



Herefordshire Council

Planning Obligations

Consultation Draft Supplementary Planning Document

February 2007

	Contents	Page
	Consultation Arrangements	2
	Executive Summary	3
Part 1	Context	11
1.1	Definitions and Purpose of Planning Obligations	11
1.2	Purpose of Supplementary Planning Document	11
1.3	Types and Use of Planning Obligations	12
1.4	Grampian Conditions	13
1.5	Planning Policy Context	13
1.6	Council Priorities	14
1.7	Community Involvement	15
1.8	Sustainability Appraisal	15
Part 2	Code Of Practice	16
2.1	The Council's Approach	16
2.2	Procedure for negotiating Planning Obligations	17
2.3	Monitoring	18
2.4	Scheme Viability	18
2.5	Management	18
Part 3	Community Infrastructure	20
3.1	Background	20
3.2	Accessibility, Transport and Movement	20
3.3	Affordable Housing	24
3.4	Community Services	27
3.5	Education Facilities	30
3.6	Employment and Training	33
3.7	Flood Risk and Air Quality	35
3.8	Heritage and Archaeology	36
3.9	Landscape and Biodiversity	37
3.10	Open Space and Sports Facilities	39
3.11	Town Centres, Public Realm and Community Safety	43
3.12	Waste Reduction and Recycling	46
	Appendices	
1	Standard Form of Unilateral Undertaking	47
2	UDP Policies	52
3	Flow Chart for Preparing, Negotiating and Completing a S106 Agreement	54
4	Costs of Providing CCTV	55
5	Summary of Planning Obligations	56
	Tables	
1	Thresholds for Planning Obligations	3
2	Summary Table of Planning Obligations	7
	Figures	
1	Procedure for Negotiating, Preparing and Completing a Planning Obligation	6
2	Transport Contributions	23
3	Off-site Provision for Affordable Housing	26
4	Library Services Contributions	29
5	Education Contributions per House Type	32
6	Calculation for Off-Site Provision of Open Space	41
7	Calculation for Provision of Recycling Facilities	46

Consultation Arrangements

This consultation is being undertaken in accordance with Herefordshire Council's Statement of Community Involvement to ensure the views of the public, developers and other stakeholders help shape a more informed and inclusive Supplementary Planning Document (SPD) on Planning Obligations.

Consultation on this document will take place over a 6-week period from x to x. We welcome comments on any aspect of this document, but we would be particularly interested in your views on the questions set out below.

How to Respond

Your comments should be returned to the address below, or e-mailed to ldf@herefordshire.gov.uk by xxxxxx. Please use the form provided with this document. A copy of this document and a form for comments is also available on our website at www.herefordshire.gov.uk/ via the Quick Links Planning page, or from **Jo Harthen** at:

**Herefordshire Council,
Forward Planning,
P.O Box 4
Plough Lane
Hereford HR4 OXH
Tel: 01432 383617
Fax: 01432 383031**

Consultation Questions

- 1 Is our policy of publicising the types of contributions that will be sought and quantifying them as far as possible the right approach?
- 2 Does the SPD provide sufficiently clear guidance on what developer contributions we will seek?
- 3 Are all the areas for which we are seeking developer contributions appropriate?
- 4 Are there other areas for which we should seek contributions?
- 5 Are the thresholds for contributions set at the right level?
- 6 Are the formulae for determining contributions appropriate, fair and reasonable?
- 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?

Executive Summary

1 Introduction

This draft Supplementary Planning Document (SPD) 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. This 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 one of this document sets out the policy context of planning obligations and explains what they are and the purpose of this document. Part two explains the Council’s overall approach to dealing with planning obligations and securing developer contributions. Table 1 below lists the types of development expected to make a contribution and the obligation areas where contributions towards infrastructure and facilities will be sought.

