it has significant transport issues. These range from severe congestion within Hereford City itself to access to transport for remoter rural communities. Accessibility planning software (Accession) has been used to identify specific areas of need particularly in respect of rural access.

3.1.9 **Transport Issues in Hereford**

Transport limitations in Hereford have restricted its growth. Key issues include:

- Regular congestion through the central area and poor air quality;
- Traffic intrusion in residential areas;
- Poor reliability and quality of public transport;
- Poor pedestrian facilities and a limited cycle network reducing the attractiveness of sustainable modes of transport; and
- Impact of the school run.

3.1.10 The LTP2 sets out a package of measures required to release travel capacity needed to accommodate development and regeneration and to allow Hereford to fulfil its role as a sub-regional centre. However, substantial additional funding is required to support these measures and bring forward key initiatives, which will help address these issues.

3.1.11 A further set of major development proposals with significant implications for transport, focus on the Edgar Street Grid in Hereford. The master plan scheme for this area includes improved facilities for walking, cycling and public transport. This is in addition to new road infrastructure and the downgrading of existing roads to reduce severance between the city centre and the grid area.

3.1.12 **Rural Transport Issues**

The key transport issues affecting the rural area and market towns focus on providing for access to services, maintaining an extensive road network, reducing road traffic accidents and provision of sustainable transport infrastructure in the market towns. Support for public and community transport is an important element of helping address these needs and reducing the impact of longer distance traffic movements within the County. Consistent cost increases associated with supported public transport services (which cover the majority of services outside Hereford City) have been experienced during recent years and are anticipated to continue to put pressure on the Council's ability to maintain the extent and frequency of the public transport network over the LTP2 period. A greater reliance on community transport may help with more specific provision that addresses social exclusion but will not help address modal shift (i.e. moving away from the use of the private car to more sustainable forms of transport e.g. cycling and walking). Planning contributions will be sought to support the public transport network and community transport and also to provide sustainable transport infrastructure in the market towns. Where appropriate, contributions will also be sought to achieve road safety improvements.

3.1.13 Transport Assessment

In 2007 the Department for Transport published its updated Guidance on Transport Assessments (TA). The Guidance along with other planning documents such as PPS1 and PPG13 emphasise the value of early discussions between developers and the local authority in relation to TA's. This ensures all parties have a better understanding of, and reach consensus on, the key issues to be addressed in respect of a particular development including the likely range and scale of any mitigation measures required. The Council will require TAs (or Transport Statements) to be provided, in accordance with the guidance, and it is likely that the TA will further inform the level of contributions required for transport measures.

3.1.14 Developments for which Contributions will be sought

All developments that cause increased trips and have a wider transport impact can be expected to be the subject of an obligation. The main sources of development funding towards transport will come from housing and retail developments whilst employment and other developments will also need to contribute at a level commensurate with the level of movements generated by the development. However, affordable housing provided as part of larger market housing schemes and rural exception sites will be exempt from contributions towards transport. Residential units arising through the conversion of existing buildings within the central shopping and commercial areas of Hereford and the market towns (as defined in the UDP), such as units over retail premises, are also exempt. This reflects the Council's desire to encourage the residential use of upper floors within central areas in accordance with UDP policies S5 and TCR2. In addition, to assist and promote the rural economy, contributions from developments in accordance with UDP policies E11, E12 and E13 will be excluded.

3.1.15 Many planning applications will be accompanied by a transport assessment, which will be used to assess the application and decide if specific on-site and off-site measures are required to make it acceptable. Where the impacts of a proposed development are not so easily identifiable by on-site or off-site mitigation measures but clearly impact upon the wider transport network, contributions to identified LTP measures and/or UDP policies will be required. The Council will judge each development site on its merits and will seek contributions from any development proposals where transport impacts would require mitigation through the provision of off-site transport infrastructure.

3.1.16 For significant developments sufficient contributions will be required to fully fund complete transport-related schemes. For smaller developments, contributions will generally be pooled in ring-fenced accounts until such time as they can be spent on agreed measures in the LTP2 or other local transport strategies. In accordance with Circular 05/2005, contributions will be spent on schemes that support the contributing development.

3.1.17 Contributions - Formulae and Standard Charges

Circular 05/2005 states that 'local authorities are encouraged to employ formulae and standard charges where appropriate, as part of their framework for negotiating and securing planning obligations.' The Circular recommends that the levels for such charges be published 'in advance in a public document'. Figure 2 below provides an example of standard charges for certain types of development including residential, retail and employment. The table is provided as an illustration of the formula, which could be applied to any land use proposed in the County.

3.1.18 The standard charges have been based on a formula which takes into account:

- Future development set out in the Unitary Development Plan (equating to around an additional 26,500 daily trips derived from TRICS – Trip Rate Information Computer System);
- Shortfall in funding for transport improvements outlined in the LTP2 (amounting to around £12.3M);
- Typical trip generation for specific land uses with a weighting to focus on trips generated in the peak hour (derived from TRICS); and
- A weighting to take into account the accessibility of a site (derived from the Accession model for the County). Sites with a better accessibility rating will pay a reduced contribution.

3.1.19 Location and Accessibility

The Transport Contribution table incorporates an accessibility factor, which reduces the level of contributions sought from developments located in more accessible locations, acknowledging the increased likelihood that these developments have greater potential to encourage sustainable transport. The assessment was carried out using the Council's Accession model for the County. The model maps accessibility in terms of journey times via sustainable modes of walking, cycling and public transport to destinations, which sustain a basic level of services. Three accessibility zones have been identified ranging from high to low accessibility. These are shown on Figure 3 at the end of this section and this will form the basis for applying the standard charges. The public transport factors influencing the level of accessibility experience throughout the County will be reviewed on a regular basis to take into account public transport timetable updates.

Worked Example:

The following worked example helps illustrate how the standard charges have been developed and how they will be applied based on the development of 50x 3-bedroom houses in central Hereford.

Cost/trip (LTP2 shortfall/UDP development trip generation) x 24hr trip generation for 3-bedroom house x peak hour weighting x accessibility weighting (for highly accessible site) x number of units

$$£468 \times 7.73 \times 1.02 \times 0.7 \times 50 = £129,000$$

3.1.20 Negotiation on Standard Charges

In line with Government guidance, the charges indicated in the Table will not be applied rigidly in all circumstances without regard to the context of an individual application and site. Unique aspects of each application will help form further consideration of these charges. Matters which may influence the use of the standard charges include:

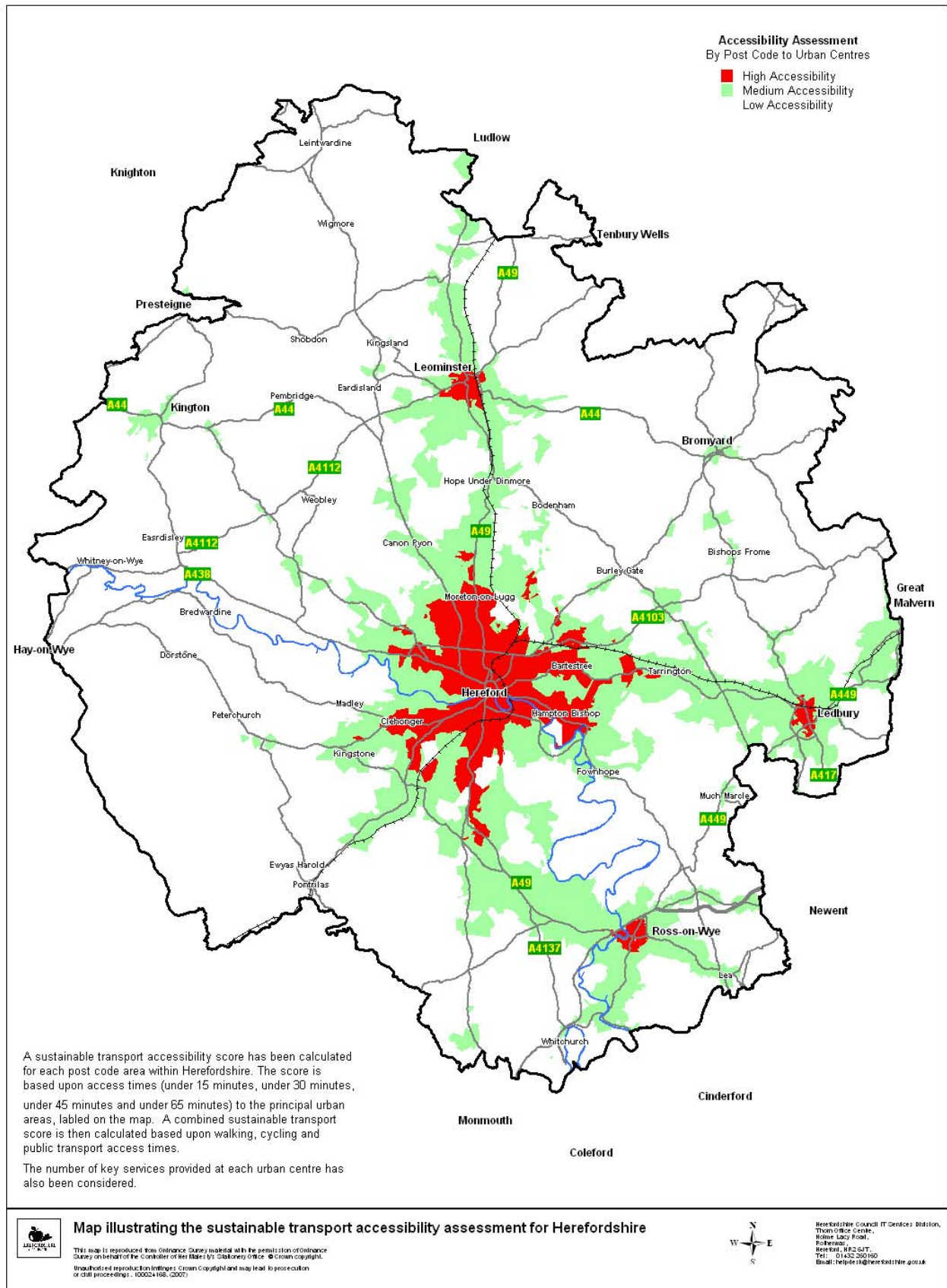
- A travel plan which sets clear targets for reducing car trips with associated contributions if targets are not achieved;
- The amount of parking to be provided with a development having regard to the maximum standards set out in the Council's Highways Design Guide for New Developments;
- The level of trip generation with the development ascertained through a Transport Assessment.

