

CORPORATE AND CUSTOMER SERVICES

Director: Mrs JE Jones

TO: ALL MEMBERS OF THE COUNCIL

Your Ref:

Our Ref: AMcL/SAHC

Please ask for: Mrs S Cole

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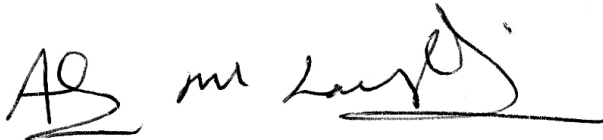
E-mail: scole@herefordshire.gov.uk

Dear Councillor,

YOU ARE HEREBY SUMMONED to attend the meeting of the County of Herefordshire District Council to be held on **Friday 8 February 2008** at The Hall, Shirehall, St Peter's Square, Hereford. at 10.30 am at which the business set out in the attached agenda is proposed to be transacted.

Please note that 30 car parking spaces will be reserved at the Shirehall and 10 car parking spaces at the Town Hall for elected Members.

Yours sincerely



A McLAUGHLIN
HEAD OF LEGAL AND DEMOCRATIC SERVICES



A G E N D A

COUNCIL

Date: **Friday 8 February 2008**

Time: **10.30 am**

Place: **The Hall, Shirehall, St Peter's Square,
Hereford.**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

Sally Cole, Committee Manager Executive

**Tel: 01432 260249, e-mail:
scole@herefordshire.gov.uk**

**County of Herefordshire
District Council**

AGENDA

for the Meeting of the COUNCIL

To: All Members of the Council

Pages

1. PRAYERS

2. APOLOGIES FOR ABSENCE

To receive apologies for absence.

3. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the Agenda.

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.

4. MINUTES

To approve and sign the Minutes of the meeting held on 2 November 2007 and the extraordinary meeting held on 23 November 2007.

1 - 30

5. CHAIRMAN'S ANNOUNCEMENTS

To receive the Chairman's announcements and petitions from members of the public.

6. QUESTIONS FROM MEMBERS OF THE PUBLIC

31 - 48

To receive questions from members of the public.

Additional question**7. QUESTIONS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS**

To receive any written questions.

8. NOTICES OF MOTION UNDER STANDING ORDERS

Councillors MD Lloyd Hayes and GFM Dawe submitted the following notice of motion as a matter of urgency.

"This Council has no confidence in the Cabinet Member for Corporate & Customer Services and Human Resources; we therefore invite her to resign from this position."

The Chairman will rule whether the motion is urgent.

Councillors TM James and RI Matthews submitted the following notice of motion as a matter of urgency.

"Members of this Council are deeply angered at the recent announcement by senior executive officers and Members of the Council of their ill thought-out and damaging closure and reorganisation plans for schools in Herefordshire.

They are also saddened at the damage that has been done to the public confidence in the local authority, the distress that it has caused to thousands of children, parents, teachers and staff throughout the county, and the consequent disruption to the education of pupils.

They also note that there are no financial grounds for these proposals; Herefordshire is this year receiving its highest local government settlement in real terms per pupil. Further, they note that many of these schools are the best performing in the county, and that they provide a vital role in sustaining our city, town, village and rural communities.

Council therefore believe that enough damage has been done to the confidence in our education provision in this county, and demand that the Cabinet instruct the education officers within Herefordshire to work within an undertaking that no schools close or are reorganised, other than under Herefordshire Council's existing small school closure policy. An undertaking should also be given by the Cabinet that it will not resurrect this damaging policy within the lifetime of this Council.

Members believe that Herefordshire schools will now need a period of stability in order to recover from the damaging way in which this whole subject has been handled."

The Chairman will rule whether the motion is urgent.

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| 9. CABINET REPORT AND MINUTES | 49 - 58 |
| To receive the report and minutes and to consider any recommendations to Council arising from the meetings held on 29 November and 13 December 2007 and 24 January 2008. <i>(Please note the minutes of 24 January are to follow).</i> | |
| 10. PLANNING COMMITTEE | 59 - 62 |
| To receive the report and to consider any recommendations to Council arising from the meetings held on 14 December 2007 and 18 January 2008. | |
| <u>10A Planning Obligations Supplementary Planning Document</u> | |
| To receive and adopt a Supplementary Planning Document (SPD) setting out the Council's policy on the use of planning obligations, following statutory public consultation. | |
| 11. STANDARDS COMMITTEE | 63 - 66 |
| To receive the report and to consider any recommendations to Council arising from the meeting held on 18 January 2008. | |
| 12. STRATEGIC MONITORING COMMITTEE | 67 - 72 |
| To receive the report and to consider any recommendations to Council arising from the meetings held on 19 November 2007 and 21 January 2008. | |
| <u>12A Supplementary Report of the Strategic Monitoring Committee</u> | |
| To receive a Supplementary Report of the Strategic Monitoring Committee from its meeting of 31 January 2008. | |
| 13. REGULATORY COMMITTEE | 73 - 94 |
| To receive the report and to consider any recommendations to Council arising from the meetings held on 20 November and 18 December 2007 and 29 January 2008. | |
| 14. AUDIT AND CORPORATE GOVERNANCE COMMITTEE | 95 - 96 |
| To receive the report and to consider any recommendations to Council arising from the meetings held on 30 November and 21 December 2007 and 24 January 2008. | |
| 15. WEST MERCIA POLICE AUTHORITY | 97 - 106 |
| To receive the report of the meeting of the West Mercia Police Authority held on 25 September 2007. Councillor B Hunt has been nominated for the purpose of answering questions on the discharge of the functions of the Police Authority. | |
| <u>15A West Mercia Police Authority 18 December 2007</u> | |
| To receive the report of the West Mercia Police Authority held on 18 December 2007. | |

16. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY

107 - 108

To receive the report of the meetings of the Hereford & Worcester Fire and Rescue Authority held on 13 December 2007.

The Public's Rights to Information and Attendance at Meetings

YOU HAVE A RIGHT TO:-

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of the Cabinet, of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50, for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.
- A member of the public may, at a meeting of the full Council, ask a Cabinet Member or Chairman of a Committee any question relevant to a matter in relation to which the Council has powers or duties or which affects the County as long as a copy of that question is deposited with the County Secretary and Solicitor more than seven clear working days before the meeting i.e. by close of business on a Tuesday in the week preceding a Friday meeting.

Please Note:

Agenda and individual reports can be made available in large print, Braille or on tape. Please contact the officer named below in advance of the meeting who will be pleased to deal with your request.

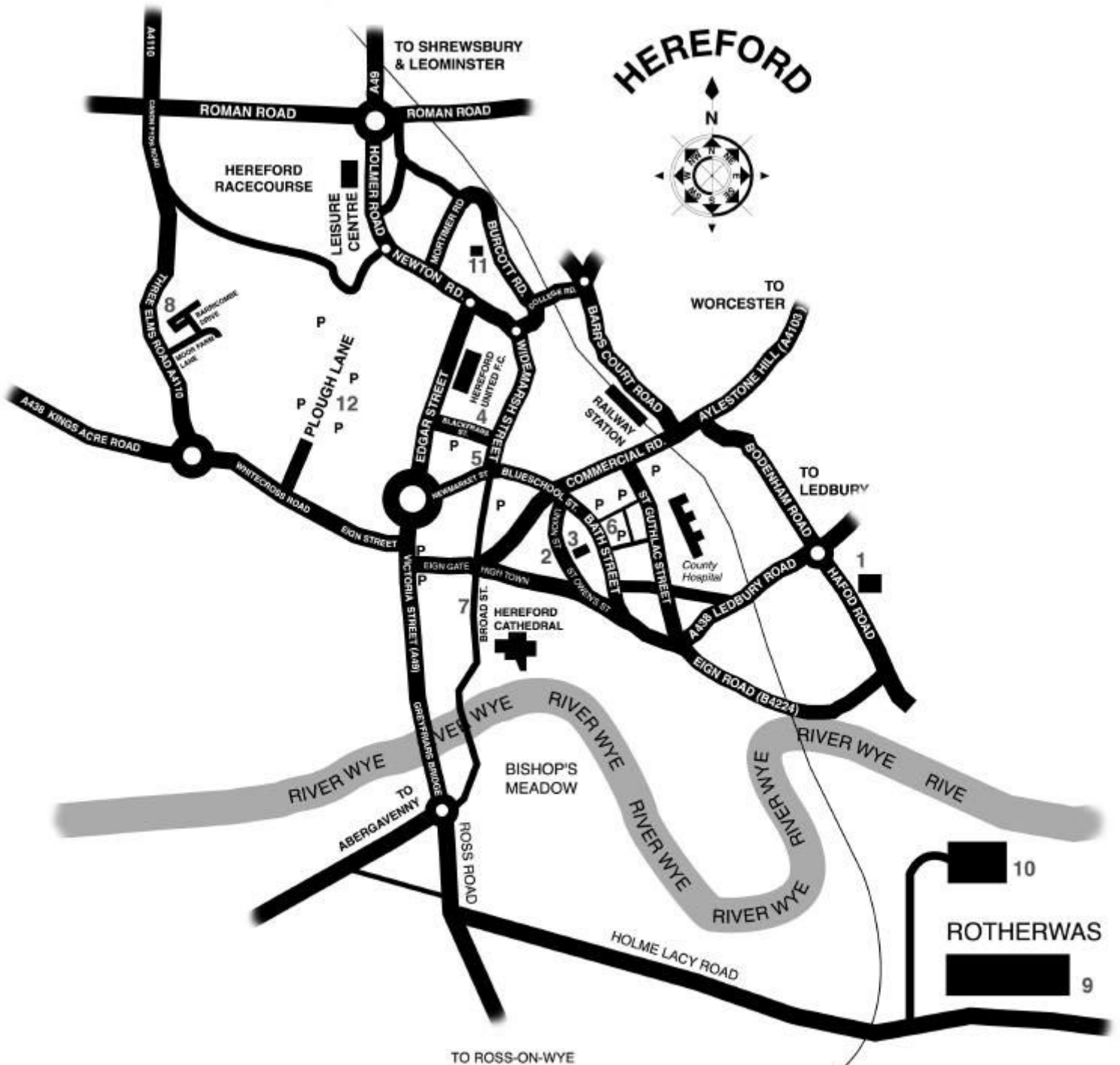
The meeting room is accessible for visitors in wheelchairs via the main entrance by prior arrangement. Please telephone 01432 272395

A map showing the location of the Shirehall can be found opposite.

If you have any questions about this Agenda, how the Council works or would like more information or wish to exercise your rights to access the information described above, you may do so either by telephoning the officer named on the front cover of this agenda on 01432 260249 or by visiting in person during office hours (8.45 a.m. - 5.00 p.m. Monday - Thursday and 8.45 a.m. - 4.45 p.m. Friday) at the Council Offices, Brockington, 35 Hafod Road, Hereford.



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HEREFORD



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|---|------------------|----|-----------------------------------|
| 1 | Brockington | 7 | Kemble House |
| 2 | Town Hall | 8 | Trinity House |
| 3 | Shire Hall | 9 | Thorn Office Centre |
| 4 | Education Centre | 10 | Herefordshire Commercial Services |
| 5 | Garrick House | 11 | Merchant House |
| 6 | Bath Street | 12 | Plough Lane |

FIRE AND EMERGENCY EVACUATION PROCEDURE

IN CASE OF FIRE

(no matter how small)

1. Sound the Alarm
2. Call the Fire Brigade
3. Fire party - attack the fire with appliances available.

ON HEARING THE ALARM

Leave the building by the nearest exit and proceed to assembly area on:

GAOL STREET CAR PARK

Section Heads will call the roll at the place of assembly.

MINUTES of the meeting of COUNCIL held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 2 November 2007 at 10.30 am.

Present: Councillor J Stone (Chairman)

Councillors: WU Attfield, LO Barnett, CM Bartrum, DJ Benjamin, AJM Blackshaw, WLS Bowen, H Bramer, RBA Burke, ACR Chappell, ME Cooper, PGH Cutter, H Davies, GFM Dawe, PJ Edwards, MJ Fishley, JP French, JHR Goodwin, AE Gray, DW Greenow, KG Grumbley, KS Guthrie, JW Hope MBE, B Hunt, RC Hunt, TW Hunt, JA Hyde, TM James, JG Jarvis, G Lucas, RI Matthews, TMR McLean, R Mills, PM Morgan, AT Oliver, JE Pemberton, RJ Phillips, GA Powell, PD Price, SJ Robertson, A Seldon, RV Stockton, JK Swinburne, AP Taylor, DC Taylor, AM Toon, NL Vaughan, WJ Walling, PJ Watts, DB Wilcox and JD Woodward

34. PRAYERS

The Very Reverend Peter Haynes led the Council in prayer.

35. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors: PA Andrews, SPA Daniels, MAF Hubbard, P Jones CBE, MD Lloyd-Hayes, A Seldon. RH Smith and JB Williams.

36. DECLARATIONS OF INTEREST

Councillors: WU Attfield and ACR Chappell declared a personal interest as School Governors in Item 5.1 (ii) Wyebridge Academy of the Cabinet report. Councillor PJ Edwards declared a personal interest in Item 8 Notice of Motion as chairman of Strategic Monitoring Committee.

37. MINUTES

RESOLVED: That the minutes of the meeting held on 27 July 2007 be approved as a correct record and signed by the Chairman.

38. CHAIRMAN'S ANNOUNCEMENTS

The Chairman reminded Council of the loss of two former Councillors, John Guthrie in September and Basil Baldwin in October 2007. Council stood for a minutes silence in remembrance.

The Chairman welcomed back Councillor Roger Hunt who had been absent with ill health and reminded Members of the Civic Service, which is to be held on Sunday 9 March 2008 at the Cathedral followed by afternoon tea at the Town Hall.

Congratulations were expressed to a former member of staff Mike Jones, who worked in the Highways and Transportation department, on his recent retirement after completing over 41 years service in local government.

Congratulations also went to Nigel Thomas from the Emergency Planning department of the Council who won the Business Continuity 'Student of the Year 2007' award out of 1,200 eligible students. Nigel won three days BCI approved training at the Cotswold Conference Centre worth approximately £4,000.

The Chairman advised Council that he wrote to the Fire and Rescue Authority and the Police Authority thanking them for the work they did in keeping the county moving during the floods in July 2007.

The Chairman received a petition from Miss Rigby MBE of Wormelow relating to traffic problems in Wormelow Village, which he handed to the Cabinet Member (Highways and Transportation).

39. QUESTIONS FROM MEMBERS OF THE PUBLIC

Under the Constitution a member of the public can ask a Cabinet Member or Chairman of a Committee any question relevant to a matter in relation to which the Council has powers or duties, or which affects the County, as long as a copy of the question is deposited with the Head of Legal and Democratic Services more than six clear working days before the meeting. One question had been received and was included in the agenda. The question, together with a summary of the response, is set out below:

Question from CJ Grover, Bromyard, Hereford.

At the Cabinet meeting of 14 December 2006 an Action Plan for Bromyard Downs was approved and the results of this action plan were to be presented to the Cabinet in April 2007. It was the Bromyard Downs User Groups' written representations to the Council in May and October 2006 that the Downs were being mismanaged by Brockhampton Group Parish Council that caused this consultation paper to be prepared. Despite the User Group being the main participants they were not included in the list of consultees, however this omission was verbally corrected at the meeting. At no time since the Cabinet meeting of 14 December has the Council contacted the User Group about the Action Plan apart from a non-committal response in the spring to a request for information. It is apparent that nothing has happened which is an unusual situation since approval for the Action Plan was a decision of the Cabinet made 11 months ago. Will the Council give an explanation at the meeting today for the lack of action and give an assurance they will resolve the situation within three months?

Answer from the Head of Legal and Democratic Services

The Council have sought Counsels advice, a reviewed scheme is being drafted and it is anticipated that this will be available for consultation by March 2008 to all interested parties.

At this point the meeting was interrupted at 10.45 am and resumed at 11.10 am.

40. QUESTIONS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS

Councillors may ask questions of Cabinet Members and Chairmen of Committees so long as a copy of the question is deposited with the Head of Legal and Democratic Services at least 24 hours prior to the meeting. A list of questions, set out in the order in which they had been received, was circulated at the beginning of the meeting. Councillors may also, at the discretion of the Chairman, ask one additional question on the same topic. The questions and summary of the answers are set out

below.

Question from Councillor A Gray

What is the Cabinet Member doing about the acute shortage of Affordable homes in the County and given its importance why was this Monday's seminar on the subject cancelled?

When will this Council consider releasing some of its own land for such housing to reduce risk of Social landlords attempting to build on Allotments and public open spaces?

Answer from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

The recently adopted Unitary Plan sets out a target for affordable homes provision of 2,300 affordable homes over the plan period 1996 – 2011 (15 years). The UDP contains policies to assist the delivery of affordable housing including a requirement for 35% affordable housing to be delivered on sites over set thresholds (35% on sites of 6 or more dwellings in rural areas and Kington Market Town and sites of 15 or more dwellings in Hereford and the remaining Market Towns)

We know that in the period leading up to the adoption of the plan, the affordability gap has widened, increasing the numbers of people who are unable to afford to access affordable housing, whether through outright purchase, shared ownership or for rent. This means that there is an emergent need to provide more affordable housing in now and in forthcoming years. Furthermore, although 2006/07 has seen an overall increase in the number of new build affordable homes completed this remains below the rate required to meet the UDP target.

In delivery terms, there is clear evidence that more affordable housing is emerging through the use of planning policies set out in the Unitary Development Plan, policies that will be enhanced and strengthened in the emergent Local Development Framework. Annual monitoring over the remainder of the plan period will review this situation.

Looking to the future, the preparation of the Local Development Framework (LDF) will be an opportunity to review the effectiveness of the UDP affordable housing policies. This will need to take into account the Regional Spatial Strategy Phase 2 Revision housing policies, including an indicative minimum target of 800 affordable houses per annum up to 2026 to be provided in Shropshire and Herefordshire – likely to equate to around 300 homes p.a. for Herefordshire itself, significantly more than currently being provided. The issue for the county as a whole will be how to ensure delivery of these targets when currently only about half of all applications for housing fall above the current UDP thresholds for affordable housing provision – i.e. when the 35% target kicks in. A current Housing Market Assessment being carried out for Shropshire and Herefordshire will help inform this issue and the review of affordable housing targets and thresholds and ultimately, the new policies in the LDF.

The New Growth Point status for Herefordshire will involve an increase in the rate of new housing built in the county, in line with RSS targets, and this will include the provision of affordable housing.

Strategic Housing, working in partnership with planning have been negotiating the affordable housing elements of key sites throughout Herefordshire with negotiations either completed or ongoing for the delivery of 830 affordable homes through

planning gain. 112 of these are estimated to be delivered during 2007/08 with a further 718 over approximately 3 years from 2008 onwards. Members will be aware but should be assured that the Edgar Street Grid development will also include a significant provision for affordable housing which will add to the numbers for delivery in Hereford City quite substantially.

Cabinet has approved Strategic Housing's development programme for affordable housing delivery for this financial year funded both through the use of Housing Capital reserves and schemes the Council are supporting which have been awarded funding directly from the National Affordable Housing Programme grant administered by the Housing Corporation. In total, Strategic Housing has set a target of 220 affordable homes to be acquired and built during 2007/08. 51 of these affordable homes are due to be delivered using Housing Capital reserves totalling £4.1 million and the remainder through a mix of planning gain, Housing Corporation funding and other activities. Strategic Housing has achieved incremental improvements in recent years in the number of affordable homes delivered each year.

Strategic Housing also tackles empty properties and targets have been set to deliver 100 homes being brought back into use during 2007/08. This represents an important contribution to increasing the supply of homes in the County, including for private renting.

Strategic Housing is currently supporting affordable housing development proposals from Housing Association partners for 386 affordable homes the majority of which have received in principle support from the Housing Corporation and, which it is hoped, will be delivered during the period 2008-2011.

With much of the development centred on Hereford City and the market towns, we mustn't forget rural communities where the need for affordable housing is evident but where delivery is more difficult due to the lack of appropriate sites. In tackling this, Strategic Housing is conducting consultation events in 9 parishes during 2007/08 where local communities will be given an opportunity to identify potential sites to deliver the identified need for affordable housing. 15 parishes will be surveyed during the year to assess the affordable housing needs of the local community. To assist this focus on resolving the rural shortage, the Council, in partnership with Community First and local Housing Association partners, is funding a Rural Housing Enabler. The Rural Housing Enabler gives focussed attention to helping local parishes realise their ambitions for affordable housing.

In summary, therefore, whilst we are seeing increasing delivery of affordable Housing in Herefordshire we know there is more to be done. Increased allocations of funding for Affordable Housing have been announced regionally and we need to ensure Herefordshire gets its share. The acceptance of Hereford as a New Growth Point reflects Herefordshire's commitment to meeting the challenge given to local authorities by government to increase the supply of housing. Through the Local Development Framework we will be ensuring there is adequate reflection of the local housing needs in the County and the tools to deliver the much needed affordable housing

Question from Councillor RI Matthews

The majority of elected Members first heard about the possibility of a large number of staff being made redundant from within the Environment Directorate when they read about it in the press. Can you tell us why we were not all briefed about this very sensitive issue before it was released to the local media?

Answer from Councillor DB Wilcox, Cabinet Member (Highways and Transportation)

My understanding is that the information was not placed in the hands of the press by the Council but by others who became concerned following the initial consultation. Two staff meetings were held early last month and the Director of Environment advised of the possibility of job cuts at these meetings held in the Town Hall on 2 and 5 October. Group Leaders were informed on the day of the last meeting, namely 5 October and it was only after the last briefing to Environment staff that a substantive response was given to the media formally by the Council. I trust Members will agree with the concept that it is important for staff who may have been affected to hear the details first.

I know that the Director wishes to work with the Unions in a constructive dialogue to bring the matter to an acceptable conclusion whilst achieving the original objective. From my talks with the Director of Environment, I can assure Members that no final decision has been made and that further meaningful discussions will be held before any such decision is taken.

Twenty-three Managers from the Environment Directorate spent two not three days away from the office to formulate proposals that will result in approximately £1.8m of savings.

The use of Away Days to examine a large-scale change is a recognised feature in both public and private sector operations. It avoids interruptions of working from the usual office base and allows staff to concentrate on significant issues over a concentrated period of time. It needs to be used, and is only used sparingly within the Council, but I suggest it was entirely appropriate that this should have been held away from the office on this occasion.

The cost of using the Colwall Park Hotel as a conference venue was £1,566. Members will be aware of the financial difficulties faced by Colwall since the closure of the bridge to vehicular traffic. The choice of the Colwall Park Hotel was designed to provide at least some relief from the present financial difficulties experienced by that business and the village at large.

Supplementary question from Councillor RI Matthews

With regards to the media and sensitive issues such as this, elected Members should be informed and not read about it in the press. There should be accommodation within the Council for this and not go outside as it gives the wrong perception to staff.

Answer from Councillor DB Wilcox, Cabinet Member (Highways and Transportation)

I hope Members agree that staff should be advised first. Staff were informed on 2 October and Group Leaders were advised on 5 October. With regard to the use of the hotel, in this instance there was a need to get away from Council premises and in this case the Director was quite right to take staff away and use alternative premises.

Question from Councillor SJ Robertson

Why does the Council not draw down funding when building new schools from organisations such as the Football Foundation to assist with the costs of providing sporting facilities i.e. sports halls, football pitches, changing rooms etc?

Answer from Councillor JA Hyde, Cabinet Member (Children's Services)

In principle the Local Authority is keen to draw in funding from other bodies to augment capital investment in existing and in new schools. In Sutton new school £200k will be contributed by the community to facilities in the school, which one would envisage would be of benefit to both school and community.

In recent years the success in drawing money from the Football Foundation or, since Kingstone High School sports hall, from the lottery has been absent despite bids being made e.g. at John Kyrle High School, Weobley High School and St Mary's RC High School.

Supplementary Question from Councillor SJ Robertson

I would like your assurance that every effort is made to look at these outside streams for extra funding.

Answer from Councillor JA Hyde, Cabinet Member (Children's Services)

Yes, they will be sought after.

Question from Councillors JD Woodward and DJ Benjamin

We are seeing an increase in the number of large properties in the city being subdivided into single roomed houses of multiple occupation supposedly for single people. This is changing the character of our urban areas bringing with it such problems as lack of parking and overcrowding. Homepoint has identified the need for one bed roomed flats – not bedsits. What is the Cabinet Member doing to alleviate this severe problem?

Answer from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

There is a significant demand for accommodation for single people in the county. Bedsit accommodation with shared facilities is an affordable option for those embarking on the first step of independent housing in the private rented sector.

Large properties lend themselves to multiple occupancy as they are too large and expensive for many single families and the returns for landlords can be higher. Private Sector Housing works closely with the Planning Department in the identification of these properties, undertaking joint inspections when necessary and we both apply Planning and Housing Law when contraventions are found. We also liaise with the Fire Service and with Building Control who now have some responsibility for new conversions. Prohibition notices closing high risk (Houses in Multiple Occupation) HMO's have been issued where fire risks have been found to be substantial.

National HMO Licensing is now in place and the County of Herefordshire also has additional HOM Licensing, which means that all HMO's in Herefordshire need to be licensed. The Local Authority can impose conditions in the licence for example, set limits in terms of occupancy levels to prevent overcrowding. The licensee must also be a fit and proper person. Members who suspect a property has been illegally converted into a House in Multiple Occupation can contact Private Sector Housing for advice if required.

Landlords can increase their revenue and avoid National Licensing by converting their properties into self-contained flats, which are outside the scope of National Licensing.

Homepoint does demonstrate a demand for 1 bed accommodation and the Housing Development Officers in Strategic Housing are successfully negotiating with private developers for additional 1 bed or single person accommodation through the planning gain system where sites are above the threshold to secure 35% affordable housing. The level of provision requested is based with reference to the level of demand evident within the area of the development and with a view to ensuring a mix provision (in terms of size/type/tenure) across the development in line with planning policy guidelines.

In the main and settlement villages there are additional considerations. The provision of 1 bedroomed property is not considered to be sustainable as development opportunities are harder to come by. Therefore, there is an increased focus on providing 2 beds rather than 1 beds and arrangements are sought with the developing RSL to allow single households to apply for these properties. This will become an increasingly common approach to meeting the needs of single person households in a bid to increase longer-term sustainability of tenure both in the city and throughout Herefordshire.

Supplementary Question from Councillor JD Woodward

How many houses have we got which have been converted and how many have mandatory licences?

Answer from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

I will provide an answer to Councillor Woodward at the end of the day.

Question asked by Councillor PJ Edwards

Who took the decision to withdraw the Council's intranet access for use by Members on their Council home computers and why was this communication tool withdrawn?

Answer from Councillor JP French, Cabinet Member (Corporate and Customer Services and Human Resources)

Historically not all Members had access to the intranet, although this was technically possible and a number of Members did make use of the facility particularly the information library and contacts list which were heavily used.

(This was actually an individual arrangement with the previous Members ICT Support Officer).

Since the new Council was elected in May a new system, together with a full programme of induction, familiarity and installation of standard packages has been available to Members.

I am pleased to report that shortly 55 out of 58 Members will be making use of ICT as a key communication tool compared to 34 in the previous Council.

Under the previous system Members were subject to inconvenience if the network was not available. The way in which they now access the Council's systems enables them to be independent of a network connection and provides increased security.

(As an aside in October 2007 new filtered out 7,300, 000 spam items).

However, this new system currently precludes use of the intranet but I can reassure Cllr Edwards that officers are currently examining ways in which access to the intranet could be re-established.

Questions asked by Councillor PJ Edwards

Is the Cabinet Member aware of Hereford City's Urban Streetscene image needing urgent attention i.e. rusting dog waste bins and litter bins with fly posters attached, part painted street sign attempted restorations, vinyl strip type letter signs now vandalised overnight, signs daubed in graffiti, reported missing signs not replaced, proliferation of temporary signage which could legitimately be withdrawn, etc?

Answers from Councillor DB Wilcox, Cabinet Member (Highways and Transportation)

The Council recognises the importance of looking after the local environment and takes a comprehensive approach to dealing with these types of issues.

Hereford like many other cities and towns throughout the United Kingdom is subject to mindless anti social behaviour by a small minority and focuses its limited budget and resources attempting to clear fly posters, graffiti and litter quickly. It also works closely with the police to identify and prosecute offenders.

Specifically with regard to graffiti any reported offensive graffiti is cleared with 24 hours and non offensive graffiti as soon as practicable. Also where in the past where the Council has had limited power and success in clearing graffiti off private land/premises Herefordshire Council is currently operating a six month graffiti pilot to clear graffiti of private premises so that the street environment is not blighted with graffiti for long periods. The pilot, which is funded by LPSA2 money, has so far been successful in removing graffiti from the public view and the service has been received very positively.

Hereford City streets are inspected on a regular basis to identify street furniture that has been damaged or requires replacement. When it is seen that items require work it is carried out. There is a replacement programme for dog bins, litter bins and road/street signs but as can probably be appreciated there is a relatively small budget to replace and repair such items for the whole of the county and replacement and repairs are carried out on a priority/need basis.

It is to be noted that the Highways and Transportation Department alone is unable to identify all matters that require attention and requires assistance from the public and Councillors in identifying areas and items of concern. It requests that all matters of concern are reported to Streetscene on 01432 261800 or by email to streets@herefordshire.gov.uk and all reports will be actioned for attention as soon as possible. The Highways and Transportation Department is not complacent and is aware of the importance of the image of Hereford and that much more needs to be done. Herefordshire Council is committed to Hereford City being clean and well maintained.

From the question it is unclear as to what type of temporary signage is being queried. I presume temporary roadwork signage is being questioned. Normally any temporary roadwork signs are removed on completion of works and again if Members are aware of any that remain it is requested they are reported to Streetscene as above.

Supplementary question Councillor PJ Edwards

I would ask that additional resources be provided to put pride back into Hereford.

Answers from Councillor DB Wilcox, Cabinet Member (Highways and Transportation)

Agree it is an on going battle and resources are being applied to various areas. Environment Scrutiny Committee will be looking at highway maintenance.

When will these be reviewed so that we can restore an element of pride into Hereford and Herefordshire?

I am very proud of Hereford and Herefordshire and will continue to work to improve the streetscene within the resources available to me. The work of the department is reviewed regularly by the Environment Scrutiny Committee and will undertake continual improvements within the budgetary constraints.

Where rural road signs may be hidden by exceptional hedge growth, when will these be attended to?

With regards to the obstruction of rural road signs by hedge growth any reports are dealt within the timescales stated in the highway maintenance plan. We are currently undertaking an awareness campaign to local landowners and householders making them aware of their responsibilities to maintain the hedges to an acceptable standard.

Why is it that when Council Members have requested action they either do not receive a timely response (if at all) or where a positive response is received, it sometimes takes months for action to take place on the ground?

Normal practice is to respond to all Councillors' queries as quickly and efficiently as possible, with all such requests for action being prioritised on a needs basis. However, to put the issue in context there are approximately 9,500 requests for routine maintenance annually and it is not possible to address all the concerns raised. If Members' requests have been overlooked, or they have not received a satisfactory response, I shall be willing to take those issues with the relevant officers if specific examples can be given to me.