Table 1: Thresholds for Planning Obligations

	Residential (6 or more dwellings)	Residential (10 or more dwellings)	Residential (15 or more dwellings)	Industrial/Commercial (1000 sq.m)	Industrial/Commercial (2500 sq.m)	
Transport	√			√	√	
Affordable Housing	√ (Main villages)		√ (Hereford and Market Towns)			
Community Services	√			√		
Education Facilities	√					
Employment and Training					√	
Open Space	√			√		
Town Centres, Public Realm and Community Safety		√				
Waste Reduction and Recycling		√				

- 3 On site affordable housing, open space, community facilities and some transport infrastructure should normally be provided as part of any new 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.

- 4 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 “Scheme 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 Council’s Community Strategy and be reviewed annually to ensure it remains up to date.
- 5 Table 2 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 this document.
- 6 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.
- 7 **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.
- 8 The Council’s approach to seeking developer contributions is set out in a clear process, in Figure 1 below, which ensures that the negotiation of contributions is transparent and efficient for both the applicant, the authority and any other interested parties.
- 9 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.
- 10 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.
- 11 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 4 above).

12 **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 services 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. This will be in addition to the normal costs and any external specialist advice costs required for processing and completing the legal agreement.

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

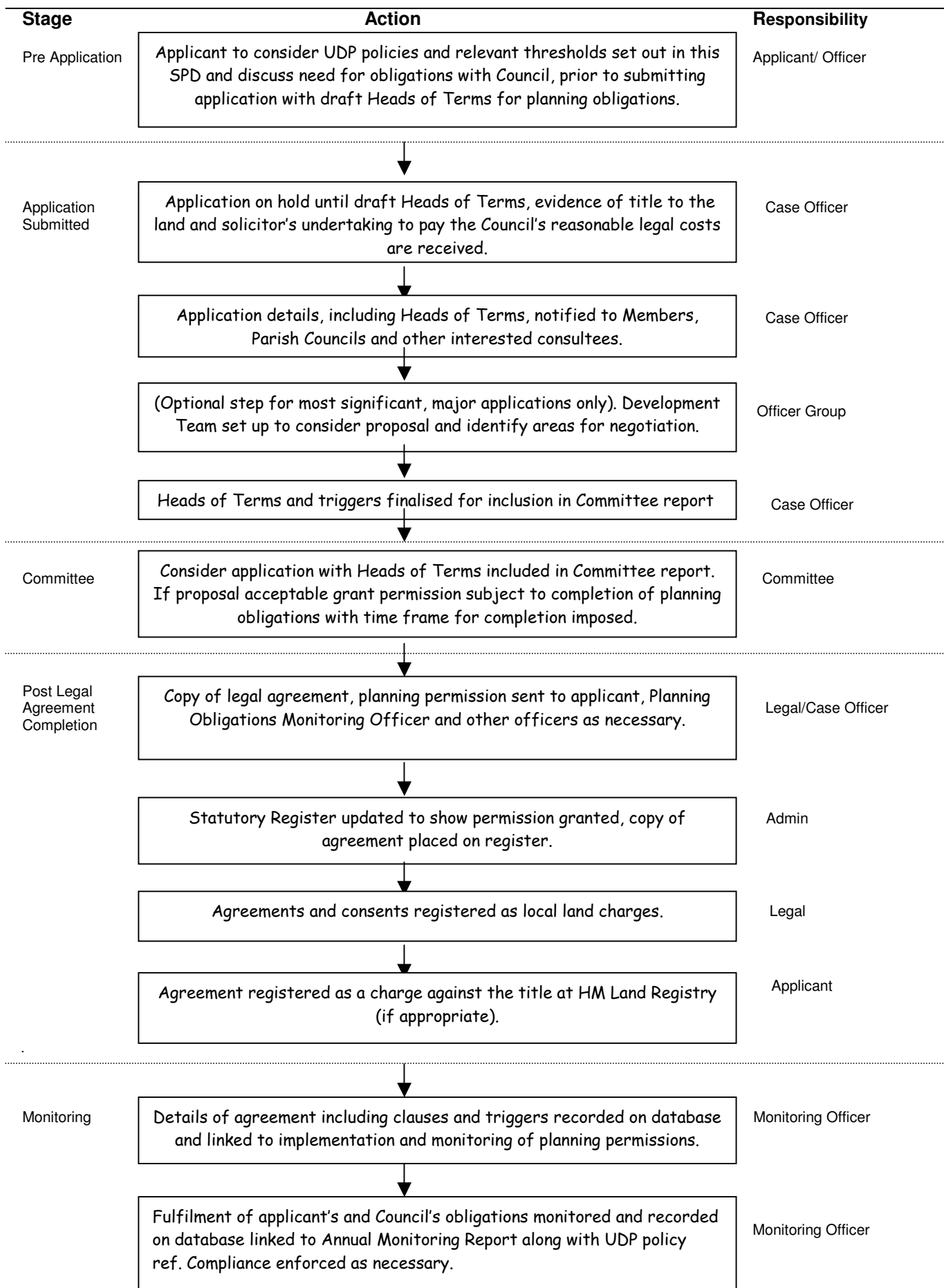


Table 2 – Summary of Planning Obligations

Subject	Contributions sought from	Formulae	Contribution to go towards
Accessibility, Transport and Movement	<p>All developments that cause increased trips and have a wider transport impact can be expected to contribute</p> <p>All developments of 6 or more dwellings</p>	<p>Each contribution is based on the number of person trips created from each new development. In line with government guidance, the charges indicated in Figure 1 will not be applied rigidly in all circumstances without regard to the context of an individual application and site</p>	<p>Contributions to on/off site mitigation measures; transport infrastructure; LTP measures; UDP policies.</p>
Affordable Housing	<p>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).</p>	<p>The Council will seek an indicative target of 35% affordable housing.</p> <p>In circumstances where a financial contribution is offered to provide affordable housing elsewhere in the County, the following formulae will be applied:</p> <p>Cost of constructing affordable element of proposed scheme + cost of serviced land in the area of the application site + professional/legal fees (See Figure 2 on page 26).</p>	<p>Providing affordable housing on site.</p> <p>Providing a contribution to an affordable housing scheme elsewhere</p>