Figure 2 – Examples of Transport Contributions

Development Type	24hr weekday vehicle trip rate	Accessibility Weighting		
		High 0.7	Medium 0.8	Low 1
Residential – 4 bed house	10.30	£3,440	£3,932	£4,915
Residential – 3 bed house	7.73	£2,580	£2,949	£3,686
Residential – 2 bed house	5.15	£1,720	£1,966	£2,457
Flat	3.01	£1,465	£1,674	£2,092
B1 (Office) per 100m ²	14.09	£7,825	£8,943	£11,178
B1 (Business Park) per 100m ²	10.56	£6,087	£6,956	£8,695
B2 per 100m ²	6.73	£2,369	£2,708	£3,385
B8 per 100m ²	3.54	£1,310	£1,497	£1,871
Retail > 500m ² - Non food Superstore per 100m ²	40.86	£5,052	£5,774	£7,217
Retail > 500m ² - Food Superstore per 100m ²	138.15	£27,770	£31,737	£39,671

Note: above examples relate to greenfield developments where new vehicle trips would result. Proposals on already developed land would need to take account of trip rate differences.

Figure 3 – Transport Accessibility Zones



3.2 Affordable Housing

3.2.1 The Council is strongly committed to the delivery of affordable housing within Herefordshire and will make effective use of its planning powers to secure affordable housing to satisfy local housing requirements.

3.2.2 Policy justification

National government advice on affordable housing has been issued in the form of Planning Policy Statement 3 on Housing (PPS3) and its sister document "Delivering Affordable Housing" (November 2006).

3.2.3 In regional policy terms, Herefordshire falls within the Rural Regeneration Zone identified in Policy RR2 of the West Midlands Regional Spatial Strategy, January 2008, where emphasis will be given *"to providing affordable housing to meet local needs, in existing settlements, wherever possible, and making full use of the existing housing stock."* (Policy RR2, part C (iv)).

3.2.4 Locally, policy guidance is set out in the Council's adopted UDP policies H2, H5, H6, H9 and H10, although the whole issue of the provision of affordable housing will be reviewed as part of the preparation of the new Local Development Framework.

3.2.5 Assessment of Need

In addition to regional research to support the provision of affordable housing throughout Herefordshire, Planning Services and Strategic Housing Services within the Council have worked together to establish need for affordable housing and identify opportunities for provision. The Herefordshire Housing Needs Assessment 2005 and a rolling programme of local research supports the view that there is a significant need to provide affordable housing throughout the County and that the main tenure of housing that appreciably meets housing needs in Herefordshire is the social rented sector delivered through a Registered Social Landlord (RSL). This local need is generated through the situation that average wages in the County are significantly below both the regional and national averages, but average house prices are high compared with elsewhere in the region. Many households will therefore find it difficult to purchase on the open market in Herefordshire.

3.2.6 Supply and demand data, collated by Home Point, a choice based lettings scheme for across Herefordshire, will also be taken into account when determining the types, sizes and tenure mixes for each individual proposed development. Key housing issues and priorities for Herefordshire (set out in the Herefordshire Housing Strategy 2005-2008 which is regularly reviewed and updated) will be reflected in the mix of types, sizes and tenures being requested.

3.2.7 Thresholds for Contributions

The proportion of affordable housing will be based on the net developable site area and the total number of units. The net developable site area includes access roads, within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. It excludes any major distributor roads, primary schools, open spaces serving a wider area and significant landscape buffer strips.

3.2.8 Policy H9 of the UDP requires affordable housing at an indicative target of 35% of new housing proposals. As this is an indicative target and in view of the evidence outlined in the Housing Needs Assessment 2005, requests for a percentage affordable housing provision of more than 35% may be made in particular situations. The 35% target figure will be reviewed as part of the preparation of the Local Development Framework (LDF) and in the light of Planning Policy Statement 3. Currently, however, UDP Policy H9 and this guidance will apply:

- Where 15 or more houses are proposed in Hereford and the market towns (except Kington) or 6 or more houses are proposed in the main villages (including Kington); or
- To all sites of more than 0.5 hectare in Hereford and the market towns and of more than 0.2 hectare in the main villages and also where the Council reasonably considers that development of a site has been phased, or a site sub-divided or parcelled in order to avoid

the application of the affordable housing policy, whether in terms of number of units or site size. In these circumstances the whole site will be assessed; or

- Where the Council reasonably considers that a development scheme has been specifically designed to fall under the threshold or a site's potential is not being fully realised; or
- If having had a scheme approved, a subsequent proposal for additional housing units brings the cumulative total over the threshold.

3.2.9 With outline planning permission, it is appreciated that full details on units etc. may not be known. The Council will, in these cases, seek to secure the percentage of affordable housing as outlined in the appropriate policy with detailed negotiations to be contained in a S106 Agreement and Heads of Terms.

3.2.10 **Tenure and Dwelling type/size/mix**

The Council requires affordable housing to be provided on sites that are large enough to accommodate a reasonable mix of types, sizes and tenure of housing. Discussion with Strategic Housing Services is essential from the earliest stage of pre-application negotiations. The size, type and tenure of affordable units that are provided should reflect the mix that is necessary to support the Council in meeting its highest priority housing needs and provide a balanced variety of housing. In general this means a demand for primarily two and three bedroom units as well as one and four bedroom units. However, site location and scheme design may indicate that a different mix may be appropriate e.g. a town centre site may be more appropriate for predominantly one or two bedroom flats. The local authority will ultimately determine this.

3.2.11 Where an alternative form of tenure other than rented is to be provided the developer must prove to the local authority that such housing will meet the needs of those who cannot afford market housing prevailing in the locality. The properties must be made available to local people in housing need in perpetuity in line with occupancy criteria as used for rural exception sites. The Council will also need to be satisfied that a legal mechanism is in place to ensure an objective assessment has been undertaken justifying that the prospective purchaser is in local need.

3.2.12 **Involving a Registered Social Landlord (RSL)**

The Council will seek to ensure that any affordable housing produced through the implementation of policy H9 or H10 be offered for ownership and management to registered social landlords that are the Council's preferred partners. This will ensure that the properties will be managed effectively due to a local presence. Nomination rights to the Council will be sought in any negotiations between the developers and the RSL by asking that all affordable housing secured will need to be advertised through the local lettings agency, "Home Point."

3.2.13 The Council would wish to satisfy itself before granting planning permission, that secure arrangements are made to ensure that the benefit of affordable housing for local people will be enjoyed by successive as well as initial occupiers of the property i.e. in perpetuity. This will normally be secured through a planning obligation. Planning obligations will be used to set out a cascade mechanism to ensure that occupiers are always found for affordable housing. An appropriate planning obligation will also normally require that a specified proportion of market housing on a site cannot be occupied until the affordable element has been built, transferred to an RSL on the specified terms and is suitable for occupation.

3.2.14 **Affordability**

This SPD uses the definition of affordable housing as set out in Planning Policy Statement 3, which excludes low cost market housing. To assess affordability relevant to Herefordshire, both house prices and incomes have been taken into account and certain assumptions, following research with mortgage lenders, have been used to ensure that local households have the ability to access the properties being delivered. House Price data is taken from the Quarterly Economic Report published by the Herefordshire Partnership in conjunction with the Council and this data is derived from statistics received from HM Land Registry, which relates to the term 'market price' as being the average house prices. Figures on Herefordshire earnings are given by ASHE, (Annual Survey of Hours and Earnings), published by the Office of National Statistics annually in November. This provides information on the median gross annual earnings of a full time worker on adult rates in Herefordshire. The assumption is that first-time buyers will obtain a 95% mortgage – this is the

assumption used in the report "Affordability and the Intermediate Housing Market" by Steve Wilcox, published by the Joseph Rowntree Foundation in October 2005.

3.2.15 Multipliers for borrowing purposes are taken from the same, above-mentioned report, which reflect current practice. Other assumptions are that:

- For dual earners, the second earner will work part time, earning ½ full time amount. Census figures for Herefordshire show that for Herefordshire families with dependant children where there are 2 earners, in nearly ¾ of cases the second earner works part time; and
- Through natural progression applicants are better able to secure a larger deposit (10%). Also occupancy conditions are assumed as follows:
 - 1 bed dwelling occupancy = single earner with 5% deposit
 - 2 bed dwelling occupancy = dual earner with 5% deposit
 - 3 bed dwelling occupancy = dual earner with 10% deposit

3.2.16 Therefore based on the above assumptions, an affordable purchase price would be calculated as follows:

- 1 bed dwelling = single earner with 5% deposit: median earnings x 3.75/0.95
- 2 bed dwelling = dual earner with 5% deposit: 1.5 x median earnings x 3.25/0.95
- 3 bed dwelling = dual earner with 10% deposit: 1.5 x median earnings x 3.25/0.9

3.2.17 Where properties are provided for rent by an RSL, these rents should not exceed the Housing Corporation Target rents. Where properties are provided for Shared Ownership or New Build Homebuy (to which S/O is now referred), housing costs should not exceed 30% of the gross earnings using the above assumptions. This assumption has derived from research in practices used by other authorities and reference to the Family Expenditure Survey 2000 – 2001 from the Office of National Statistics. Should this figure be exceeded or information is not provided, then housing for rent will be requested. Where house prices continue to rise, the Council will be seeking confirmation of housing costs prior to accepting this form of tenure. "Intermediate housing for rent" is a subject currently being researched by the Council and up to date information should be sought from Strategic Housing Services.