Questions asked by Councillor AT Oliver

In the light of the severe flooding earlier this year, across the County and neighbouring Counties, may we be assured that this Council will put a greater emphasis on ensuring that new housing development in this County does not take place on flood plains and areas prone to local flooding?

Answer from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

This issue is being addressed on two levels: planning policy and planning development control. The planning policies, which will be coming forward as part of the Local Development Framework will all be assessed against known constraints including flood plains. At the Development Control level all planning applications, which affect land in Flood Zone 3 are now required to have a Flood Risk Assessment before they are accepted as valid planning applications. In Flood Zone 2 this

requirement is applied more flexibly depending on the nature of the proposed development and the known history of the site.

Supplementary question Councillor AT Oliver

I am pleased with the reassurance. There are areas of frequent flash flooding; can a similar emphasis be given to those areas?

Answer from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

Identifying the sites is more difficult and the flash flooding usual relates to drainage, which needs to be kept in mind.

Question asked by Councillor AT Oliver

Under the Warm Homes and Energy Conservation Act 2000 there is a statutory commitment to remove every vulnerable household in England occupied by the elderly or infirm from fuel poverty by the end of 2010.

What steps has Herefordshire Council taken to ascertain the number of households in the County which are entitled to support under the Act, bearing in mind that many of the households affected will be tenants of Herefordshire Housing?

Answer from Councillor LO Barnet, Cabinet Member (Social Care Adults and Health)

Background

The Warm Homes and Energy Conservation Act 2000 required the Secretary of State to publish and implement a strategy for reducing fuel poverty. The Government responded by writing the UK fuel poverty strategy 2001. As part of the strategy the Government set a target to end fuel poverty for vulnerable households by 2010. Fuel poverty in other households in England will also be tackled with a target that by 2016 no person in England should have to live in fuel poverty.

A household is considered to be fuel poor when it needs to spend more than 10% of its income to fuel to heat the home to an adequate temperature.

Where are we now?

Since 1999, the Council's Private Sector Housing has been running an energy efficiency grant scheme - SEES (Special Energy Efficiency Scheme) to improve the insulation and heating efficiency of private homes. Between April 1999 to October 2007, 9100 properties had energy efficiency grants. Herefordshire residents have also benefited from energy efficiency grants under the Government fuel poverty grant scheme, Warmfront and energy supplier discount initiatives.

Despite this positive activity, findings from a House Condition Survey conducted in 2005 throughout all tenure in Herefordshire, revealed that an estimated 8,540 dwellings of all private sector stock (10.7%) were in fuel poverty.

In order to tackle fuel poverty in a coordinated manner, an affordable warmth strategy has now been developed for Herefordshire through consultation and 2 workshops with a wide range and number of stakeholders. The strategy was officially launched on July 31st 2007.

Six main aims were established. All information from the workshops has since been collected and organised in the form of the Affordable Warmth Action Plan. This constitutes the working part of the strategy.

The action plan will initially be implemented over a 3-year period with short, medium and long term targets and annual review.

The action plan sets targets giving priority to the most vulnerable households and it is hoped that much progress will be made to increasing the provision of affordable warmth in the county. Despite this, it is highly unlikely that fuel poverty in Herefordshire will be eradicated for vulnerable households in line with Government targets by 2010.

This situation is common to other rural authorities similar to Herefordshire where there is an aging population, rural isolation, and a large percentage of hard to treat properties with solid walls which are off the gas network.

Housing Associations, including Herefordshire Housing, have a responsibility for meeting their own targets towards eliminating fuel poverty. Most housing associations have insulation measures in place but are still working on high efficiency boiler replacement programmes.

Question asked by Councillor AT Oliver

Is the Council able to re-assure Members that it has a viable accommodation strategy for the near future, and provide an outline of the current strategy? In particular, is the lease at the Plough Lane premises to be renewed?

Have any additional costs to the Herefordshire Connects programme, resulting from accommodation charges been factored into the IT budget?

Answer from Councillor H Bramer, Cabinet Member (Resources)

Officers are currently working on a report for Cabinet to consider that will outline the strategic options available to the Council for accommodation. The report will consider the Council's likely future accommodation needs and potential solutions. It will come forward for formal consideration once the lease position on Plough Lane has been confirmed. Scottish and Newcastle have offered the first floor to the Council on a lease basis and negotiations are continuing to extend the lease on the whole building until 31st December 2010 which will provide adequate time to deliver the agreed accommodation strategy.

There are currently no additional accommodation costs arising from Herefordshire Connects although there has been a reallocation of space within the existing accommodation. Herefordshire Connects is a corporate rather than ICT programme and any additional costs once ascertained would be met from within the accommodation strategy and associated charges.

Supplementary question Councillor AT Oliver

Can the Cabinet Member confirm if there is any purpose built building for Council staff?

Answer from Councillor H Bramer, Cabinet Member (Resources)

All options are being considered and a report will be coming forward shortly.

Questions asked by Councillor WLS Bowen

Are you aware that President Truman had a notice on his desk stating "The Buck Stops Here"?

As regards responsibility for the IT Department and its expenses – on which Director's desk does the buck stop?

On which Cabinet Member's desk does the IT Department buck stop? Have they considered their position?

Why is it that the so called "full enquiry" into happenings in the IT Department is so limited in scope and fails to search for answers regarding the vital matter of procurement?

Answer from Councillor RJ Phillips, Leader of the Council

I am absolutely clear about where the buck stops as I believe is Council.

I need to remind all Members that there is an on-going independent review and I will not comment or speculate on the outcome of that review or its anticipated recommendations. It is a matter of public record that the Director of Corporate and Customer Services has within her remit the ICT Division and is, in turn, as with all Directors responsible to the Chief Executive. The relevant portfolio holder is the Cabinet Member (Corporate and Customer Services and Human Resources) and she in turn is responsible to Cabinet.

It is not a so called "full enquiry". It is an independent review which has the support of both Cabinet and the Audit and Corporate Governance Committee and which I hope would have the support of full Council. The terms of the review are comprehensive and cover all of the matters raised in the two Special Reports of the Director of Resources. Six out of the seven principal points in the Terms of Reference specifically address elements of the procurement process.

Supplementary question Councillor WLS Bowen

Can we be assured in future we have greater scrutiny?

Answer from Councillor RJ Phillips, Leader of the Council

Members will have been sent the Terms of Reference for Mr Crookall and I share Members' concerns that procedures are followed correctly in the future.

Questions asked by Councillor WLS Bowen

Do you agree that the last Council's Members' Development Group did a good, useful and productive job in a totally non-political format and outlook? Why is there no sign of an effective Members' Development Group being set to work by this Council?

Is it, perhaps that the last one was too independent and forward thinking? How many newly elected Councillors were mentored and properly helped to understand the workings of the Council?

Answer from Councillor JP French, Cabinet Member (Corporate and Customer Services and Human Resources)

"Yes. The former Members' Development Working Group provided a strong base from which to build an Induction Programme following the last election and to consider the approach to Members' development to meet the challenges and changes in local government, for example:-

- scrutiny and its expanding role
- the implications of the White Paper
- diversity
- understanding Local Area Agreements
- Comprehensive Area Assessment, etc.

The Group Leaders have agreed to the establishment of a Members' Development Policy Group to provide strategic direction comprising of themselves, the Cabinet Member Corporate and Customer Services and Human Resources

This group has met once and agreed its Terms of Reference and to the co-option of one additional front line Member from each of the three largest Groups.

At its first meeting it considered the review of the Members' Induction Programme, the results of the Member Communications Survey undertaken prior to the Election and current planned Member events

In addition to the induction programme organised by the Council, the Group Leaders decided the provision for mentoring was the responsibility of the political groups. I know our Group provided this support but I cannot comment on behalf of other Groups.

Supplementary question Councillor WLS Bowen

Perhaps the present Policy Group is limited based on the previous Member Development Group being non-political? Perhaps there should be more robust mentoring for new Councillors?

Answer from Councillor JP French

No I do not think the Policy Group is limited. Comments on mentoring should be fed back through the political groups.

Questions asked by Councillor GFM Dawe

Councillor Roger Phillips said at Cabinet meeting on 10th September 2007 that (refer to item 3: Rotherwas Archaeology Options for the preservation of the Ribbon and completion of the Rotherwas Access Road) that if the matter of the Ribbon was called in by Environment Scrutiny Committee, it would then be sent to Cabinet, and if there was disquiet about the matter during this process, a special full Council meeting would be called to debate the Ribbon and the Rotherwas Access Road. There was a call-in by Environment Scrutiny Committee and there was disagreement about the matter at the Environment Scrutiny meeting of 24th September 2007. Fundamental issues were not even addressed. Six voted for the amended motion and four against. Why then, has a special meeting of the full Council not been called?

The Scrutiny process has been incorrectly administered. Scrutiny is supposed to provide a balance for Cabinet decisions.

It was confirmed at the meeting of 24th September 2007 that there were no discrete budgets for Scrutiny Committees of Herefordshire Council, to allow them to call witnesses. In the 'Local Government Act 2000; Guidance to English Local Authorities'. Chapter 3 "Overview and Scrutiny under executive arrangements", refer to the 2nd paragraph:

"The guidance includes a combination of description of the main statutory provisions

*of the Local Government Act 2000 (c.22) (the Act) and subordinate legislation (both that which is in force and that which the Secretary of State intends to make); **statutory guidance to which local authorities must have regard**; and illustrative and good practice examples.” (My emphases) Please refer to item 3.46 which is statutory.*

Why then, has Herefordshire Council not conformed to statutory guidance?

Answer from Councillor RJ Phillips, Leader of the Council

My understanding of the 10th September, 2007 was that if Environment Scrutiny did not endorse the decision of cabinet then I would consider convening full Council. Environment scrutiny committee endorsed the decision of Cabinet therefore there was no need to convene Council.

The guidance as correctly stated is statutory but a local authority can depart from such guidance if it has good reason to do so. The Councils constitution was approved in July 2001 and has been reviewed on a regular basis since then having regard to such guidance and changes in the law and practice. If a discrete budget were set aside it may limit the appointment of experts to assist the function of scrutiny once that budget is expended. This may put other Scrutiny functions at a disadvantage. The Council have operated a flexible approach to Scrutiny to support it within the resources of each Directorate and that gives the Council flexibility of approach in such matters. There is a variety of practices amongst local authorities and a significant number do not have discrete budgets.

The constitution in respect of Scrutiny as suggested by CRWG at its meeting on 1st October, 2007 is being reviewed and regard will be had to current best practice as part of that review. Any future amendments to the constitution in this regard will be made through CRWG, Cabinet, Strategic Monitoring Committee and ultimately approval by a future Council.

Questions asked by Councillor AM Toon

Following my question at the last Council meeting and the response recorded on page 19 of this agenda, can the Cabinet Member of Children’s Services advise me of:

Can you provide me with the dates in September when the public consultation took place as stated in item 1 of the Cabinet Members response?

Have parents of Aylestone and Bishops feeder schools been consulted?

Have the schools, parents and governors of the above schools been advised of the proposal to reduce their admissions places by up to 100 in order to get the right social mix at the proposed new Wyebridge Academy?

Where is the evidence for falling rolls at only 2 north city schools?

Who is really in control of this project?

Answer from Councillor JA Hyde, Cabinet Member (Children’s Services)

Further public consultation was substituted by local meetings, and sharing of visioning documents with Wyebridge Sports College. A public consultation meeting (on the 10th December) before the Outline Business Case is signed-off by

Partnerships for School will follow the similar event which took place on the 4th July.

Wyebridge Sports College and its feeder primary schools have been involved in the project so far, and the Sponsor has recently initiated meetings with the 6th Form colleges in Hereford. Headteachers and Chairs of Governors have also been invited to a number of meetings with the Sponsor and Local Authority. On 4th October the Governors of Bishops of Hereford Blue Coat High School discussed the Academy development process with the Diocesan Director of Education.

Councillor Toon should be aware that the Local Admission Forum, of which she is a member, approved the reduction in admission numbers of Aylestone High School from 253 to 210. Any further reduction at Aylestone High School and a reduction at Bishop of Hereford Blue Coat High School would be considered as part of the Review of School Provision in the County. A reduction in admission numbers is purely in response to falling rolls and not to social mix. The latter has been raised as an issue by DCSF in terms of banded admission system. Neither the Director nor I think that banded system is appropriate in Herefordshire.

The intake at Aylestone High School has reduced from 252 in 2003 to 157 in September 2007. There has been no reduction in admissions at Bishop of Hereford Blue Coat High School, but as part of the review process the opportunity does arise to ask if the school is working at its optimum with 1200 pupils.

It is important to understand that the role of the Local Authority is limited to undertaking the necessary statutory procedures to close the existing school, and also to design, build, and handover the new building and site to the trustees of the Academy.

All other work relating to the vision for the new school, appointment of Headteacher etc. is the responsibility of the Sponsor. Council should be aware that adverts for the post of Headteacher of the new Academy have been placed in the T.E.S. for 2nd November and 9th November. I understand the pace of this is being determined by DCSF rather than by the Sponsor.

Supplementary question Councillor AM Toon

When the business case is signed off is that not predetermination? I accept the changes in the rolls, but is this not robbing Peter to pay Paul and not giving parents' choice?

Answer from Councillor JA Hyde, Cabinet Member (Children's Services)

Parental choice is paramount. The Director and I are aware of the problems.

41. NOTICES OF MOTION UNDER STANDING ORDERS

Councillor Am Toon had submitted the following Notice of Motion.

That the process applied and decision making in the recruitment of the new Chief Executive is flawed and that the matter be put into the hands of the Strategic Monitoring Committee for this administration to demonstrate clearly and transparently that this Council ensured the best means of securing the most applications for this position, that the process was fair and equitable to all candidates, that adequate and consistent information was made available to those Councillors making decisions and the reasons why inadequate notice was provided for Councillors to meet with candidates.

The Chairman moved to urgency and that motion was duly seconded.

At this point the Chief Executive declared an interest in the outcome of the Notice of Motion and left the meeting.

Councillor Toon stated that the concern was over the recruitment process and not the individual concerned. She referred to the late notice that Councillors and stakeholder groups received on the timetable for Members to meet with the candidates and thereby refer any concerns a Member had back to the recruitment panel. It was felt that the process seemed unduly weighted towards the Primary Care Trust (PCT) even though the successful candidate was to be Chief Executive and Head of Paid Service for the Council. It was felt that the brief, the selection and the short listing processes for the post were not completely clear or robust enough and therefore, not fair and equitable to all candidates.

The Head of Legal and Democratic Services outlined to Members the process carried out through the professional consultants engaged by the Council and the PCT to determine the best candidate for the post. Council discussed the feasibility of having a dual Chief Executive for the Council and the PCT and concern was voiced over the process including the use of panel members who did not have a political mandate. Members wanted reassurance that the process had been carried out correctly and would not be subject to possible legal challenge in the future. The Leader reiterated to Council the process that had been carried out and stated that he believed it would stand up to any possible challenge.

A vote was taken on the Notice of Motion with 9 Members for the Motion and 34 against. The Motion was lost. The Chief Executive rejoined the meeting.

42. CABINET

The Leader of the Council, Councillor RJ Phillips, presented the report of the meetings of Cabinet held on 16 August, 6 and 20 September, 11 October and the Supplementary Report of 25 October 2007.

In relation to Item 2.1 Appropriate access to Rotherwas Ribbon Archaeological Site paragraph 4 – Reference was made to the Leader's undertaking to request a special meeting of Council.

In relation to Item 4.1 (i) - Public Service Trust Progress for Herefordshire – In response to a question on the appointment of the joint Chief Executive the Leader reminded Council that it was a clear decision of Cabinet to look at working in partnership with the PCT. If the Council did not move towards this joint role there was the clear possibility that Herefordshire would not have its own individual Council or PCT.

In relation to Item 11.1 (i) Adult Social Care Fairer Charging – A question was asked regarding the closure of Elmhurst Residential Home. The Cabinet Member (Social Care Adults and Health) advised that it would be investigated and that Members would be advised as soon as possible.

RESOLVED: That the reports from the meetings of Cabinet held on 16 August, 6 and 20 September and 11 October and the Supplementary Report of the 25 October 2007 be received.

43. PLANNING COMMITTEE

Councillor T.W. Hunt presented the report of the meetings of the Planning

Committee held on 24 August and 28 September 2007.

Councillor Hunt apologised to Council for the inaccuracy on the number of site visits. A question was raised on the number of planning applications agreed contrary to planning officers' advice. The Chairman of the Planning Committee noted the concerns. Thanks was expressed by Councillor Pemberton on behalf of Tarrington Village for the work and support of officers in compiling the Parish Plan.

RESOLVED: That the report of the meeting of the Planning Committee held on 24 August and 28 September be received.

44. STANDARDS COMMITTEE

Mr R Rogers presented the report of the meeting of the Standards Committee held on 19 October 2007.

Council congratulated the Committee on the sharing of their documents such as the Annual Report, the charring checklist and hearing guide at the Annual Assembly of Standards Committees where the documents were being replicated by other authorities.

RESOLVED: That the report of the meeting of the Standards Committee held on 19 October 2007 be received.

45. STRATEGIC MONITORING COMMITTEE

Councillor PJ Edwards presented the report of the meetings of the Strategic Monitoring Committee held on 17 September and 25 October 2007.

The Chairman of the Strategic Monitoring Committee drew Council's attention to a number of items in the report such as the Committees involvement in the Annual Report for the Development Plan and Action Plan and the redevelopment of the Local Area Agreement. The Chairman thanked officers for their work in the scrutiny process.

RESOLVED: That the report of the meetings of the Strategic Monitoring Committee held on 17 September and 25 October 2007 be received.

46. REGULATORY COMMITTEE

Councillor P Jones CBE presented the report of the meetings of the Regulatory Committee held on 31 July, 28 August and 23 October 2007.

RESOLVED: That the report of the meetings of the Regulatory Committee held on 31 July, 28 August and 23 October 2007 be received.

47. AUDIT AND CORPORATE GOVERNANCE COMMITTEE

Councillor ACR Chappell presented the report of the meetings of the Audit and Corporate Governance Committee held on 21 September and 19 October 2007.

RESOLVED: That the report of the meetings of the Audit and Corporate Governance Committee held on 21 September and 19 October 2007 be received.

48. APPOINTMENT OF CHIEF EXECUTIVE

The Head of Legal and Democratic Services outlined the basis of the report to Council and advised that the Council would host the Chief Executive post.

At this point the Chief Executive declared a personal interest in the item and left the meeting.

Councillor WJ Walling advised Council that he had had the opportunity to speak with four candidates and formally moved that the offer for the post of Chief Executive be withheld and the post readvertised. Councillor AT Oliver seconded the motion. The motion was lost with 9 for and 34 against the motion.

Council discussed the appointment of the Chief Executive and the Head of Legal and Democratic Services reminded Members that the appointment was for a Chief Executive and Head of Paid Service for the Council with a Service Level Agreement to work for the Primary Care Trust. Some Members felt there was an element of confusion with regards to the involvement of the PCT in the appointment of the Head of Paid Service for the Council.

A Member requested that an indication be given to Council as to the voting of the panel for the appointment. Council was advised that there were five panel members with four approving the appointment, therefore a majority agreement.

Council voted on the recommendation with 34 for the appointment, 4 against and 10 abstentions.

RESOLVED That it be approved that Mr Christopher Bull be appointed as Chief Executive and Head of Paid Service.

The Chief Executive rejoined the meeting.

49. REVIEW OF THE CONSTITUTION IN RESPECT OF THE SCHEME OF DELEGATION FINANCIAL AND CONTRACTUAL PROCEEDINGS AS A RESULT OF DIRECTOR OF RESOURCES SPECIAL INVESTIGATION REPORT

The Head of Legal and Democratic Services advised Council that the report on the review of the Council's Constitution had been drawn up in light of the Special Report by the Director of Resources in relation to contractual arrangements, financial procedure rules, policy framework and budget rules and the Scheme of Delegation to Officers. He added that the report was significant in terms of how the organisation would approve contracts in the future.

RESOLVED

- THAT:**
- (a) the Council accept the principle of improving controls and formally refers the recommendations to the Constitutional Review Working Group, Audit and Corporate Governance Committee and the Standards Committee;**
 - (b) the proposals be further reviewed to take account of any recommendations of the Independent Report; and**
 - (c) a seminar for all Members be held prior to the proposals being returned to Council for adoption.**

50. APPENDIX 19 OF THE COUNCIL'S CONSTITUTION - MEMBERSHIP OF COMMITTEES AND OTHER BODIES

The Head of Legal and Democratic Services presented the report outlining the appointment of Members to Cabinet, outside bodies and the Committees of the Council following the May 2007 elections.

RESOLVED That Appendix 19 of the Council's Constitution, Membership of Committees and Other Bodies, be approved.

51. REVISION OF THE CODES AND PROTOCOLS FOR MEMBERS AND OFFICERS

The Chairman of the Standards Committee, Mr Robert Rogers, presented the report to Council stating that the aim of the review was to make the revision of the codes and protocols consistent with the new Code of Conduct adopted by the Council in July 2007. He added that the protocols on Member Officer Relations and the protocol on the Use of Resources were unaffected with the main changes relating to Planning Matters.

RESOLVED That the revisions to the Codes and Protocols, as recommended by the Standards Committee, be approved.

52. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY

Councillor P Jones CBE presented the report of the meeting of the Hereford & Worcester Fire and Rescue Authority held on 27 September 2007.

RESOLVED: That the report of the meeting of the Hereford & Worcester Fire and Rescue Authority held on 27 September 2007 be received.

The meeting ended at 2.00 p.m.

CHAIRMAN

MINUTES of the meeting of COUNCIL held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 23 November 2007 at 10.30 am.

Present: Councillor J Stone (Chairman)

Councillors: PA Andrews, WU Attfield, LO Barnett, CM Bartrum, DJ Benjamin, AJM Blackshaw, WLS Bowen, H Bramer, RBA Burke, ACR Chappell, ME Cooper, PGH Cutter, SPA Daniels, H Davies, GFM Dawe, PJ Edwards, MJ Fishley, JP French, JHR Goodwin, AE Gray, DW Greenow, KG Grumbley, KS Guthrie, JW Hope MBE, MAF Hubbard, B Hunt, TW Hunt, JA Hyde, TM James, JG Jarvis, P Jones CBE, MD Lloyd-Hayes, G Lucas, RI Matthews, TMR McLean, R Mills, PM Morgan, AT Oliver, JE Pemberton, RJ Phillips, GA Powell, PD Price, SJ Robertson, A Seldon, RH Smith, RV Stockton, JK Swinburne, DC Taylor, AM Toon, PJ Watts and JD Woodward

53. PRAYERS

The Very Reverend Peter Haynes led the Council in prayer.

54. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors: AP Taylor, NL Vaughan, WJ Walling, BD Wilcox and JB Williams.

55. DECLARATIONS OF INTEREST

There were no declarations of interest made.

56. CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised Council that the Extraordinary Meeting had been called to receive the review of Mr Ian Crookall, former Chief Executive of Buckinghamshire County Council, in respect of issues identified within the Special Investigation Report of 20 September 2007. The Chairman called upon the Head of Legal and Democratic Services to take Council through the process of the meeting and any legal issues that needed to be considered.

Mr McLaughlin, Head of Legal and Democratic Services, advised Council that there would be two parts to the meeting. Firstly the open public session when Council would receive the open report from Mr Crookall, which had already been to Cabinet and the Audit and Corporate Governance Committee. He stated that would be followed by the confidential part of the meeting where all members of the public and all officers apart from himself, the interim Head of HR and an admin officer would be asked to leave. He added that with regard to the Compromise Agreement there had been no criminal activity identified and that if Members wished to name the individual this must be done in the confidential session.

The Chairman announced that following the public part of the meeting there would be a short break before entering into the confidential session.

57. INDEPENDENT REVIEW OF ICT AND THE COUNCIL'S FINANCIAL AND CONTRACTUAL ARRANGEMENTS

Mr Crookall advised that he would give a short overview of his report for those Members that had been unable to attend either the Cabinet or Audit and Corporate Governance Committee meetings. He stated the key point of his report was the modernisation of the ICT network, which had commenced four years previously. The main issues were around the two major contracts, the Back Office Project (BOP) providing admin support estimated at over £500,000 and the Community Network Upgrade (CNU) providing ICT links for the community estimated at £5.9 million. He added that financial and contractual arrangements were set out in the Council's standing orders and had they been followed it would have ensured the processes were followed correctly. The BOP was approved by the Cabinet Member on 23 December 2004 and the CNU was approved by Cabinet in March 2005.

Mr Crookall referred to paragraph 22 of his report with regard to the substantial costs incurred for consultancy advice and assistance. He then referred to paragraph 23 stating how benchmark data commissioned from independent consultants suggested value for money was being obtained, but there were concerns about services to schools, the clarity of the costs and the level of service which ICT provided.

Mr Crookall referred to paragraphs 25 – 28 of his report regarding the appointment of the Head of ICT, who was appointed from the private sector in August 2003 and who subsequently became the Change Manager for the Herefordshire Connects Programme. He went on to refer to paragraph 30, which summarises the concerns of the Section 151 officer and paragraph 32 which outlined the reasons why it was not appropriate for the Chief Executive to report to Members. He stated that there had developed a consensual style of working within the political groups and that processes and procedures were not embedded within the authority. He added that communication had not always taken place with regard to important issues and referred Members to paragraphs 36 and 37 of his report. He believed the actions of the Section 151 Officer were of a last resort and that the Director had regarded them as a necessary and only step to take after careful consideration. Although the Chief Executive and Leader of the Council were open to address issues, Mr Crookall believed there had been a breakdown in communication and that the Director of Resources was not confident that the matters would be addressed. He stated that the recommendations of the Section 151 report were appropriate and the issues raised on the financial and contractual issues, addressed in paragraphs 15 – 17, would be best addressed by the new Chief Executive. Mr Crookall added that he had identified 10 additional recommendations which were at paragraph 43 of his report.

With regard to management capacity and the management of contracts Mr Crookall did not see this as a problem, but procedures were not fully followed or embedded in the authority. He emphasised that Standing Orders were there for officers to follow and that financial, legal and human resources officers were there to give advice and that he did not feel in the past these officers had been used properly. He added that he expected officers at this level to take a proactive role and to challenge the norm. With regard to management issues he referred to paragraph 45 of his report and stated that these would be addressed in the confidential part of the meeting. He also referred Members to paragraph 48 and the use of the Contract Panel. In referring to paragraph 49 and any disciplinary investigation, again he stated that he would address this in the confidential part of the meeting. Mr Crookall went on to refer to paragraphs 56 – 62 examining the strength of the external moderation of contracts and in particular the contracts highlighted in the Section 151 officer report. He stated contracts of this nature were often complex and benefited from the appointment of an external moderator. The external moderator in this case wrote a letter challenging

the way things were progressing and suggested the postponement of the procurement exercise. This was challenged by the Council and as a result of this challenge the external moderator withdrew his letter.

Mr Crookall added that he felt that the decision making in the authority was deficient. Members were referred to paragraph 64 of the report and the formal decision making in relation to the contracts and the extent of the information made available to the relevant Cabinet Member. Mr Crookall stated that in relation to the BOP there were deficiencies in the way approval from Members was obtained, as there was a lack of clarity as to where resources were coming from or how they would be supported. He also stated that the BOP was a duplication of existing systems. He added that the CNU project was well prepared and tendered for, the report though was vague and the table of expenses was difficult to understand and did not provide enough detail for Members. He stated that the principle responsibility fell on officers to provide this information, but it was also the responsibility of Members, as these documents were a matter of public record. With regard to the Corporate Management Board (CMB) he stated it was fractured and dysfunctional and needed to re-establish itself. Mr Crookall added that it was clearly important that the new Chief Executive should quickly reinstate CMB as the organisation that leads the paid service of the Council.

Mr Crookall referred again to the BOP system as a well respected system that was used by other authorities. However, it was not an efficient use of resources for this authority as it was a duplication of existing systems. He added that the CNU had benefits which could be sustained, but there were issues around value for money and also around the supplier and a member of staff. He said he felt it was important that a benchmarking exercise was undertaken to establish best value for money and to return to the supplier and examine the contract again.

Mr Crookall referred Members to part three of his report, paragraph 87, where he addressed any further recommendations and drew together a set of actions to take and also addressed issues on performance management. He added that Members of the Council and the CMB needed to rebuild trust and confidence and embed procedures and protocols across the authority. He referred to the future and the Council working with the Primary Care Trust (PCT) and said the Council should not shy away from the tasks that lay ahead. He added that there was little value in raking over the coals with no awareness of where the Council is going. He reminded Members that the Council had made significant progress in the ten years of operation. Members were referred to paragraph 92 advising that they needed to provide strong leadership especially through the executive and group leaders and that the new Chief Executive needed to rebuild a robust management structure.

Finally, Mr Crookall stated that this matter related to issues in one division of one directorate. He added that the modernisation of the Council and the challenging work of a Public Service Trust was important and that it was essential to retain the innovation and provide an efficient service to the people of Herefordshire.

At this point questions were asked of Mr Crookall from Members of the Council.

A question was asked on the training needs of Members. Mr Crookall made reference to the training of Audit and Corporate Governance Members and the requirement to put together a package covering the training needs of all Councillors and Scrutiny Committee Members.

A question was asked on the BOP. Mr Crookall reminded Members that the issue was around whether 1.5 million should have been spent on a system for one group of staff and whether that was the best use of resources. He added that some issues had emerged during the ICT scrutiny review. Members referred to paragraph 71 of

the report and reiterated how the scrutiny review was challenging issues in ICT. Reference was made to paragraph 65 of the report and the Cabinet Member signing off on evidence supplied in a memo instead of requesting a comprehensive report. Mr Crookall advised that Members were not expected to be technical experts and would expect Members to rely on officer advice. Members were referred to a possible future disciplinary action and the Head of Legal and Democratic Services advised that this would be looked into independently.

A Member referred to the action plan appended to the report and was concerned that the action plan was not specific enough. It was requested that the action plan needed to state by whom it was to be taken and at what date. It was also requested that the recommendations be brought together in one document and for Council to receive regular progress reports against the action plan.

Further discussion was held on Member and officer training and development and the raising of skill levels with particular regard to procurement contracts. Members also referred to the effect the ICT issue was having on staff and morale in context with job evaluation. It was acknowledged that the Whistle Blowing policy had been improved but there was concern as to whether it was enough with regards to the Council's duty of care for staff. It was proposed that extra action points be added around an education programme for managers on management styles providing clarity, consistency and support for staff, which would be compulsory for all managers. A question was raised on matters relating to personal relations that were not currently part of the HR policy and confirmation was sought that this would be addressed. It was agreed that a review of the HR policy should be made.

Some further discussion was held on the BOP and CNU systems and Members were advised that these issues were not just technical decisions for the Head of ICT but were critical decisions for the finance and legal departments regarding the legal agreement, therefore equally important that both finance and legal should have been consulted. Members were concerned that the position between the Cabinet Member and the Director was too trusting. Members were advised that they should now move into the confidential session to address any further points.