Community Services	<p>Any proposal that results in the loss of a community service and/or involves a proposal of 6 or more dwellings</p> <p>Commercial schemes where floor space is greater than 1000m² or involving sites of 1 hectare or more. Smaller schemes may also be expected to contribute if they have an identifiable impact</p>	<p>Based on need, assessed on a case by case basis</p>	<p>Contributions towards providing community buildings/infrastructure – including equipment and maintenance</p>
Community Centres/Youth Centres/Halls	<p>Typically residential development exceeding 200 dwellings</p>	<p>Based on need, assessed on its scale and impact on a case by case basis</p>	<p>Contribution to new/improved community buildings/facilities/equipment</p>
Library Services	<p>All developments of 6 or more dwellings</p>	<p>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:</p>	<p>Contributions towards new/improved library services/buildings/equipment</p>

		Number of persons generated x £86 per person (£2880 x 30/1000)	
Educational Contributions	Residential developments of 6 or more dwellings	Cost per dwelling = Pupil Yield x No. of year groups x Building Cost Multiplier	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, or one bedroom units. Rural exception sites will also be exempt.
Employment and Training	Commercial schemes with a gross floor area of 2500 sq m or more, both new developments (including extensions) and changes of use.	Each proposal will be assessed on its scale and impact	Employment/training schemes/programmes and/or facilities
Flood Risk and Air Quality	Any development where conditions are inadequate	Where flood risk assessment identifies mitigation measures are necessary	Flood/air quality assessments/mitigation measures/improvement schemes/infrastructure
Heritage and Archaeology	Where development conditions are inadequate	Assessed on a case by case basis	Mitigation measures/enhancement schemes
Landscape and Biodiversity	For any development which would adversely affect an identified Special Wildlife Site (SWS), Site of Importance for Nature Conservation (SINC), or an important ecological area or feature	Assessed on a case by case basis	Mitigation, compensatory measures/ enhancement schemes
Open space and sports facilities	Residential developments of 6 or more dwellings Commercial developments exceeding 1000 sq m / 1 ha or more	The calculation for residential development will be based on the following information: <ul style="list-style-type: none"> • Average number of persons per dwelling – currently 2.32 from the 2001 Census • The NPFA standard for the provision of outdoor playing space of 28m² per person • The provision cost and maintenance per m² of outdoor open space The calculation for commercial development will be based on the following: <ul style="list-style-type: none"> • The number of 	Provision of new/improved sport/recreation facilities and/or their maintenance either on site or elsewhere