3.2.18 **Design Considerations**

The design of developments that incorporate affordable housing should be tenure neutral and well integrated with the market housing. This may involve the distribution of small groups of affordable housing across a site, rather than it all being concentrated in one location. The marginalisation of the affordable housing from the remainder of the development should be avoided. All affordable rented, shared ownership and home buy units are to be built to the current Housing Corporation Scheme Development Standards (SDS) and the code of sustainability that apply at the time of the full planning application. In addition, it is expected that the units be developed to Lifetime Homes standards unless there are constraints upon the overall proposed development. Developers will be required to provide full information as to these constraints and each application will be considered on its own merit prior to the discharge of this requirement.

3.2.19 **Off-Site Provision and Commuted Payments**

The Council will always seek the provision of affordable housing on site except in very exceptional circumstances. This assists in providing affordable housing on sites in line with national and local policies. In **exceptional** cases, however, the Council may be prepared to enter into agreements to accept affordable housing on alternative sites provided by the developer or through contributions of commuted payments towards provision of land and affordable units elsewhere. This will be where both parties agree that on-site provision of affordable housing will not be viable or practical and it will be difficult to meet the requirements for affordable housing because of special market or site considerations.

- 3.2.20 Where, in exceptional circumstances, the affordable housing units are to be provided by the developer on an alternative identified site, the local planning authority will require details of the scheme as part of the application for the proposal site in the same way as if it were provided on site. Alternative sites should generally be within the vicinity of the development site and equally well located in terms of amenities and facilities. The number of units to be provided off site should equate to the number to be provided had the site been suitable on the application site. It should not be provided on an alternative site that would also require the provision of affordable housing under planning policy.
- 3.2.21 The payment in lieu calculated for off-site provision of affordable housing covers the basic costs associated with construction of the commensurate number of units. In addition the associated costs of site acquisition, servicing project management and professional and legal fees involved in delivering the affordable housing elsewhere will have to be taken into account in calculating the appropriate level of contribution. This is justified as the need to incur these costs has arisen directly through a failure to provide affordable housing on site in the first instance. Applicants will also have to bear the costs of any financial evaluation and development appraisal work required to ascertain the veracity of submitted material in support of payments in lieu. See Figure 4 below.
- 3.2.22 Any commuted sums will normally be required prior to the occupation of the first dwelling on the site and will be ring-fenced to ensure that they are used to provide affordable housing within the County. If the sums have not been used within a period of 10 years, then they will be repaid.

Figure 4: Commuted Payments for Off-site Provision of Affordable Housing

From residential development

Cost of constructing affordable element of proposed scheme * + cost of serviced land in the area of the application site + professional/legal fees

* to SDS and Lifetime Homes standards

3.2.23 General Information for Applicants

Applicants for planning permission should be aware that the provision of affordable housing will have an impact on the value of land, as well as implications for housing mix and layout. It is therefore essential that an approach be made to the local authority to establish the affordable housing policies and requirements pertaining to the development; a development brief will be provided by the Strategic Housing Services department outlining the need, requirements and other considerations for each individual proposal.

- 3.2.24 Applicants should also be aware that affordable housing schemes brought forward through planning policies will not be supported by grant funding. Therefore, land that is likely to be subject to such affordable housing should be valued accordingly, as the land upon which the affordable housing is to be sited will effectively reduce the overall value. Only in exceptional circumstances will grant funding be considered and this will be in negotiation with the developer and the council, for e.g. where above level 3 of the code of sustainable homes is exceeded and can be demonstrated prior to approval.

3.3 Biodiversity

3.3.1 Policy Justification

The justification for requiring obligations in respect of the natural environment is set out in Circular 05/2005 (Para B16). Planning Policy Statement 9 (PPS9) “Biodiversity and Geological Conservation” sets out the government’s objectives for biodiversity conservation.

3.3.2 The key principles established in PPS9 include:

- Enhancing existing features of biodiversity importance;
- Protecting and restoring existing features of value to biodiversity;
- Identifying and delivering an expansion of range of existing habitats and species; and
- Ensuring connectivity of habitats to provide for migration, dispersal and genetic exchange of species.

3.3.3 Policies in the UDP relating to biodiversity are listed in Appendix 1. The Councils Biodiversity SPD provides further in-depth guidance to these policies (see Chapter 6 “Creating new wildlife habitats and enhancing biodiversity on development sites”). The Herefordshire Biodiversity Action Plan (published by the Herefordshire Biodiversity Partnership) is a proven mechanism for focusing resources by means of local partnerships to conserve and enhance national and local biodiversity. The functions of Local BAPs are:

- To translate national targets for species and habitats into effective action at the local level;
- To identify targets for species and habitats important to the local area and reflecting the values of local people;
- To stimulate effective local partnerships to ensure programmes for biodiversity conservation are developed and maintained in the long term;
- To raise awareness of the need for biodiversity conservation and enhancement in the local context;
- To ensure opportunities for conservation and enhancement of biodiversity are promoted, understood and rooted in policies and decisions at the local level; and
- To provide a basis for monitoring and evaluating local action for biodiversity priorities, at both national and local levels.

3.3.4 Development proposals provide many opportunities for building-in beneficial biodiversity or geological features as part of good design. PPS9 states that when considering proposals, local planning authorities should maximise such opportunities in and around developments using planning obligations where appropriate. The type of measures introduced may be guided by priorities established in the local Herefordshire BAP or the regional biodiversity strategy – “Restoring the Region’s Wildlife” 2005.

3.3.5 Thresholds for Contributions

Planning obligations may be required for any development, which would affect a site, area or feature of biodiversity interest and where required works cannot be secured as part of the application or via planning condition. Obligations will also be sought to help create or restore habitat networks. On larger developments, the provision of additional habitat protection works beyond the application site may be secured via a Section 106 Agreement.

3.3.6 **How contributions will be calculated and used**

Each case will be unique and it is therefore inappropriate to provide standard formula for contributions towards biodiversity. However, the Council will ring fence any sums received and ensure that contributions are used to enhance existing sites, create new ones or to offset any adverse impacts of development on biodiversity. Possible contributions may be required for:

- Implementing conservation agreements with management plans to secure the appropriate management of sites of importance for biodiversity;
- Implementing and/or maintaining landscaping schemes beyond the application site area; and/or
- Enhancing existing or creating new sites to benefit amenity.

3.3.7 Herefordshire Biodiversity Partnership and parties other than the Council, such as the Herefordshire Nature Trust or Parish Councils, may carry out the spending of developer contributions arising from planning obligations on biodiversity, landscaping or enhancement schemes.

3.4 Community Services

3.4.1 Policy Justification

The provision of community services such as healthcare, libraries, community centres, halls, heritage facilities, and facilities for emergency services contributes to quality of life and is a vital part of a sustainable community. The justification for seeking obligations in respect of community services is set out in Circular 05/2005 (Para B15). In addition, it is a guiding principle of the Community Strategy for Herefordshire (June 2006) that people and businesses in all areas of the County should have access to services and opportunities. Additional population arising from new developments, even from small residential schemes, may increase demand on existing community services in the County. This increase in demand may require refurbishment, redevelopment or even the provision of new facilities to support and extend existing services and, therefore, new developments will be expected to contribute to any necessary facilities or services. Finally, the Council has adopted a number of Parish Plans, which have examined the particular needs of their areas. Where identified, the community needs/requirements will be used to inform any necessary contributions.

3.4.2 Assessment of Need

Community services are provided by a wide variety of organisations and it is inevitable that no single methodology is applicable to identifying the needs generated by new development. However, the following assessment can be made:

- Are any community services being lost as a result of a development?
- Are any adequate compensatory community services being (re) provided within the development proposal?
- Are adequate alternative services available in the vicinity of the site to compensate for any loss?
- Are any deficiencies in specific community services in the area compounded by the new development?
- Are existing services adequate to cope with increased usage or demand e.g. do local doctor surgeries have spare capacity to take on extra patients?
- Are existing services conveniently located and accessible to additional users e.g. new residents, employees or shoppers?
- Are there any specific identified community needs in the local area that will be exacerbated by a new development?
- Does the scale and nature of development justify the need for completely new or additional services?
- Is existing funding inadequate to provide the requisite services generated by increased demands?
- Has any community facility been identified within any Parish Plan?

3.4.3 Planning permission will only be granted for development involving the loss of community services if it can be shown that there is no longer a need for the site or building in any form of community use, or that there is an acceptable alternative means of meeting the need. A planning condition or obligation may be sought where replacement services are to be provided to ensure that the new services are completed and made available prior to the occupation of the rest of the development. In addition, provision or improvement of community services should be on site in the case of large-scale development or where there is already a community use on site, unless an alternative off-site location relates better to other services in the area and is easily accessible using sustainable methods of transport.

3.4.4 As a Public Library Authority, Herefordshire Council has a statutory duty to provide a comprehensive, efficient and modern library service to those who live, work or study within its boundaries. The nature of public libraries and their services has evolved substantially in recent years and modern libraries now provide not only traditional book stock but also multimedia and the space and technology for public access to computers, the Internet and associated training. The Disability Discrimination Act has set new standards for physical access and adaptive technology has become a standard requirement. The Department of Culture, Media and Sport sets Public

Library Standards, which all authorities are required to meet. The Council currently fails to meet a number of the standards, and the development of new housing within the County increases the resource strain on the Council's Library Services.