Members thanked Mr Crookall for his report, for its accuracy, the timescale in which it was produced and for the clear and detached way Mr Crookall answered all their questions. The Leader confirmed that the new Chief Executive had read the report and planned to meet with Mr Crookall in the future.

58. CABINET

The Leader of the Council, Councillor RJ Phillips, presented the report of Cabinet that related to the Independent Review of ICT arising from the meeting held on 15 November 2007.

In relation to questions asked regarding the Action Plan at Appendix 2 of the Crookall report the Leader agreed that more detail needed to be added to the Action Plan. The Leader reaffirmed that the Member Development and training group had been reformed and that the profile of the group had changed to include all four group leaders plus one other member from the three larger political groups. He reiterated the need for the group to provide a strategic steer across the authority.

The Leader reiterated the requirement for the Whistle Blowing Policy to be amended and confirmed that HR had taken on board the points raised at Council regarding staff development and morale. He emphasised the point that staff were the authority's best asset and must be trained and developed in a proper manner. He reminded Members that the number of staff appraisals carried out had reached 98%

and the authority must look at the skill shortages and ensure staff are appropriately trained.

A further question was raised on Member Development and Members' felt the group should include more Members so they could raise their own issues and not be restricted to group leaders. Members requested the political procedure be amended to include questions from Members at Cabinet meetings as well as at Council, as is done presently. The Leader reminded Members that Cabinet allows for all group leaders to be represented and with regard to ward issues local Members are invited to speak. He added that it was an opportunity for Members to ask questions at Cabinet through their group leader. The Leader advised that he would look at this issue with the new Chief Executive.

Questions were then asked in relation to evening meetings, members of the public being allowed to speak at Cabinet and Council similarly to the Planning Committee meetings and whether Members should have an annual appraisal. The Leader advised that he had no objections with regard to appraisals as it was useful for Member development. He added that he would discuss all the issues raised with the new Chief Executive.

RESOLVED

THAT:

- (a) The Action Plan at Appendix 2 to the Crookall report be updated to include the revision of the Whistle Blowing Policy and to include timescales and officer responsibilities; and**
- (b) the recommendations in the Action Plan be approved.**

59. AUDIT AND CORPORATE GOVERNANCE COMMITTEE

Councillor ACR Chappell presented the report of the meeting of the Audit and Corporate Governance Committee held on 16 November 2007.

RESOLVED: That the report of the meeting of the Audit and Corporate Governance Committee held on 16 November 2007 be received.

EXCLUSION OF THE PUBLIC AND PRESS

In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they are considered.

RESOLVED: that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below

60. CONFIDENTIAL MINUTE - SUPPLEMENTARY REPORT OF THE INDEPENDENT REVIEW OF FINANCIAL GOVERNANCE IN ICT AND CUSTOMER SERVICES (Pages 1 - 4)

These Minutes are restricted.

61. CONFIDENTIAL MINUTE - CABINET

Cllr J P French, Deputy Leader and Cabinet Member, Corporate & Customer Services and Human Resources presented the report of the exempt proceedings considered at the meeting of Cabinet on 15 November, 2007.

RESOLVED: That the report of the meeting of Cabinet held on 15 November, 2007 be received.

62. CONFIDENTIAL MINUTE - AUDIT AND CORPORATE GOVERNANCE (Pages 5 - 6)

These Minutes are restricted.

The meeting ended at 1.45 p.m.

CHAIRMAN

Document is Restricted

Document is Restricted

Question from Mr J Baker, Much Marcle, Herefordshire.

The Council has stated in its summary presentation to Head Teachers on the 10 January 2008 that 39 schools should close (slide 7 and 8).

Given the: -

- flawed statistical analysis on which the closures are based;
- unreasonable and unworkable timescales for both the consultation and the proposed closures;
- devastating impact that these closures will have for current and future generations of children in Herefordshire;
- detrimental impact that these proposals will have on hard working and committed teaching staff; and
- complete absence of any reference to the school closures in the May 2007 Conservative Party election campaign manifesto;

Would the Council please stop the current consultation process and commit itself to a more robust assessment of the needs of the children of Herefordshire?

Question from Mr D Phelps, Hereford.

In the light of the recent report to the Strategic Monitoring Committee on the May 2007 elections has the failure to properly issue postal votes and the fiasco of the missing ballot box been referred to the Electoral Commission?

Question from Mrs P Fender, Welsh Newton, Monmouth

I have been a full time carer for my severely disabled husband for many years.

Government has allocated a Carers' Grant to the Council for the past seven years (£772,000 for the year 2008/09) to be used in consultation with carers, primarily for carers' respite. There is no evidence that this has been done.

There have been no business plans for the use of the Carers' Grant and, as yet, no evidence of any end of year returns.

- Why is there no business plan for the year 2008/09?
- Having been alerted some time ago to this serious omission, why has action not been taken to ensure proper accountability of the Carers' Grant 2008/09?
- Who has overall and ultimate responsibility for agreeing and overseeing the use of the Carers' Grant?

Question from Mr J Sanger, Herefordshire

Has the deadline for implementing changes to primary schools changed (originally September 2009)? If it has, when is the new deadline and if it has not how can the council possibly totally rebuild their policy in the time available?

Question from Mrs SD Knights, Clehonger, Hereford

1. How will the problem of overcrowding in schools be dealt with while the school rolls reduce to anticipated levels, when school closures go ahead as some undoubtedly will? How will our children access their playgrounds and playing fields if they are covered with mobile classrooms?
2. Can you please explain how the process of consultation will now move forward? It has caused further confusion amongst the parents in the county with the proposals being recalled and very little information then available as to what happens now.

Council Taxpayers, as stake holders in the council, are surely entitled to a clear and concise explanation of how the process will move forward to allay their fears, reducing the further pressure on rural schools as parents re-consider their child's educational provision again putting the school roll projections further out of date.

Question from Mrs S Shipley, Bromyard, Hereford.

- 1 If Pencombe School is under the 10% threshold for schools under capacitated, why is it under threat of being closed?
- 2 What happens to our Church and Village Hall should the school close i.e. Parent toddler groups, Pantomimes that are held here?
- 3 How do we collect our children from Bredenbury should we experience flooding and snow as on three occasions in the past 12 months I have been unable to drive my car through Pencombe Village and had to walk.?

Question from Mrs H King, Leominster, Hereford.

Is the funding already in place, and guaranteed, to rebuild the Minster College, irrespective of proposed closures or amalgamations of other secondary schools in Herefordshire.

Question from Mrs L Goode, Belmont, Hereford.

1. How was a proposal with such far reaching consequences as the schools review had, allowed to be published with no provisions put in place to support the people most affected by them? My children attend Clehonger School and as such had been threatened with closure. The upset and distress this has caused them is beyond compare, as it was for the staff and parents. No counselling has been offered to these children, that has been left to a demoralised set of teachers and supporters.
2. How were the council allowed to disrupt so many rural communities and devalue all parents by removing there choices? Many parents have felt the need to move their children to other schools already so they are not forced to disrupt them in more critical years in their education. This has left many schools with increasing rolls looking at a decreasing one now.
3. Following reports on the news today that the government are writing to councils reminding them that by law they should not be closing rural schools are Herefordshire Council planning to stand by this law and leave our rural schools alone?

Question from Mr PJ Cocks, Lower Bullingham, Hereford.

- 1 What steps has the leader of the council taken to honour the pledges he gave at the full council meeting in November 2007, in his response to the Crookall report. **In particular:-**
 - a Have disciplinary measures been taken against the officers and councillors responsible for the failings identified in the Crookall report?
 - b Has disciplinary action been taken against the person or persons who sanctioned trips to Paris at Council Taxpayers expense?
 - c When will taxpayers know the result of the investigation into the press allegations of £1m of improperly paid expenses?
- 2 In the last fiscal year, what was the highest sum paid out in expenses to any one councillor?
- 3 Why did the council leader break the undertakings he gave in November 2007 regarding the future conduct of the council; by allowing proposals for the closure of schools to go forward and into the public domain without the council having first followed the rules laid down in statute?
- 4 If the leader was not responsible for the breach of statute, then who was?
- 5 Does the cabinet expect the public to believe that the member for Children's Services and others were not fully aware of the content of the Schools Report and its implications well before it was presented at the seminar held on 11 January 2007?

Question from Mr S Dove, Hereford.

COUNCILLORS' CORRESPONDENCE

What is the agreed procedure/policy when dealing with written enquires from the public?

Is there a set time limit for handling/ responding to correspondence?

Is it considered good practice for councillors to acknowledge correspondence sent to them?

REPORT OF THE MEETINGS OF CABINET

HELD ON 29 NOVEMBER AND 13 DECEMBER 2007
AND 24 JANUARY 2008

Cabinet Members: RJ Phillips (Leader of the Council),
JP French (Deputy Leader),
LO Barnett, AJM Blackshaw, H Bramer,
JA Hyde, JG Jarvis, DB Wilcox.

This report along with the Minutes of Cabinet submitted to Council covers the proceedings of the meetings listed above.

1. DECISIONS RESERVED TO COUNCIL UNDER PART 4 OF THE CONSTITUTION

- 1.1 Planning Obligations Supplementary Planning Document see Cabinet Minutes of 24 January 2008.

2. KEY DECISIONS BY INDIVIDUAL EXECUTIVE MEMBERS WHICH WERE NOT INCLUDED IN THE FORWARD PLAN

- 2.1 **Ledbury Tourist Information Centre.** The Cabinet Member (Economic Development and Community Services) made a decision on 10 January 2008 that the Ledbury Tourist Information Centre be relocated in the Master's House from March 2008.

3. CHILDREN SERVICES – CABINET 29 NOVEMBER 2007 (Cabinet Member: Councillor JA Hyde)

3.1 Report on Decisions Taken

- (i) **Principles on Provision of Education in Herefordshire in 21 Century –** Cabinet have received a report to approve the principles to guide the future pattern of provision of education in Herefordshire in the 21 Century and to endorse the next steps in the review process. Cabinet was advised that the principles paper had been amended and a revised paper provided at the meeting, which reflected many of the queries raised in the consultation period. Cabinet noted the government office statistics which showed a significant fall in the under 9 age group and was advised that the figures were being updated and should be available for Cabinet prior to any decision being taken. However, Cabinet was advised that there would need to be a significant change in the trend in falling numbers for there to be any real difference to the figures when updated.

Cabinet was concerned that the figures did not correctly reflect the increased numbers of migrant families working in the county. Cabinet was concerned about the potential loss of local schools but emphasised that the quality of teaching was paramount. Cabinet was worried that the report did not provide sufficient information, however Cabinet did not wish to hold up the process as the decision was for the publication of the draft proposals. Cabinet approved the principles on which the strategic plan for the pattern of school provision should be based as set out in Appendix 1 of the report. Cabinet approved the

process for the draft proposals being published on 10 January, the consultation on the proposals until 29 February and for a meeting of Cabinet in March 2008 to approve final proposals.

**5. ECONOMIC DEVELOPMENT AND COMMUNITY SERVICES
CABINET 29 NOVEMBER 2007
(Cabinet Member - Councillor AJM Blackshaw)**

5.1 Report on Decisions Taken

- (i) **Response to the Review of the Courtyard Centre for the Arts** – Cabinet has received a confidential report on the Response to the Review of the Courtyard Centre for the Arts.

6. KEY DECISIONS CALLED-IN

6.1 Cabinet 13 December 2007 - Colwall Railway Bridge – called-in 14 December 2007.

6.2 Cabinet 13 December 2007 - Herefordshire Connects – called-in 14 December 2007.

7. CABINET

7.1 Cabinet met on 13 December 2007 and 24 January 2008 attached are the minutes of the relevant meetings (*24 January to follow*).

**COUNCILLOR R.J. PHILLIPS
LEADER OF THE COUNCIL**

MINUTES of the meeting of CABINET held at THE COUNCIL CHAMBER, BROCKINGTON, 35 HAFOD ROAD, HEREFORD on Thursday, 13th December, 2007 at 2.00 p.m.

Present: Councillor RJ Phillips (Chairman)

Councillors: LO Barnett, AJM Blackshaw, H Bramer, JP French, JA Hyde, JG Jarvis and DB Wilcox

In attendance: Councillors: WJS Bowen, PJ Edwards, TM James, MD Lloyd-Hayes, SJ Robertson,

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor RI Matthews.

2. DECLARATIONS OF INTEREST

Councillor ACR Chappell declared a personal interest in Agenda item 4 Wyebridge Academy Position Statement. Councillor PJ Edwards declared a personal interest in Agenda item 8 Annual Monitoring Report.

3. LOCAL GOVERNMENT ANNUAL FINANCIAL SETTLEMENT 2008/09

Cabinet received the report on the Provisional Financial Settlement 2008/09, 2009/10 and 2010/2011. The formula grant for Herefordshire over the next three years is 2008/09 £53.373m percentage increase of 5.1%, 2009/10 £55.445m percentage increase of 4.0% and 2010/11 £57.652m percentage increase of 4%. Cabinet was advised that the increase was better than expected as the prediction had been for a much tighter settlement. Cabinet was informed that the detail of the Area Based Grants was still awaited.

Cabinet was reminded that whilst the settlement was better than anticipated the lobbying by the Local Government Association on adult care had reaped some dividends. A Member in attendance requested that the details on the financial settlement be distributed to all Members of the Council.

RESOLVED That the report be noted.

4. WYEBRIDGE ACADEMY - POSITION STATEMENT

The Cabinet Member (Children's Services) presented to Cabinet the position statement for Wyebridge Academy and stated that the outline business case that had been proposed was not ready, as there were outstanding issues which should be completed in time for the next scheduled Cabinet meeting. The issues were around third party use of the school premises and the building costs, with the new accommodation being built on the playing fields allowing the existing school and other users of the premises to carry on in the current accommodation until the new building was completed. The cost for this has been costed by Partnership for Schools at £800,000, which is in excess of the funds available. Cabinet was advised

that further information from Partnership for Schools was awaited. Due to the design work that has to be carried out it was unlikely that further information would be available until February.

Cabinet was advised that local Members in the South Wye area had been kept informed on the issues and it was noted how acute the timing was for the Academy. Cabinet was informed that local neighbours to the school had been consulted and that as far as possible the wishes of the community had been taken into account.

A Member in attendance raised concerns over the provision of a Sixth Form in the Academy and the effect this could have on the existing Sixth Form College in Hereford City, which is currently one of the highest performing Sixth Forms in the Country. Cabinet was advised that it was proposed to target those young people in South Wye not currently attending Sixth Form. It was also intended to give a broader breadth of education and to compliment and not compete against Hereford Sixth Form.

A Member in attendance raised a point of order over the advertising for the headteacher position for the Academy whilst still discussing the building of the school. Cabinet was advised that this would be addressed in the next report to Cabinet when discussing the outline business case.

RESOLVED

THAT

- (a) the interim report on the progress on this project be noted; and**
- (b) the final decision on the outline business case be deferred to the next meeting of Cabinet.**

5. HEREFORDSHIRE CONNECTS PROGRAMME UPDATE

Cabinet received a report recommending the preferred technology to replace the current client systems, including the CLIX system, used within both Adult Social Care and the Children and Young People's Directorate. Cabinet was informed that the implementation to get a replacement in place was part of the JAR Action Plan and was advised that the Director of Adult and Community Services had been tasked strongly by the Commission for Social Care Inspection on when it was to be replaced.

It was stated that a number of site visits to other local authorities had taken place to find a suitable system. Discussions were held with three suppliers with Corelogic coming out as the most suitable alternative system to the SAP system in the provision of adult social care. Cabinet was advised that procurement was continuing through Deloitte using the arrangements currently in place, however should Cabinet decide to implement new procedures for the procurement; the process could take another six months.

A Cabinet Member spoke of the problems at the Bath Street premises and stated that the issues had been identified in the report but believed they had not been adequately addressed, as it had not been proven that the local area network to the building was capable of accommodating Corelogic. Upon request officers advised that to up grade the Bath Street premises to accommodate Corelogic could cost £130 – 150, 000.

A Member in attendance expressed concern that the report did not adequately cover

the stage that the Herefordshire Connects project was at and did not believe Cabinet was in a position to adopt the report without the whole Council being provided with a full update. Cabinet was informed that the Corporate Management Board had addressed the Herefordshire Connects project on 23 November when all directors had been happy with the specifications and financial recommendations. A Member in attendance raised doubts over the summary of costs due to differences in the figures. Cabinet was advised that an out of date table of figures had been inadvertently put in the first report, which had been rectified in the second report to Members.

A Member of the Executive reminded Cabinet that the option before them was the best way forward for the Council. The Head of Legal and Democratic Services was requested to confirm to Cabinet that the Hereford Connects project had met due process. The Head of Legal and Democratic Services stated that five tenders had initially been put forward, with three tenders put forward for the SAP system. The Head of Legal and Democratic Services confirmed that due process had been carried out and had been observed by himself and other members of staff.

Cabinet discussed further the various systems available in particular the system used in Trafford and some other authorities. Again concern was voiced over the Bath Street premises and whether it would be sold in the near future. The Chief Executive advised Cabinet that having listened to the debate he understood Members' concern over the robustness of the costs and undertook to investigate the robustness of the financial situation and report back to Members.

RESOLVED

THAT:

- (a) Cabinet authorise the Head of Legal and Democratic Services to sign the framework agreement with Deloitte;**
- (b) Cabinet confirm Corelogic Framework as the preferred solution and authorise the Directors of Corporate and Customer Services and Resources, in consultation with the Director of Children's Services and Director of Adult and Community Services, to proceed with this acquisition on a fixed price basis through the Deloitte framework agreement; and**
- (c) Cabinet receive assurance on budget savings in relation to the accommodation strategy.**

6. COMMUNITY FORUMS

Cabinet received the report on the decision of the Herefordshire Partnership Chief Executives' Group and Group Leaders on the future of Community Forums. Cabinet was reminded of the history of the Community Forums through to the current pilot style of forums which are run in conjunction with West Mercia Police and the Herefordshire Association of Local Councils (HALC). Cabinet agreed the current forums had mixed success rates but were maintaining reasonable attendance figures from the public. Cabinet agreed that the Herefordshire Partnership Group needed to address issues around style, advertising and the involvement of all partner organisations in the forums. Cabinet was advised that the Hereford and Worcester Fire and Rescue Authority, as one of the Herefordshire Partnership organisations, was considering using the forums for public consultation. It was agreed that as many partner organisations as possible needed to be involved with the forums to ensure the benefit to the community.

Cabinet addressed the issue of the number of forums, which had now increased to 12, but also the location of the various forums in the county. Cabinet agreed the need to expand the number of organisations using the forums and raised concerns that although the Police Consultative Committee was being disbanded, it was being replaced by another similar body. Cabinet discussed the various possible differing styles for the forums and agreed they needed to be relatively brief and informal and that Councillors were able to talk with local residents.

RESOLVED

THAT:

- (a) the decisions by Herefordshire Partnership Chief Executives' Group and Group Leaders referred to in the report be noted;**
- (b) Community Forums be managed and badged by Herefordshire Partnership in the future; and**
- (c) publicity, content, style, resourcing and involvement of all partner organisations be reviewed.**

7. THE HEREFORDSHIRE COMPACT

Cabinet received a report on a revised Herefordshire Compact. Cabinet was informed the current compact involved the Council, the Primary Care Trust and the Alliance representing the Voluntary Sector. However it was government policy to have an agreed and published local compact covering all public sector services' engagement with the voluntary and community sector, with a code of good practice. Cabinet agreed the Compact and for it to be endorsed by the Chief Executives' Group, with the Herefordshire Compact to supersede the existing Health and Social Care Compact.

RESOLVED

THAT:

- (a) the Herefordshire Compact be adopted; and**
- (b) codes of good practice be developed to support the implementation of the Herefordshire Compact.**

8. ANNUAL MONITORING REPORT

Cabinet received the Annual Monitoring Report 2006/07 for approval and its formal submission to the Secretary of State in accordance with the requirements of the Planning and Compulsory Purchase Act 2004. Cabinet was advised that the Act introduced new provisions and requirements for development planning including the regular review and monitoring of development plans through mandatory Annual Monitoring reports. The report is based on the period 1 April to 31 March and is to be submitted no later than 31 December.

Cabinet referred to the one planning approval given on a floodplain at Paytoe, but agreed the advantages of it outweighed the objections. Officers were thanked for their work in providing the report.

RESOLVED That the Annual Monitoring Report 2006/07 be approved for submission to the Secretary of State.

9. LOCAL DEVELOPMENT SCHEME

Cabinet received a report on a revised Local Development Scheme for approval, which is a statutory requirement of the Planning and Compulsory Purchase Act 2004. Cabinet was referred to the principal amendments which included the adoption of the Unitary Development Plan and the demise of the Structure/Local Plans and the deletion of the Development Plan Document (DPD) as a result of discussions with Government Office, the Planning Inspectorate and the Planning Advisory Service. In the future reference is to be made to national and regional planning policies setting out key policies within the Core Strategy. This will include a new Hereford Area Action Plan taking forward Hereford City's growth point status and further DPDs addressing the market towns and rural areas with the intention of greater emphasis on 'place shaping'.

Cabinet was advised that a Planning Delivery Grant had been awarded of £173k with an indication for a future grant of £218k. Priority setting needed to be done for the growth areas. West Midland transport priorities were significant to the Hereford Area Action Plan. Herefordshire was also in line for rural funding with some areas getting capital funding with the potential for significant funding for the future.

RESOLVED That the revised Local Development Scheme be approved and have effect from 31 January 2008.

10. PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT

Cabinet was advised that several issues had arisen in the last two days, which required further consultation on. Cabinet agreed that due to the importance of the issues more time was required to carry out cross directorate discussions. Cabinet moved to defer the Planning Obligations Supplementary Planning Document to a future meeting of Cabinet.

RESOLVED That the Planning Obligations Supplementary Planning Document report be deferred to a future meeting of Cabinet.

11. POLYTUNNEL DEVELOPMENTS IN HEREFORDSHIRE

Cabinet was advised that since the publication of the Polytunnel Developments In Herefordshire report further advice had been received from legal Counsel. Cabinet moved to defer the report to a future meeting of Cabinet in order to consider the advice of legal Counsel.

RESOLVED That the Polytunnel Developments in Herefordshire report be deferred to a future meeting of Cabinet.

12. COLWALL RAILWAY BRIDGE

Cabinet was asked to approve expenditure to provide a temporary bridge over the sub-standard bridge in Colwall carrying the B4218 should an assessment prove it to be the appropriate means for opening the bridge to normal highway traffic. The Cabinet Member (Highways and Transportation) stated that information on the assessment of the bridge had only been received 48 hours prior to the Cabinet meeting and had shown the bridge could be used by vehicles up to three tonnes in weight. Cabinet was informed that Network Rail owned the bridge with the road across it belonging to the Council. Network Rail has stated that it has no plans to replace the bridge until 2011/12. Cabinet was advised that the recommendation was

for the purchase of a Bailey bridge in partnership with Network Rail should it be found necessary after further tests had been carried out.

Cabinet was informed that Network Rail had indicated they would be agreeable to a 50/50 share on the cost of the Bailey bridge. However, Cabinet would need to approve the whole cost as it would need to be purchased through just the one provider. It was added that the basis of the charge between Network Rail and the Council was complicated and it would need to be checked by the legal department to ensure it was favourable to the Council. A Member of the Executive raised concern over the quality of the Bailey bridge and whether it was reusable. Cabinet was advised that each bridge was made to meet the specific needs and therefore not reuseable.

A Member in attendance at Cabinet felt that the cost of the bridge should have been reflected in the report to Cabinet along with an indication of what Network Rail would pay towards the bridge prior to Cabinet making any decision.

Cabinet was reminded of the impact the loss of the bridge had so far been on the people of Colwall and the business community and it was felt that to wait until 2011/12 before replacing the bridge would be too long and not acceptable to the community.

RESOLVED That approval be given for the purchase and installation of a temporary Bailey bridge, if this is considered the most appropriate means to carry the B4218 over the existing sub-standard bridge in Colwall.

13. A BETTER LIFE: PERSONALISED SERVICES FOR PEOPLE WITH LEARNING DISABILITY IN HEREFORDSHIRE

Cabinet received a report on two major developments in personalised services for people with learning disability in Herefordshire and Cabinet's endorsement was sought on the approach.

Cabinet was advised that the two main issues for people with learning disabilities was to have self-directed support and own accommodation. It was emphasised that service users wanted to have a move towards self-directed support and to have their own accommodation, as opposed to institutional accommodation, thus giving independence and choice. It was noted that there were 535 local residents with learning disabilities in receipt of services, with an additional 140 people placed locally by other authorities who require the use of local health services.

Cabinet was reminded that learning disability was life long and the aim was to improve outcomes for residents giving the means to work and be part of the community. The report was commended by Cabinet and Members were encouraged to attend the forthcoming seminar for all Councillors on services for people with learning disabilities.

RESOLVED

THAT:

- (a) Cabinet endorse self-directed support as the mainstream service response to meeting the needs of people with learning disability from April 2008, and authorise the Cabinet Member (Social Care Adults and Health) to agree the level of the Resource Allocation System;**

- (b) **Cabinet authorises officers to complete the partnership agreement negotiations on the detail of the contract with Focus Futures. A further report to be brought to Cabinet as a key decision for agreement of the contract and financial terms and conditions;**
- (c) **a seminar on services for people with learning disability be provided for all Members; and**
- (d) **all Members receive a copy of the Cabinet Report.**

14. REVIEW OF POLLING STATIONS, POLLING PLACES AND POLLING STATIONS

Cabinet received a report on the proposed changes to the number and locations of polling stations in Herefordshire. Cabinet was advised of the new Electoral Administration Act 2006, which requires that relevant authorities conduct a review of all polling districts and polling places by the end of 2007 with a further review conducted every four years thereafter. It is a requirement that the Returning Officer must make representations to the relevant authority as to the location of existing or proposed stations and the Returning Officer's comments must be published within 30 days of receipt.

It was noted that there had been some concerns from Members over the review but it was emphasised that it was a statutory duty. Cabinet was informed that there had not as yet been the opportunity to return to consultees, such as parish councillors, to gain their views or to gain the view of the new Chief Executive as the new Returning Officer.

A Member in attendance expressed the view that it was felt that more work needed to be done, with particular regard to the disputed polling stations. It was pointed out to Cabinet that the Strategic Monitoring Committee was awaiting a report on the issues that had arisen at the last local elections. The Head of Legal and Democratic Services advised that a response was still awaited from the electoral supplier.

Cabinet was advised that the advice of the Electoral Commission was that the review needed to be completed even if that meant the Executive did not approve the review. This would mean that the current arrangements for polling stations would remain until the review was revisited. Cabinet agreed that a further review needed to be carried out ensuring that it did not coincide with any proposed election date.

RESOLVED

THAT:

- (a) **the existing arrangement of polling districts and polling places remain unchanged;**
- (b) **the Returning Officer's recommendations as indicated in Appendix 2 of the report (Changes to Polling Stations) be not approved and Appendix 3 (No changes to Polling Stations) be approved; and**
- (c) **the review of Polling Stations be revisited and a further consultation take place before March 2008 with a report to Cabinet with the Returning Officer's recommendations in April 2008.**

The meeting ended at 5.00 p.m.

CHAIRMAN

REPORT OF THE PLANNING COMMITTEE

Meetings Held on 14 December 2007 and 18 January 2008

Membership:

Councillors: TW Hunt (Chairman), RV Stockton (Vice-Chairman), ACR Chappell, PGH Cutter, Mrs H Davies, GFM Dawe, DW Greenow, JW Hope, B Hunt, G Lucas, RI Matthews, R Mills, Mrs PM Morgan, Mrs JE Pemberton, AP Taylor, DC Taylor, WJ Walling, PJ Watts and JD Woodward.

REFERRED PLANNING APPLICATIONS

1. The following Planning Applications were determined by the Committee because (i) they relate to the Council's own development or to the development of land owned by the Council; (ii) they are applications referred to the Committee by the Head of Planning Services because the Area Planning Sub-Committees are mindful to approve/refuse them contrary to officer recommendations and Council's Policies; or (iii) they are applications by Members of the Council or their relatives.
 - (a) DCNC2007/2869/F - proposed 4 new houses on land adjacent to 44 Vicarage Street, Leominster – refused contrary to recommendation;
 - (b) DCNW2007/2653/F - proposed erection of 6 dwelling units and ancillary garages and formation of new vehicular access at land adjacent to Methodist Chapel, Hereford Road, Weobley – refused as recommended;
 - (c) DCNC2007/3280/F - retrospective application for the erection of 3m high fence around nw boundary, Bromyard Leisure Centre, Cruxwell Street, Bromyard, – approved as recommended;
 - (d) DCNE2007/3731/F - conversion of former stables and storage building to form two self contained holiday units at Stanley Hill Court, Bosbury, Ledbury - approved as recommended;
 - (e) DCCW2007/2057/F - variation of condition 2 of planning consent DCCW2006/3153/F to allow sale of the property (if necessary) to another travelling family at The Birches Stables, Burghill - refused contrary to recommendation;
 - (f) DCCE2007/2467/RM and DCCE2007/2469/F - land at Venns Lane, Royal National College For The Blind, College Road, Hereford – approved as recommended;
 - (g) DCCE2007/3194/F - siting of wooden cabin to accommodate needs of disabled person. land adjacent 'Old Vicarage', Preston Wynne, Hereford - approved contrary to recommendation.
 - (h) DCSE2007/2435/F - proposed single storey link between dwelling and double garage to accommodate ground floor study/bedroom and en-suite facility and form rear extension, land adjacent to The Oaks, Bannuttree Lane, Bridstow, Ross-On-Wye - approved as recommended;

- (i) DCSE2007/2898/F - 3 dwellings for rent comprising 2 no. 2 bed & 1 no. 3 bed houses, adjacent to No. 4 Martins Close, Woolhope, Hereford - approved as recommended;
- (j) DCSW2007/2978/O - outline planning application for two dwellings, Brookview, Clehonger, Hereford - refused as recommended;
- (k) DCSE2007/3140/O - outline planning application for the development of employment uses including B1, B2 and B8, together with change of use to form landscape buffer zone at Model Farm, Hildersley, Ross-On-Wye - approved as recommended.

AREA PLANNING SUB-COMMITTEES

2. Information reports have been received from the three Area Planning Sub-Committees which have dealt with the following matters:

(a) Northern Area Planning Sub-Committee meetings held on 17th October, 14th November & 12th December, 2007

- applications approved as recommended – 14
- applications refused as recommended – 0
- applications refused contrary to recommendation 1 (referred to Planning committee)
- applications minded to approve contrary to recommendation 2 (1 referred to Planning Committee)
- applications deferred for further information - 2
- number of public speakers – 4 parish council; 7 objectors and 5 supporters
- appeals - 7 appeals received and 19 determined (10 dismissed 7 upheld and 2 withdrawn)

(b) Central Area Planning Sub-Committee meetings held on 26th September 24th October & 21st November, 2007

- applications approved as recommended - 19
- applications refused as recommended - 0
- applications deferred for site inspection – 9
- applications minded to approve contrary to recommendation 1 (referred to Planning Committee)
- applications minded to refuse approve contrary to recommendation 8 (2 referred to Planning Committee)
- applications deferred for further information - 2
- number of public speakers – 8 parish council; 17 objectors and 14 supporters
- appeals - 8 appeals received and 11 determined (6 dismissed, 4 upheld and 1 withdrawn).