		<p>employees expected to be working in the proposed development</p> <ul style="list-style-type: none"> • The NPFA standard for provision of outdoor open space less children's equipped play space • The provision cost and maintenance per m² of outdoor open space 	
Public Realm	<p>All developments of 10 or more dwellings Commercial/Retail Schemes incl extensions/changes of use over 200 square metres gross floor area; Retail and leisure uses (A3/A4/A5/D2) uses over 100 square metres gross floor area; For major developments (1000 sq m or above), developers will be expected to make direct improvements to the public realm to a standard satisfactory to the Council, in lieu of making contributions</p>	<p>Based on the location, nature, scale and impact of the proposal. Assessed on a case by case basis</p>	<p>Contributions towards enhancement/improvement schemes/public safety/public art/infrastructure/equipment and/or maintenance, either on site or elsewhere</p>
Community Safety	<p>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.</p>	<p>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</p>	<p>Contributions towards enhancement/improvement schemes/public safety/public art/infrastructure/equipment and/or maintenance, either on site or elsewhere</p>
Public Art	<p>All developments of 10 or more dwellings Commercial developments exceeding 1000 sq m</p>	<p>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.</p>	<p>Contributions towards enhancement/improvement schemes/public safety/public art/infrastructure/equipment and/or maintenance, either on site or elsewhere</p>
Waste Reduction and Recycling	<p>All developments of 10 or more dwellings On residential development of 50 or more dwellings the Council will normally require the provision of a local recycling facility</p>	<p>Contribution towards the cost of a local recycling facility if the proposed development is in a location where there is an existing deficiency Contributions towards recycling and household</p>	

	The inclusion of a neighbourhood recycling centre may be justified in larger developments (i.e. more than 200 units)	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.	
--	--	---	--

Notes

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 Definitions and Purpose of Planning Obligations

1.1.1 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.

1.1.2 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.

1.1.3 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 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.

1.1.4 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. 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.

1.2 Purpose of Supplementary Planning Document

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.

1.2.1 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.

- 1.2.2 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.
- 1.2.3 Part 3 of the document sets out different policy areas that provide further clarity for negotiations on planning obligations, or in the preparation of development briefs and area action plans. The policy areas include:

Accessibility, Transport and Movement
Affordable Housing
Community Services
Education Facilities
Employment and Training
Flood Risk and Air Quality
Heritage and Archaeology
Landscape and Biodiversity
Open Space and Sports Facilities
Town Centres, Public Realm and Community Safety
Waste Reduction and Recycling

- 1.2.4 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.

1.3 Types and Use of Planning Obligations

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.

- 1.3.1 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 attached at Appendix 1 and will be made available on the Council's web site.
- 1.3.2 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.

1.4 **Grampian Conditions**

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.

1.5 **Planning Policy Context**

1.5.1 **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.

1.5.2 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).

1.5.3 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 consents.

1.5.4 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.

1.5.5 At the time of writing, the government is also considering the use of **Planning Gain Supplements** 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 the local and regional infrastructure. If the Planning Gain Supplement approach is implemented, then planning obligations and the advice contained in this SPD will need to be reviewed.

1.5.6 Regional Context

The Regional Spatial Strategy for the West Midlands (RSS) was adopted in 2004 and within Herefordshire County 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).