3.4.5 Thresholds for Contributions

A form of needs assessment on the basis outlined above should normally be undertaken for any proposal that results in the loss of a community service and/or involves a proposal of additional residential units. Contributions will be sought from all private residential development as well as residential homes, student accommodation and sheltered housing, the residents of which may also make use of community services. Affordable housing, residential units provided through conversion of buildings in town centres, and rural exception sites will normally be exempt from S106 contributions for community services on the basis that the provision of such housing is a priority for the Council.

3.4.6 In cases (particularly small residential schemes) where developments are too small to provide part or all of the facility/service required, contributions will be pooled with others in a specific ring-fenced community services fund until such time as the required works can be carried out. If the sums have not been used within a period of 10 years, then they will be repaid.

3.4.7 How contributions will be calculated and used

The level of contributions sought for local community services will be based on need as well as on the costs of providing such buildings, including equipment and initial maintenance, in accordance with the guidance set out below.

3.4.8 Community Centres and Halls

New residential development may be required to contribute towards the provision, enlargement or improvement of community centres and halls. However, without a countywide assessment of existing community facilities or evidence of a committed/progressing project, it is difficult to formulate a standard charge for provision. Therefore, until such time as an assessment of need is available, developer contributions towards community halls etc will be made on a case-by-case basis in consultation with Cultural Services.

3.4.9 Where new provision or improvements to local community services are required, particularly for development proposals of more than 200 dwellings, the Council will generally encourage multi-purpose buildings which can provide accommodation for many different community groups and locations for learning (with crèche and computer facilities on site). In certain circumstances, contributions may be channelled to partner organisations in the voluntary or community sectors that have the capacity and capability to manage such resources.

3.4.10 Calculation for Contributions to Library Services

The calculation for library contributions will be based on the following information:

- Average number of persons per dwelling (taken from the 2001 Census) –2.32.
- The Herefordshire requirement for net library floorspace per 1000 population is currently 30 sq.m, whilst the International Federation of Library Associations recommends a standard of 42 sq.m.
- The provision cost per m2 of library floor space taken from comparative costs from other local authorities and weighted for Herefordshire.

3.4.11 Any contributions would be subject to index linking as set out elsewhere in this guidance. Contributions secured through planning agreements will be spent on the provision of new library books and/or improvement works to the nearest public library to the development.

Library Services

For residential development, provision is based on 30sq.m of library space per 1,000 population. Where a financial contribution is made, it is calculated on the basis of construction and equipment cost of £2880 per sq.m. The contribution required is therefore:

Number of persons generated x £86 per person (£2880 x 30/1000)

3.4.12 Using the average occupancy information derived from the 2001 Census detailed in Appendix 2, the above calculation equates to the following contributions in Figure 5 per dwelling size:

Figure 5: Calculation for Provision of Library Services

Contribution by Dwelling Size (bedrooms)	Average Occupancy	Total (£)
1	1.4	120
2	1.7	146
2 bed flat	1.7	146
3	2.3	198
4+ beds	2.8	241
All dwellings	2.3	198

3.4.13 Health and Emergency Services

The Council recognises the social benefits of the provision of excellent medical and health facilities to the community. There is a logical link between increases in the population and a corresponding increase in health demands. Where there is an identified need for further medical and health facilities, the Council will seek to ensure that planning permission for new housing is granted only where such services can be provided. In considering whether contributions will be sought towards the provision of health services, the Council will liaise with the NHS Primary Care Trust and other relevant agencies; they will give consideration to relevant health documents such as the Local Delivery Plan.

3.4.14 The needs of children and their carers should be catered for in publicly accessible facilities such as shopping or leisure centres. Crèches, baby changing facilities and feeding places, and supervised play areas can assist carers' access to jobs, training and other facilities. The Council will therefore encourage the provision of childcare facilities in all significant development schemes that are likely to be visited by children and their carers. If facilities cannot be incorporated within a scheme the Council may require contributions to fund alternative facilities elsewhere.

3.5 Children and Young People

3.5.1 Introduction

The Council's vision is to achieve the very best for children and young people in Herefordshire by ensuring all those involved with them see them holistically and work effectively together to improve their life chances. At national level, the Government's 'Every Child Matters' agenda puts five basic needs at the centre of planning of services for children and young people: be healthy; stay safe; enjoying and achieving; make a positive contribution; and achieve economic wellbeing.

Within this national context, the Children and Young People's Plan has been developed by the Council and its partners in the Children's Trust in order to identify the local priorities in promoting the well-being of children and young people. The Plan details priority areas, decided through a comprehensive analysis of need, across the full range of services provided for children and young people. The Plan sets the broad context for the identification of areas where developer contributions will be required as a result of new development. The main focus is expected to be educational facilities, where contributions will be considered from early years to 16+. Contributions will also be assessed for youth services.

3.5.2 Policy Justification

The advice in Circular 05/05 is clear that developer contributions should only be sought where the need for additional facilities arises as a consequence of the new development. Moreover, they should be fairly and reasonably related in scale to the proposed development. Developers will be expected to make an appropriate contribution towards enhancing existing facilities or new provision where current levels of service are insufficient to accommodate the development. For education, this will usually be related to existing capacity in schools whilst a wider range of opportunities is likely to arise in the case of youth provision.

3.5.3 Assessment of Need

Herefordshire has an unusually high number of schools (102) in relation to the overall size of the school population (23,000). There are a significant number of small schools, both primary (ages 4-10) and secondary (ages 11-15), many of which are affected by rural isolation and long journey times for pupils attending school. Thirty-five primary schools have fewer than 100 pupils, and five high schools have numbers below 600. The cost of school transport amounts to more than 6% of the education budget. The issue of small schools is a significant factor in the determination of local authority policy and strategy.

3.5.4 It is also the Council's responsibility to develop and support provision of early years education (pre-school) and nursery places. There is a continuing need for additional capacity arising from demographic changes as well as continuing changes in education. Where development falls within an area identified by the Children and Young People's Directorate as being full in terms of early years provision, a contribution towards provision will be sought.

3.5.5 It is the Council's responsibility to develop and support youth provisions. There is a continuing need for additional facilities and support arising from demographic changes. Where a development falls within an area identified by the Children and Young People's Directorate and the Youth Service as being over subscribed, a contribution towards additional provisions will be sought.

3.5.6 Thresholds for Contributions

Education contributions will be sought from residential developments providing additional units and where the implementation of the development will result in the generation of additional numbers of children in excess of that which local educational facilities in permanent buildings can accommodate in terms of capacity or when measured against qualitative standards set out in the Education Building Bulletins. Contributions to youth facilities will also be assessed from all new residential developments providing additional units. The exemptions in paragraph 3.5.11 will apply.

3.5.7 School Capacity

Contributions towards schools will depend on the size of the development and the capacity of schools serving the development. The Council will refer to data in its School Organisation Plan, which is updated annually. This will indicate the extent to which additional capacity will be required

to cater for the additional demand. The size of the development is determined by the net gain in dwellings.

3.5.8 Developments have been divided into bands based on the size of the development. A contribution will be requested if the number of spare places meets the trigger point for that band in at least one year group at each of the catchment schools. The bands are:

- For a development of 30 or fewer dwellings, contributions will be sought for schools that have no spare places in at least 1-year group;
- For a development of 31-60 dwellings, contributions will be sought for schools that have 1 or no spare places in at least 1-year group;
- For a development of 61-99 dwellings, contributions will be sought for schools which have 2 or fewer spare places in at least 1-year group; and
- For developments of 100 or more dwellings, the Council will seek to negotiate with the developer.

3.5.9 **Pre-school Capacity**

Section 11 of the Childcare Act 2006 places a duty on Local Authorities to carry out a *Childcare Sufficiency Assessment* leading towards the duty to secure sufficient childcare from April 2008. This puts the onus on Local Authorities to take into account any planned residential development, which may increase population in an area annually. Should this capacity be affected by any proposed developments then the developer would be expected to make pre-school contributions.

3.5.10 **Youth Provision**

Part 1, section 6 of the Education and Inspections Act 2006 has introduced a duty for Local Authorities to secure access and provisions for young people to positive leisure activities that support personal and social development. This puts the onus on Local Authorities to take into account any planned residential development, which may increase population in an area annually. Should these provisions be affected by any proposed developments then the developer would be expected to make youth provision contributions.

3.5.11 **Exemptions from Contributions**

Not all residential developments will create a need for further education or youth provision. Therefore, the following types of residential accommodation will not be subject to contributions: sheltered housing, rest homes, nursing homes, hostels, holiday homes, one bedroom units or from other specialist housing where it can be demonstrated that the nature of the accommodation will not lead it to being occupied by children. Student accommodation will be exempt from education contributions but may lead to impacts on youth provision. Rural exception sites and affordable housing generally will normally be exempt from S106 contributions on the basis that they are fulfilling a need for housing for people already in the local community. Residential units provided through the conversion of buildings in town centres, such as units over retail premises, will also be exempt from contributions in line with the Council's aim of encouraging the residential use of upper floors in central areas.

3.5.12 **How contributions will be calculated and used**

Calculations will be calculated based on the number of children / young people likely to be generated by the development and the costs of providing additional facilities/services needed. These components are now explained in turn.

3.5.13 **Pupil Yield**

Where developer contributions are required, they will be calculated based on the number of children likely to be generated by the development – the pupil yield. From an analysis of 2001 Census for Herefordshire, the following is an estimate of the pupil yield for each dwelling size:

Size of dwelling>	2+bed flat/maisonette/apartment	2/3 bed house/bungalow	4+ bedroom house/bungalow
Pupil yield per school			
Pre-school	0.011	0.023	0.034
Primary pupil yield	0.093	0.163	0.267
Secondary pupil yield	0.059	0.111	0.228
Post 16 pupil yield	0.005	0.005	0.005
Youth	0.026	0.035	0.069

These pupil yield estimates will be calculated alongside the building cost multiplier (see below).