(c) Southern Area Planning Sub-Committee meetings held on 10th October, 7th November 5th December, 2007 & 9th January, 2007

- applications approved as recommended - 23
- applications refused as recommended - 0
- applications minded to approve 2 (1 referred to Planning Committee)
- applications minded to refuse 7 (4 referred to Planning Committee)
- number of public speakers – 8 Parish Council; 11 objectors and 20 supporters
- appeals - 14 appeals received and 13 determined (7 dismissed, 3 upheld and 3 withdrawn).

LOCAL GOVERNMENT OMBUDSMAN REPORT - COMPLAINT NO: 06/B/14891 – PUDDLESTON, LEOMINSTER

3. A report has been received from the Local Government Ombudsman following his investigation into a complaint regarding the granting of permission by the Planning Committee on 20th January 2006 for application DCNC 2005/3689/0 for a smithy and stables at Pudleston. The Ombudsman had found that the Council was at fault in failing to give adequate reasons for granting the application against officer advice and against significant local and national planning policies. Although the Ombudsman accepted that Committee was entitled to depart from officers advice, he said that it needed to have good reasons to do so, based on clear and legitimate planning grounds. In this case the Ombudsman had found that the Committee had failed to provide such a justification for the decision and that there was maladministration which had caused injustice to the complainant.

The Ombudsman had recommended that the Council:

- (i) commissions independent valuations of the property affected both before and after the development;
- (ii) pays to the complainant the difference between the valuations, if any;
- (iii) pays to the complainant a further £250.00 in recognition of the time and trouble spent pursuing the complaint; and
- (iv) produces a good practice guide for Members of the Planning Committee on dealing with all aspects of the decision-making process, arranging appropriate training for all Members once it is introduced

The Committee was disappointed about the findings because it had taken a considerable amount of time to carefully and objectively weigh up all the information before making a decision. It was agreed that that Ombudsman should be informed of these facts.

DEVELOPMENT CONTROL: HALF ANNUAL REPORT

4. Details about the Councils Development Control performance in the first six months of 2007/08 were received and the Officers were thanked for their excellent achievements.

PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT CONSULTATION ON PLANNING APPLICATION REQUIREMENTS

5. Comments have been received on the Draft Planning Obligations Supplementary Planning Document (SPD) which was published for consultation purposes in March 2007. Appropriate changes have been prepared following the consultation process and the revised SPD will be included within the Council's Local Development Scheme as part of Herefordshire's Local Development Framework. It will set out the Council's policy and approach to dealing with planning obligations and securing developer contributions

The aims of the SPD are to:

- (a) provide as much certainty as possible to landowners, prospective developers and other interested parties;
- (b) ensure a uniform application of policy;
- (c) ensure the process is fair and transparent;
- (d) enable developers to have a 'one stop shop' approach to establishing likely contributions expected; and
- (e) facilitate a speedier response from the authority to development proposals.

The Committee has made comments about the SPD and commended its adoption to the Cabinet Member (Environment and Strategic Housing) and Cabinet. The matter was considered by Cabinet on 24th January and the outcome is reported elsewhere in the Council Agenda.

**TW HUNT
CHAIRMAN
PLANNING COMMITTEE**

BACKGROUND PAPERS

- Agenda for the meeting of the Planning Committee held on 14 December 2007 and 18 January 2008.

PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT

PORTFOLIO RESPONSIBILITY: ENVIRONMENT AND STRATEGIC HOUSING

CABINET

24 JANUARY 2008

Wards Affected

Countywide.

Purpose

To receive and adopt a Supplementary Planning Document (SPD) setting out the Council's policy on the use of planning obligations, following statutory public consultation.

Key Decision

This is not a key decision.

Recommendations

- 1. THAT the Planning Obligations Supplementary Planning Document and associated Sustainability Appraisal be agreed and adopted;**
- 2. That appropriate amendments are made to the Planning Committee Scheme of Delegation to Officers and that a Section 106 Monitoring Officer be recruited, following which the Supplementary Planning Document be brought into effect.**

Reasons

The SPD forms part of the Council's emerging Local Development Framework. The statutory preparation process has incorporated two periods of consultation and final approval is now required. Amendments are required to delegation arrangements prior to the SPD being brought into effect.

Considerations

1. Within the Local Development Framework, Supplementary Planning Documents (SPD) are produced to expand on and provide additional information and guidance in support of Development Plan Documents. The Herefordshire Unitary Development Plan (UDP) has the status of a Development Plan Document and its policies have been "saved" as part of the Council's new Local Development Framework for a minimum three-year period. Policies S1 and DR5 of the UDP refer to planning obligations.
2. The aims of the SPD are to:
 - Provide as much certainty as possible to landowners, prospective developers and other interested parties;

Further information on the subject of this report is available from
David Nicholson, Forward Planning Manager on 01432 261952

- 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.
3. The SPD has been drawn up taking into account an initial consultation and information gathering exercise, including selected Parish Councils and a number of interested organisations and stakeholders. Formal consultation on the draft document was undertaken in March/April.
4. The comments received in relation to the specific questions raised in the formal consultation are summarised in general terms in the table below, with an explanation as to how they have been addressed in the final SPD. All written comments have been summarised, recorded and responded to in a full Consultation Statement. The Consultation Statement (copy available on request from the Committee Manager (Executive)) will be published with the adopted SPD and accompanying Sustainability Appraisal.

| Council's Consultation Question | General response | How addressed in SPD |
|--|--|---|
| 1. Is our policy of publicising the types of contributions that will be sought and quantifying them as far as possible the right approach? | Support. | No change. |
| 2. Does the SPD provide sufficiently clear guidance on what developer contributions we will seek? | Agreement. Some concern that summary table was confusing. "Scheme of Works" referred to needs explaining. | Summary Table 2 revised. "Scheme of Works" explained further in Para 1.7.4. "Developer Guide" to be prepared once SPD adopted. |
| 3. Are all the areas for which we are seeking developer contributions appropriate? | Appropriate, although concern expressed that contributions for education, waste and community services do not relate to policy DR5 of the UDP and therefore contrary to PPS12 Para 2.43. | Provision of community services, education, recycling etc. constitute "community benefits" referred to in Policy DR5. No changes to these. However changes made to delete contributions to Training and Employment. |

| Council's Consultation Question | General response | How addressed in SPD |
|---|---|--|
| 4. Are there other areas for which we should seek contributions? | Other topics raised such as renewable energy, sewerage/water disposal and cemeteries/allotments. | No change to SPD regarding the issue of renewable energy. It was considered but determined that this issue would be best covered by a new overarching policy in the forthcoming Core Strategy rather than in an SPD based on the existing UDP. Further text has been added regarding the issues of water/sewerage disposal, cemeteries and allotments. |
| 5. Are the thresholds for contributions set at the right level? | <p>Varying response that threshold levels could detrimentally affect viability of smaller scale housing and employment proposals and detrimentally affect the economy.</p> <p>Objections received that new provision of affordable housing either solely or as part of larger schemes (as opposed to rural exception sites) should not have to contribute to other community facilities i.e. open space, education, community services etc</p> <p>Threshold for housing is too low – too onerous and will lead to delay in determining planning applications and significant impact on Council resources.</p> | Contributions towards training and development for business removed. Contributions from employment generating uses scaled down with more use specific thresholds introduced. Housing thresholds for contributions remain unchanged, but amendments made to calculations for transport, open space and education – see relevant sections. With regard to requiring further contributions from affordable housing, given commitment to providing additional affordable housing in the County and fact that those in local need occupy affordable housing, requirement for further contributions have been waived. However, most new market housing will impact on the community in some way and should therefore contribute towards making that development sustainable. |
| 6. Are the formulae for determining contributions appropriate, fair and reasonable? (General – for specific areas, see below) | Varying response – some concern raised that formulae too rigid. A number of objections to the 2% monitoring fee were received. | No change to fees but ceiling introduced. It is relevant and appropriate to charge in relation to complying with the requirements of Circular 5/05 for accurate monitoring and review of the processing, spending and reporting of planning obligations in Herefordshire, for which a new member of staff will need to be appointed. |
| Transport | Objections that methodology used does not reflect rural nature of shire county. | Transport section revised significantly to take on board rural-urban differences. |

| Council's Consultation Question | General response | How addressed in SPD |
|--|---|---|
| Affordable Housing | Various specific objections to wording. | Addressed in Affordable Housing Section of the SPD. |
| Community Services | Objections that requirements for contributions towards community services e.g. libraries is not specifically referred to in UDP policy and therefore does not comply with PPS12. | Provision of library services, community halls, health and emergency services etc are considered to constitute community benefits, which directly relate to Policy DR5 of the UDP. No change. |
| Education | Objections that education section not transparent in assessing need for contributions. Should be reference in SPD to school capacity as basis for assessing need. | Education contributions reviewed to take on board Herefordshire-specific research. Reference to capacity of existing schools now made. |
| Employment and Training | Objections that asking for contributions from new proposals for employment generating uses will deter economic development in the County. | Employment -generating use contributions scaled down to reduce any possible detrimental impact on economic performance and to encourage urban/rural regeneration. |
| Open Space | Objections to methodology in using land acquisition and provision costs in off-site open space contributions calculations where enhancement only of existing open space is proposed. Objections to 20-year cost of maintenance. | Methodology for calculation revised to refer to contributions per dwelling size using average persons per dwelling statistics. Maintenance costs reduced to 15 years in line with other local authorities. |
| Town Centres | Objections to 1% for Art. Need to recognise that some major ESG developments will already be providing significant infrastructure. Objections to commercial developments making contributions to community/recreational facilities. Objections to all housing making contributions to public realm improvements in town centre. | No change to SPD in respect of contributions to Art as this is an example of policy DR5 requirement. Agree clarification of requirements to major ESG proposals. Amendments to make clear that only certain commercial developments are to make contributions to open space. Contributions from housing to public realm will need to satisfy tests of reasonableness. |
| Waste Reduction | Objections that requirements for contributions towards recycling and waste are not specifically referred to in UDP policy and therefore do not comply with PPS12. | Provision of recycling and waste facilities is considered to constitute community benefit, which directly relate to Policy DR5 of the UDP. No change. |

| Council's Consultation Question | General response | How addressed in SPD |
|---|---|--|
| 7. Can we simplify and improve the presentation of this SPD, to make it more accessible to people not directly involved in the planning system? | Some concern that SPD too complicated and difficult for members of the public to interpret. | Executive summary redrafted. A separate developer/householder friendly leaflet is to be produced for distribution to applicants. |

5. Copies of the final SPD and Sustainability Appraisal are appended as Appendix 1 and 2 respectively. The SPD has been drafted in three parts and includes an executive summary.
 - Part 1: Context – covering obligation types, priorities, policy context and community involvement.
 - Part 2: Code of Practice – defining the Council's approach and procedure for negotiating, preparing and completing obligations, including monitoring and management.
 - Part 3: Community Infrastructure – sets out the obligation areas, thresholds and tariffs where appropriate and justified.

6. All statutory procedures set out in the relevant regulations regarding the preparation and consultation arrangements for an SPD have been complied with. The comments received from both the initial consultation and the draft version have been fully considered in making the SPD a more informed and inclusive document.

7. The main changes, summarised in the table above, reflect the Council's commitment to the provision of affordable housing; urban and rural regeneration proposals, particularly employment generating proposals from B1 (Business), B2 (General industrial) and B8 (Storage or distribution) uses; and recognition of the commitment to sustainable development. Once adopted, the document will make clear the subject areas for planning obligations required from current UDP policies and in particular policy DR5 Development Requirements. The document will need to be kept under review and is expected to need future change to reflect new and emerging planning documents arising from the Local Development Framework. Where formulae have been used to determine standard charges, the costs applied will need regular review to ensure that the cost price index is maintained.

8. Reference is made in the table to the requirement arising for a Section 106 Monitoring Officer not only to ensure transparency of documentation and to help audit the Council's arrangements for planning obligations, but also to ensure demonstrable tracking of obligations so that they are secured with monies and benefits accrued, spent and delivered. A further role for the Officer will be to co-ordinate the Programme of Works - programmes and schemes over a five year rolling period for which developer contributions will be sought. It is envisaged that the Officer will most appropriately be based in Planning Services, reflecting the role of that Service in negotiating and co-ordinating service requirements in respect of individual development proposals. The post will need to work effectively across the Council and to that end should report direct to the Head of Service and have the ability to link in to corporate asset management and capital monitoring groups.

9. The Council will need to review its current procedures for agreeing obligations through the planning application process. The Planning Committee scheme of delegation to officers restricts the extent to which planning applications with an associated obligation are delegated. The numbers of applications subject to an obligation is expected to increase as a result of the thresholds in the SPD. Under the current scheme, this would lead to relatively modest proposals being brought to Committee which would otherwise be determined by officers. To avoid adverse impacts on application handling times, it is suggested that the scheme of delegation be amended to incorporate reference to the SPD. Planning applications with an obligation which in the opinion of the relevant officer accorded with the provisions of the SPD could then be determined under delegated powers in the ordinary way. There would be no other change to the provisions under which applications are reported to Committee. The SPD would not be brought into effect until these amendments had been made, being applied to planning applications received from that point.
10. Where applications subject to Section 106 agreements are dealt with under delegated powers it may be appropriate to include periodic reports for information to the Planning Committee or Area Sub-Committees in much the same way as is done with planning appeals.
11. The SPD will assist in pre-application discussions and will provide a transparent and accountable procedure by which planning obligations are negotiated and secured for development within the Council. When introduced, it will be a material consideration in the determination of planning applications where contributions are sought.

Financial implications

Adoption of the SPD is expected to enhance the ability of the Council to secure appropriate benefits through planning obligations by setting a clear framework for the circumstances in which such benefits will be sought and thereby offer a clear and consistent approach to maximise the benefits of planning obligations for local communities. Appointment of a monitoring officer with a corporate role will help to ensure that planning obligation agreements are implemented effectively and that the resources generated are allocated in accordance with corporate priorities, thereby improving value for money. It is anticipated that the 2% monitoring fee will generate enough income to pay for this post.

Risk Management

It is important that the relevant statutory procedures are followed in preparing the SPD. The Council's intention to prepare and adopt the SPD is set out in the Local Development Scheme, with earlier stages having been completed. There is a reputational risk if the SPD is not adopted to fulfil the Scheme programme.

Alternative Options

Not to prepare the SPD.

Consultees

Pre-draft consultation as detailed in the Consultation Statement.

Member Seminar November 2006

Planning Committee January 2007 and January 2008.

The six-week formal consultation process on the draft SPD took place between 1 March 2007 and 12 April 2007.

Planning Obligations



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Summary

1 Introduction

The Supplementary Planning Document (SPD) on planning obligations provides advice to developers and applicants for planning permission 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.

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.

Figure S1 - Contributions for different types of development

| Development Type | Transport | Affordable Housing | Community Services | Education Facilities | 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) | √ | | | | | | | √ | √ |

1.Note: 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 | |
| | Education (where there is no capacity in local school) | - | |
| | Open space*** | 1071 | |
| | Library Facilities | 120 | |
| | Recycling and Refuse | 120 | |
| 2 bed flat | Transport * | 1,465 – 2,092 | £6,677- 7,304 |
| | Affordable Housing** | Up to 35% on site | |
| | Education (where there is no capacity in local school) | 2,005 | |
| | Open space*** | 2,941 | |
| | Library facilities | 146 | |
| | Recycling and Refuse | 120 | |
| 2/3 bed dwelling | Transport* | 1,750 – 3,686 | £9,578 – 11,566 |
| | Affordable Housing** | Up to 35% on site | |
| | Education (where there is no capacity in local school) | 3,584 | |
| | Open space*** | 3,978 | |
| | Library Facilities | 146-198 | |
| | Recycling and Refuse | 120 | |
| 4+ bed dwelling | Transport* | 3,440 – 4,915 | £15,130 – 16,605 |
| | Affordable Housing** | Up to 35% on site | |
| | Education (where there is no capacity in local school) | 6,485 | |
| | Open space*** | 4,844 | |
| | Library Facilities | 241 | |
| | Recycling and Refuse | 120 | |
| Businesses | | | |
| Retail (A1-5) per 100sqm (except discount supermarkets) | 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 |
| Education Facilities |
| 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 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 Regional Spatial Strategy for the West Midlands (RSS) was adopted in 2004 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 education, 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 – A Code of Practice

2.1 The Council's Approach

2.2.1 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 of Planning Obligations**

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**

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.

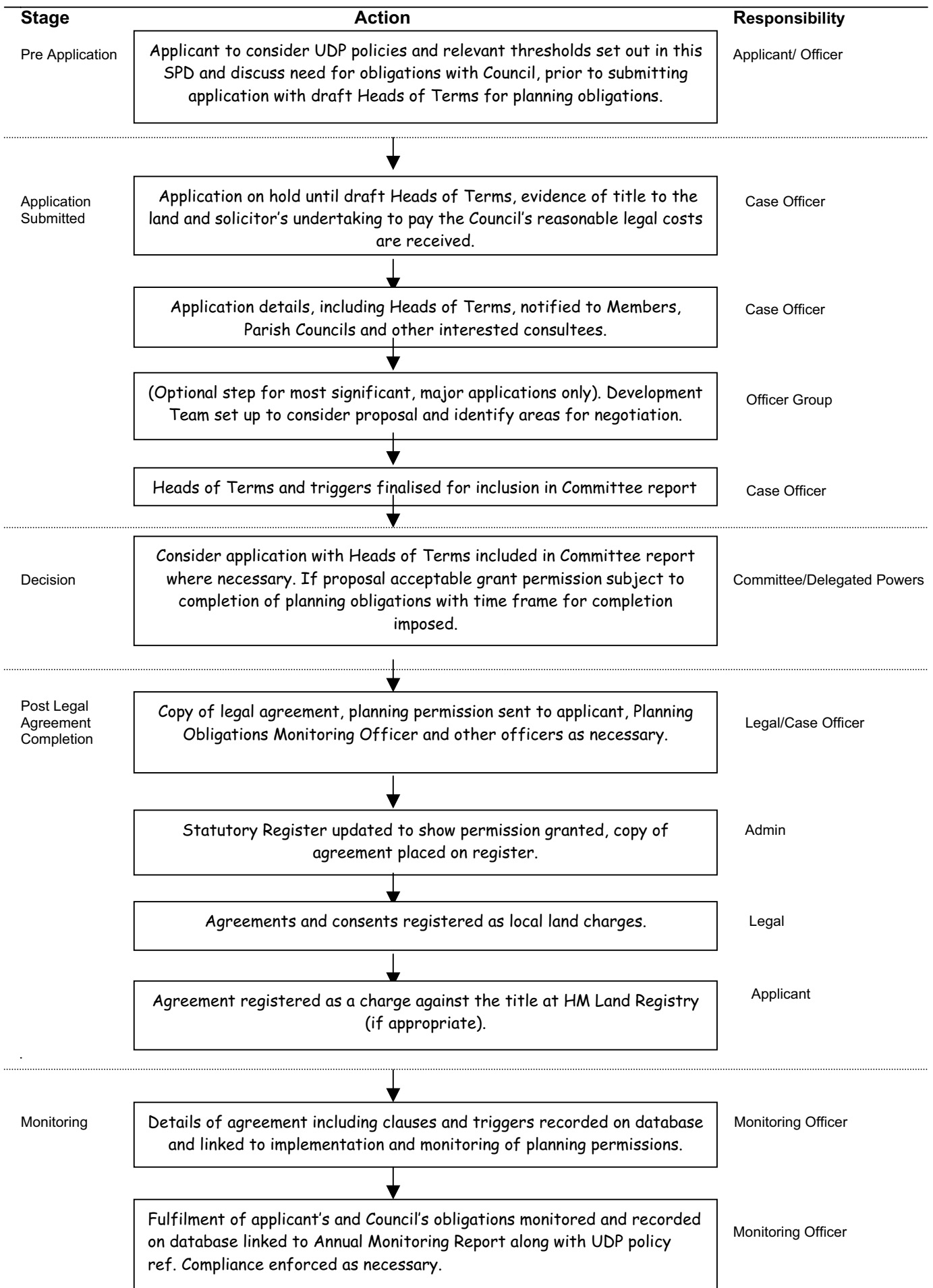
2.5.2 **Ring Fenced Funds**

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

Introduction

3.1.1 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.

Policy Justification

3.1.4 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.

Assessment of need

3.1.7 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.

Transport Issues in Hereford

3.1.9 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.

Rural Transport Issues

3.1.12 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.

Transport Assessment

3.1.13 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.

Developments for which Contributions will be sought

3.1.14 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. 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.

Contributions

Formula and Standard Charges

3.1.17 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.

Location and Accessibility

3.2.19 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

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

Negotiation on Standard Charges

3.2.20 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 – Transport Contributions

| Development Type | 24-hour weekday total vehicle trip | Accessibility | | |
|--|------------------------------------|---------------|---------|---------|
| | | High | Medium | Low |
| 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 >500sqm - Non food superstore per 100m ² | 40.86 | £5,052 | £5,774 | £7,217 |
| Retail >500sqm - Food superstore per 100m ² | 138.15 | £27,770 | £31,737 | £39,671 |
| Retail - Discount Supermarket per 100m ² | 102.33 | £8,561 | £9,784 | £12,229 |

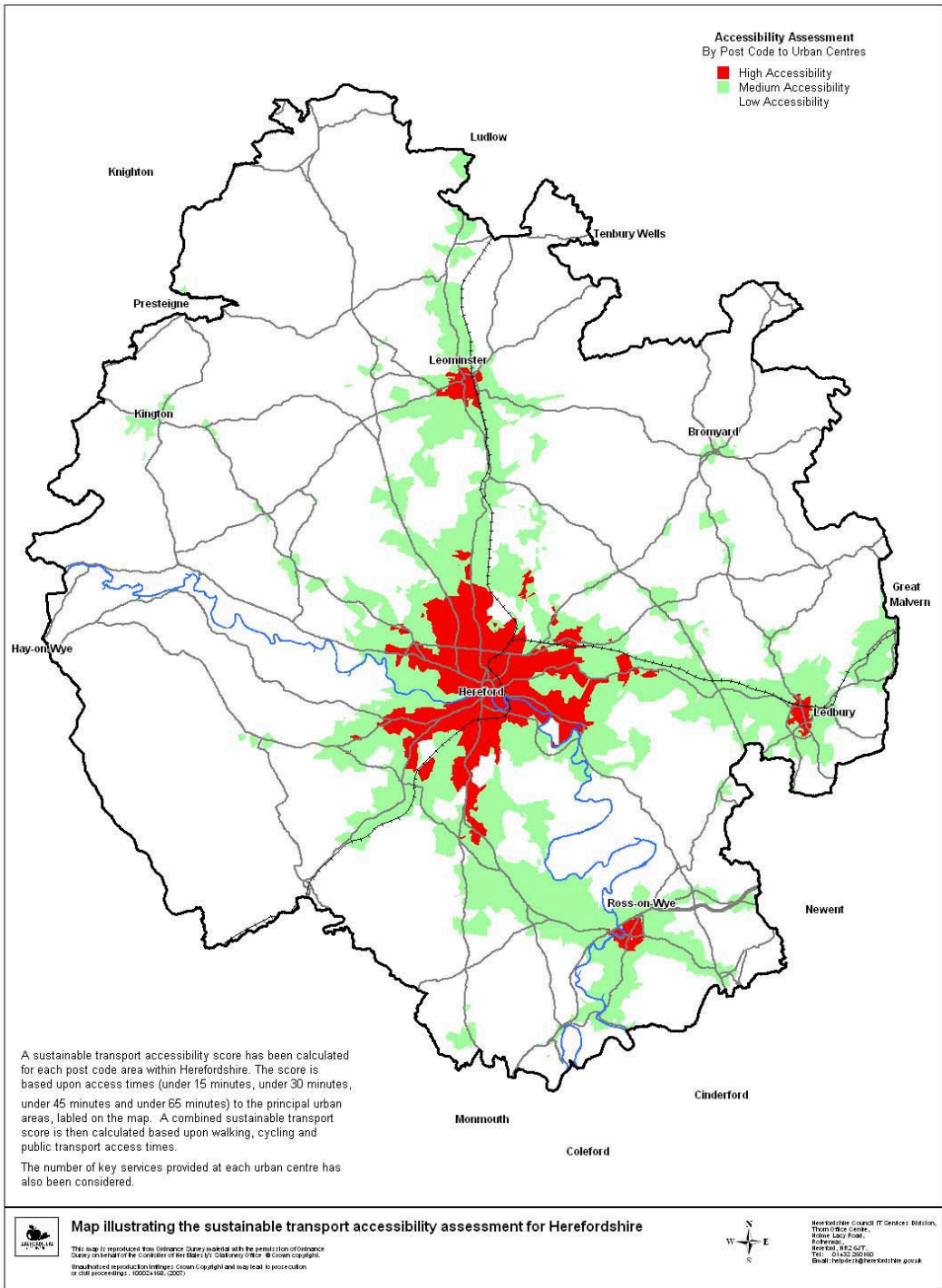


Figure 3 – Transport Accessibility Zones

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, June 2004, 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 $\frac{1}{2}$ full time amount. Census figures for Herefordshire show that for Herefordshire families with dependant children where there are 2 earners, in nearly $\frac{3}{4}$ 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 3 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
- 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 and youth centres, 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 private residential all development as well as residential homes, student accommodation and sheltered housing, the residents of which may also make use of community services. Affordable housing 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, youth centres, halls**

New residential development may be required to contribute towards the provision, enlargement or improvement of community centres, youth 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 their 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 Education Facilities

3.5.1 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. Therefore developers would be expected to make an appropriate contribution towards enhancing existing education facilities or new provision where there is insufficient school places to support the development.

3.5.2 The UDP seeks to retain existing educational land and buildings unless there is no longer a requirement for the facilities and that alternative, locally based school provision within reasonable walking distance, is available (Policy CF5).

3.5.3 Assessment of need

Herefordshire has an unusually high number of schools (103) 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 Thresholds for contributions

Education contributions will only 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 on permanent buildings can accommodate in terms of capacity or when measured against qualitative standards set out in the Education Building Bulletins.

3.5.6 School capacity

The threshold for contributions will depend on the size of the development and the number of surplus places at 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.

3.5.7 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.

- 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
- For developments of 100 or more dwellings, the Council will seek to negotiate with the developer.

3.5.8 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.

3.5.9 Exemptions from educational contributions

Not all residential developments will create a need for school places. Therefore, the following types of residential accommodation will not be subject to education contributions: sheltered housing, rest homes, nursing homes, hostels, student accommodation, 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. Rural exception sites and affordable housing generally will normally be exempt from S106 contributions for contributions on the basis that they are fulfilling a need for housing for people already in the local community.

3.5.10 How contributions will be calculated and used

The additional pressure new developments will place on educational facilities is assessed on a case-by-case basis. Where developer contributions are required, they will be calculated from the number of children likely to be generated by the development and the costs of providing additional facilities/services needed. These components are now explained in turn.

3.5.11 Pupil Yield

Where developer contributions are required, they will be calculated from 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 |

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

3.5.12 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.

3.5.13 Building Cost Multiplier

This is essentially a cost per pupil for building new accommodation. It is set annually by the Department for Education and Skills (DfES) in August/September, ahead of the financial year and can be found on the DfES 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 DfES 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

¹ can be found at:

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

cost multipliers for the 2006/07 financial year has an area adjustment factor of 0.95 and works out currently as follows*

| DfES Basic building cost multiplier | Herefordshire 2006/7 |
|-------------------------------------|----------------------|
| Primary/nursery £ 10, 372 | £ 9,853 |
| Secondary £ 15, 848 | £15, 055 |
| Post 16 £ 17, 013 | £16,162 |

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

3.5.14 Developer contributions for education will normally be sought for:

- Pre-school places/nursery places
- 5 – 11 years (primary schools)
- 11 - 16 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.

3.5.15 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 of school places based on the timing and size of the development and other knowledge about education provision in the area e.g. school reviews.

3.5.16 Calculation for Provision of Education Services

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

Figure 6 - Education contributions per house type 2006/7*

| Contribution by No of bedrooms | Pre - school | Primary | Secondary | Post 16 | Total |
|--------------------------------|--------------|---------|-----------|---------|--------|
| 2+bedroom flat/apartment | £113 | £919 | £892 | £81 | £2,005 |
| 2/3 bedroom house/bungalow | £228 | £1,610 | £1,665 | £81 | £3,584 |
| 4+bedroom | £333 | £2,633 | £3,438 | £81 | £6,485 |

*The figures above will need to be reviewed and amended according to the DfES 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 promote 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 s.106 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 calculate 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. Although the audit of open space took place after the drafting of the UDP, 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 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 3.9.2.

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). 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 300 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 300 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 it is not practical for open space or recreation facilities to be provided on site, since it 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 3
- The NPFA standard for the provision of outdoor playing space of 28m² per person
- 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
- 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 9).

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 7.7.1R – 7.7.49R 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 are producing a separate Supplementary Planning Document (SPD) setting out an urban design framework for the regeneration of the ESG area. UDP policies TCR20R, 21R, 22R and 23R 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

All 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. The thresholds are:

| Residential | Retail (A1, A3,A4,A5) | Financial and professional Services (A2) | Office (B1) | D2 Leisure |
|--------------------|--|---|---------------------------------------|---------------------------------------|
| All new dwellings | Above 300 sq m (Off site contribution) | Above 100sq m (Off site contribution) | Above 500sq m (Off site contribution) | Above 100sq 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
- 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 7.7.15R 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’s 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 all residential developments towards recycling initiatives depending on the development and particular site characteristics.

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); and
- 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 all 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.

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.

Planning Obligations SPD - Sustainability Appraisal Report



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Non-Technical Summary

- A.1. As the role of a Supplementary Planning Document, or SPD, is to expand on the provisions of existing policies, the Sustainability Appraisal (SA) of the Planning Obligations SPD has focussed on assessing the sustainability effects of that SPD over and above the Herefordshire Unitary Development Plan (March 07) policies to which it relates.
- A.2. Planning obligations are a valuable way of bringing development in line with the objectives of sustainable development. The SPD is therefore expected to have a very positive impact on those matters that obligations would seek to address, such as the supply of affordable housing and sustainable transport.
- A.3. A Scoping Report for the Sustainability Appraisal was prepared in October 2006. This was based on the General Scoping Report prepared for the Sustainability Appraisal of the Local Development Framework (LDF). The Planning Obligations Sustainability Appraisal Scoping Report provides a review of a range of national, regional and local strategies and baseline data and was used to identify key sustainability issues for the SPD. The Scoping Report was consulted upon in November 2006; comments received were incorporated into the draft SA, which accompanied the draft SPD on Planning Obligations published for public consultation in March 07.
- A.4. The draft SA and SPD were consulted upon in accordance with statutory regulations for 6 weeks. The results of that consultation were used to inform the final versions of both the SPD on Planning Obligations and its associated SA. The results of those consultations are contained in the Consultation Statement accompanying the final SPD.
- A.5. The main changes to the SA relate to revisions made following from amendments to the final SPD which included deletions with respect to employment contributions and changes made to facilitate affordable housing provision, linking to social and economic priorities for the county.
- A.6. All the documents referred to above can be found on the Council's website in the forward planning pages.
- A.7. Figure A1 on the next page summarizes the appraisal of the whole SPD on Planning Obligations against the SA objectives set out in the LDF General Scoping Report referred to above. See also Appendix 4 to this document.