1.5.7 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.

1.5.8 A number of other UDP policies refer specifically to the use of planning obligations in considering development proposals. These are listed in Appendix 2. The UDP is at an advanced stage of preparation and has been subject to Inquiry. It is intended to adopt the Plan by early 2007. This SPD will be updated accordingly following adoption of the UDP.

1.6 Council Priorities

1.6.1 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.

1.6.2 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 above documents can be seen on the Council's web-site www.herefordshire.gov.uk.

1.6.3 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.

1.6.4 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. 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.

1.7 **Community Involvement**

1.7.1 The aim of the Herefordshire Statement of Community Involvement (SCI) - Submission Draft – June 2006, 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.

1.7.2 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.

1.7.3 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.

1.8 **Sustainability Appraisal**

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

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.
- v. Development, which is acceptable on land use planning and UDP policy grounds, will not be refused because an applicant is unwilling or unable to offer benefits.
- vi. Unacceptable development will not be permitted because of unnecessary or unrelated benefits offered by the applicant. Benefits, which exceed what is necessary to make a proposal acceptable, will not be allowed to affect a decision on a planning application.
- vii. The nature of a planning obligation likely to be required will be made known as early as possible in the planning process.
- viii. 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.
- ix. Planning Committees will decide the acceptability of the development proposal 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.
- x. 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 Appendix 4)

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 Developers are strongly recommended to submit draft Heads of Terms of any necessary agreement with their planning application when they first submit it, in due course this will become a requirement for the application 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 by the appropriate planning committee. 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 Committee and 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 before Committee.

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. 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 UDP 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, 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.

2.5.2 Ring Fenced Funds

In the event of a cash sum being 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.

Part 3 – Community Infrastructure

3.1 Background

3.1.1 “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 aspects addressed specifically in this document are as follows:

- Accessibility, Transport and Movement
- Affordable Housing
- Community Services
- Education Facilities
- Employment and Training
- Flood Risk and Air Quality
- Heritage and Archaeology
- Landscape and Biodiversity
- Open Space and Sports Facilities
- Town Centres, Public Realm and Community Safety
- Waste Reduction and Recycling

3.1.2 The policy justification, assessment of need, exact levels of contribution and calculations used for each of these types of infrastructure will now be considered in detail. Appendix 5 includes a master matrix to summarise the calculation process.

3.2 Accessibility, Transport and Movement

3.2.1 Policy justification

On-site improvements to transport infrastructure may be required and need to be provided as part of the overall scheme for any new development to grant planning permission. Specific off-site works and improvements may also be required which may be subject of a planning condition limiting the development to the provision of the off-site works or requiring the works to be addressed through a planning obligation. Such works may be required to mitigate the direct impact of the development scheme on the transport network, for example, improvements to junctions, road widening/passing, provision of traffic lights/pedestrian crossing, local traffic calming, or the introduction of street parking restrictions. In addition to the above, new developments may also have impacts on the transport infrastructure of the County as a whole in terms of traffic movements and the need for people to gain access via other means of transport. It is these wider transport impacts that this section on contributions to transport infrastructure is particularly concerned with and to which the contributions set out in Figure 2, at the end of the section, specifically relate.

3.2.2 Planning Policy Guidance 13 (Transport, March 1994) 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.

3.2.3 Within the Regional Spatial Strategy, Hereford is identified as one of five sub-regional foci for development confirming it 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.