3.5.14 Size of Dwelling

The contribution will vary according to the number, size and type of dwellings proposed. An analysis based on 2001 Census figures shows that actual number of pupils living in 2+bedroom flats/apartments for example is lower than that in a standard 2+bedroom house. Therefore, the contribution from flats/apartments will be lower. Similarly, a 4+bedroom dwelling is assumed to have a higher number of child occupants and the contribution will be higher.

3.5.15 Building Cost Multiplier

This is essentially a cost per pupil for building new accommodation. It is set annually by the Department for Children, Schools and Families (DCSF) in August/September ahead of the financial year and can be found on the DCSF website¹. The figures are based on the weighted average of two separate multipliers, one for totally new schools and one for extensions to existing schools. The figure includes an area adjustment to reflect the actual costs involved in the local area. According to the DCSF Building Bulletin 99 (Briefing Framework for Primary School Projects 2nd Edition) the overall total net area recommended for nursery places is the same as that for primary school places and hence the reason the same building cost multiplier is applied. In the case of Herefordshire, the cost multipliers for the 2008-9 financial year has an area adjustment factor of 0.96 and works out currently as follows*:

DCSF Basic Building cost Multiplier	Herefordshire 2006/7
Primary / nursery - £12,257	£11,767
Secondary - £18,469	£17,730
Post 16 - £20,030	£19,229

*The figures above will be reviewed and amended according to DCSF building cost multiplier rates on an annual basis.

3.5.16 Developer contributions will normally arise primarily in relation to accommodation related costs although in some cases the need to address other impacts, such as increases in school transport costs, will also be considered. Contributions will be sought for:

- Pre-school places/nursery places;
- 5 – 10 years (primary schools);
- 11 - 15 years (compulsory secondary school age);
- 16 + (post statutory school-age, in schools);
- Children with special educational needs beyond the capacity of existing schools in the area. These children have been included in the population figures and represent 1% of the population. The Children's and Young People's Directorate will decide what proportion of the final calculated contribution should be dedicated to this category; and
- Youth provisions (13-19).

3.5.17 For larger developments of 100 or more dwellings, the Council will negotiate a contribution either in cash or land, or both. More detailed analysis will be undertaken on the current and future availability

¹ can be found at:

<http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/designguidance/costinformation/>

of school places/youth provision based on the timing and size of the development and other knowledge about education provision in the area.

3.5.18 Calculation for Provision for Children and Young People

$$\text{Cost per dwelling} = \text{Pupil Yield per category} \times \text{Building Cost Multiplier}$$

Figure 6 - Contributions per House Type 2008/9*

Contribution by No of bedrooms	Pre - school	Primary	Secondary	Post 16	Youth	Total
2+bedroom flat/apartment	£129	£1094	£1046	£96	£480	£2845
2/3 bedroom house/bungalow	£271	£1918	£1968	£96	£647	£4900
4+bedroom	£400	£3142	£4042	£96	£1275	£8955

*The figures above will need to be reviewed and amended according to the DCSF latest calculations.

3.6 Flood Risk Management, Water Services and Pollution Control

3.6.1 Policy Justification

Planning Policy Statement 25 'Development and Flood Risk' (2006) sets out the Government's policy on the role of land use planning in reducing the risk of flooding. Planning obligations may be used to restrict the use of sites, or to ensure that developers carry out the necessary works and any future maintenance requirements in relation to flood risk. Guidance on pollution issues can be found in Planning Policy Statement 23 'Planning and Pollution Control' (2004) which states that any consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration, in so far as it arises or may arise from or may affect any land use. The Environment Agency promotes the use of obligations to help deliver justifiable environmental outcomes, where the scope of improvement lies outside the scope of planning conditions.

3.6.2 Thresholds for Contributions

For any development where conditions are inadequate, the Council will seek to negotiate a s106 obligation in relation to development affecting flood risk or air quality.

3.6.3 How contributions will be calculated and used Flood Risk Management

Where a flood risk assessment has been undertaken which identifies the mitigation measures necessary for a development to proceed, developers will be expected to enter into an obligation to deliver these measures and secure a proper maintenance regime. It is considered appropriate in certain circumstances in the management of residual risk to seek a developer contribution for major applications proportionate to the increased burden on the flood warning system and emergency services for the lifetime of the development. Financial contributions will be calculated on a site-by-site basis.

3.6.4 Water Services

In addition, where developments increase demand for water services developers may be required to support off-site infrastructure costs including the facilitation of new sewer capacity. Equally, the disposal of surface water is a material planning consideration in the determination of planning applications, and in some circumstances, is properly the subject of a planning obligation, for example, in the use of sustainable drainage systems (SUDS). Applicants may be required to enter into a planning obligation to secure the adoption and maintenance of any proposed systems.

3.6.5 Air Quality, Groundwater and Contaminated Land

The Council will expect appropriate air quality amelioration measures to accompany any major planning application and this matter should be discussed with the Council at an early stage of the planning process. In certain instances a contribution from the developer towards additional monitoring, especially in town centre locations, may be appropriate. This may follow the pattern of the provision of additional diffusion tubes, a real-time survey before the submission of proposals, or an ongoing programme of either type. The purchase, installation, operation and maintenance of air quality monitoring equipment or provision of other assistance or support to enable the implementation or monitoring of actions in pursuit of an Air Quality Action Plan can legitimately be sought as a planning obligation, in accordance with Planning Policy Statement 23. There will be a special interest in the impact on air quality arising from developments within or adjacent to an Air Quality Management Area (AQMA), of which there are two existing (Hereford and Leominster) and one proposed (A40 Ross) in Herefordshire.

3.6.6 In certain circumstances there will be a need for the developer to provide continued groundwater and surface water monitoring and any further remediation measures required after planning conditions have been discharged as part of a planning obligation.

3.7 Heritage and Archaeology

3.7.1 PPG's 15 (Planning and the Historic Environment) and 16 (Archaeology) provide advice on controls for the protection of historic buildings, conservation areas and archaeological remains. Herefordshire contains a wealth of listed buildings, numerous conservation areas and a variety of archaeological remains, including scheduled ancient monuments and sites of archaeological importance. These sites and buildings constitute unique resources that require protection and enhancement.

3.7.2 Thresholds for Contributions

Where conditions are inadequate, the Council will seek to negotiate a s.106 obligation in relation to development within or affecting conservation areas, listed buildings, archaeological and other heritage features or historic parks and gardens.

3.7.3 How contributions will be calculated and used

The type of agreements and level of contribution will be assessed on a case-by-case basis. Examples of types of development where planning agreements may be negotiated include:

- Enhancing conservation areas - development where works outside the application site are required to offset the impact of the development, for example tree planting within a conservation area;
- Cases where permission would not usually be granted, but enabling works (for example residential development) are required to secure the restoration of a listed building or building in a conservation area. In such cases the developer will be required to ensure the restoration works are completed prior to the completion or occupation of the enabling works;
- In some cases undertaking excavation and recording of important archaeological remains and other archaeological work may be necessary prior to new development. Normally, required investigations and necessary works will be secured via planning condition, however in certain circumstances it may be necessary to secure these works via a planning obligation; or
- In exceptional circumstances, to control the timing of demolition of a listed building or building in a conservation area. In cases where the demolition of a listed building is required to facilitate a new development a s.106 obligation may be required to control the timing of the demolition works, so that demolition cannot take place prior to the contract being let for the new development.

3.8 Landscape

3.8.1 Policy Justification

The justification for requiring obligations in respect of the natural environment is set out in Circular 05/2005 (Para B16). Planning Policy Statement 7 (PPS7) "Sustainable Development in Rural Areas" sets out the government's objectives for the rural environment. The key principles established in PPS9 are:

- To promote good quality, sustainable development that respects, and where possible, enhances local distinctiveness and the intrinsic qualities of the countryside; and
- Continued protection of the open countryside for the benefit of all, with the highest level of protection for our most valued landscapes and environmental resources.

3.8.2 UDP policies LA5, LA6 and NC9 relate to landscape issues and planning obligations and are listed in Appendix 1. The Council has also produced Supplementary Planning Guidance on "Landscape Character Assessment" to complement and provide further detail for policy LA2. The assessment itself provides a detailed account of the natural, cultural and visual dimensions of landscape, classifying, describing and evaluating its character as well as promoting opportunities for conservation, restoration, enhancement and mitigation.

3.8.3 Thresholds for Contributions

This will be assessed on a site-by-site basis where development affects a landscape, element in the landscape or feature in the landscape that could not be protected, enhanced or mitigated through the use of planning conditions or secured as part of a planning application. This may include additional landscape works beyond the application site.

3.8.4 How contributions will be calculated and used

Contributions will be calculated on a site-by-site basis and relate directly to the conservation and enhancement measures recommended in the Landscape Character Assessment SPG and may include:

- Hedge planting;
- Tree and orchard planting;
- Re-instating features that would restore the scale and pattern of enclosure and settlement;
- Reinforcing distinctive elements in the landscape through appropriate management; and/or
- Restoration of elements within Historic Parks and Gardens and cultural landscapes.

3.8.5 In Areas of Outstanding Natural Beauty (AONB's), contributions from development may be pooled to enable delivery of AONB Management Plans.

3.9 Open Space, Sports and Recreation Facilities

3.9.1 Policy Justification

The justification for requiring obligations in respect of open space and sports facilities is set out in Circular 05/2005 (Para B15). Planning Policy Guidance Note 17 (PPG17) states in Para 33 that 'planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space, sports and recreation provision' and that 'local authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local need'. It goes on to say, this will be justified where local authorities have undertaken detailed assessments of needs and facilities and set local standards. The Herefordshire Unitary Development Plan also contains policies concerning the provision, protection and enhancement of open space, sports and recreation facilities across the County. These are listed in Appendix 1. Planning obligations will, therefore, be sought to improve the quality and/or quantity of open space provision in a local area; this is in addition to private amenity space provided as part of a scheme (UDP Policy H19).