Figure A1 – Appraisal of likely significant effects of the Planning Obligations SPD

| SA Objective | Cumulative Effect |
|---|--------------------------|
| To support, maintain or enhance the provision of high quality, local or easily accessible employment opportunities | ☺ |
| Secure a more adaptable and higher skilled workforce | ☹ |
| Maintain or enhance conditions that enable sustainable economy and continued investment | ☺ |
| Reduce road traffic and congestion, pollution and accidents and improve health through physical activity by increasing the proportion of journeys made by public transport, cycling and walking | ☺☺ |
| Improve the health of the people of Herefordshire, reduce disparities in health geographically and demographically and encourage healthy living for all | ☺ |
| Improve equality of access to and engagement in quality cultural, educational, leisure, sporting, recreational and community activities for all | ☺☺ |
| Sustainable regeneration | ☺ |
| Raise educational achievement levels across the County | ☺☺ |
| Reduce and prevent crime/fear of crime and antisocial behaviour in the County | ☺ |
| Reduce poverty and promote equality, social inclusion by closing the gap between the most deprived areas in the county and the rest of the county | ☺ |
| Provide everyone with the opportunity to live in good quality, affordable housing of the type and tenure, in clean, safe and pleasant local environments | ☺☺ |
| Reduce the amount of waste requiring disposal and minimise the use of non-reusable materials and encouraging recycling | ☺☺ |
| Value, maintain, restore and expand county biodiversity | ☺ |
| Use natural resources and energy more efficiency | ☹ |
| Value, protect, enhance and restore the landscape quality of Herefordshire, including its rural areas and open spaces | ☺ |
| Reduce Herefordshire's vulnerability to the impacts of climate change as well as its contribution to the problem | ☺ |
| Reduce the risk of flooding and the resulting detriment to public well-being, the economy and the environment | ☺ |
| Minimise local and global pollution and protect or enhance environmental resources | ☺ |
| Ensure integrated, efficient and balanced land use | ☺ |
| Value, protect and enhance the character and built quality of settlements and neighbourhoods and the county's historic environment and cultural heritage | ☺ |

Consultation Undertaken

The consultation of this document was undertaken in accordance with the SEA Directive, (2001/42/EC) to ensure the views of stakeholders helped to shape a more informed and inclusive Supplementary Planning Document (SPD) on Planning Obligations.

Consultation took place over a six-week period, from 1st March 2007 to 12th April 2007. The comments received were logged and have shaped the final version of the Planning Obligations SPD, specifically with 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. Summary of Appraisal Process

1.1 A Scoping Report for the SA of the Planning Obligations SPD was prepared in October 2006. This was based on the General Scoping Report prepared for the Sustainability Appraisal of the Local Development Framework (September 2006). It included a proposed framework of objectives and indicators to be used to assess the sustainability impacts of the SPD and discussed the options as to how the SPD could be approached. Other sections of the SPD Scoping Report provided further information on how the objectives and indicators had been chosen, and how the sustainability appraisal would be carried out, including:

- other relevant plans and policies considered;
- baseline information about the main characteristics of the County and what some of the main sustainability issues are;
- the broad options being considered for the SPD at this early stage; and
- the proposed structure and level of detail to be included in the final SA report

1.2 The Scoping Report for the SA was released for consultation in November 2006, to the four main environmental bodies in accordance with government guidance¹. Comments received were considered and incorporated into the Draft Sustainability Appraisal and used to extend the key issues section.

1.3 The Draft SPD and associated SA were developed following from the Scoping Report SA and initial consultation with stakeholders. The alternative options were considered against the SA objectives as set out in the General Scoping Report for the LDF, the analysis of which is reproduced in Appendix 2 of this report. In addition, the objectives of the SPD were analysed, this is reproduced in Appendix 3. Finally, the cumulative sustainability effects of the whole SPD were considered against the SA objectives and this analysis is reproduced in Appendix 4. The Draft SPD and SA were published for a further consultation period of 6 weeks in March 2007, the results of this consultation have been analysed and help to inform both the final version of the SPD and ultimately the SA has been reviewed against the changes made to the SPD and amended accordingly.

2. Background

2.1 In accordance with the Planning and Compulsory Purchase Act 2004, all planning documents that make up a Council's Local Development Framework must undergo a Sustainability Appraisal (SA).

2.2 The main purpose of sustainability appraisal is to promote sustainable development through the better integration of sustainability considerations into the preparation and adoption of plans. This is done through appraising the social, environmental and economic effects from the outset of the preparation process so that decisions can be made which accord with the

¹ Sustainability Appraisal of Regional Spatial Strategies and Local Development Frameworks (November 2005)

objectives of sustainable development. Sustainability Appraisal offers a systematic way of checking and improving plans as they are developed.

- 2.3 There is also a EU Directive, which requires a 'Strategic Environmental Assessment' (SEA) of plans and programmes, including development plans. The aim of this Directive is to ensure the compatibility of all land use plans with the environmental and conservation aims identified at a European level. (Appendix 1 details how this report complies with the SEA Directive). The government has issued guidance on how to incorporate the two processes as referred to above. The scope of the process has been extended to include social and economic issues and has been designed so that by carrying out one appraisal process, local authorities can satisfy the requirements of both SA and the European SEA Directive. In this report, SA should be taken to mean SA incorporating SEA.

3.0 Purpose of the report

This report represents the SA of the final version of the Planning Obligations SPD. Its aim is to assess the SPD against social, environmental and economic objectives, and to set out the information on which the appraisal is based. Readers should refer back to the General Scoping Report published in September 2006 in order to gain a fuller understanding of the approach to SA the Council is taking for all of the documents in the LDF. The General Scoping Report contains much of the background work that has informed the appraisal of the Planning Obligations SPD and some of the requirements of the SEA have been met in that work. All documents are available on the Local Development Framework pages of the Herefordshire website.

- 3.1 The Planning Obligations SPD provides advice to developers and applicants for planning permission on the use of planning obligations particularly when implementing UDP policies. It provides the further guidance to policies, particularly Policy S2 (Development Requirements) and Policy DR5 (Planning Obligations).

UDP Adopted March 2006 **S2 – Development Requirements**

The contribution that developments can make to a sustainable pattern of land use and development which respects the County's environmental resources will be secured by:

9. making use of planning conditions and planning obligations to further the strategy of the plan.

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 documents.

- 3.2 Planning Obligations are a legal agreement between the planning authority and a developer and are entered into when granting planning applications. They are a method of securing contributions to address community and infrastructure needs associated with development, which would otherwise be deemed unacceptable in planning terms.

- 3.3 The overall objective of the SPD is: “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.”
- 3.4 The SPD clarifies when planning obligations would be negotiated and what benefits would be sought. It covers a range of topics including Affordable Housing, Accessibility, Transport and Movement, Community Facilities, Community Safety and Town Centres, Education Facilities, Leisure Facilities and Open Space, Biodiversity, Landscape, Waste and recycling.
- 3.5 The impact of the SPD will be monitored against the indicators as set out in Appendix 4. This will indicate to what extent the SPD is meeting its purpose and whether the policies need adjusting to more efficiently deliver its targets.

4.0 Sustainability Objectives, Baseline and Context

4.1 UDP Policy Appraisal

There is a requirement to appraise the base policy of an SPD to determine its sustainability impacts. The policies in the UDP underwent SA at the First, Revised Deposit and modification stages. It assessed the sustainability issues relating to the policies in a similar way, by setting out the effects of the policy on a number of sustainability objectives. Given the existence of this prior assessment and the fact that the policies cannot be altered at this stage of the plan making process, it was not deemed constructive to undertake a further assessment of these base policies. After a review of that appraisal, the SA of the Planning Obligations Supplementary Planning Document itself focused on assessing the effects of the SPD over and above the provisions of the policies, using the assessment criteria set out in the General Scoping Report for the LDF and the Subsidiary Scoping Report on Planning Obligations.

4.2 Links to other strategies, plans and programmes and sustainability objectives

The General Scoping Report contains a comprehensive review of all plans, strategies, guidance and legislation, which relate to sustainability. These documents range from international guidance and legislation at the highest level, through UK government policies and guidance, to corporate policies and strategies at the local level. They also include targets and objectives of regulatory and advisory organisations, e.g. Environment Agency. This information is set out in Appendix A1 of the General Scoping Report. Although all of the documents have implications for sustainability, not all of them are relevant to the preparation of the Planning Obligations SPD. Those plans and programmes, which are of particular relevance were extracted from the database and set out in the subsidiary Scoping Report for the SPD. A new document which has emerged since the Planning Obligations Scoping Report was published, is the Consultation report on Planning Gain Supplement (December 06), this document suggests further options for how planning gain supplement will be introduced, and mainly affects affordable housing and transport contributions. It is not considered to affect the draft Planning Obligations SPD. Another two documents which have recently been published are PPS3 and PPS 25, but neither of these documents are believed to have a significant impact on the sustainability appraisal of the draft Planning Obligations SPD.

4.3 The social, environmental and economic baseline

There are many sources of baseline information about the County covering a range of environmental, social and economic issues. As part of the preparation of the General Scoping Report, a wide variety of information relating to a number of different sustainability issues was collected. Most of this was presented at countywide level. This provided a broad overview of the key sustainability issues affecting the county as a whole in order to inform the preparation of the LDF. This information is set out in Appendix A2 of the General Scoping Report. As the SPD is of countywide relevance, it was not deemed necessary to collect any further baseline data relating to specific areas. This baseline information will be updated regularly.

4.4 Key Sustainability Issues

The review of plans, policies and programmes (Task A1) and the collection of baseline data (Task A2) provides the basis for determining key sustainability issues which need to be considered as part of the production of the SPD. The SA provides a mechanism to assess the impact the SPD can have on addressing these issues. The review of plans and data outlined in the scoping report is not exhaustive but represents the Council's view on the information, which is most relevant to the SPD process. The identification of the key issues provides the basis for development of SA and SPD objectives to ensure that they are addressed as part of future policy making decisions.

Figure 1: The key issues outlined within the Scoping Report include:

| Key Issue | Summary |
|--|---|
| Employment | Reduce and manage reliance on traditional employment sectors and ensure Herefordshire can attract business in technology and knowledge intensive sectors. Lower average wages than region or nation. |
| Skills | Lack of skilled workforce could affect investment potential and increase "commuting in" from other areas to bridge the skills gap. |
| Transport and Travel | High reliance on the private car Low usage of public transport Traffic Congestion |
| Ill-health | Ageing population Disparities in health geographically and demographically |
| Access to essential facilities | Many small rural settlements without access to health, education, employment, retail or recreational facilities and with little public transport availability Desire to get more public participation in decisions affecting community particularly by hard to reach groups such as young people and gypsy travellers. |
| Sustainable Regeneration | Strengthen vitality and viability Strengthen role they play as focus for community activity |
| Education | Improve educational attainment across all age groups Lack of university in district |
| Provision of Affordable Housing | High ratio of property price to household earnings Shortfall of provision of affordable dwellings / increase in number of people on Home Point register Decline in average household size Lifetime homes needed and greater range of size and mix of tenure. Provision of gypsy sites |
| Reduction in waste/increase in recycling | Recycling targets not being met Increase in the amount of waste to landfill over time Reduced capacity of current landfill sites |
| Biodiversity | Protect and enhance sites and species of national, regional and local importance and minimise loss of biodiversity |
| Energy Use | Promote zero carbon development through energy efficiency and renewable generation |

Other key issues were subsequently considered of relevance as part of the appraisal and include: Built Environment, Crime / Fear of Crime, Water Usage, Climate Change and Flood Risk, Reducing Poverty and Social Inclusion. These also stem from the General Scoping Report (September 2006).

4.5 SA Framework

This was identified in the Scoping Report of the Planning Obligations SPD. Subsequently, it was considered relevant to include all 20 objectives that were detailed in the General Scoping Report of the SA of the LDF (see Appendix A3 of that report).

5.0 Assessment of Significant Effects of the SPD

5.1 Outcome of the SA process

The Scoping Report stated that it was intended to appraise the options and then the SPD as a whole rather than appraising the individual elements of the guidance. The results of the appraisal, which assesses the expected outcomes of implementing the SPD against the other options and the impact of the whole plan against the SA framework sustainability objectives, are set out in the appendices to this report.

5.2 Appraisal Of Options

The Council consulted on a number of policy options in preparing the SPD. In accordance with the ODPM's SA guidance, the options included the 'do nothing' option (Option 1), essentially resulting in a continuation of the existing UDP policies and related Supplementary Planning Guidance. Other Options were:

- extending the range of infrastructure for which planning obligations would be sought, but not quantifying the contributions (Option 2)
- quantifying the likely levels of contribution to be sought for particular types of infrastructure (Option 3); and
- applying a general tariff to all new developments (Option 4)

From an assessment of the Initial Consultation paper responses and emerging government guidance, it became apparent that the 'do nothing' approach was not a viable option. Option 2 was considered favourably but lacked transparency and consistency. Option 3 was viable and considered most suitable for Herefordshire in the light of existing development patterns and obligation procedures. In result a combination of options 2 and 3 has been favoured in the draft SPD.

Appraisal of Option 1 – 'do nothing' or continuation of existing policies, as set out in Appendix 2, identifies no true negative effects. However, positive effects are assessed against three of the sustainability objectives; the provision of affordable housing, access to essential facilities and transport and travel. In respect of the other objectives, the effect was assessed as 'neutral' or 'uncertain' in the absence of specific guidance on the role of planning obligations.

In contrast, the appraisal of Option 4 – the tariff approach is assessed as positive against all but a couple of the sustainability objectives.

It is apparent from the appraisal that both the preferred option (options 2 & 3) and Option 4 score significantly better than Option 1 – the "do nothing" approach. Option 4 scores marginally better than the preferred option in terms of the sustainability objectives, however, the risk factors inherent in Option 4 are considered to be significant factors to be weighed against the marginal benefits of the "roof tax" approach.

5.3 The Appraisal of the Objective of the SPD

It is recognised that no development is 100% sustainable; however it is sometimes possible to remove or reduce any potentially negative impacts by certain mitigation measures. It is in fact the aim of the Planning Obligations SPD to address the impacts of development by securing the provision of community infrastructure. The specific objective of the preferred option is to secure contributions particularly (but not exclusively) for the topics listed in Part 3 of the SPD. Where relevant, planning obligations will also be required to provide appropriate compensation and/or mitigation wherever development would harm an environmental or community resource. The appraisal in Appendix 3 demonstrates that the objective of the SPD are compatible against the sustainability objectives as set out in the LDF SA Framework, with no negative effects being identified.

5.4 Significant social, environmental and economic effects of the SPD

It is expected that the SPD will have an overall positive effect on matters such as open space, biodiversity, supply of affordable housing and sustainable transport as well as other matters the SPD seeks to address. It will do so by clarifying for applicants and developers what they can expect in terms of financial implications on planning obligations necessary for a particular development and thereby increasing the speed, transparency and efficiency of the planning process (see Appendix 4).

5.5 Uncertainty and Risks

When assessing the SPD against most of the sustainability objectives there are obvious positive or negative effects and where there is such a precise effect this has been identified and explained in Appendix 4. However, the issue of uncertainty is a common theme in the SA process. The nature of the Planning Obligations SPD hopefully helps reduce uncertainty by providing specific guidance regarding the contributions that the Council would expect from typical forms of development. Since the need for planning obligations has to be considered on a case-by-case basis, not all development proposals may give rise to them; conversely, certain types of development may, perhaps because of size or complexity, create impacts that give rise to more extensive obligations than are set out in the guidance. It is therefore more difficult to predict the scale of the effects on the sustainability objectives and indicators.

5.6 Mitigation

Although the appraisal has not demonstrated any significant negative effects on the sustainability objectives it should be noted that the SPD can only give general guidance and may not identify specific mitigation measures required to deal with the impacts of particular developments. Other measures may be sought through more detailed policies or proposals or through the consideration of individual planning applications.

6.0 Further Work

6.1 This final SA report will be published to coincide with publication of the adopted SPD. The initial aim of the SA process is to ensure that the Planning Obligations SPD is sound in meeting social, environmental and economic sustainability objectives. The Planning Obligations SPD will form part of the Herefordshire Local Development Framework. It will be used in conjunction with the Unitary Development Plan in determining planning applications and the assessment of the impact of development. The use of the SPD will provide a clear, transparent approach, early in the development process ensuring that any adverse impacts of development are mitigated against and that development meets the sustainability objectives of the UDP and emerging LDF.

6.2 Monitoring

It is anticipated that a monitoring officer will track compliance of each obligation in an agreement as the development proceeds. All agreements/undertakings will be monitored through the use of a Planning Obligations database. An Annual Report on planning obligations will be produced detailing the status and the 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. 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 UDP Annual Monitoring Report. The sustainability or otherwise of the SPD will be reviewed through an annual review of the objectives, indicators and targets detailed in Appendix 4.

Appendix 1 – Compliance with the requirements for the environmental report under the SEA Directive

| Information to be included in an Environmental Report under SEA Regulations | Relevant Sections in the SA Report |
|---|---|
| An outline of the Contents, main objectives of the plan and its relationship with other relevant plans and programmes. | Section 3 and 4 |
| The relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan. | Appendix 2 |
| The environmental characteristics of areas likely to be significantly affected. | 4.3 and 4.4 |
| Any existing environmental problems which are relevant to the plan, including in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Directives 79/409/EEC and 92/43/EEC. | 4.4 |
| The environmental protection objectives, established at International community or national level, which are relevant to the plan and the way those objectives and any environmental considerations have been taken into account during its preparation. | 4.2 and 4.3 |
| The likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage, landscape and the interrelationship between the above factors. | 4.4 and Appendix 4 |
| The measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan. | 5.6 and Appendix 4 |
| An outline of the reasons for selecting the alternatives dealt with and a description of how the assessment was undertaken including any difficulties. | 5.1, 5.2 and 5.3 |
| A description of monitoring measures. | 6.2 |
| A non-technical summary of the information in the SA 1.0 | A1 – A7, Figure A1. |

Appendix 2 – Comparison of Options

| SA Objective | Option 1 | Option 2 and 3 | Option 4 |
|--|--|---|--|
| Employment | Would not address the need for small business/ starter units, training or business support. | Contributions could provide small business/ starter units and business support programmes. | Would encourage inward investment. |
| Skills | No specific requirements for training, college etc. | No specific requirements for training, college etc. | Requirements can be provided for training centres. |
| Sustainable Economy and Continued investment | No specific requirements currently | Low thresholds and high contributions could deter economic growth | Unsure as to the effect |
| Transport & Travel | Some contributions would be given to sustainable transport infrastructure, although only in specific areas. | Would result in contributions to sustainable transport infrastructures in all areas and improvements to road infrastructure. | Would provide contributions to sustainable transport infrastructure. |
| Ill-Health | Effects on health would be uncertain. | Formulae could be established. | Would provide contributions to health and well being. |
| Access to essential facilities | A degree of community facilities would be provided. However, it would not generally address community safety. | Community safety would increase and an increase in provision of community facilities, ie community buildings/ infrastructure. | A range of community facilities could be provided. |
| Sustainable Regeneration | Effects would be uncertain on the whole. However, limited provisions would be provided through current practice. | Provisions can be made where needed for enhancement and protection. | Unsure as to the effect. |
| Education | Current adhoc system would continue | Provide more certainty to the provision of school places and educational facilities. | Would encourage higher and further education provision. |
| Provision of affordable housing | There would be some provision of affordable housing, which would follow the 35% policy currently used. | Existing policy would continue to be used, however to ensure affordability no contributions will be sought from the affordable units on the site. | Affordable housing would be provided in tariff system. |

| | | | |
|---|---|---|--|
| Reduction in Waste / recycling | No particular criteria would be met due to no specific guidance available. | More provisions would be made to waste and recycling provisions. | Contribution would be made towards waste/recycling facilities. |
| Landscaping and Biodiversity | Effects would be dependable upon location and type of proposals coming forward. | Effects on biodiversity are dependant on the location and type of proposals coming forward. Additional benefits for AONB's. | Effects on biodiversity are dependant on the location and type of proposals coming forward. |
| Energy use | Uncertain as to the effect. | Formulae would be established | Uncertain Impact |
| Climate Change and Flood Risk | No provision currently allowed. | More provision could be provided depending on proposals coming forward. | More provision could be provided depending on proposals coming forward. |
| Social Inclusion and Reducing Poverty | Uncertain as to the effects | A more pro-active approach to community facilities would enhance community identity/reduce social deprivation. | Would reduce social deprivation and enhance community identity. |
| Heritage, Archaeology and Built Environment | Uncertain of the effects. | Contributions will be made towards public realm, landscaping and public art to improve and maintain our local heritage. | Better provision towards public art and landscaping to maintain local heritage and protect archaeological sites. |
| Crime and Fear of Crime | No provision currently provided | Would encourage contributions towards CCTV provision and other security measures | Would encourage contributions towards CCTV provision |
| Natural Resources | Effects would be dependable as to the location and type of proposals coming forward | Increase in development on existing brown field land | |
| Balanced Land Use | Density levels would be in accordance to current policies | Existing policy would continue to be used, with improvements to the Sustainable Transport infrastructure | Density level targets would be reached |
| Reduce the risk of flooding and the resulting detriment | Effects would be dependable upon location and type of proposals coming forward. | More provisions would be provided, especially in areas of greatest need. | Uncertain as to the full impact |
| Pollution | Uncertain as to the effects | Improvements to water quality and air quality | Uncertain as to the full impact |

Appendix 3 –Testing Plan Objectives against SA Objectives

Plan: Planning Obligations Supplementary Planning Document

Plan Objective: To expect development to contribute towards the financing of new or improved infrastructure, directly related to and necessary for new development proposals, in the interests of sustainable development.

| SA Objective | Possible Effect (please tick) | | | Explanation – Contributions towards | Mitigation and Enhancement |
|---|-------------------------------|----------|---------|--|----------------------------|
| | Positive | Negative | Neutral | | |
| To support, maintain or enhance the provision of high quality, local or easily accessible employment opportunities, suited to the changing needs of the local workforce | ✓ | | | Better employment facilities may be provided, as well as transport links. | |
| Secure a more adaptable and higher skilled workforce | | ✓ | | No request for contributions to skills development | |
| Maintain or enhance conditions that enable a sustainable economy and continued investment | ✓ | | | More smaller businesses may be encouraged to the County, improvements to local infrastructure | |
| Reduce road traffic and congestion, pollution and accidents and improve health through physical activity by increasing the proportion of journeys made by public transport, cycling and walking | ✓ | | | Improvements in road infrastructure, public transport, pedestrian & cyclist facilities, pedestrian crossings, traffic calming schemes etc... | |
| Improve the health of the people of Herefordshire, reduce disparities in health geographically and demographically and encourage healthy living for all | ✓ | | | More health services may be provided. Encourage better links. | |
| Improve equality of access to and engagement in quality cultural, educational, leisure, sporting, recreational and community activities for all | ✓ | | | More services may be provided. Improve current services. | |
| Sustainable Regeneration | ✓ | | | Improvements to city centre and town. | |
| Raise educational achievement levels across the County | ✓ | | | Provision of required school places/improved facilities | |
| Reduce and prevent crime/fear of crime and antisocial behaviour in the County | ✓ | | | Improve security / CCTV | |
| Provide everyone with the opportunity to live in good quality, affordable housing of the right type and tenure, in clean, safe and pleasant local environments | ✓ | | | Provide affordable housing as part of new development. | |
| Reduce the amount of waste requiring disposal and minimise the use of non-reusable materials and encourage recycling | ✓ | | | Improve waste disposal, recycling centres. | |
| Value, maintain, restore and expand county biodiversity | ✓ | | | Biodiversity enhancement, enhance landscape surrounding development | |
| Use natural resources more efficiently | ✓ | | | Provide renewable sources of energy or restrict use through design techniques. | |
| Value, protect, enhance and restore the landscape quality of Herefordshire, including its rural areas and open spaces | ✓ | | | Protect and enhance open spaces. Provide new open spaces. | |
| Reduce Herefordshire's vulnerability to the impacts of climate change as well as its contribution to the problem | ✓ | | | More funding towards sustainable modes of transport, flood risk reduction. | |
| Minimise local and global pollution and protect or enhance environmental resources. | ✓ | | | Improve public transport, more sustainable modes of transport, better infrastructure. | |
| Ensure integrated, efficient and balanced land use | ✓ | | | New community facilities may be provided following development of housing. | |

| | | | | | | | |
|--|---|--|--|--|--|---|--|
| Value, protect and enhance the character and built quality of settlements and neighbourhoods and the County's historic environment and cultural heritage | ✓ | | | | | Better infrastructure, services provided and provide protection to historic heritage. | |
| Reduce the risk of flooding and the resulting detriment to public well-being, the economy and the environment | ✓ | | | | | Provide more adequate defences | |
| Reduce poverty and promote equality, social inclusion by closing the gap between the most deprived areas in the County and the rest of the County | ✓ | | | | | Affordable housing, community facilities | |

Appendix 4 – Predicting and evaluating the impacts of the whole SPD

Key: - 2 = major negative, -1 = minor negative, 0 =neutral, 1 = minor positive, 2 = major positive, ? = unknown

| SA Objective and Appraisal Questions | Assessment of Effect (-2,-1,0,1,2,?) | Explanation of Assessment | Indicators | Target |
|---|---|--|--|--|
| 01 To support, maintain or enhance the provision of high quality, local or easily accessible employment opportunities, suited to the changing needs of the local workforce | | | | |
| 1.1 Will it maintain or increase current employment rates in knowledge and technology intensive sectors? | +1 | Contributions may support new employment opportunities. | Number employed in knowledge and technology intensive industries | Increase the number of people employed in intensive industries from 9339 to 10,286 by 2007/8 |
| 1.2 Will it provide flexible employment land near to the workforce or provide opportunities easily accessible by public transport? | +1 | Possible impact in Edgar Street Grid. | Employment land developed by type | |
| 1.3 Will it encourage fair and decent work conditions and increase median weekly earnings? | 0 | | Average level of earnings compared to the West Midlands region | Close the gap between Herefordshire and the rest of the West Midlands and nationally |
| 1.4 Will it help to increase diversity of job opportunities? | +1 | Contributions would support the development of new employment. | Employment by sector | |
| 02 Secure a more adaptable and higher skilled workforce | | | | |
| 2.1 Will it provide or facilitate through investment appropriate training and learning to help build, attract and retain a highly skilled workforce that meets existing and future needs? | 0 | Contributions to training deleted | Number of 16-19 year olds in education or training | |
| 2.2 Will it reduce inequalities in skills across the county? | 0 | Contributions to training deleted | Percentage of adults without basic numeracy/literacy skills | By 2010 reduce the proportion of adults with low basic skills from 17% to 10% |
| 03 Maintain or enhance conditions that enable a sustainable economy and continued investment | | | | |
| 3.1 Will it improve the resilience and/or diversity of business and the economy? | 0 | Contributions to training deleted | GVA per head | To raise GVA per head above the national average (RSS) |

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|---|----|---|---|
| 3.2 Will it provide or facilitate availability of appropriate sites and properties for new business opportunities or growth whilst using natural resources efficiently? | +1 | Provide employment sites and new business opportunities on the Edgar Street Grid for example. | Amount/area of land available for development |
| 3.3 Will it encourage and support a culture of enterprise and innovation, including social enterprise or the voluntary sector? | 0 | | |
| 3.4 Will it encourage corporate social and environmental responsibility, with county organisations leading by example? | 0 | | |
| 04 Reduce road traffic and congestion, pollution and accidents and improve health through physical activity by increasing the proportion of journeys made by public transport, cycling and walking | | | |
| 4.1 Will it reduce the need to travel? | +1 | Improved pedestrian/cycle links. Improved public transport / transport infrastructure | |
| 4.2 Will it promote more sustainable transport patterns in areas suffering from congestion? | +2 | Improved road network, transport technologies especially around new developments, e.g. Edgar Street Grid. | Change in annual average daily traffic volumes in Hereford and on the principle road network |
| 4.3 Will it improve the quality and/or provision of integrated transport options in areas of need and that are accessible to all? | +1 | Improvement to disabled access and routes to be used by disabled. Improve cycle routes and pedestrianisation. | Public transport patronage volumes |
| 4.4 Will it increase the use of public transport, cycling and walking? | +2 | Better provision of footpaths, cycle ways and public transport. | Percentage of resident population that travels to work by public transport, on foot or on cycle |
| 4.5 Will it secure the implementation of green travel plans? | +1 | Contributions will be made to go towards green travel plans. | Travel Plan coverage |
| 4.6 Will it minimise risks associated with car travel? | +1 | Improvements to road network and junction should improve safety. | No. of people killed or seriously injured on Herefordshire's roads |
| 05 Improve the health of the people of Herefordshire, reduce disparities in health geographically and demographically and encourage healthy living for all | | | |
| 5.1 Will it help to ensure there is adequate provision of healthcare services appropriate to local needs, which are accessible by sustainable modes of transport? | 0 | Contributions towards health need further development in future review infrastructures. Need to establish formulae. | Percentage of households in rural towns, villages and dispersed areas from key services |
| 5.2 Will it help to reduce inequalities in health? | 0 | Contributions towards health need further development in future review. | Life expectancy in males and females |

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|--|----|--|--|--|
| 5.3 Will it encourage healthy lifestyles? E.g. reducing car use and maintaining or enhancing access to physical sports, green space, and recreation? | +2 | Provision of open space facilities and sustainable transport infrastructure. | Measures of healthy lifestyles, e.g. physical activity, smoking rates, etc | Reduce smoking rate in 11-15yr olds by 50% from 1998 by 2010 |
| 06 Improve equality of access to and engagement in quality cultural, educational, leisure, sporting, recreational and community activities for all | | | | |
| 6.1 Will it maintain or increase the type or quality of facilities in areas where there is need, ensuring easy and equitable access by sustainable modes of transport? | +2 | Open space facilities, community, education and leisure. | Quality of open spaces % of population within 20 mins travel time of a range of 3 sports facility types | |
| 6.2 Will it promote Herefordshire's facilities to local people and tourists encouraging participation by all? | 0 | | Percentage of residents using authority's cultural and leisure facilities | |
| 6.3 Will it promote the use of inland waterways for leisure, recreation, telecommunication, freight transport and/or as a catalyst for urban and rural regeneration? | +1 | Edgar Street Grid. | Number of regeneration projects | |
| 07 Sustainable Regeneration | | | | |
| 7.1 Will it support viability or develop services and facilities appropriate to the community, function, character and scale of the centre and existing facilities using sustainable, resource- efficient designs? | +1 | Edgar Street Grid. | Commercial yields | |
| 7.2 Will it help create an appropriate range of independent, competitive and national retailers? | 0 | | | |
| 7.3 Will it help reduce the number of vacant properties and support vitality? | 0 | | Vacancy rate of Hereford and the Market Town premises | |
| 7.4 Will it support or create high quality public realm and community/amenity space that is safe and encourages positive community interaction? | +2 | Improvements to landscaping, public space, crime prevention etc. | Planning Obligations received towards improvements to town centres e.g. CCTV | |
| 08 Raise educational achievement levels across the County | | | | |
| 8.1 Will it ensure that education infrastructure meets projected future demand and need? | +2 | Contributions towards school places, including pre-school child care provision | Percentage of pupils achieving 5+ GCSE's or equivalent at grades A* - C | Increase from 93% to 95% by 2008 |
| 09 Reduce and prevent crime/fear of crime and antisocial behaviour in the County | | | | |
| 9.1 Will it enhance safety, security and reduce crime or fear of crime and anti-social behaviour? | +2 | Increase in crime prevention through use of CCTV's. Designing out crime. | Violent crimes per 1000 population | Decrease from 2844 to 2533 |