- 3.2.4 The Council, as Highway Authority, seek 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 providing better 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 2.
- 3.2.5 **Assessment of need**
The LTP2 provides a comprehensive assessment of the transport needs of the County over the period 2006/7 to 2010/11 and sets out a longer term strategy for Hereford and its immediate surrounding rural hinterland. The LTP sets out the following transport strategies to help address the needs:
- 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.
- 3.2.6 Whilst Herefordshire is a mainly rural area and is sparsely populated, it has significant transport issues. These range from severe congestion within Hereford itself to access to transport for remoter rural communities. Accessibility planning software (Accession) has been used to identify specific areas of need particularly in respect of rural access.
- 3.2.7 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.
- 3.2.8 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 that will help address these issues.
- 3.2.9 A further major set of development proposals, which have 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 together with new road infrastructure and corresponding downgrading of existing roads to reduce severance between the city centre and the Grid area. Contributions need to be considered towards the construction of new car and bus parks and improved cycle/pedestrian links. A design framework SPD for the Grid area will make clear the planning obligations required.
- 3.2.10 Key transport issues affecting the rural area and market towns focus on providing for access to services, maintaining an extensive road network and reducing road traffic accidents. 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) have been experienced during the period of the first LTP (2001/2 to 2005/6) 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, which addresses social exclusion but will not help address modal shift. Planning contributions will be sought to support the public transport network and community transport and also to provide sustainable transport infrastructure in the market towns. Where appropriate, contributions will also be sought to achieve road safety improvements.

3.2.11 Thresholds for Contributions

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, commercial 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. It is likely that all housing developments for 6 or more units or sites of 0.2ha or more will generate a requirement for a contribution towards transport improvements. However, rural exception sites will normally be exempt from contributions to wider, indirect transport improvements on the basis that these sites are difficult to deliver and affordable housing is a priority issue for the Council. 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 for any development proposals where transport impacts would require mitigation through the provision of off-site transport infrastructure.

3.2.12 It is likely that for very major 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 5/05, contributions will be spent on schemes that support the contributing development.

3.2.13 How contributions will be calculated

Based on a number of survey sources and a nationally recognised best practice methodology it has been possible to calculate the likely development impacts to the transport system of the implementation of the land use allocations set out in the UDP. This equates to approximately 50,000 additional daily trips. To address the transport needs of the County, the LTP2 programme requires approximately £13m of works throughout the plan period to be funded from non-grant aided sources. This figure has been used to calculate the cost of supporting these additional trips through the provision of new or improved transport infrastructure and this equates to £275 per trip.

3.2.14 Figure 2 overleaf acts as a guide to the likely contributions expected to be made through Section 106 contributions. Each contribution is based on the number of **person trips** created from each new development. In line with Government guidance, the charges indicated in Figure 2 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. In particular, the more detailed information regarding transport impacts of a specific development provided through a transport assessment is likely to further inform the negotiations on the level of contributions required.

Figure 2 – Transport Contributions

Development Type	Average daily no. of person trips	Contribution	Weighted Contribution*
Residential – large private dwelling (4+ bedrooms)	12.01	£3,250	
Residential – average private dwelling (3 bedrooms) over 75m ²	9.01	£2,500	
Residential - small private dwelling (1+2 bedroom) up to 75m ²	6.01	£1,750	
Residential - small rented (affordable) dwelling (1+2 bedroom) up to 75m ²	4.50	£1,250	
Commercial/Office employment per 100m ²	41.21	£11,250	
B2 per 100m ²	15.21	£4,000	
B8 per 100m ²	12.16	£1,750	
Leisure per 100m ²	81.20	£22,250	£18,000
Retail (food) per 100m ²	180.88	£50,000	£23,750
Retail (non-food) per 100m ²	96.90	£28,000	£9,500
Hotel per room	9.96	£2,750	£2,000

* The weighted contribution relates to the percentage of daily trips undertaken outside the weekday peak hours 08:00 – 09:00 and 17:00 – 18:00. The weighting contributions generally comprise reductions in relation to total trip rates reflecting that a high percentage of trips to certain uses take place within peak hours when there is the greatest pressure on transport systems.

3.3 Affordable Housing

3.3.1 Policy justification

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

3.3.2 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)).

3.3.3 Locally, policy guidance is set out in the Council's adopted Supplementary Planning Guidance on the Provision of Affordable Housing (November 2004) and policies H2, H5, H6, H9 and H10 of the UDP.