3.9.2 Assessment of Need

In line with PPG17, an audit of open space has been carried out in Herefordshire, and this takes the form of an assessment of not only the existing levels, standards and quality of open space in the County, but also future needs as well as under and over supply at the local level. This audit is currently in draft form, but when finalised, the information will be used to update UDP policy requirements, which are based on the existing National Playing Fields Association (NPFA) standards. The audit of open space took place concurrent with the drafting of the UDP and provision was made within the plan for the findings of the audit to inform the requirements placed upon developers with regards to open space and sports provision. The UDP Inquiry Inspector supported this approach – see UDP Para 10.5.3. When approved, the audit will be made available on the Council's web-site and will be used not only to update existing UDP policies but also to develop new policies for the forthcoming Local Development Framework.

3.9.3 A preliminary report of the audit indicates that:

- There are issues of quality and quantity in the existing open spaces and deficiencies in these areas need to be redressed; and
- There are also issues concerning accessibility of existing open space and recreation provision by local residents.

3.9.4 Sports Contribution for Sport and Leisure Facilities (Public and Private)

Sport England has provided guidance through their Good Practice Guide "Providing for Sport and Recreation Through New Housing Development" 2001, for securing sport and recreation at the local level. Therefore, in addition to seeking planning obligations towards open space provision/enhancement, Herefordshire Council use the "facilities calculator model" developed by **Sport England** to determine contributions resulting from increased demand for community sports facilities created by new development and any increased population. Currently, the model focuses on indoor facilities but once research has been completed this will be rolled out to include outdoor sports as well. For outdoor facilities the assessment of need will be carried out using the PPG17 audit of open space – see paragraph 3.9.2 above.

3.9.5 This contribution is required on all new residential developments and commercial developments above the thresholds in Figure 8 in order to meet the government's national strategy for improving sport and physical activity (in cases where they are too small to provide part or all of the facility required, they will be pooled with other contributions until such time as the required works can be carried out). However, rural exception sites and affordable housing generally will normally be exempt from contributions on the basis that they are fulfilling a need for housing for people already in the local community. Residential units provided through the conversion of buildings in town centres, such as units over retail premises, will also be exempt from contributions in line with the Council's aim of encouraging the residential use of upper floors in central areas. For developments of over 60 dwellings which are required through UDP policy H19 to provide either on site and/or off site contributions towards outdoor formal sports facilities, the Sport England requirement will be used for determining the value of the contribution and where necessary form the basis for

negotiations around the total on/off site package of facilities to be provided. In some instances a contribution for both indoor and outdoor facilities may be required. This will be done on a case-by-case basis. For commercial developments (Fig 8) the Sports contribution will be assessed for both indoor and outdoor facilities using the Sports Facilities Calculator model and PPG17 open space audit methodology. Off site contributions will normally be directed to the key facilities within the locality in which the development is proposed. See www.sportengland.org.uk and UDP Para 10.5.3. The calculation for the contributions towards sports facilities is based on the following:

Figure 7 – Calculation for contribution towards Sports Facilities

Average occupancy per dwelling or Number of employees/3 x cost of provision of facilities/County population

3.9.6 Open Space and Outdoor Recreation

Thresholds for contributions towards open space

The Council will generally seek contributions for off-site open space provision or enhancement in respect of all residential developments where the required amount of open space to meet our standards (in accordance with current UDP policies H19 and RST3) cannot practically or desirably be provided on site. However, the emerging open spaces assessment recommends that the provision of LAPs on all new development sites should be minimised, particularly on larger developments. (A LAP is a small area of open space specifically designed and laid out for young children to play, close to where they live). LAP's are now considered to offer little in terms of play value but are very costly to maintain. Therefore, unless specifically agreed, and until such time as new local standards are developed in accordance with PPG17, LAPs will not be sought on all new developments but rather, a financial contribution may be sought instead.

3.9.7 For many developments, the financial contributions arising from the scheme are unlikely in themselves to be sufficient to provide new recreation space or carry out necessary improvements to recreation space in the locality. In these cases the Council will hold the money in a ring-fenced account until such time as sufficient funding can be secured to provide new recreation space or carry out improvements to recreation space conveniently located for occupiers of the development. Exceptions relating to contributions towards open space will be made for affordable housing, sheltered housing, rest homes and nursing homes.

3.9.8 Certain commercial sites will be expected to provide areas of landscaped amenity open space of an appropriate size, scale and character within or adjacent to the development. In most instances, the Council is unlikely to adopt these areas. Therefore, if it is not feasible or desirable to make on-site provision, developers may be required to contribute to the improvement of conveniently located green spaces or recreation facilities likely to be used by their staff.

Figure 8 - Thresholds for contributions towards open space for residential and commercial developments

Contributions towards on-site or off-site provision/enhancement, equivalent to:	Dwellings	Retail (A1)	Financial and professional Services (A2)	Office (B1)
Appropriate levels of open space on a pro rata basis	1-10	-	-	-
Small children's play area (LAP)	10 – 30	-	-	-
+ Informal play space for older children (LEAP)	30-60	-	-	-

+ Outdoor play space for youth and adult and POS to at least the min standard (NEAP and outdoor sports facilities)	60+	Above 500 sq m (Off site contribution)	Above 100sq m (Off site contribution)	Above 500sq m (Off site contribution)
Sports Facilities Contribution for Sport and Leisure facilities (public and private)	All dwellings	Above 500 sq m (Off site contribution)	Above 100sq m (Off site contribution)	Above 500sq m (Off site contribution)

3.9.9 How contributions for open space will be calculated and used

On-site provision

In areas identified in the open space audit as having quantity deficiencies, open space provision will normally be required to be made on site as described in Figure 8 and in UDP policies H19, RST3 and E8. **This will offset the need for off-site provision.** However, a maintenance payment will be required if the site is being offered for Council adoption – see Para 3.9.21 below. The provision should always relate to the development it serves in scale and nature and should be capable of use for a range of uses across a range of ages. Until the open space audit's assessment of open space standards is approved, the Council will use the National Playing Fields Association (NPFA) standards for calculating the open space provision i.e. a minimum amount of open space of 2.4 hectares of outdoor playing space per 1000 population to be provided. In addition, the Council require 0.4 hectares of public amenity open space per 1000 population – these requirements are set out in UDP Policy RST3.

Provision for children and young people 0.8 ha

Outdoor formal sports space 1.6 ha

Public open space 0.4 ha

Total 2.8ha per 1000 population

3.9.10 The population arising from new residential development will be assessed by assuming average persons per dwelling from the 2001 Census, currently an average of 2.3 persons per dwelling. From this, the area of open space that a particular development (according to the thresholds in Figure 8) should provide according to NPFA standards will be calculated (in cases involving redevelopment or conversion of existing residential properties, the population from dwellings lost will be discounted).

3.9.11 Guidance and requirements concerning the location and layout of on-site provision and types of equipment expected can be obtained from the Council's Parks, Countryside and Leisure Development Services. On-site playing fields may be sought on sites of 60 dwellings and over and the developer will be required to lay out the pitches and where appropriate provide pavilions with changing rooms, parking and all appropriate support infrastructure. In certain circumstances developers may be required to make provision of open space above that required by the adopted standards to provide for structural or shelter planting in order to reduce noise, to incorporate measures to control ground water, prevent flooding or promote sustainable urban drainage or to include measures to protect biodiversity and/or promote nature conservation. These areas will not count towards open space requirements unless a compelling case can be made.

3.9.12 Off-site provision for residential schemes

In some circumstances, (especially for small developments where open space or recreation facilities provided on site would be too small to be of any practical use) it is likely to be more appropriate to seek financial contributions towards off-site provision of open space or recreation facilities. For residential development this will be based on the size of development proposed and the cost of acquiring and laying out a typical public park, sports area, children's play area or informal/natural green space, which would meet the requirements of NPFA standards. These contributions will be used for the enhancement of existing open space provision within the locality of

the development to bring them up to standard and/or the enhancement/upgrading of key strategic facilities in the locality. Once the audit of open spaces is approved it will help determine key priorities for improvements based on local deficiencies, quality and thresholds. The emerging open space audit points to a need for substantial qualitative improvements to many open space areas to meet the needs of both the existing population and those occupying new developments. The Council will have regard to the findings of this audit in seeking contributions to off-site provision. Finally, there may be other forms of recreational provision, often in the form of projects such as skate parks or allotment gardens which may arise in response to a specific need where the contribution will be negotiated on a case by case basis.

3.9.13 The calculation for residential development will be based on the following information:

Figure 9 – Calculation for residential contributions towards off-site open space provision/enhancement

- Average number of persons per dwelling – based on Appendix 2;
- The NPFA standard for the provision of outdoor playing space of 28m² per person; and
- The provision cost and maintenance per m² of a typical public open space.

3.9.14 The composition of the NPFA standard and the cost of provision and maintenance per dwelling are set out in the following table – the annual costs of provision will be index-linked.

Figure 10 – Contributions per Dwelling Size

Recreation Type	Provision cost and maintenance cost per person	1 bed	2bed	3bed	4 bed
Provision for children and young people	£965	-	£1640	£2219	£2702
Outdoor formal sports space	£627	£878	£1066	£1442	£1756
Public open space	£138	£193	£235	£317	£386
Total		£1071	£2941	£3978	£4844

3.9.15 The above recreation types are defined as follows:

- Provision for children and young people (LAPs (where appropriate)/ LEAPs, NEAPs);
- Outdoor formal sports provision including pitches; and
- Public Open Space (including Parks and Gardens, amenity green spaces, natural and semi natural green space and recreational rights of way).