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|---|----|--|--|---|
| 9.2 Will it help improve quality of life and address the opportunity for crime or anti-social behaviour through design measures? | +1 | Increase in crime prevention through use of CCTV's. Designing out crime. | Number of planning applications addressing "designing Out Crime" issues | |
| 9.3 Will it encourage respect for people and property? | 0 | Unknown | Percentage of people satisfied with their community as a place to live | Increase proportion of adults satisfied with their community as a place to live |
| 10 Reduce poverty and promote equality and social inclusion | | | | |
| 10.1 Will it ensure easy and equitable access to and provision of services and opportunities, including jobs and learning, and avoid negative impacts on different groups of people because of their ethnicity, gender, religion, disability, sexuality or age? | 0 | | Percentage of Herefordshire households in rural towns, villages and dispersed areas from key services | |
| 10.2 Will it enable the involvement of all affected parties, including hard to reach groups? | +1 | Through consultation. | No. of applications involving Statements of Community Involvement | |
| 10.3 Will it promote equality, fairness and respect for people and the environment? | +1 | Town centre improvements. | Percentage of Herefordshire households in rural towns, villages and dispersed areas from key services | |
| 10.4 Will it address poverty and disadvantage, taking into account the particular difficulties of those facing multiple disadvantages? | +1 | Affordable housing provision | Percentage of population who live in areas that rank within the most deprived 20% of most deprived areas in the county | |
| 11 Provide everyone with the opportunity to live in good quality, affordable housing of the right type and tenure, in clean, safe and pleasant local environments | | | | |
| 11.1 Will it increase access to good quality housing meeting people's needs? E.g. tenure, aspirations, location, affordability, size and type, accessible to disabled people? | +2 | Direct impact in terms of policy already exists, but promoted in SPD | Average property price against median weekly earnings | |
| 11.2 Will it increase the supply of affordable housing? | +1 | Policy already exists but promoted in SPD. | Number of affordable housing provided in the County each year as a percentage of all new completions | 2300 to be provided up to 2011 (UDP) |
| 11.3 Will it reduce the percentage of unfit homes / empty homes? | 0 | | Number of unfit and borderline unfit homes | |

| 11.4 | Will it improve the energy and resource efficiency of homes and reduce fuel poverty and ill health? | +1 | Positively promoted in SPD. | Energy efficiency for Decent Homes | Raise to current Building Regulations | |
|--|--|----|--|---|---|--|
| 11.5 | Will it increase the use of sustainable design techniques , improve the quality of housing and use sustainable building materials in construction? | 0 | To be addressed through Core Strategy DPD | | | |
| 11.6 | Will it improve the wider built environment and sense of place? | +1 | Town centre improvements and provision of open space | | | |
| 12 Reduce the amount of waste requiring disposal and minimise the use of non-reusable materials and encourage recycling | | | | | | |
| 12.1 | Will it minimise the use of non re-usable materials? | +1 | Waste and Recycling section | | | |
| 12.2 | Will it minimise waste from households, businesses etc including hazardous waste? | +2 | Provides adequate facilities for storage and collection of waste/recycling at each dwelling and sink waste disposal units. | Amount of household waste collected per person per annum | Limit increase p.a. to 530.87kg per head | |
| 12.3 | Will it promote re-use, recovery and recycling of waste? | +2 | Actively encourages the recycling of waste. | Amount/percentage of all household waste that is recycled | | |
| 12.4 | Will it deal with waste locally and/or through the best Practical Environmental Option? | 0 | Not covered in the SPD. | Number and location of recycling sites | | |
| 13 Value, maintain, restore and expand county biodiversity | | | | | | |
| 13.1 | Will it protect or enhance habitats of international, national, regional or local importance – is an Appropriate Assessment required? | 0 | AA not required | No., area and condition of international, national, regional and locally designated sites | To halt the loss of biodiversity by 2010 | |
| 13.2 | Will it protect international, national, regional or locally important terrestrial or aquatic species? | 0 | Covered by UDP policies. | Changes in area and population of protected species | By 2010 achieve a sustained increase in the regional wild bird population | |
| 13.3 | Will it maintain wildlife corridors and minimise fragmentation of ecological areas and green spaces? | +1 | Covered by UDP policies, but promoted in SPD | No net change in length of hedgerows | | |
| 13.4 | Will it manage sites in a way that protects or enhances their nature conservation value? | +1 | Through contributions towards enhancements. | Percentage of Biodiversity Action Plan habitats restored and created | | |
| 13.5 | Will it create new appropriate habitats? | +1 | Promoted in SPD | No. of Planning Obligations entered into securing new wildlife areas | | |

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|---|--|--|---|--|
| 14 Use natural resources and energy more efficiently | | | | |
| 14.1 Will it maximise energy efficiency and minimise the consumption of non-renewable energy i.e. from fossil fuels? | 0 | Will form basis of separate guidance in emerging LDF. | Energy consumption per capita | 30% reduction in energy consumption by 2011 |
| 14.2 Will it minimise the consumption of water, land, soil, minerals, aggregates and other raw materials by all? E.g. through integrated transport, sustainable design, local supply chains. <i>(During the appraisal, each of these resources should be considered separately)</i> | Water 0 Land +1 Soil 0 Minerals etc 0 | Land – covered under transport. | Percentage of homes built on previously developed land | 68% of new dwellings to be built on previously developed land (RSS 2004) |
| 14.3 Will it encourage the re-use/enhancement of existing buildings and minimise the need for new build? | 0 | Not covered in the SPD. | No. of empty homes brought back into use | |
| 15 Value, protect and enhance the landscape quality of Herefordshire, including its rural areas and open spaces | | | | |
| 15.1 Will it value, enhance and protect natural environmental assets? E.g. AONBs, parks and open spaces | +1 | Contributions may be pooled to enable distribution towards AONB management plans | Number and area of designated landscapes | |
| 15.2 Will it encourage local stewardship of local environments, e.g. by promoting best practices in agricultural management? | 0 | | | |
| 15.3 Will it ensure that environmental impacts caused by mineral operations and the transport of minerals are minimised? | 0 | | No. of applications for mineral operations requiring EIA | |
| 15.4 Will it promote the use of rural areas and open space by all, encourage easy non-car based access and accommodate the needs of disabled users? | 0 | | Percentage of Public rights of Way network that is easy to use and clearly signed | |
| 16 Reduce Herefordshire's vulnerability to the impacts of climate change as well as its contribution to the problem | | | | |
| 16.1 Will it reduce the county's contribution to climate change by reducing greenhouse gas emissions from transport, domestic, commercial and industrial sources? | +1 | Sustainable transport contributions | Co2 emissions per head per year | Reduce carbon emissions per head from baseline of 14.5 tonnes to 11.25 tonnes per head |
| 16.2 Will it increase the proportion of energy generated from renewable and low carbon sources including by micro-generation, Combined Heat and Power (CHP), district heating and in transportation? | 0 | Not directly covered in SPD | Renewable electricity and CHP generated as percentage of total electricity | Renewables should supply 10% of electricity by 2020 |
| 17 Reduce the risk of flooding and the resulting detriment to public well being, the economy and the environment | | | | |
| 17.1 Will it reduce flood risk both presently and taking into account climate change? | +1 | Flood defence schemes will be implemented through contributions | | |

| | | | | |
|---|----|---|---|--|
| 17.2 Will it prevent inappropriate development of the floodplain and include flood protection systems? | +1 | Off site infrastructure works will be required. | No. of planning permissions granted contrary to the advice of the Environment Agency on flood defence grounds | |
| 17.3 Will it promote sustainable urban drainage systems where appropriate? | +1 | The disposal of surface water will be a material consideration. | No. of additional developments granted planning permissions with SUDs incorporated | |
| 18 Minimise local and global pollution and protect or enhance environmental resources | | | | |
| 18.1 Will it minimise water, air, soil, groundwater, noise and light pollution from current activities and the potential for such pollution? | +1 | Contaminated land and flooding. | Annual levels of particles and ozone tranquility (CPRE) | |
| 18.2 Will it protect and enhance the quality of watercourses? | +1 | Through sustainable urban drainage and improvements to contaminated land. | Water Quality | All inland waters to reach good ecological and chemical status by 2015 |
| 18.3 Will it provide opportunities to improve soil quality or reduce contaminated land? | +1 | Direct benefits. | No. of known sites affected by contamination | |
| 18.4 Will it help achieve the objectives of Air Quality Management Plans? | +1 | Through direct mitigation measures sustainable transport options. | No./percentage population living within Air Quality Management Areas | |
| 18.5 Will it encourage the use of clean technologies and water minimisation ? | 0 | | No. of businesses with Environmental Statement ISO 14001/EMAS accreditation | |
| 19 Ensure integrated, efficient and balanced land use | | | | |
| 19.1 Will it ensure new developments are in appropriate locations, optimising the use of previously developed land and buildings and are accessible by walking, cycling or sustainable transport and/or will increase the share of these transport modes? | +2 | Improvements to public transport, road networks, cycle paths and footpaths. | Access to key services | |

| | | | | |
|--|----|--|---|--|
| 19.2 Will it encourage an appropriate density and mix of uses using sustainable resource efficient design? | 0 | | Percentage of new dwellings completed at: less than 30 dwelling per hectare, Between 30 and 50 dwellings per hectare and over 50 dwellings per hectare | 30-70 dwellings per hectare (PPG3, 2000) |
| 19.3 Will it promote ways of meeting local needs locally by encouraging local sourcing of food, goods and materials? | 0 | | | |
| 20 Value, protect and enhance the built quality of settlements and neighbourhoods and the County's historic environment and cultural heritage | | | | |
| 20.1 Will it preserve, protect and enhance Conservation Areas, Listed Buildings, archaeological remains and other sites and areas of historical heritage and cultural value? | +1 | Mainly covered under UDP, but restoration works to listed buildings maybe affected, and the undertaking of archaeological work and recording of remains. | | |
| 20.2 Will it prevent development which is inappropriate in scale, form or design to its setting or to its function or local area? | 0 | | No. of applications refused for scale, form or design reasons | |
| 20.3 Will it encourage development that creates and sustains well-designed, high quality built environments that incorporate green space, encourage biodiversity and promote local distinctiveness and sense of place? | +1 | Open spaces will be provided along with development. | | |
| 20.4 Will it encourage cleanliness and/or improve the general appearance of the area? | 0 | | Public satisfaction surveys | |

REPORT OF THE STANDARDS COMMITTEE

Meeting held on 18 January 2008

Membership:

Robert Rogers (Independent Member) (Chairman); Councillor John Stone; Councillor Beris Williams; Richard Gething (Town and Parish Council Representative); John Hardwick (Town and Parish Council Representative); David Stevens (Independent Member).

INDEPENDENT REVIEW OF THE COUNCIL'S CONTRACTUAL AND FINANCIAL ARRANGEMENTS

1. We considered the report by Ian Crookall, the former Chief Executive of Buckinghamshire County Council, who had conducted an independent review of financial and contractual governance arrangements in respect of the Council's ICT department. We welcomed Chris Bull, the new Chief Executive, to our meeting, and he updated us on the progress made since publication of Mr Crookall's report and his approach for the future.
2. In addition, we endorsed proposed amendments to the Council's contractual and financial standing orders so far as they touched on the responsibilities of the Standards Committee.

LOCAL ASSESSMENTS

3. As councillors will be aware, a major change is about to take place in the handling of complaints against members of authorities in England, devolving most decisions to local Standards Committees. From April 2008 we will take on the task of examining any complaint against a Herefordshire Councillor, or a Parish or Town Councillor in Herefordshire, and deciding whether it should be investigated, in addition to our present power to hear and determine cases. We have considered the advice from the Standards Board for England Bulletin on implementing this devolution, including: the size and structure of the committee, any training needs, and how to deal with the various stages of the complaints process. We will need to make some changes to maintain a robust and resilient system. For example, a Standards Committee member who participates in a local assessment decision must not then participate in any review of the same decision if one is requested. To address these issues, we have decided on the following courses of action:
 - We will recruit one additional independent (external) member. This will enable us to use in any review process a member who has not been previously involved. The independent status of the additional member is particularly important because it will be a requirement that all local hearings and reviews must have an independent Chairman. This will also ensure cover in the event of any conflicts of interest, other commitments or sickness. The same problem does not exist for Local Authority and Parish and Town Councillors, because we have the ability to co-opt additional members from the Council and from the Herefordshire Association of Local Councils, should it become necessary.

- We will explore the possibility of making a reciprocal arrangement with the Standards Committees of Worcestershire and Shropshire Councils to ensure impartial review when that proves necessary.
- We will review the Constitution to reflect these changes.
- In addition, we will establish a Sub-Committee for initial consideration of complaints.

RESTRICTIONS ON POLITICAL ACTIVITIES BY LOCAL AUTHORITY OFFICERS

4. Before the coming into force of the Local Government and Public Involvement in Health Act 2007, local authorities appointed an independent adjudicator to grant dispensations to staff in politically restricted posts who wished to engage in political activity. The role of the adjudicator has now been abolished, and will instead be undertaken by Standards Committees. The Committee will also oversee the Council's list of politically restricted posts, and offer general advice on the application of criteria for designating a post. This sets a new precedent for Standards Committees who have previously dealt exclusively with councillors. We will not embark on this task until national guidance has been issued by the Department of Communities and Local Government.

CONSULTATION ON ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND

5. We considered a consultation paper from the Department for Communities and Local Government which sought views on the detailed arrangements for putting local assessment into effect. The closing date for responses to a set of 16 questions – on fairly complex issues - is 15 February 2008. We acknowledged that the brevity of the consultation period (one third of the time recommended by Government) might cause particular difficulties for parish councils who wished to comment, but only meet bi-monthly or quarterly. We shall mention this in our response, which will be posted on the Council website.

TRAINING

6. With the advent of local assessment, and the adoption of the new Code of Conduct, our involvement in training continues to grow. Over the coming months, we will focus on the following:
 - Joint training with Standards Committee members from Worcester and Shropshire Councils, Hereford and Worcester Fire and Rescue Authority, and West Mercia Police Authority, on the new code of Conduct and local assessment. The Head of Legal and Democratic Services, Alan McLaughlin, has written to these authorities, and the response has been positive. He will arrange a meeting with them to agree a training plan.
 - We are responsible for training parish and town council members on ethical standards and the Code of Conduct. We took part in a joint Herefordshire Association of Local Councils (HALC) training session on 25 October 2007,

and a significant increase in the number of training sessions is planned for 2008 – also seeking to engage to engage those councils who are not HALC members.

STANDARDS COMMITTEE ANNUAL REPORT 2007

7. We considered a first draft of our annual report for 2007, and will publish it shortly. Our report for 2006 was widely distributed and very well received, and has even been used as a template by other Standards Committees.

DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND – 2007

8. We have considered progress reports on current investigations by the Standards Board for England.

**ROBERT ROGERS
CHAIRMAN
STANDARDS COMMITTEE**

BACKGROUND PAPERS:

- Agenda papers of the meeting held on 18 January 2008.

COUNCIL

8 FEBRUARY 2008

REPORT OF THE STRATEGIC MONITORING COMMITTEE

Meetings Held on 19 November 2007 and 21 January 2008

Membership:

Councillors: PJ Edwards (Chairman), PA Andrews, WU Attfield, WLS Bowen, SPA Daniels, KG Grumbley, T.M. James, RI Matthews, SJ Robertson, RH Smith and K Swinburne.

INTEGRATED PERFORMANCE AND FINANCE REPORT

1. The Committee has considered the Integrated Performance and Finance Reports (IPR) for the first half of 2007/08 and for the first eight months of 2007/08.
2. The Committee has previously commented on the development of the IPR and the efforts being made to improve its presentation to make it an effective performance management tool for Members. The Committee has welcomed the continued improvement in the clarity of the presentation of performance and financial information in response to the Committee's observations. The Committee considers that this assists all Councillors in the more efficient conduct of business.
3. Noting that some targets have yet to be agreed the Committee has had to request that the importance of ensuring that baselines are established and targets set in a timely manner is re-emphasised to all Directorates and in particular the Council's partners.
4. Attention has been drawn to the negotiations with Shaw Homes over new accommodation at Leadon Bank in Ledbury. The Committee was informed that officers are in dialogue with Shaw with a view to reducing the whole life costs of the scheme and to mitigate some of the risk around the overall financial model. The Committee has requested that any proposed changes to the current strategy for the provision of places at Leadon Bank, Ledbury should be reported to Cabinet for consideration and Members of the Committee and Local Members advised of any such intention.
5. As part of the IPR the Committee was informed, in summary, of the findings of the Annual Satisfaction Survey conducted in September and October 2007. Given the importance of perception in the new format of satisfaction survey and the bearing this will have on external assessments of the Council's performance, the Committee has highlighted the importance of monitoring the effectiveness of the Council's communication strategy. It has been advised that an action plan is in place.
6. The Committee has also asked that the Chairman and Vice-Chairman of the Committee be provided with regular briefings by the Chairman of the Partnership Performance Management Group.

PRESENTATION BY CABINET MEMBER (CORPORATE AND CUSTOMER SERVICES AND HUMAN RESOURCES)

7. The Committee has received a presentation from the Cabinet Member (Corporate and Customer Services and Human Resources) and discussed a number of issues

with her.

8. One of these issues was the importance of the Committee having material presented to it in a timely and orderly manner if it was to be able to conduct its business efficiently and effectively, an issue relevant to meetings across the Council. The Committee welcomed the support of the Cabinet Member (Corporate and Customer Services and Human Resources) for procedures governing the production of agenda papers to be implemented and adhered to in order to facilitate the efficient conduct of business and has urged her to pursue this matter.

HEREFORDSHIRE STRATEGIC SERVICE DELIVERY PARTNERSHIP

9. Further to the report to Council in November 2007 the Committee has received a further report on the Herefordshire Strategic Service Delivery Partnership between the Council, Amey Wye Valley Limited (AWV) and Owen Williams Limited.
10. The Committee received presentations from representatives of Owen Williams Limited, and from Amey Wye Valley Limited (AWV) explaining how they intended to approach their new responsibilities. The Committee questioned them, raising a number of issues, and has requested a further report on the Strategic Service Delivery partnership in six months time.

HEREFORDSHIRE CONNECTS

11. In November the Committee requested that a further report be prepared for the Committee's consideration setting out the development of the Herefordshire Connects project in a clear sequential order with a clear explanation of the financial position, and clarifying any interlinkages with the Council's other major IT projects.
12. In December Cabinet made a decision on the acquisition of the preferred technology to replace the current client systems used within both Adult Social Care and the Children and Young People's Directorate. This decision has been called in by the Committee and will be considered on 31st January, 2008. As part of this consideration the Committee will also consider the consolidated report on the Herefordshire Connects programme requested in November.
13. An update on the Committee's decision will be provided to Council.

POLICY FOR THE MANAGEMENT OF THE SMALLHOLDINGS ESTATE

14. Having received a report on the Council's policy for the management of the smallholdings estate the Committee has requested that a full review of the management of the Council's smallholdings estate be carried out and properly documented in one report, with particular reference to value for money for the whole of Herefordshire. This report is expected shortly.

ELECTIONS MAY 2007

15. The Committee has considered a detailed report from the Head of Legal and Democratic Services on problems arising from the May 2007 elections and an action plan designed to improve the service and process based on lessons learned.
16. The Committee's view, in summary, is that whilst a large proportion of the difficulties experienced, openly acknowledged in the report, can be attributed to the late introduction of significant legislation governing the elections it is essential that substantial improvements are made to avoid the problems that were experienced reoccurring.

17. The Committee has welcomed the elections action plan designed to address the issues which arose. It has also requested that the issue of whether contributions to the costs of elections should be shared with Parish Councils holding elections or instead met in full by Herefordshire Council should be revisited; that action should be taken to ensure that the public address system used on election nights functions effectively; and that further consideration be given to whether the count should be held on the day following the elections.
18. The Committee has recorded its recognition of the considerable efforts made by staff to deliver the elections.
19. The Committee has requested a further report from the Head of Legal and Democratic Services on conclusion of legal issues with the supplier contracted to deliver aspects of the election. It has agreed that a representative from the Electoral Commission should be invited to attend the meeting.
20. The Committee had earlier welcomed a proposal for a seminar on issues raised on elections and requested that this be progressed as soon as practicable.

ISSUES CONSIDERED BY THE INDIVIDUAL SCRUTINY COMMITTEES

21. The work of the Committees is analysed below in accordance with the following two roles for scrutiny based on a University of Birmingham categorisation.

| Holding the Executive to Account | Developing Policy |
|---|--|
| Questioning members of the Executive | Pre-Decision Scrutiny – commenting on decisions about to be made |
| Call-ins – Scrutinising decisions before they take effect | Policy Reviews and Development |
| Scrutinising decisions after they are made | External Scrutiny |
| Management of Performance | Health Scrutiny |
| Ensuring Corporate Priorities are Met | |
| Budget Scrutiny | |
| Community and Area Scrutiny | |

22. The business considered by the Scrutiny Committees is set out below. Each Scrutiny Committee has also considered and rolled forward its work programme.

| | Holding the Executive to Account | Developing Policy |
|--|--|--|
| Adult Social Care and Strategic Housing 10 December 2007 | Revenue Budget 2007/08 Performance monitoring Learning Disability Services Improvement Plan Widemarsh Workshop Update | Presentation by Registered Social Landlords Learning Disability Services – Tender for Accommodation and Support Partner |

| | | |
|---|---|--|
| | | |
| | Holding the Executive to Account | Developing Policy |
| Children's Services 22 January 2008 | Presentation by Cabinet Member (Children's Services) Annual Performance Assessment Arrangements for school meals provision Budget Monitoring Performance Monitoring | Review of Provision of School Places Youth Service Update Targeted Youth Support and Positive Activities |
| Community Services 17 December 2007 | Performance Monitoring Revenue Budget Action Plans for Cultural Services Inspection: Review of Hereford City partnership; The 18-35 Review and the Review of Museums and Cultural Centres Courtyard Centre for the Arts - Action Plan | Rotherwas Futures |
| Environment 3 December 2007 2 January 2008 | Performance Monitoring Call-in of Cabinet Decision on Colwall Railway Bridge | Strategy for Biodiversity Conservation Polytunnel Developments |

| | Holding the Executive to Account | Developing Policy |
|---|---|--|
| Health 6 December 2007 | | Memorandum of Understanding between the Council and the Health Protection Agency Annual Report of the Director of Public Health 2007 Primary Care Trust Update Hereford Hospitals NHS Trust Update Development of Local Involvement Network Review of Elderly Falls Mental Health Services |
| Strategic Monitoring Committee 19 November 2007 21 January 2008 31 January 2008 | Presentation by Cabinet member (Corporate and Customer Services and Human Resources) Strategic Service Delivery Partnership Herefordshire Connects Integrated Performance and Finance Report (2) Elections May 2007 | Policy for the Management of the Smallholdings Estate |

23. Issues of particular note include:

- **Adult Social Care and Strategic Housing Scrutiny Committee**

The Committee has received presentations from the Marches Housing Association Limited and Herefordshire Housing Limited, a presentation from Festival Housing Ltd having been made to the Committee in October 2007. These are the three Registered Social Landlords with most properties in Herefordshire. The Committee has invited Herefordshire Housing Ltd to provide a further update in six months time.

- **Children's Services Scrutiny Committee**

The Committee met the day after proposals for the future provision of school places had been withdrawn for reconsideration. The Committee had been expecting to debate the draft proposals, which were the subject of one of its agenda items, and agree its response. The Committee noted the current position and requested that an update including a revised timetable for the review be brought to its next meeting. The Committee also expressed its wish to scrutinise the revised draft proposals prior to the Executive issuing them for public consultation. The Committee also highlighted the need for all elected members to be kept informed throughout the review process.

In considering a separate item on the agenda on the arrangements for school meal provision, which envisaged capital expenditure on some school kitchens, the Committee identified the need for caution to be exercised, given the possible implications of the review of the provision of school places.

- **Community Services Scrutiny Committee**

The Committee has considered an update on the Rotherwas Futures Project. It has recommended that the Cabinet Member (Economic Development and Community Services) give further consideration to: the development of a marketing strategy for attracting further businesses to Rotherwas; improving the provision of broadband facilities at the estate; ensuring that proper flood alleviation measures are put in place to protect and enhance the value of properties on the estate; the range of buildings on the estate particularly the possibility of 'flexible buildings', ensuring that companies can grow; the Council's future requirement for office space and the potential for an energy from waste site. It has asked that a report on broadband provision to the estate be made to the next meeting and a report on broadband provision to the County be included in the Committee's work programme for a future meeting.

- **Environment Scrutiny Committee**

The Committee considered the call-in of the Cabinet decision to approve expenditure to provide a temporary Bailey bridge over the sub-standard bridge in Colwall carrying the B4218 if the results of an assessment report showed, on deliberation, that such a solution was the most appropriate means of opening the bridge to normal highway traffic.

The Committee agree the need for a temporary crossing. However, they strongly recommended that Cabinet: seek urgent clarification as to the legal responsibilities on both Council and owners of non Council owned bridges over which a highway runs; considers representation to the Health and Safety Executive on Network Rail's failures to adequately maintain Colwall Railway bridge; agree that the final decision on the temporary crossing is treated as a key decision; and treat the matter as urgent in view of the detrimental effect on the local community.

- **Health Scrutiny Committee**

The Committee received a presentation on the Annual Report of the Director of Public Health 2007 and issues arising from it. The Committee has requested further reports providing greater depth on Stroke Services and Sexual Health.

**PJ EDWARDS
CHAIRMAN
STRATEGIC MONITORING COMMITTEE**

BACKGROUND PAPERS

- Agenda Papers of the Meeting of the Strategic Monitoring Committee held on 19 November 2007 and 21 January 2008.

SUPPLEMENTARY REPORT OF THE STRATEGIC MONITORING COMMITTEE

Meeting Held on 31 January 2008

Membership:

Councillors: PJ Edwards (Chairman), PA Andrews, WU Attfield, WLS Bowen, SPA Daniels, KG Grumbley, TM James, RI Matthews, SJ Robertson, RH Smith and K Swinburne.

HEREFORDSHIRE CONNECTS AND CONSIDERATION OF A CONSOLIDATED REPORT ON THE HEREFORDSHIRE CONNECTS PROGRAMME

1. As referred to in paragraphs 11-13 of the Council agenda papers the Committee called-in Cabinet's decision of 13 December on the acquisition of the preferred technology to replace the current client systems used within both Adult Social Care and the Children and Young People's Directorate. The Committee met on 31 January, 2008 to consider the call-in. It also considered a consolidated report it had requested on the Herefordshire Connects programme as a whole.
2. The Committee focused on the following principal themes in questioning Cabinet's decision and progress on the Connects programme, building on the reasons for the call-in set out in the call-in notice: how Cabinet's decision related to the overall Connects programme; the procurement process for the social care solution; the costs of the social care solution and the Connects programme; the quality of reports; and the Cabinet process.
3. The Committee has made the following recommendations to Cabinet:
 - a) That Cabinet should require a revised submission on the proposed replacement of the relevant client systems in the Adult Social Care and the Children and Young Peoples' Directorates setting out clearly and quantifying all costs (including fees) whether forecast or potential.
 - b) That the revised submission referred to above be extended to demonstrate clearly respective responsibilities for: the identification of potential tenderers, the technical appraisal of tenders and judgment as to compliance of the tenders.
 - c) The above submission further explains and justifies the decision not to abort the tender process and explains the basis for selection of OLM as a further individual tenderer and the exclusion of OLM from the first tender list.
 - d) Assurances regarding data security and transfer arrangements and compatibility with current systems (if retention is considered) should be included in the revised submission to Cabinet.

- e) Neither the totality of this decision nor its place within the context of the Herefordshire Connects project was clear. To ensure proper, informed decision making, reports of this nature submitted to Cabinet in future should state clearly the dimensions of what is presented for approval and its place within the context of the overall project.
- f) Future reports to Cabinet requesting authorisation to proceed with a particular course of action such as an acquisition should state this explicitly in the title and should not merely be described as an update.
- g) That the Head of Legal and Democratic Services be requested to revise the format of the Decision Notice template to clarify the meaning of the entry in the template headed "urgent decision", to make clear that this is a technical term having regard to the relevant Regulations and does not necessarily relate to the importance and urgency of a matter under consideration in practical terms.
- h) The inclusion of a second option in the Cabinet report did not approach the minimum standard of acceptable information. If alternative options are presented in Cabinet reports fully argued consideration is necessary; and
- i) Reports to Cabinet and all Committees should be expressed in clear, comprehensible English without jargon or unexplained abbreviations. Any statistical or financial information must be clear and arithmetically correct.

PJ EDWARDS
CHAIRMAN
STRATEGIC MONITORING COMMITTEE
BACKGROUND PAPERS

- Agenda Papers of the Meeting of the Strategic Monitoring Committee held on 31 January 2008

REPORT OF THE REGULATORY COMMITTEE

Meetings Held on 20 November 2007, 18 December 2007
and 29 January 2008

Membership:

Councillors: P Jones CBE (Chairman), JW Hope MBE (Vice-Chairman) CM Bartrum, DJ Benjamin, ME Cooper, PGH Cutter, Mrs SPA Daniels, JHR Goodwin, R Mills, A Seldon, DC Taylor.

HIGHWAYS ACT 1980 SECTION 119 – APPLICATIONS FOR PUBLIC PATH DIVERSION ORDERS

1. The Committee has determined applications for the following Public Path Diversion Orders for which there has been consultation with interested parties, the local parish councils and the local Ward Councillors where appropriate:-
 - (a) SP19 (part) and SP20 (part) in the parish of Stoke Prior – approved and;
 - (b) HN6 in the parish of Hentland - approved.