3.3.4 Assessment of need

Within the Council, Planning Services and Strategic Housing Services have worked together to establish need for affordable housing and identify opportunities for provision. The Herefordshire Housing Needs Assessment 2005 and local research supports the view that there is a significant need to provide affordable housing throughout the County and that the main type 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. Full details of housing need, affordability levels and design requirements are described in detail in the SPG on Affordable Housing (November 2004).

3.3.5 Thresholds for contributions

Policy H9 of the UDP requires affordable housing at an indicative target of 35% of new housing proposals. This figure will be reviewed as part of the preparation of the Local Development Framework (LDF) and in the light of new 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.

3.3.6 Tenure and dwelling size/mix

The Council requires affordable housing to be provided on sites that are large enough to accommodate a reasonable mix of sizes and types of housing. Discussion with Strategic Housing Services is encouraged from the earliest stage of pre-application negotiations. The size and type of affordable units that are provided should reflect the mix that is necessary to support the Council in meeting its housing needs and provide a balanced variety of housing

types. 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. This will ultimately be determined by the local authority.

3.3.7 Involving a Registered Social Landlord (RSL)

The Council will normally seek to ensure that any affordable housing produced through the implementation of policy H9 or H10 be offered for ownership and management to housing associations or registered social landlords that are the Council's preferred partners. 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 "Home Point."

3.3.8 The Council would wish to satisfy itself before granting planning permission, that secure arrangements are made to ensure that the benefit of affordable housing will be enjoyed by successive as well as initial occupiers of the property. 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.

3.3.9 Affordability

This SPD takes on board the new definition of affordable housing as set out in Planning Policy Statement 3, which excludes low cost market housing.

3.3.10 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) 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.

3.3.11 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 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.

3.3.12 Where 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.

- 3.3.13 In circumstances where a financial contribution is offered to provide affordable housing elsewhere in the County, the applicant will have to demonstrate that the provision of affordable housing on site or in the vicinity is not a viable proposition before this option will be considered. The payment in lieu calculated on this basis 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 2 below.
- 3.3.14 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 3: 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

3.4 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 existing deficiencies and 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 6 or more additional residential units or affects sites of 0.2 ha or more. Contributions will be sought from private residential development as well as affordable housing, residential homes, student accommodation and sheltered housing, the residents of which may also make use of community services. Rural exception sites will normally be exempt from S106 contributions from community services on the basis that their provision is a priority for the Council.

3.4.6 Other developments such as offices and factories can also put pressure on community services since workers may use them at lunchtimes and after work and may make calls upon health and emergency services. Library authorities have a statutory obligation to lend to all those who work in the County whether they reside in Herefordshire or not. Large-scale industrial and commercial developments (including leisure and retail developments) may therefore be expected to provide or contribute to services within or near to their developments where they can be shown to have an identifiable impact. The threshold at which provision may be required is gross floor space greater than 1000m² or involving sites of 1 hectare or more.

3.4.7 In cases 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.

3.4.8 **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.

3.4.9 ***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, 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.

3.4.10 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.

3.4.11 ***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.

3.4.12 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.

Figure 4: Calculation for Provision of Library Services

<p>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:</p> <p>Number of persons generated x £86 per person (£2880 x 30/1000)</p>
--

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 capacity to support the development. Even where there is apparently sufficient capacity to cater for all, or part, of the additional demand there may still be a need for additional facilities at a school which may meet the needs of the wider community for example by creating a dual-use sports facility.

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 and secondary, 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 Education Authority (LEA) policy and strategy.

3.5.4 It is also the Council's responsibility to develop and support provision of early years education and childcare. There is a continuing need for additional capacity arising from demographic changes as well as continuing changes in education. In addition, there are four special schools and three pupil referral units within the County. There are Special Education Centres included in twelve primary schools with other specialist provision in two further primary schools. The children are educated, wherever possible, in the location that best meets their specific needs; catchment areas therefore do not come into play in these cases.