3.9.16 The land acquisition costs (see 3.9.12) are based on the cost of land purchase in Herefordshire (Herefordshire Council's Property Services). If the development does not provide any open space on site, an equivalent should be sought off site, which would require the purchase of land. If land cannot be found and the contribution is going to be more beneficially used to improve the quality of an existing site, the land acquisition cost is still required as there is no net increase in supply. This is supported by Sport England. Most developments will increase local population, thereby increasing the amount of space required under NPFA standards. In exceptional circumstances where a surplus of facilities can be proven this element would not be required.

3.9.17 The provision costs are based on comparable costs from recently developed facilities in Herefordshire, which are compatible with estimates published by NPFA and Sport England and other local authorities. Such contributions will be put towards the extension or enhancement of existing open space in the locality. If any public open space is provided on site, the amount of the contribution will be correspondingly reduced in accordance with the proportion of open space provided. The maintenance costs are based on 15 years.

3.9.18 **Off-site provision for business schemes**

For retail and business development, the Council consider it appropriate to base the level of contribution in line with that established for residential development, however, it is recognised that the demand will be less than that of residents and therefore the NPFA standards should be met for every 1 in 3 employees. Likewise, the use of open space by employees and visitors to commercial developments will be unlikely to involve the use of equipped play space and this will therefore be excluded from the calculation.

3.9.19 The calculation for contributions to open space for the types of business development detailed in Figure 8 will be based on the following:

Figure 11: Calculation for contributions towards open space provision/enhancement from business development

The number of employees expected to be working in the proposed development divided by 3 x the provision cost and maintenance per person of outdoor open space less provision cost for young people (Figure 10).

N.B Employee/Floorspace Ratios explaining typical amounts of floorspaces per employee for different types of development are set out in Appendix 3.

3.9.20 **Maintenance**

In addition to the actual provision of open space where it is required on-site, a payment by the developer of a commuted sum to cover a 15-year cost of maintenance is also required. This would cover the life of the facility and is supported by RoSPA (Royal Society for the Prevention of Accidents). The tariff for calculation of commuted sums is index linked, and can be obtained from the Council's Parks, Countryside and Leisure Development Services. On payment of the commuted sum and when all liabilities for construction, equipment and maintenance have been met to the satisfaction of the Council, the open space will be transferred to the Council. If developers do not intend to offer these areas for adoption, the Council will need to be satisfied that alternative arrangements have been made for their long-term maintenance, usually through some form of private management agreement.

3.9.21 **Public Rights of Way**

Public rights of way are:

- Used by local communities to gain access to the countryside;
- Provide facilities for car free transportation around the local area;
- A vital component of the transportation network and have been incorporated into the Local Transport Plan; and
- Used extensively for recreation activities such as dog walking, rambling, cycling, horse riding and running.

3.9.22 Key routes such as the Wye Valley Walk and the Mortimer Trail contribute towards the income generated by tourism every year. Contributions by developers where the use of public rights of way is likely to increase as a result of the development, may be required towards:

- The replacement of old footbridges, which are often too narrow for modern usage;
- Replacement of stiles with gates to improve accessibility by all members of the public;
- The provision of surfaces that enable paths to be used all year round, rather than seasonally;
- Upgrading the status of rights of way (e.g. footpath to bridleway); and

- Future maintenance.

3.9.23 Contribution requests will include an assessment of needs created by the development; the Rights of Way Improvement Plan and Local Transport Plan should be consulted. There may be a degree of overlap with regards contributions towards transportation improvements, particularly in urban areas, see Transport section. The status, location and priority of public rights of way can be identified by contacting the Public Rights of Way team who will be able to advise on matters such as diversions and temporary closures. Path diversion to enable a development to be carried out would need to be paid for by the developer and would be separate to any contributions sought under s.106.

3.10 Town Centres, Community Safety and Public Realm

3.10.1 Policy Justification

The justification for requiring obligations in respect of town centres, community safety and the provision of areas of public realm, is set out in Circular 05/2005 (Para's B15- B19). Government Guidance (PPS6 Planning for Town Centres) states that 'it is essential that town centres provide a high-quality and safe environment if they are to remain attractive and competitive.' Well-designed public spaces and buildings, which are fit for purpose, comfortable, safe, attractive, accessible and durable, are all key elements which can improve the health, vitality and economic potential of a town centre. Circular 5/94 "Planning Out Crime", states that crime prevention can be a material consideration when planning applications are considered. Financial contributions from developers are highlighted in the Circular as a potential way that businesses can support town centre schemes to increase the feeling of community safety and benefit those businesses in the process.

3.10.2 The Council expects, in accordance with UDP policy DR1, that public art should be incorporated as an integral part of development, in order to offset the loss of, or impact on, any amenity and to contribute to the quality of the development and of the public space in the surrounding area. In appropriate circumstances a planning obligation may be required to achieve the above benefits.

3.10.3 Assessment of Need

Policy TCR2 of the UDP states that: 'the vitality and viability of Hereford city centre and the market towns will be maintained and enhanced by the following means.... (5). Seeking planning obligations to secure improvements to the public realm including public art, contributions to traffic management and environmental enhancement schemes, helping to make town centres more attractive places to visit.' Section 7.7.1 – 7.7.49 of the Herefordshire UDP sets out the background and objectives for the Council's approach to the regeneration of Hereford City - on the area of land known as the Edgar Street Grid (ESG). The Council have prepared a separate Supplementary Planning Document (SPD) setting out an urban design framework for the regeneration of the ESG area. UDP policies TCR20-23 specifically refer to developer contributions: 'A financial contribution to the planning obligations identified will be sought, ensuring the overall aims of the Edgar Street Grid proposals are met.'

3.10.4 Thresholds for Contributions

Residential developments and other schemes in Hereford or the Market Towns fulfilling the following thresholds will be expected to contribute to art in the public realm, community safety or town centre regeneration. Affordable housing and residential units provided through conversion of buildings in town centres will be exempt from such contributions on the basis that the provision of such housing is a priority for the Council. The thresholds are:

Residential	Retail (A1, A3, A4, A5)	Financial and professional Services (A2)	Office (B1)	D2 Leisure
All new dwellings	Above 500 sq m (Off site contribution)	Above 100 sq m (Off site contribution)	Above 500 sq m (Off site contribution)	Above 100 sq m (Off site contribution)

3.10.5 For major developments, regarded as those where the gross floor space to be created is 1000 square metres or above, or the site area covers 1 hectare or more, it is preferable for developers to make direct improvements to the public realm (subject to agreement as to the specific nature of the works), to a standard satisfactory to the Council, in lieu of making contributions. Contributions may also be required from developments below the above thresholds where they affect regeneration projects in prominent town or village locations or abut public open space.

3.10.6 How contributions will be calculated and used General Town Centre Improvements and Community Safety Measures

Development requirements and contributions will be directly related in scale and kind, and the type and level of contribution will ultimately be based on the location, nature and scale of the proposal. It will also depend upon a scheme's potential impact and the estimated cost of providing the requisite measure(s) identified in connection with the development to be implemented.

3.10.7 Depending on the scheme, the type of enhancement projects and measures will generally fall within the following broad areas:

- Landscape works including the provision and maintenance of public space;
- Street furniture and lighting;
- Litter management and recycling;
- Crime prevention and safety e.g. CCTV;
- Improved public transport;
- Accessibility measures and/or associated highway works;
- Signage;
- Public facilities i.e. toilets and crèches;
- Promotion and marketing; and
- Car parking improvements/park and ride facilities and management.

3.10.8 In terms of community safety, measures may include the design and layout of the scheme, lighting, CCTV cameras and works to existing pathways or other routes. In most cases, safety and security measures will be provided as an integral part of the development, or will be required by planning condition. In exceptional cases, a planning obligation may be sought towards strategic safety and security measures in order to create a safer environment within the area of the proposed development. In particular, contributions towards strategic safety and security measures will be sought from the following developments:

- All new major development proposals for leisure, entertainment and hotel developments, which are likely to attract clientele beyond 8.00pm at night;
- All late night cafes/restaurants, public houses and nightclubs which seek to attract clientele beyond 8.00pm at night; or
- Major town centre developments that will generate significant visitor numbers and trip movements, assessed on a case-by-case basis.

3.10.9 The costs of providing the necessary safety and security measures will be negotiated on a case-by-case basis pursuant to the location, nature and scale of the development and the type of safety and security measures which are identified as being necessary. In the case of CCTV schemes, where it is considered necessary to improve or provide a public CCTV scheme (which will be limited to town, district or local centres, public space and industrial estates), the Council may seek contributions towards the full or partial costs of a CCTV scheme and its running costs. The cost of providing a CCTV camera, linked to the central control room, is in the vicinity of £25,000 - £30,000. A full breakdown of the costs of providing a CCTV scheme in Herefordshire is outlined in Appendix 4. A contribution from developments towards the cost of provision would need to be commensurate with the location, scale and nature of the proposal.

3.10.10 **Edgar Street Grid**

Regarding the ESG proposals, paragraph 7.7.15 of the UDP stipulates that the Plan policies for the grid area include a number of requirements to support regeneration. Developers will be expected to make financial contributions to these in compliance with policy DR5 of the Plan. Contributions may be expected from schemes outside of the Grid where appropriate, including those arising elsewhere in the city centre. The main requirements are:

- Provision of new and improved pedestrian/cycle routes to ensure good linkages through the site connecting the Grid developments to the existing fabric of the city, including the Courtyard theatre and the railway station;

- Contribution to the provision of park and ride facilities to serve Hereford and improve access to the area;
- Public realm improvements including enhancements to the railway station providing improved access for pedestrians, cyclists and drop-off facilities, and to the historic area around the Coningsby Hospital and the Blackfriars Friary;
- Provision of enhanced public transport facilities;
- The road link between Edgar Street and Commercial Road and extension of Canal Road;
- Provision of canal basin, wharfage, and visitor centre;
- A surface water and drainage management scheme utilising the Widemarsh Brook and the Canal where appropriate, in conjunction with other strategic flood mitigation measures undertaken elsewhere upstream;
- Relocation of the Hereford Livestock Market; and
- Provision of public offices and library.