AMENDMENT AND ADDITION OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS

2. Complaints have been received from the trade about the way in which some proprietors have breached the Council's hackney carriage and private hire vehicle licensing conditions in the following ways:-
 - (a) Operators are purchasing Wheel Chair accessible vehicles which are under five years of age. They are then replacing these vehicles with much older vehicles very soon after. The original vehicle is then being sold or used again to purchase another plate;
 - (b) there used to be a condition where any replacement vehicle had to be the same or higher standard both in age and vehicle type, this was removed following the consultation at the recommendation of the Licensing Steering Group; which felt that it was too restrictive. The Licensing Section agreed to do this but advised the Group that if the system was abused the condition would need to be reconsidered; and
 - (c) wheelchair accessible vehicles are being tested with a full capacity of eight seats, which means that the rear row of seats have to be removed to accommodate a wheelchair. Only wheelchair accessible vehicles, which are under 5 years of age, can get a new hackney carriage plate. The increase in numbers was made to provide a better service to disabled users. Many of these vehicles are not being used with disabled access, but are being used predominantly for larger groups of passengers, mainly for migrant farm workers based around the County. This has an impact on the rest of the trade who have a reduced number of seats to maintain the wheelchair accessibility. It gives an unfair advantage to those who have retained the seats to have more passengers, and reduces the service for those with wheelchairs. The newer vehicles are being replaced in some cases with significantly older and poorer conditions vehicles, which reduce the quality of the fleet. It is clear from government guidance that older vehicles tend to be more polluting than newer ones, and this has been proven by air quality modelling undertaken for

the Council. Therefore, as many taxis and private hire vehicles frequent the air quality management areas in Hereford City, Bargates in Leominster and the A40 near Ross-on-Wye it is essential to encourage less polluting vehicles.

3. The Committee has agreed to revised licensing conditions to overcome the problems which have been encountered. It was also noted that needs assessment survey work will be undertaken in due course to assess the public demand for wheelchair accessible vehicles. This will enable the Council to determine the provision of vehicles which will be needed to comply with the requirements of the 1995 Disability Discrimination Act when the relevant provisions come into force in Herefordshire.

AMENDMENT TO FEES FOR SPARE AND REPLACEMENT VEHICLE APPLICATIONS

4. The Committee has considered a proposed amendment of licence fees for backup and replacement hackney carriage vehicles. Since the fees were increased in April 2007, it has become evident that some of the fees need adjusting. Complaints have been received from the trade because they were finding that if they needed to keep a backup vehicle or replace a vehicle, the fee was too much of a financial burden, particularly if they had recently renewed the license of the vehicle being replaced. It has been decided that the fees should be reduced so that they still cover the Council's costs but are set at a fairer realistic level. Appropriate refunds will be given to proprietors who have paid the higher price since April 2007.

GUIDANCE POLICY ON CONVICTIONS

5. A policy is being developed for the way in which applications for hackney carriage and private hire licences are dealt with from those who have relevant criminal convictions. As part of the process, applicants must undertake an enhanced Criminal Records Bureau (CRB) check at the time of application and thereafter at least every three years. The guidance has been based upon advice from the Department of Transport and the CRB. There is a right of appeal to the Magistrates Court in the event of an applicant or licensee being aggrieved if the application is refused, or a license suspended or revoked. Previously during the period allowed for an appeal to be lodged, and up to the time the appeal is determined, a licensee had a statutory right to continue working as a taxi driver. The legislation has recently changed so that this right has been removed and a refusal, suspension or revocation will take immediate effect. Guidelines have been prepared for the way in which these issues can be dealt with by the Committee and the Head of Legal and Democratic Services and the Police are helping with the development of a policy.

BRIEFING ON STREET TRADING

6. The Trading Standards Manager and the Licensing Officer (Street Trading) have given a presentation to the Committee about the work of the Council's Street Trading Panel which helps to manage the control of street trading across the County. The Panel meets approximately every six weeks and is comprised of representatives from Trading Standards, Environmental Health, Highways and Transportation, Licensing, Economic Development, Markets and Fairs, and Legal Services. The Hereford City Manager also attends in an ex-officio capacity. A policy is in place for the administration and enforcement of street trading which was not permitted legally to be used a method of raising excess revenue service within Herefordshire. Applications for street trading consents are submitted to the Panel and considered on their individual merits, taking into account a variety of factors including:

existing trader/product supply in the vicinity

precedents already set by the Panel; and

suitability of proposed stall/unit/product range.

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING - DEVIATION BY DIANA KAY KINSEY FROM VEHICLE LICENCE CONDITION NUMBER 2.1

7. The Committee has agreed to vary a licence condition to grant a vehicle licence in respect of a vehicle which is more than two years old. The applicant uses a mini-bus for airport transfers as part of her holiday business and has been affected by new legislation which brings such a service under the remit of hackney carriage/private hire licensing. The Committee noted that the application was from a well run reputable company with a high standard of vehicle which was only necessitated by a change in legislation. It was agreed that because of the particular circumstances, an exception could be made to the Council's licensing policies and that the application granted.

REVIEW OF LICENSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES THAT HAVE BEEN MODIFIED: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

8. It has been brought to her attention of the Licensing Manager that certain vehicles originally manufactured as panel vans had been converted to mini-buses and licensed for hackney carriage/private hire. Outwardly the vehicles look like any other minibus but doubts had been raised about their structural safety, seating anchor points and braking systems. Their registration documents still specified them as panel vans and there were no test certificates to establish that the work had been safely carried out. Advice from the Department of Transport is that the vehicles would need to be tested at one of its inspection centres and obtain the necessary safety certification. The DVLA would also need to be notified about the modifications and the vehicle registration documents altered accordingly. There are also a further 70 purpose-built vehicles which have been modified for wheelchair access which would need to be subject to Department of Transport and DVLA inspection and certification.
9. The Committee has decided that in the case of the converted panel vans, the licences are to be suspended until such time as the Council is provided with confirmation that the vehicles have complied with the requirements of the Department of Transport and the DVLA. In the case of the purpose-built vehicles adapted for wheelchair accessibility, there are not the same urgent safety issues involved and up to two months from the date of the meeting has been allowed for proprietors to comply with the requirements. The Council's vehicle licence conditions have been revised to incorporate all of the necessary requirements in respect of all future applications.

REVIEW OF THE LICENSING POLICY AND CUMULATIVE IMPACT POLICY FOR COMMERCIAL ROAD AREA OF HEREFORD CITY - LICENSING ACT 2003 AND GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003

10. As required by the Licensing Act 2003, the Committee has reviewed its Licensing Policy, and the Cumulative Impact Policy for the Commercial Road area of Hereford which were introduced in early 2005. The Policies relate to the control of alcohol sales and consumption and prevention of associated anti-social behaviour in designated areas. Section 4 of the Act 2003 requires Local Licensing Authorities to promoting the following licensing objectives:-
 - a) the prevention of crime and disorder;
 - b) public safety;

- c) the prevention of public nuisance
 - d) the protection of children from harm.
11. Section 5 of the Act 2003 requires Licensing Authorities the Council to redetermine its Policies every three years and to publish a statement of those Policies. Extensive consultation has been carried out with the police, relevant bodies and interested parties. The Police and appropriate organisations are of the view that the cumulative impact Policy for the Commercial Road area of Hereford has proved to be a great success and should continue. It is aimed at regulating the effect that all the licensed and public entertainment premises have on crime and disorder in a concentrated area. It provides a way of controlling the cumulative impact that a number of licensed premises have on an area, rather than dealing with applications on an individual basis in isolation from each other. The Council is part of a Joint Tasking Group, a working group with the Police and other community organisations which helps to develop and administer the policies and reduce crime and disorder. The Committee has endorsed its work and agreed that it should continue and be included within the policies.

RECOMMENDED TO COUNCIL: that the licensing policy and special policy for the Commercial Road area of Hereford as set out in Appendix A to this report, be adopted in respect of the period 2008 – 2011 and that it will also include provision for the Joint Tasking Group on licensing.

SETTING OF FEES IN RESPECT OF TEMPORARY USE NOTICES IN ACCORDANCE WITH REGULATION 7 – THE GAMBLING ACT 2005 (TEMPORARY USE NOTICES) REGULATIONS 2007

12. The Committee has considered a report about fees to be charged for Temporary Use Notices (TUNS) under Part 9 of the Gambling Act 2005. Section 212 of the Act has provision for the Local Licensing Authorities set its own fees subject to them not exceeding the maximum set by the Government at £500. At its meeting on 25th May 2007 Council delegated this function to the Regulatory Committee to deal with. The regulations about TUNS came into force on 1 December 2007 and a TUN may only be granted to a person or company holding an operating licence for gambling which has been granted by the Gambling Commission. The Notices allow the use of premises for gambling, where there is no premises licence, but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. The same premises cannot be subject to a TUN for more than 21 days in any 12 month period, but may have more than one TUN in that period provided the 21 days is not exceed. The Committee has decided to set the fee at £500 initially, on the understanding that it will be reviewed in twelve months time when data will be available enable a review of the costs and fees. This is in line with the approach being used by other Local Licensing Authorities.

APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

13. Six applications for the reinstatement, renewal or grant of Hackney Carriage/Private Hire driver's licences have been referred to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions and medical requirements. The circumstances regarding two licence holders were also considered to determine if there are grounds for them to be suspended. The applicants, licence holders and their representatives gave details of the grounds for their applications and they provided the Committee with the circumstances giving rise to their offences or health situations. The applications were dealt with as follows:

- (a) one licence licence was reinstated because the Committee is satisfied that evidence had been given that the applicant is a fit and proper person to be licensed;
- (b) one application was refused because the applicant is not considered to be a fit and proper person to be granted a licence;
- (c) four applications were granted because the Committee is satisfied that evidence had been given that the applicants are fit and proper persons to be licensed; and
- (d) in the case of two cases referred to the Committee for consideration, it was decided at this stage that there are no grounds for the licenses to be suspended.

**P. JONES CBE
CHAIRMAN
REGULATORY COMMITTEE**

BACKGROUND PAPERS Agenda papers from the meetings of the Regulatory Committee held on 20th November, 2007, 18th December, 2007 and 29th January, 2008.

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

LICENSING POLICY 2008-2011

1. Introduction and Overview

- 1.1 The County of Herefordshire District Council (hereinafter “the Council”) is responsible for the licensing of licensable activities within Herefordshire. Licensing is about regulating licensable activities in accordance with the licensing objectives on licensed premises, members clubs and at temporary events within the terms of the Licensing Act 2003 (hereinafter “the Act”). This policy document sets out the policies that the Council will use as guidance when making decisions upon applications made under the act for the following activities:
- a. the sale by retail of alcohol;
 - b. the supply of alcohol by or on behalf of a club to or to the order of a member of the club;
 - c. the provision of regulated entertainment; and
 - d. the provision of late night refreshment.
- 1.2 The Council has issued further guidance notes to support the Policy e.g. guidance for making applications, making reviews e.t.c, which can be found on Herefordshire Councils website www.herefordshire.gov.uk. These do not form part of the Policy but are intended to assist an applicant with the application process.
- 1.3 The Policy takes into account the revised Department of Culture, Media and Sport (DCMS) guidance to Local Authorities, The Violent Crime Reduction Act 2006, Regulatory Reform (Fire Safety) Order 2005, Central Government’s alcohol harm reduction strategy and is consistent with Section 17 of the Crime and Disorder Act 1998 which requires the Local Authority to do all that it reasonably can to prevent crime and disorder within its locality. The policy is consistent with the Human Rights Act 1998, the Environmental Protection Act 1992, the Race Relations Act 1976, the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 1995 and the Anti-social Behaviour Act 2003. The Licensing Authority will have due regard to other organisation’s policies and strategies which contribute to the four licensing objectives.
- 1.4 The Council has a duty under the Act to exercise its functions with a view to promoting the four licensing objectives, (i.e. all licences, applications and representations will be assessed against the licensing objectives) which are:

- a. the prevention of crime and disorder
- b. public safety
- c. the prevention of public nuisance; and
- d. the protection of children from harm.

Without prejudice to other obligations imposed on it, it's the duty of the Authority to exercise it's various functions with due regard to the likely affect of the exercise of those functions on, and the need to do all it reasonably can to prevent crime and disorder.

1.5 This policy is made after consultation with:

- a. The Chief Officer of Police;
- b. The Hereford and Worcester Combined Fire Authority;
- c. Bodies representing local holders of premises licences;
- d. Bodies representing local holders of club premises certificates;
- e. Bodies representing local holders of personal licences; and
- f. Bodies representing bodies business and residents in the Council's locality
- g. The Primary Care Trust
- h. The Health Authority in Herefordshire
- i. The Ambulance Service
- j. The Herefordshire Community Safety Partnership
- k. The Hereford City Partnership
- l. Departments within the Herefordshire Council (e.g. Planning, Environmental Health, Street Trading, Public Health)

1.6 The purpose of this policy document is to assist both Officers and Members in arriving at decisions on particular applications, setting out those matters that will normally be taken into consideration. Additionally, the policy document seeks to provide clarity for applicants, residents and other persons interested in or occupying property to enable them to make plans to move, remain or invest in the communities of Herefordshire with some measure of certainty. Whilst the Council has produced this policy, as the general approach to be taken in considering applications, the Council recognises that each application will always be considered on its individual merits and shall base this decision on the operating Schedule and Risk assessments

provided by the applicant and the consultation with interested parties and responsible authorities.

1.7 The objective of the licensing process is to allow the carrying on of retail sales of alcohol, the provision of regulated entertainment and of late night refreshment in a way that ensures compliance with the licensing objectives. It is the Council's wish to facilitate well-run and well-managed premises with licence holders displaying sensitivity to the impact of their premises on local residents, the community and the four licensing objectives.

2. Cumulative Impact

2.1 The Council will assess the cumulative impact of licensed premises on the promotion of the licensing objectives set out in 1.4. It is important however that this issue is not confused with the perceived "need" for the premises which is a judgement relating to commercial demand for a particular public house, restaurant or similar venture. The issue of "need" is therefore a matter for planning consideration or for market forces to decide and does not form part of the licensing policy statement.

2.2 The Council may refuse individual licenses if representations are received from either a responsible authority or an interested party as defined in the Act. Licenses may also be refused if the cumulative impact of new licenses is leading to an area becoming saturated with premises of a particular type, making it a focal point for large groups of people to gather thus creating exceptional problems of disorder and/or nuisance which outweighs the impact from the individual premises themselves. The Council cannot refuse correctly completed applications that meet legislative requirements. In all such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application. See Annex One – Special Policy. Following representation from the West Mercia Police the Council has established a cumulative impact area covering Commercial Road and parts of Blueschool Street, Commercial Square, Bath Street and Union Street. However it is recognised that premises vary in style and nature and therefore, applications within the defined area will still be considered on their own merits.

2.3 Where representations are made by an interested party or responsible authority the Council will consider, inter alia:

- a. Identifying an area from which problems are arising and the boundaries of that area.
- b. adopting a policy about future applications for premises within that area;
- c. making an assessment of the causes; and
- d. gathering evidence and identifying serious and chronic concern from a responsible authority or local residents about nuisance and disorder.

2.4 Where such representations are made, it shall be for the responsible authority or interested party making those representations to prove any assertion that the licensing of the premises concerned would cause the cumulative impact claimed.

2.5 The Council recognises the fact that licensing is not to be the sole or only means of addressing problems caused by unruly or anti-social behaviour. Other mechanisms include: -

- a. Planning controls;
- b. powers of local authorities to designate areas prohibiting the consumption of alcohol in public places or through existing bylaws;
- c. police powers to close premises or temporary events on grounds of disorder or likelihood of disorder or excessive noise;
- d. the prosecution of personal licence holders who sell alcohol to customers who are drunk;
- e. the powers of the police, local businesses or residents to demand a review of a licence
- f. police enforcement of the law with regard to disorder and anti-social behaviour;
- g. the powers of the Fire Service to close premises or temporary events in the interests of public safety; and
- h. the powers of Environmental Health to close premises as a result of excess noise.
- i. Violent Crime Reduction Act (Drinking Banning Orders, Alcohol Disorder Zones etc)

3. Relationship with the Planning Process

3.1 All premises for which a licence is required must have a suitable authorised use under planning legislation. For example:

- a. "Use for the sale of food and drink for consumption on the premises or of hot food for consumption off the premises" (use Class A3);
- b. Retail shop licensed for the sale of liquor (use Class A1);
- c. A hotel that has a restaurant or bar included in its authorised use (use Class C1).
- d. Dance halls, bingo halls and casinos (use Class D2)

3.2 The Council's planning policies are set out in its Unitary Development Plan. Additionally, Government guidance in the form of planning policy guidance notes (PPG's), planning policy statements (PPS's) and regional planning policy guidance notes (RPG's) are relevant. The Council, as local planning authority, gives considerable weight to these policies in order to ensure consistency in decision-making.

3.3 Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. This policy also states a commitment to avoid duplication with other regulatory schemes such as Health and Safety at Work.

3.4 There is no legal basis for the Licensing Authority to refuse a licensing application because it does not have planning permission, as these are separate issues. However, applicants need to understand that the permissions are separate and that the grant of one does not automatically guarantee the grant of another. Therefore there may be occasion when premises have been granted a licence under the Licensing Act but not granted planning permission. In this case the requirements of the planning permission would still have to be complied with.

3.5 Arrangements have been made for the Licensing Committee to receive, where appropriate, reports on the needs of the employment situation and local tourist economy for the area to ensure that these are reflected in their considerations.

3.6 The Licensing Committee, where appropriate, will provide regular reports to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This is to ensure that the Planning Committee is fully informed whilst making decisions.

4. Licensing Hours

4.1 The Council recognises that fixed licensing hours can lead to disturbance and disorder when large numbers of people leave licensed premises at or about the same time. Longer and more flexible licensing hours regarding the sale of alcohol may therefore be considered as an important factor in reducing the possibility of disorder and friction at late night fast food outlets, taxi ranks, bus stops and other areas where incidents of disorder and disturbance have historically occurred. With regard to shops, stores and supermarkets these will be free to provide the sale of alcohol for consumption off the premises only when the retail outlet is open for shopping unless a responsible authority or interested party can show cause why more stringent conditions should be imposed.

4.2 The Council in deciding whether to issue a licence will consider each application on its merit. However stricter conditions are likely to be imposed with regard to noise control in the case of premises situated in predominantly residential areas. The Council does not intend any form of "zoning" to be introduced. Research has shown this can lead to significant migration of people across zonal boundaries in search of premises that remain open for longer hours.

4.3 When considering applications for premises licences, the Council will take into account applicant's requests for terminal hours in the light of:

- a. Environmental quality;
- b. Residential impact and amenity;
- c. The character and nature of a particular area;
- d. The nature of the proposed activities to be provided at the premises.

4.4 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect any of the above matters. The Council may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area and where appropriate representations are made.

5. Licensed Premises and Children

5.1 The Council recognise that there are numerous and diverse premises for which licenses may be sought. Such premises may include cinemas, public houses, nightclubs, takeaway bars, community halls and restaurants. Access by children to all types of the premises will not be limited in any way unless it is considered necessary to do so in order to protect them from physical, moral or psychological harm. Whilst the Council will decide each application on its own individual merits, examples which might give rise to concern would include premises:

- a. Where alcohol sale and/or consumption is the primary or exclusive purpose;
- b. Where there has been a known association with drug taking or drug dealing;
- c. Where there is a strong element of gambling taking place;
- d. Where entertainment is provided of an adult or sexual nature;
- e. Where there have been convictions for the serving of alcohol to persons under the age of 18; and
- f. Where there is a reputation for under age drinking.

5.2 In the case of premises that are used for film exhibitions (such as cinemas) conditions will be imposed restricting access only to those who meet the required age limit in which any certificate granted by the British Board of Film Classification. Where a large number of children are likely to be present on any licensed premises (e.g. for the showing of a film predominantly aimed at children or a pantomime) then conditions may be imposed when considered necessary requiring the presence of an

appropriate number of adult staff to ensure public safety and the protection of children from harm. Suitable options for limiting access by children to licensed premises might include:

- a. A limit on the hours when children may be present;
- b. A limitation or exclusion when certain activities take place;
- c. The requirement to be accompanied by an adult;
- d. Access limited to parts of the premises, but not the whole; and
- e. An age limitation (for under 18).

5.3 The Council will not impose any condition to the effect that children must be admitted to any given premises. Admission, unless otherwise limited, will be at the discretion of those managing the premises.

5.4 The Council commends the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks that seeks to ensure that drinks are packaged and promoted in a socially responsible manner.

5.5 The Council supports the Herefordshire Proof of Age Standards Scheme and other Proof of Age Standards Scheme (PASS) accredited systems.

5.6 The Council will target premises where they suspect that alcohol is being persistently sold to children (3 underage test purchase sales in a consecutive 6 month period) and will serve a closure notice on the premises in line with the Violent Crime Reduction Act 2006. Where appropriate the suspension of the licence will be sought from the Magistrates Court.

5.7 In accordance with the revised guidance where a review has been requested following the purchase or consumption by minors connected with licensed premises The Council will seriously consider revocation of the licence – even in the first instance.

6. Conditions of Licence

6.1 The Council recognises that it may be necessary for conditions to be imposed on any licence that is tailored to the individual style and characteristics of the premises and events concerned. The compliance of the conditions attached to various licences will be the responsibility of those having control or in accordance with the statutory provisions. Accordingly, these matters will centre on the premises being used for

licensable activities and the vicinity of those premises. The Council does not propose to implement standard conditions on licences uniformly across its area, but instead will draw upon a model pool of conditions issued by the DCMS and any other relevant guidance; attach conditions as appropriate and following appropriate representations in accordance with the circumstances of each individual application. If no representations are made in connection with an application conditions cannot be imposed by the licensing authority that are over and above those tended by the applicant as contained within the operating schedule.

6.2 The Council will primarily focus on the direct impact of the activities taking place in the licenses premises. The model conditions will include, amongst other things, guidance issued surrounding crime and disorder; public safety; cinemas and fire safety; public nuisance and the protection of children from harm.

6.3 The council will take regard not to duplicate statutory requirements within conditions imposed upon a licence.

7. Enforcement

7.1 The Council has already established joint inspections of premises together with the West Mercia Constabulary and the Hereford and Worcester Fire Authority. It is proposed to continue such inspections to ensure the prevention of crime and disorder and the safety of the public. Inspections will take place at the discretion of the Council and its partner agencies and resources will be concentrated on areas perceived as having the greatest need.

7.2 Protocols between the Police, the Fire Service and other licensing enforcement officers (appendix 2) to deal with, amongst other things, enforcement issues, the visiting of licensed premises, and the sharing of information will be developed with West Mercia Police. All enforcement will be in line with the Environmental Health and Trading Standards Enforcement Policy and Enforcement Concordat available on the councils website www.herefordshire.gov.uk.

8 PERSONAL LICENCE

8.1 The Licensing Act 2003 includes a regime for the granting of personal licences to individuals to supply, or to authorise the supply of alcohol. The personal licence is separate from the licence that authorises the premises to be used for the supply of alcohol. The licensing of individuals separately from the licensing of premises permits the movement of personal licence holders from one premise to another, allowing greater flexibility.

8.2 A personal licence does not authorise its holder to supply alcohol anywhere, but only from establishments or events with authorisation to supply alcohol in accordance with the premises licence or the temporary event notice. An individual may hold only one personal licence at any one time.

8.3 To qualify for a personal licence the applicant must fulfil certain criteria. The licensing authority must grant the licence if it appears that:

- a. the applicant is aged 18 or over;
- b. no personal licence held by the applicant has been forfeited within the period of five years before making the application;
- c. the applicant possesses an accredited licensing qualification, or is a person of prescribed description; and
- d. the applicant has not been convicted of any relevant or foreign offence.

8.4 If the applicant fulfils all these criteria, the licence will be granted. If any of the first three criteria are not met, the licensing authority must reject the application. The licensing authority must notify the chief officer of police for its area if it appears that an applicant has been convicted of any relevant or foreign offence. If the police make no objections within a 14-day period, the licence must be granted.

9. Films

9.1 No film shall be exhibited at any licensed premises, which is likely to:

- a. Lead to public disorder, or;
- b. Stir up hatred or incite violence towards any section of the public on grounds of colour, race, ethnicity, or national origin, disability or religious beliefs, sexual orientation or gender.

9.2 If, in the opinion of the Council, a particular film falls into any of the above categories, the Council may rule that it is not to be shown. Advice will be sought from Environmental Health, Trading Standards and/or appropriate organisation representing the interests' of children. When appropriate BBFC guidance will be used.

10. Live Music, Dancing and Theatre

10.1 The Council recognises that in implementing its cultural strategy, proper account shall be taken of the need to encourage and promote live music, dancing and theatre for the cultural benefit of the wider community. Conditions imposed on relevant licences will not discourage the promotion of such entertainment, but will relate solely to the promotion of the licensing objectives.

10.2 The Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing.

10.3 The Council is also mindful of the comments made by the Live Music Forum in respect of Licensing Public Spaces (e.g. public parks, public land) and now that the legislative issue has been resolved intends to licence public spaces within Herefordshire to permit regulated entertainment.

11. Capacity

11.1 The Regulatory Reform (Fire Safety) Order 2005 now places a requirement on the holder of a licence to have in place a fire risk assessment for the premises. In addition to other considerations the capacity of the premises should be included. The Council may impose conditions in relation to the maximum number of persons to attend premises where;

- a. It considers it to be necessary for the prevention of crime and disorder, and;
- b. Promotion of public safety

12. Transport

12.1 The Council will have regard to the policies and strategies as set out in the Local Transport Plan. Reporting arrangements to local authority transport committees will be made so that those committees may have regard to the need to disperse people from town and city centres swiftly and safely to avoid concentrations that produce disorder and disturbance.

13. Complaints and Reviewing Licences

13.1 In every case, the representations to review a licence must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations that do not support or improve the case of the original representation may not be made at the hearing.

13.2 Representations may be made by a responsible authority such as the police or fire authority, or by an interested party such as local residents or businesses or a body or person representing them. .

13.3 Where the request originates with an interested party, the Council will first consider whether the complaint made is not relevant, vexatious, frivolous or repetitious.

(a) A representation is only relevant if it relates to the effect of the licence on the promotion of at least one of the licensing objectives. After a premises licence has been granted a complaint relating to general crime and disorder situations would generally not be considered unless it could be positively tied or linked by a casual connection to a particular premises.

(b) Vexatious bears its ordinary meaning in relation to the representation. The Council will determine, on its merits, whether a representation by an interested party is vexatious.

(c) A frivolous representation is categorised by a lack of seriousness. A trivial complaint may not always be frivolous but it would have to be pertinent in order to be relevant. The Council will determine, on its merits, whether a representation by an interested party is frivolous.

(d) A repetitious representation is one that is identical or substantially similar to a ground for review specified in an earlier application for review, was considered when the premises licence was first applied for, has already been excluded by reason of an issue of a provisional statement or because a reasonable interval has not elapsed since the original application or previous review.

13.4 Reviews will be conducted in accordance with DCMS guidance. Guidance and Application Forms for a Review can be found on the Herefordshire Council Website.

However, in accordance with the spirit of the act, the Council will seek to resolve issues.

13.5 Any person who is aggrieved by a decision made by Herefordshire council may in certain cases have a right to appeal the decision in the Magistrate's Court or if it is a matter of process they may have a right to Judicial Review the decision in the High Court.

14. Applications

14.1 Applications must be submitted in the prescribed manner and meet with the requirements as laid down in the various Licensing Act 2003 Regulations issued by the Secretary of State.

14.2 Herefordshire council will issue guidance on its website www.herefordshire.gov.uk .

15. Fees

15.1 The Council will not accept any application until the appropriate prescribed fee in respect of the same has been paid to the Council.

16. Violent Crime Reduction Act 2006

16.1 The Council is aware that during the period of this policy Drinking Ban Orders and Alcohol Disorder Zones will be introduced through the Violent Crime Reduction Act 2006. However without the regulations to accompany this act it is difficult to fully assess the implications these will have on this policy. Consequently, this policy may be further reviewed once these are introduced.

17. Scheme of Delegated Functions

17.1 Committee Members can elect to go to full Committee at any time.

| Matter to be dealt with | Full Committee | Sub Committee | Officers |
|--|-----------------------|-----------------------|----------------------------------|
| Application for personal licence | | If a police objection | If no objection made |
| APPLICATION FOR PERSONAL LICENCE WITH UNSPENT CONVICTIONS | | <i>If a police</i> | IF NO OBJECTIONS RECEIVED |

| | | <i>objection</i> | |
|---|--|-----------------------------------|------------------------------------|
| Application for a premise licence/club premises certificate | | If a relevant representation made | If no relevant representation made |
| Application for provisional statement | | If a relevant representation made | If no relevant representation made |
| APPLICATION TO VARY A PREMISE LICENCE/CLUB PREMISES CERTIFICATE | | If a relevant representation made | If no relevant representation made |
| Application to vary a designated premise licence holder | | If a police objection | All other cases |
| Request to be removed as the designated premise licence holder | | | All cases |
| Application for transfer of a premise licence | | If a police objection | All other cases |
| Applications for Interim Authorities | | If a police objection | All other cases |
| Application to review a premise licence/club premises certificate | | All cases | |
| Decision on whether a complaint is irrelevant frivolous vexatious etc | | | All cases |
| Decision to object when local authority is a consultee and not the lead authority | | All cases | |
| Determination of a police representation to a temporary event notice | | All cases | |

17. Further Information

For more information regarding licensing contact:

Licensing Section

County Offices

PO Box 233

Bath Street

Hereford

HR1 2ZF

01432 260105

http://www.herefordshire.gov.uk/business/trading_licences/9225.asp

SPECIAL POLICY

1. There is a concentration of licensed premises in the Commercial Road Area of Hereford City which are already causing a cumulative and detrimental impact on the following licensing objectives:
 - The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
2. The specific areas made the subject of this special policy are as follows:-
 - The full length of Commercial Road from its junction with Blueschool Street to its junction with Aylestone Hill.
 - 100 metres of Blueschool Street, West from its junction with Commercial Road.
 - 50 metres of Bath Street, East from its junction with Commercial Square.
 - 50 metres of Commercial Street, South from its junction with Commercial Square.
 - 50 metres of Union Street, South from its junction with Commercial Square.
3. The Council has a Special Policy of refusing new licences whenever it receives relevant representations about the cumulative impact that it concludes should lead to refusal.
4. These conclusions will be drawn from an evidential basis. Consideration of the adoption of a Special Policy include:
 - Identification of concern about crime and disorder and public nuisance;
 - Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area and the boundaries of the area from which the problems are arising; or that risk factors are such that the area is reaching a point where a cumulative impact is imminent.
5. The effect of this is to create a rebuttal presumption that applications for new premises or material variations will normally be refused if relevant representations to that effect are made unless it can be demonstrated that the operation of the premises will not add to the cumulative impact already being experienced. The Special policy does not relieve responsible authorities or interested parties of the need to make a relevant representation.
6. Special Policies will be reviewed regularly to assess if they are still needed or if they

require expansion.

COUNCIL

28 JANUARY 2008

REPORT OF THE AUDIT AND CORPORATE GOVERNANCE COMMITTEE

**Meetings Held on 30 November and 21 December 2007
and 25 January 2008**

Membership:

Councillors: **ACR Chappell (Chairman), GFM Dawe, MJ Fishley, JHR Goodwin, R Mills, RH Smith and AM Toon.**

UPDATE ON COMMUNITY NETWORK UPGRADE AND CRITICAL 1 RECOMMENDATIONS IN USE OF CONTRACTORS IN ICT SERVICES

1. The Committee has discussed a report which gave an update on the current position regarding the timetable on review of the Community Network contract and in relation to critical recommendations set out in a previous report to the Committee. As a consequence of further points raised on the report, the Committee considered a further report addressing those points which it noted.

UPDATE ON ACTION IN THE SPECIAL REPORT – GOVERNANCE IMPROVEMENT PLAN

2. The Committee has considered a report on the Corporate Governance Improvement Plan. The Committee requested further details regarding computer systems of the Primary Care Trust and this Council, agreed that all future reports to the Committee are to contain details of risks, the service they relate to and the name of the officer who manages the risk, also that the Strategic monitoring Committee be requested to review the control of asset management processes and procedures and actions which are taken against officers who do not adhere to the rules.

3. IMPLEMENTATION OF RECOMMENDATIONS ARISING FROM SPECIAL INVESTIGATION

The Committee have considered and noted two further follow up reports arising from the implementation of recommendations arising from special investigation.

UPDATED INTERIM ASSURANCE REPORT 2007/08

4. The Committee has considered two reports updating Members in relation to Interim Assurance for 2007/08.

REVIEW OF THE SCHEME OF DELEGATION, BUDGET AND POLICY PROCEDURE RULES, FINANCIAL PROCEDURE RULES AND CONTRACT PROCEDURE RULES

5. The Committee has considered a report on proposed revisions to the Constitution in line with a Council resolution made on 2nd November 2007. The Committee approved the proposed amendments and put forward additional amendments. The Committee noted that the proposed revisions will

be considered by the Standards Committee prior to consideration by the Constitution Review Working Group and then by Council.

6. **ANNUAL GOVERNANCE STATEMENT**

The Committee has considered a report on the requirement for the Council to have an Annual Governance Statement, evidenced by an assurance framework. The Committee has made amendments to the draft Statement and framework which will be reported to Cabinet.

**ACR CHAPPELL
CHAIRMAN
AUDIT AND CORPORATE GOVERNANCE COMMITTEE**

BACKGROUND PAPERS

Agenda papers of the meetings of the Audit and Corporate Governance Committee held on 30th November and 21st December 2007, and 25th January 2008.

REPORT OF THE MEETING OF WEST MERCIA POLICE AUTHORITY HELD ON 25 SEPTEMBER 2007

Review of Policing

1. Sir Ronnie Flanagan, Her Majesty's Chief Inspector of Constabulary, has published his interim report on The Review of Policing, which examines four key areas:
 - how to reduce bureaucracy and promote better business processes;
 - how to sustain and improve the excellent progress that has been made on neighbourhood policing;
 - how to ensure the public are at the heart of local policing priorities by improving local involvement and accountability; and
 - how the police service can manage its resources effectively to meet the tough challenges ahead.

2. The interim report included early recommendations on addressing reducing bureaucracy, neighbourhood policing, improving local accountability and managing resources. These will be reported on at a later date and attached as an appendix are the report's interim recommendations.

Openings

3. The Home Secretary, the Right Honourable Jacqui Smith MP, opened the new West Mercia Constabulary Protective Services facility in August 2007 and Her Majesty's Lord Lieutenant of Herefordshire, Sir Thomas Dunne opened the new Leominster Police Station on 4 September 2007.

Community Engagement Strategy

4. The Police Authority and Chief Constable have agreed a Joint Community Engagement Strategy, which aims to improve West Mercia's Communities' levels of confidence regarding local policing and providing reassurance.

5. The strategy sets out to clarify:
 - i) the respective roles and responsibilities of the Constabulary and the Police Authority with respect to consultation and community engagement;
 - ii) fulfil the statutory duties around communicating, consulting and engaging with communities; and
 - iii) support the Three Year Strategy '4000+ an even better place'.

6. As part of the development of the Strategy the Authority will be consulting on proposals for future community engagement arrangements, including partnership working and in particular with regard to:
 - Police/Community Consultative Groups (PCCGs)

- Policing Boards
- Community Safety Partnerships
- Local Strategic Partnerships

7. The aim of these specific proposals will be to streamline the Authority's community engagement and partnership arrangements by working towards a more joined up approach in order to -

- Provide greater clarity and increase people's understanding of how they can get involved and influence policing in their area and how opinions have been taken into account.
- Make more effective use of the information gained to inform improvements in policing and community safety.
- Make the best use of Police and Police Authority time.

Force Campaigns

8. During the course of a year the Constabulary runs a series of local publicity campaigns particularly aimed at tackling crime, promoting community safety, improving public satisfaction and confidence. On-going campaigns include:

- Knock Knock Distraction Burglary and Doorstep Crime
- Seven Deadly Sins – Road Safety
- Summer Drink Drive campaign
- Garden Safety Initiative

9. Campaigns being developed include:

- Safe and Secure – Home Security
- 4000+ Safer Communities Campaign
- Pilot communications projects in divisions.

Performance

10. The Police Authority has received a report on the Constabulary's performance during the first quarter of the year (April to June 2007).

11. In relation to local policing the force is achieving an 'Excellent' grading with 90% of Local Policing Area teams having three or more priorities set in the period and more than 80% of police-only actions being completed within the target time.

12. Both Police Officer and Police Staff sickness levels have improved on last year and are on target.

13. Full details of the Constabulary performance can be found on the Police Authority's website.

HMIC Baseline Assessment

14. The Authority has received an update on the progress made in relation to the Areas for Improvement identified in the HMIC Baseline Assessment 2005/06:

Protecting Vulnerable People – Public Protection

- Counselling for public protection officers was now in place.

Human Resources Management

- Force Sickness Levels had improved and were ahead of target for April and May. Long term sickness had been much reduced.
- Health Checks were in the process of being implemented.
- All police officers and staff were to be offered flu vaccinations this year.
- Occupational Health Department now had dedicated advisors in each division.
- Fitness assessments for Community Support Officers consisted of testing for fitness for patrol.
- A Time Recording system was being implemented across the Force on a phased basis.
- A full staff survey would be run in the autumn led by Organisational Development Unit.

Training & Development

- Evaluation of training and follow-up actions had now been embedded.
- A comprehensive monthly performance report was submitted to Joint Chairs of Training Panels and the Police Authority's Training Liaison Member monitored this.
- Plans for a customer survey of training were being developed.
- A formal staff survey was to be conducted of training and development staff.
- Diversity Impact Assessments were now in place for all new training under development, and were being extended to existing training to be completed by the end of 2007.
- All departments had been surveyed to ensure that all data was incorporated into the costed annual training plan.
- Waiting lists for training were now subject to regular performance reviews.

Recruitment

15. The overall police officer strength as at 1 July was 2458, a record number of police officers in West Mercia. The force had recruited 15 transferees in the current year, with a further 53 applications being processed.

16. The West Mercia target for Black Minority Ethnic (BME) officers was 2% and currently stood at 1.6%. It was expected that the target would be met in the next three to four years. There was no national target for women officers, however the Association of Chief Police Officers (ACPO) and the British Association of Women

Police (BAWP) had set a 35% target. West Mercia had over 25% women officers and expected to meet the 35% target in eight to nine years.

17. The Authority noted that the Force's policy of Positive Action in recruitment through a Positive Action Team had proved successful. The continued use of Positive Action to achieve a workforce representatives of West Mercia's communities was endorsed, whilst noting the national debate on the use of Affirmative Action, which appeared more appropriate to metropolitan areas.

Code of Conduct

18. The Police Authority has adopted a new Code of Conduct, which follows the national model in so much as it is applicable to Police Authorities, and includes the discretionary provision to give a limited right to make representations (but not vote) on issues where a prejudicial interest arises. A protocol underlining the importance of confidentiality has also been adopted.

Risk Management

19. The Authority has agreed a Risk Register for 2007/08, which summarises the main risks and controls measures in place to mitigate against them. The Authority has also reviewed the Constabulary's approach to risk management and endorsed the Strategic Risk Management Policy and Procedures. This will be monitored by the Authority's Audit Committee.

Audit

20. The Police Authority will have new external auditors from September 2007 with the District Auditor replacing PricewaterhouseCoopers (PwC), who were thanked for their contribution to the success of the Constabulary and Police Authority.

21. PwC had issued an unqualified audit opinion on the 2006/07 financial statements. There were no unadjusted misstatements to bring to the Authority's attention. No material weaknesses had been identified in the Authority's accounting and internal control systems during the audit. The provisional assessment under the Police Use of Resources Evaluation (PURE) indicated that the Authority was performing "well" or "strongly" in all areas that had been assessed to date. These scores were subject to the final national quality assurance arrangements.

22. PwC had undertaken a review of fraud and abuse in relation to Information and Computer Technology (ICT). They found that the majority of control measures recommended as good practice by the Audit Commission were in place and operating as intended. PwC concluded that, in general, the risks of ICT fraud and abuse were being well managed by the Force. The Police Authority had responded positively to the Action Plan put forward to further improve and strengthen the Force's policies and procedures in some areas.

23. The final piece of work PwC would complete was in relation to the Authority's compliance with good practice in terms of the "delivering good governance", which would be reported later in the year.

Sources of Income

24. The Authority has reviewed the sources of income available to West Mercia and has endorsed the charges made for certain services in accordance with national guidelines.

25. In 2007/08 a total of £17.215m will be received from specific project grants, which include those emanating from the Crime Fighting Fund, "Rule 2" (formerly Rural, DNA and Reform grants), Safety Camera Partnership and for Community Support Officers.

26. Reimbursements are received in relation to secondments, contributions (eg towards the costs of CSOs) and mutual aid, where the Constabulary assists other forces, particularly the Metropolitan Police in response to national and international incidents.

27. Income is also derived from rents etc., charging for special duties (e.g. public events on private property such as sporting events and county shows), training courses, accommodation, conferences, Criminal Record Bureau checks, Firearms Certificate and Road Traffic Collision Reports and similar. There are also other smaller sources of income including escorting of abnormal loads, boarding up premises costs, witness expenses recovered and the managed Vehicle Recovery Scheme.

Independent Custody Visiting

28. The Independent Custody Visiting Scheme provides an independent check on people held in police custody. The visitors are drawn from the local community and monitor the custody units at Hereford, Kidderminster, Redditch, Shrewsbury, Telford (Malinsgate) and Worcester by visiting them at least once a week and reporting their findings back to the Police Authority.

29. 2006/07 was another successful year for the Scheme with a total of 315 visits completed. 1230 people were in custody at the time of the visits of which 788 were offered a visit; 639 accepting (81%). Reasons for detainees not being offered a visit included being interviewed, in consultation with their solicitor, asleep or visitors being advised not to see the detainee for health and safety reasons. The Shropshire Panel intends to consider piloting a new system of self-introduction to detainees to seek to increase the number of people who consent to a visit.

30. No major problems emerged from the visits carried out in the year. In nearly a third of the visits recorded the visitors had no issues to raise which reflects well on the custody staff who often have to work in difficult circumstances. The highest number of comments related to temperature and medical attention and there were an increasing number of comments relating to language difficulties experienced by detainees or where an interpreter was required.

31. Where issues were raised these were either rectified as soon as possible, dealt with in correspondence with the Divisional Police Liaison Officer or discussed at the Panel meetings.

32. Specific concerns remain from the Shropshire Panel regarding the lack of an exercise area at Shrewsbury for detainees who are held in custody for long periods.

33. Nine new visitors joined the Scheme during the year and there was one resignation. The total number of visitors in West Mercia is over 70 and whilst the Kidderminster and Redditch, Shropshire and Worcester Panels are at full strength applications from people living or working in Herefordshire are invited.

34. All visitors are given the opportunity of refresher training and three induction courses were arranged during the year for new visitors. In addition cultural awareness and diversity training was provided to scheme members and each of the four Area Panels was represented at the Independent Custody Visiting Association's Annual Conference held in Cambridge.

Further Information

Any person wishing to seek further information on the subject matter of this report should contact David Brierley or Ian Payne on Shrewsbury (01743) 344314.

Further information on the West Mercia Police Authority can also be found on the Internet at www.westmerciapoliceauthority.gov.uk.

Questions on the functions of the Police Authority

The Authority has nominated the following members to answer questions on the discharge of the functions of the Police Authority at meetings of the relevant councils:

| | |
|-------------------------------|--------------|
| Herefordshire Council | Mr B Hunt |
| Shropshire County Council | Mr M Kenny |
| Telford and Wrekin Council | Mr K Sahota |
| Worcestershire County Council | Mr E Sheldon |

List of Background Papers

In the opinion of the proper officer (in this case the Director of the Police Authority) the following are the background papers relating to the subject matter of this report:

Agenda papers for the Annual Meeting of the West Mercia Police Authority held on 25 September 2007.

**The Review of Policing
Sir Ronnie Flanagan
Summary of Recommendations**

REDUCING UNNECESSARY BUREAUCRACY

Recommendation 1:

The Home Office, the Association of Chief Police Officers (ACPO) and the Association of Police Authorities (APA) must demonstrate clear national leadership on the issue of risk aversion and commit themselves to genuinely new ways of working to foster a culture in which officers and staff can rediscover their discretion to exercise professional judgement. This should find its first practical expression in a joint Compact between the tripartite relationship and the service to be delivered by the summer of 2008. (I see the National Police Improvement Agency (NPIA) as the primary body, which should support the ongoing delivery of this vital goal.)

Recommendation 2:

The Government should look again at the priority given to different offences in the new performance regime for the forthcoming Comprehensive Spending Review (CSR) and, in particular, the Public Service agreement targets for offences brought to justice so that more proportionate weight is given to the different levels of seriousness applied to offences.

Recommendation 3:

The Home Office should re-define violent crime to include only those crimes which actually cause physical injury or where the threat to inflict such injury is likely to frighten a reasonable person.

Recommendation 4:

There should be a non-party political but truly cross party debate to inform a revision of recorded crime statistics, particularly in the areas currently designated as violent crime. In this context, a closer examination of why international police colleagues do not record anything like the level of activity as 'violent crime' will be critical.

Recommendation 5:

ACPO should work with the NPIA to produce mandatory standard forms based on the minimum appropriate reporting requirements. This work should be completed by summer 2008 and forces should adopt them unless there are compelling local reasons for variation.

Recommendation 6:

I recommend that officials should consider whether it is possible to develop, as part of APACS, a set of business indicators for police activities which could show how effectively the police service works and act as benchmarks for good practice.

Recommendation 7:

The National Policing Board should carry out an urgent and fundamental review of the ADR to report by the end of the year. This should be delivered in conjunction with the Home Office's wider programme of data stream reduction which it is undertaking as part of the Government's programme to reduce bureaucracy on frontline public services.

Recommendation 8:

The Home Office should initiate a revision of activity based costing with stratified sampling by autumn 2008. The NPIA should carry out an investigation of the suitability of airwave to gather information on officers' daily activities by summer 2008.

Recommendation 9:

The review will give urgent consideration to how Stop and Account/Search can be better administered and the bureaucracy surrounding it significantly reduced. In doing so, I will consult widely (and as part of my existing equality impact assessment) both with key leaders and stakeholders from a diverse range of communities and from within the service.

Recommendation 10:

The principles of DGQP seem to show great promise in dealing with proportionality in case file building. ACPO and the (Crown Prosecution Service) CPS should jointly look to find ways of implementing these principles nationally as soon as possible, building on the early work of the two pilots.

Recommendation 11:

The Home Secretary, the Secretary of State for Justice and the Attorney General should urgently consider the creation of a shared target for the reduction of bureaucracy, shared by the CPS and the police. The target should have a clear expectation that the amount of time the police are dedicating to case preparation should be appropriately reduced through smarter ways of working and the identification and dissemination of best practice.

Recommendation 12:

Following completion of the pilot evaluation, urgent consideration should be given to rolling out virtual courts, both geographically and in terms of the categories of cases they can cover.

Recommendation 13:

As part of the next phase of the review, the MIPB should urgently identify the costs and benefits of rolling out mobile data on a service-wide basis and recommend an appropriate way forward for doing so.

NEIGHBOURHOOD POLICING

Recommendation 14:

CLG and the Home Office should work with ACPO, NPIA and APA, the voluntary and community sector, Local Government Association (LGA) and idea to draw up an Action Plan to integrate Neighbourhood Policing with Neighbourhood Management to be published at the end of the year (2007). A cross-departmental/multi-agency team should be created to deliver the Plan. I will return to this issue in my final report.

Recommendation 15:

The Home Office and CLG should give urgent consideration to establishing a pilot that will take place in 2008-09 on the pooling of budgets between local community safety partners. This would examine the benefits that can be delivered and the challenges of rolling it out more widely. I envisage these pilots as being complementary to, and more local than, LAAs.

Recommendation 16:

The Home Office and CLG should urgently review the existing evidence on the partnership benefits, which arise from embedding Neighbourhood Policing within a Neighbourhood Management approach in order to inform the forthcoming CSR. The review of evidence should work within the principles of the national improvement and Efficiency Strategy and build on current improvement architecture to drive forward improvement.

Recommendation 17:

APACS should give proper weight to Neighbourhood Policing outcomes such as partnership working, problem solving, community confidence and satisfaction, and how effectively Neighbourhood Policing teams address community concerns in addition to any measurements around crime reduction. Furthermore, APACS should continue to align with the new Local Government performance framework.

Recommendation 18:

The Home Office and NPIA should work with CLG to ensure that the single national indicator set includes measures on confidence and satisfaction that are applicable to Neighbourhood Policing. These are due to be finalised soon and I would encourage that this work takes place as a matter of priority.

Recommendation 19:

The National Policing Improvement Agency should review all of its training, learning and development to ensure that neighbourhood Policing and associated skills are firmly integrated within its overall programme by the end of April 2008.

Recommendation 20:

Chief Constables should ensure that future recruitment campaigns place a proper emphasis on neighbourhood Policing.

Recommendation 21:

Chief Constables should strive to ensure that those appointed to head BCUs, and appointed to other posts within and integral to neighbourhood Policing, should as far as possible remain in post for at least two years. This should be monitored both by HMIC and police authorities.

Recommendation 22:

NPIA's neighbourhood Policing Programme should investigate the feasibility of giving greater recognition to officers and staff who remain on neighbourhood Policing teams for a lengthy period of time.

Recommendation 23:

The Home Office should continue to ring-fence PCSO funding for 2008/9 to enable the embedding of their role within neighbourhood Policing teams.

Recommendation 24:

Chief Constables should ensure that the training commitment for PCSOs who successfully apply to become police officers should take into account previous training they have already been given as well as the knowledge and skills they have acquired as a PCSO. Successful candidates could return more speedily to a neighbourhood Policing role and this could be achieved more quickly with a reduced training commitment.

Recommendation 25:

The Home Office with the NPIA should consider opportunities for developing the role of the PCSO and should specifically consider broader opportunities and flexible working options available within the police service. This is an issue I will return to in my final report.

Recommendation 26:

The NPIA should research the feasibility of a volunteer PCSO scheme and report on its findings by Summer 2008.

REPORT OF THE MEETING OF WEST MERCIA POLICE AUTHORITY HELD ON 18 DECEMBER 2007

40th Anniversary

1. West Mercia was established on 1st October 1967 by the amalgamation of four forces – Shropshire, Worcestershire, Worcester City and Herefordshire and a series of commemorative events were held during 2007.
2. These included a Force Awards Evening, Reception for partner organisations, 40th Anniversary Concert and Divisional Opening Days, which were attended by over 10,000 people.
3. An anniversary event was also held for the seventeen members of staff who had served for more than 40 years, together with former Chief Constables, former Chairs of the Police Authority, Police Authority members and Her Majesty's Inspector of Constabulary. The seventeen members of staff also met with HRH the Duke of Gloucester who thanked them for their excellent contribution to their communities.

Policing Priorities 2008 and Beyond

4. The Police Authority will be consulting key stakeholders on the proposed policing priorities for 2008 and beyond. The priorities take into account partnership priorities and national influences including:

- 2007 Comprehensive Spending Review
- Home Office Crime Reduction Strategy 2008-11
- Criminal Justice Strategy 2008-11
- Public Service Agreements for 2008-2011
- Home Secretary's Strategic Priorities and Key Actions for the Police Service
- Interim Report on the National Review of Policing

5. In developing the Policing Plan the Local Area Agreements (LAAs) will be taken into account. The LAAs are three-year agreements to improve the quality of life for people living, visiting and working in an area. The agreement is made between the Government (represented by its Regional Office, the Lead Local Authority (unitary or county) and other key partners, including the Police and Police Authority through the Local Strategic Partnerships.

6. The proposed priorities, which have been prepared jointly with the Chief Constable, are:

Promoting Community Safety

We propose to work with partner agencies and engage with the public in a range of ways in order to understand and help to address the issues most affecting the sense of well-being in communities. We propose to deal effectively with anti-social behaviour and to place a particular emphasis upon the needs and the safety and security of vulnerable people.

Protecting the Public

We propose to respond quickly and effectively to all serious and major incidents. We propose to continuously develop our capability to tackle serious and organised crime, major crime and counter-terrorism and we propose to protect the public from sex offenders and dangerous offenders. We propose to contribute towards reducing the number of people killed or seriously injured in road traffic collisions.

Improving Customer Satisfaction and Confidence

We propose to deliver an overall service that is fair, equitable, sensitive to individual needs and generates high levels of public satisfaction. We recognise that public support is a critical component of effective policing and to this end we propose to ensure that communities are well informed about policing in their area. We propose to demonstrate that we care, can be trusted to deliver what we say we will and are committed to delivering a high quality service at all times.

Tackling Crime

West Mercia Constabulary covers a comparatively low crime area. Working with partner agencies we propose to reduce crime levels, improve the quality of our investigations and increase the number of offenders brought to justice. We propose to reduce drug use and alcohol misuse, especially among young people and seek to transfer the fear of crime from the victim to the criminal.

Organisational Management

As a public sector employer of over 4,500 staff, we recognise our responsibility to make best use of the resources available to us to deliver the most efficient, effective and high quality services we can. We propose to critically examine the need for new and continuing investments and to ensure that the information we hold is relevant, accurate and readily accessible. We propose to ensure that our staff are deployed in the right place at the right time with the right skills, supported by imaginative use of equipment and technology, to systematically develop the experience and abilities of our staff, and to plan for and anticipate future need.

7. Details of the proposed priorities are also included on the Authority's website at www.westmerciapoliceauthority.gov.uk and the Police Authority at its meeting on 19 February 2008 will consider all responses.

Capital Programme

8. The Police Authority has agreed additional investment of £0.320m in the 2007/08 Capital Programme to provide for replacement facilities at Upton upon Severn Police Station and for telephonic/call management improvements throughout the force area.

Budget 2008/2009

9. Police authorities have been advised of an increase of between 2.5% and 4% in government grant, with an overall average of 2.7%. West Mercia has received the

minimum 'floor' increase of 2.5% in 2008/09. However, an adjustment by the government to the base year 2007/08 means that the actual increase will be 2.4%.

10. The Government has also determined that West Mercia will receive increases of 2.5% in grant for 2009/10 and 2010/11. The Authority will also be expected to deliver 3% cashable efficiencies per year and keep all increases in the Council Tax below 5%.

11. The detailed budget calculation is underway and as part of the consultation process on the draft Policing Priorities comments are invited. The Police Authority will meet on 19 February 2008 to agree the budget for the forthcoming year.

Community Engagement

12. The Police Authority has agreed interim proposals to establish Policing Matters Groups in place of the existing Police/Community Consultative Groups (PCCGs).

13. This was the outcome of an extensive review of the current arrangements, which recognised the need for:

- *Closer working, as far as possible, of the three community engagement strands –*
 - *PACT (Partners and Communities Together)*
 - *Community Safety Partnerships*
 - *Police Authority engagement.*
- *Retention of open communication between the Police, the Police Authority and local communities.*
- *An overhaul of the Police/Community Consultative Groups.*
- *Clarity of purpose to:*
 - *ensure the Police Authority can see community engagement operating as an entity and all aspects are co-ordinated;*
 - *ensure public/local communities are able to appreciate the different ways in which community engagement works;*
 - *offer the opportunity for Community Safety Partnership delivery of community engagement through our arrangements; and*
 - *reduce the time spent going to meetings with overlapping agendas, whether they are Police Officer, Police Authority Members, staff, community representatives or the public.*

14. The proposed role of the Policing Matters Groups will be to –

- Provide views to the Police and Police Authority and Policing Board on matters concerning policing in the area.

- Receive reports on PACT, Policing, the Police Authority and local Community Safety Partnership.
- Provide a forum for Police Authority and Police consultation regarding matters affecting the policing of the area e.g. changes to service delivery, policy. (may be private meeting).
- Provide opportunities for obtaining the co-operation of the public in preventing crime.
- Arrange and facilitate public meetings following operational incidents, if required.
- Arrange and facilitate public meetings in order for the Divisional Commander and Police Authority to provide an annual feedback regarding policing in an area.

15. The recommended core membership would be:

- Divisional Commander or representative
- Local Police Authority Member(s)
- Representative of Community Safety Partnership (delivery)
- Representatives of PACTs (up to 3)
- Neighbourhood Watch Representative
- Elected member representation from local authorities in the area (i.e. county, district, parish and town councils)
- Other representatives of relevant groups or individuals co-opted as locally preferred.

16. It is envisaged that Policing Matters Group will cover, as closely as practicable, the same geographical area as Community Safety Partnerships (delivery).

17. The members of the Police Authority chairing Divisional Policing Boards have been tasked together with their respective Divisional Commanders with recommending to the Police Authority proposals for their division, based upon the above framework. As part of this process they will be consulting Chairs of PCCGs to discuss the way forward for each Division.

18. Final decisions for each of the divisional policing board areas will be determined following these discussions.

Performance Results 2007

19. Her Majesty's Inspectorate of Constabulary and the Home Office have published the national Police Performance Assessments for 2006/07. West Mercia Constabulary was assessed as "Excellent" for Tackling Crime and "Good" for all the other categories (Serious Crime and Public Protection, Protecting Vulnerable People, Satisfaction and Fairness, Implementation of Neighbourhood Policing, Local Priorities and Resources & Efficiency).

20. The Police Authority on behalf of the communities of West Mercia congratulated the Chief Constable and his officers and staff for this continued excellent performance.

Audit

21. The Audit Commission has published its Police Use of Resources Evaluation (PURE) for 2007 and West Mercia is one of only seven forces and police authorities in England and Wales to receive the overall top grade. For the second successive year West Mercia was assessed as being a value for money force with a top score of 4.

22. PricewaterhouseCoopers have presented the West Mercia 2006/07 Audit Letter. This was a very positive audit and PWC had issued an unqualified audit opinion on the Authority's 2006/07 financial statements on 28th September 2007. They identified no material weaknesses in the Authority's accounting and internal control systems during the audit. They identified no matters of irregular expenditure or evidence of fraud or misconduct, or poor standards of financial integrity. On the Best Value Performance Plan, there were no areas in the statutory report where the Authority had not fully complied with the requirements of the statutory guidance. On the Data Quality Review, there were and are proper arrangements in place for ensuring data quality. The ICT Fraud and Abuse Review had concluded that risks of ICT Fraud and Abuse were being well managed by the Force.

23. The Authority noted that the reports were excellent, staff were delivering at a very high level and conveyed their thanks and appreciation to the staff involved at all levels.

Signed on behalf of the
West Mercia Police Authority

P Deneen, Chair

Further Information

Any person wishing to seek further information on the subject matter of this report should contact David Brierley or Ian Payne on Shrewsbury (01743) 264690.

Further information on the West Mercia Police Authority can also be found on the Internet at www.westmerciapoliceauthority.gov.uk.

Questions on the functions of the Police Authority

The Authority has nominated the following members to answer questions on the discharge of the functions of the Police Authority at meetings of the relevant councils:

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| Herefordshire Council | Mr B Hunt |
| Shropshire County Council | Mr M Kenny |
| Telford and Wrekin Council | Mr K Sahota |
| Worcestershire County Council | Mr E Sheldon |

List of Background Papers

In the opinion of the proper officer (in this case the Director of the Police Authority) the following are the background papers relating to the subject matter of this report:

Agenda papers for the Meeting of the West Mercia Police Authority held on 18 December 2007.

COUNCIL

8 FEBRUARY 2008

**REPORT OF THE HEREFORD & WORCESTER FIRE AND RESCUE
AUTHORITY TO THE CONSTITUENT AUTHORITIES
Meeting Held on 13 December 2007**

SERVICE REPORT

1. The Authority was informed of Service Activities in the second quarter of 2007 together with operational activity for the period 1 July to 30 September 2007. The extreme weather conditions had increased incidents during the summer and false alarms from automatic electrical alarm systems had also increased with a large number of these as a consequence of thunderstorms. Details of the performance statistics which includes incident statistics, attendance at traffic collisions, incidents and injuries were noted. Various items of interest and information have been reported to the Authority and can be found on the Service's website (www.hwfire.org.uk).

**INTEGRATED RISK MANAGEMENT PLAN (IRMP) ACTION PLAN
2008/09 CONSULTATION FEEDBACK**

2. A draft IRMP Action Plan had been agreed at the previous Authority meeting on 11 June 2007. The plan set out strategic objectives for Service improvement, to reduce risk and improve community safety. This was then subject of an internal and external consultation process in accordance with the Government's adopted code of practice for consultations. Feedback from the consultation resulted in a number of proposed amendments. These proposals were accepted by the Authority and an amended final plan was adopted for 2008/09.

BUDGET PREPARATION

3. The Authority noted the current situation regarding the budget requirements for 2008/09 in accordance with the Medium Term Finance Strategy, and also noted that based on certain precept increases over the next three years, there would be budget gaps. Meetings with government officials had been arranged to discuss these issues.

REGIONAL FIRE CONTROL AND FIRELINK UPDATE

4. The Authority considered the draft Members Agreement for the Local Authority Controlled Company (LACC) required to deliver and operate the West Midlands Regional Fire Control Centre. It was agreed that consideration of the draft Members Agreement would be deferred until the cost apportionment model between the various Fire and Rescue Authorities who will be signing up to the Agreement had been finalised.

JOINT SERVICE REVIEW – WARWICKSHIRE FIRE AND RESCUE UPDATE

5. At its last meeting, the Authority established a Joint Member/Officer Review Group to consider options for Service improvements and efficiencies through closer working with Warwickshire Fire and Rescue Service. Due to additional and immediate workload following the tragic fire at Atherstone-on-Stour in Warwickshire it was agreed that the joint Member/Officer work should be suspended and that the Chairman and Chief Fire Officer maintain liaison with Warwickshire Fire and Rescue Service.

FLOODING UPDATE

6. Following the summer flooding events during 2007 the Authority requested that a scrutiny be carried out to review the Authority's involvement in the recent flooding incidents. The Authority agreed to terms of reference for the Best Value Policy and Performance Committee review of the Fire Authority's contribution during the major flooding events during 2007. The outcome of the review will be considered at the Best Value Policy and Performance Committee in March 2008.

**PAUL HAYDEN
CHIEF FIRE OFFICER/CHIEF EXECUTIVE
HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY
JANUARY 2008**

FURTHER INFORMATION

Any person wishing to seek further information on this report should contact Committee Services on 0845 12 24454.
Further information on the Fire and Rescue Authority and the Fire and Rescue Service can also be found on the Internet at (www.hwfire.org.uk).

BACKGROUND PAPERS

Agenda papers of the meeting of the Fire and Rescue Authority held on 13 December, 2007.