3.10.11 It is recognised that the proposals for comprehensive regeneration of the Edgar Street Grid are likely to involve significant elements of “inherent self mitigation” in the form of major infrastructure provision. The Council will thus have due regard to this in the extent and level of any planning obligations and contributions sought by the Council in connection with such development proposals. The cost and provision of major infrastructure works as part of the Edgar Street Grid development proposals (for example highways improvements and contributions to flood alleviation schemes) may thus be off-set against obligations and contributions which may otherwise have been sought pursuant to this SPD. Where ESG development proposals provide off-site works which have an enabling benefit to non-ESG development sites, the Council shall seek a planning obligation from developers of such sites to contribute a fair and reasonable amount proportionate to the enabling benefit such off-site works have given to the relevant non-ESG development site.

3.10.12 **Public Art**

Public art comprises permanent or temporary works of art visible to the general public, whether part of the building or free-standing, and can include sculpture, fine art, water features, lighting effects, street furniture, new paving schemes, clocks, murals and signage, live art (exhibitions and performances), stained glass windows, textiles such as tapestries and flags, and metalwork such as gates and fences. In whatever form, public art has one consistent quality – it is site-specific and relates to the context of a particular site or location. Public art can improve the quality of the public realm and add to the process of local regeneration. Installing works of art in public places is a permanent means of improving the quality of the environment, which can contribute to the creation of a sense of place and local identity in public buildings, commercial developments, streets and parks. In improving the quality of a public space, public art can contribute to the overall value of a new development and hence increase its marketability. A successful scheme can make good commercial sense in that it helps set a building or development apart.

3.10.13 The Council will seek to ensure that the cost of public art provided in association with new developments equates to approximately 1% of gross development cost (excluding land values) of a development project. This approach follows the “Percent for Art” campaign sponsored by the Arts Council, which aims to improve the built environment by employing the talents of artists and craftspeople. The Council prefers that the artwork be incorporated into the development, or that the developer commission specific work to be part of the public space surrounding the building. Where it is shown that the artwork cannot be incorporated within the development, the Council will expect a financial contribution equivalent to 1% of the gross development cost. The financial contribution will be utilised to provide public art within the vicinity of the development, and may be pooled with other contributions. The Council will require an estimate of the building costs in order to assess the “percent for art” contributions. Developers will be encouraged to consult with artists, craftspeople, as well as the local community, at an early stage in the design process (preferably prior to the submission of a planning application) to promote social cohesion and the proper integration of the public art feature. The obligation should clarify the procurement and management process, location of the works, timetable for works, ownership, insurance and maintenance issues.

3.11 Waste Reduction and Recycling

3.11.1 Policy Justification

Planning Policy Guidance Note 10 'Planning and Waste Management' (1999) sets a policy framework for sustainable waste management. The Council is promoting a strategy of waste minimization through the development of recycling services and the reduction and reuse of materials currently going to landfill. The Council has made recycling one of its top priorities in its Corporate Plan 2006-9. In addition the Joint Municipal Waste Management Strategy for Herefordshire and Worcestershire 2004-2034 sets out the strategic context for waste management and disposal across the County as well as laying down recycling targets. The Council is looking to achieve a recycling rate of 30% by 2010.

3.11.2 Thresholds for Contributions

Developer contributions will be required from residential developments towards recycling initiatives depending on the development and particular site characteristics. Affordable housing, residential units provided through conversion of buildings in town centres and rural exception sites will be exempt from contributions towards recycling facilities.

3.11.3 As part of the objective to encourage the recycling of waste and to ensure that all development is of a high standard of design and layout, the Council will normally expect all development to:

- Ensure adequate facilities for storage and collection of waste/recyclable materials are provided per dwelling (for developments involving flats, a recycling storage area with drop fronted bins will need to be provided on site);
- Ensure kitchen sink waste disposal units are provided per dwelling/unit where home composting is unsuitable e.g. flats; and
- Depending on the scale of development, either require the provision of a local, public recycling facility within a development site or secure a financial contribution towards the provision of, or improvements to, such a facility off-site, but in the locality.

3.11.4 How contributions will be calculated and used

On new dwelling sites the Council will normally expect a financial contribution towards the cost/improvement of a local recycling facility. On residential developments of 50 or more dwellings the Council will normally require the provision of a local recycling facility on site. Where this cannot genuinely be provided, a financial contribution equivalent to the cost of providing and equipping a local recycling facility shall be paid to the Council. The inclusion of a neighbourhood recycling centre may be justified in larger developments (i.e. more than 200 units).

3.11.5 Recycling facilities provided as part of a new development shall be provided at an early stage in the development and shall normally be open for public use prior to any of the dwellings for that part of the estate having been completed and occupied. Prospective developers are encouraged to ensure that the occupants of new dwellings are able to minimise the amount of waste they produce. A storage space should always be provided for recoverable materials and, wherever practicable, facilities should be provided for home composting.

3.11.6 The day-to-day revenue costs of collection and recycling will be covered through householder's Council Tax.

3.11.7 Figure 12: Calculation for Off-site Provision of Recycling and Refuse Facilities¹

Contributions towards recycling and household waste facilities will be sought in accordance with the guidelines outlined above. The financial contribution, in lieu of on-site provision, is £120 per dwelling.

¹ This amount will be index-linked.

Appendices

Appendix 1 – UDP Policies

Topic	UDP Policy	Associated Obligations
Strategic Policies	S1 S2	Sustainable Development Development Requirements
Development Requirements	DR1 DR3 DR4 DR5 DR7 DR10 DR13	Design and Public art Sustainable transport Environmental improvements Planning Obligations - general Flood Risk Contaminated Land Noise
Housing	H1/H2/H4/H5 H7/8 H9/10 H19	Housing land allocations/Affordable housing Occupancy Limitations/Agricultural dwellings Affordable Housing Open Space
Employment	E7 E16	Intensification of Use /Landscaping/Residential Amenity/ Intensive livestock units
Town Centre and Retail	TCR2 TCR19 to TCR23	Improvements to the public realm ESG - Traffic management contributions/Environmental enhancement scheme/Pedestrian and cycle links/Community safety/CCTV/Affordable housing/Infrastructure
Transport	T11 T12 T14	Parking provision Existing parking areas Safer routes to school
Natural and Historic Heritage	LA1 - LA5 LA6 NC5 NC7 NC9 HBA12 ARCH8	Protection of Trees and Woodland Landscape schemes including enhancement European and nationally protected species Compensation for loss of biodiversity Management of features of landscape importance Re-use of Rural Buildings Management strategies including access
Recreation, Sport and Tourism	RST1 RST4 RST5	Establishment of new facilities Safeguarding existing facilities New open space
Waste	W11	Waste implications of development

Appendix 2 – Average Occupancy per Dwelling

Dwelling Size (bedrooms)	Average Occupancy
1	1.4
2	1.7
2 bed flat	1.7
3	2.3
4+ beds	2.8
All dwellings	2.3

Source: Average Occupancy per Dwelling Source: Census 2001

Appendix 3 – Employee / Floorspace Ratios

Description	Use Class	Net Floorspace per Employee (sqm)*	Gross Floorspace per Employee (sqm)**
Offices	B1 (a)	18.3	20.3
R&D/High Tech	B1 (b)	27.2	30.2
Financial and Professional Services	A2	19.9	22.1
Industrial	B1 (c)/B2	38.2	42.4
Warehousing	B8	78.2	86.9
Retail	A1	15.9	17.7

Source: Derived from Table 4.2, Use of Business Space and Changing Working Practices in the South East, DTZ/SEERA, 2004

* Net floorspace is the internal area including entrance halls, kitchens and built-in units but excluding toilets, stairways, lifts, corridors and common areas.

**Gross floorspace is calculated from the external dimensions of the building. The ratio is based on an assumption that net floorspace = 90% of gross.

Appendix 4: Costs of Providing CCTV

HEREFORDSHIRE CCTV

BUDGETARY COSTS FOR THE INSTALLATION OF CCTV

Please note the following price information is for guidance only and is subject to detail site survey and clarification of individual requirements. Additional camera sites may or may not involve additional monitors, display devices and recording systems, dependant on usage of spare capacity of the existing system or requirement to maintain spare capacity. Prices exclude additional control protocol driver equipment or data distribution equipment, as this will depend on system size at time of camera addition.

		£
1	20" Colour Photo-Scanner Camera on Building	3,840
2	20" Colour Photo-Scanner on 6m TC Pole	6,105
3	20" Colour Photo-Scanner on 8m TC Pole*	6,860
4	20" Colour Photo-Scanner on 10m TC Pole*	7,208
5	Adjustment for "Heritage" style top cowl on dome	+170
6	Adjustment for pole base by other	-700
7	General Control Room works and Project Management	1,620
8	Additional Quad Display Unit	694
9	8 x Channel Multiscope III System DVR	13,750
10	16 x Channel Multiscope III System DVR	16,290

*Combination camera / lamp poles

In addition to the above one off capital costs a contribution towards annual running costs would be levied. As a budgetary guide this figure would be in the region of £3,000 per annum.

Pricing Notes:

1. Pricing within the above schedule has been provided as BUDGETARY GUIDANCE ONLY, SUBJECT TO CONFIRMATION OF DETAIL AND DOES NOT FORM A FORMAL QUOTATION.
2. Please note that Fibre Optic links are supplied under direct contract with BT RedCare Vision and are excluded from the above prices.
3. It is assumed that all wayleaves, permissions and searches would be undertaken by others, where necessary.
4. Price excludes any costs for Street Licences, if applicable.
5. Prices exclude new electricity supplies, where required.