3.5.5 Thresholds for contributions

Education contributions will be sought from residential developments only and will be required from all developments containing 6 or more dwellings or of site area of 0.2 ha or above, if the implementation of the development will result in the generation of additional numbers of children in excess of that which local educational facilities can accommodate.

3.5.6 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, or one bedroom units. Rural exception sites, although creating a need for school places, will normally be exempt from S106 contributions from education facilities on the basis that their provision is a priority for the Council.

3.5.7 In view of the number of smaller residential developments currently taking place in the County and their incremental impact on the capacity of educational facilities, developer contributions will be pooled so that infrastructure can be secured in a fair and equitable way.

3.5.8 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.

3.5.9 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 information, it is estimated that a development of 100 houses will generate:

*2.9 pupils per year group (ages 5-16) per 100 houses, or a rate of 0.029 per house
(2.9 x 0.5) per year group (ages 16-18) per 100 houses, or a rate of 0.0145 per house*

3.5.10 Number of Year Groups in each schooling phase

In Herefordshire, the education system is based on a two-tier system. There are 7-year groups in primary schools and 5-year groups in secondary schools. Some secondary schools also provide post-16 education in two-year groups.

Year Group	Age	Year Groups
Pre-school/nursery places	3 upwards	1
Primary schools	5 – 11 years	7
Secondary	11 - 16 years	5
Post 16 +	16 – 18 years	2

3.5.11 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. It includes an area adjustment to reflect the actual costs involved in the local area. In the case of Herefordshire, the cost multipliers for the 2006/07 financial year has an area adjustment factor of 0.95 and works out as follows:

Basic building cost multiplier	Herefordshire 2006/7
Primary £ 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 costs multiplier rates on an annual basis.

3.5.12 Developer contributions for education will normally be sought for:

- Pre-school/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

¹ can be found at:

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

3.5.13 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 is calculated at 60% discount of that for a dwelling. Similarly, a 4+bedroom dwelling is assumed to have a higher number of child occupants and a 20% additional cost will therefore be added.

3.5.14 Where a planning contribution is considered appropriate, the Council will specify the use of contributions to ensure that they are applied towards specific education facilities such as:

- Additional school places to accommodate extra children;
- Pre-school provision either for existing schools or purpose built new facilities on a separate site;
- Improvements and expansion of playground, external leisure space and sports facilities including equipment and maintenance contributions which can often provide a dual use for the community;
- Security and safety measures to provide a safe environment (including local traffic safety schemes e.g. safer routes to schools and cycle storage); and/or
- To provide and/or enhance ancillary facilities and infrastructure such as toilets, catering and kitchen facilities, and improved access for people with disabilities to meet the needs of additional children.

- 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

$$\text{Cost per dwelling} = \text{Pupil Yield} \times \text{No. of year groups} \times \text{Building Cost Multiplier}$$

Figure 5 Education contributions per house type 2006/7*

Contribution by tier	Primary	Secondary	Post 16	Total
No of bedrooms				
2+ bedroom	£2,000	£3,120	£937	£6,057
4+bedroom	£2,400	£2,620	£1125	£6,145
2+bedroom flat/apartment	£800	£873	£375	£2048

*The figures above will need to be reviewed and amended annually

3.6 Employment and Training

3.6.1 Policy justification

It is a key objective of the Council, as set out in the Community Strategy (June 2006) to improve the economic growth and productivity of Herefordshire across all sectors. It aims to do this by promoting more and better-paid employment, a more adaptable and higher skilled workforce and reducing traffic congestion through access to better integrated transport provision.

3.6.2 Skills shortages are an ongoing constraint on business growth in Herefordshire, and the Community Strategy emphasises the importance of providing workforce training to help improve Herefordshire's potential as an attractive area for businesses to locate, as well as helping workers into higher paid jobs. The Community Strategy also recognises the need to encourage more businesses in growth sectors and knowledge industries, as these are crucial to economic regeneration in Herefordshire. In addition, Herefordshire's communications and transport infrastructure needs investment to support local businesses.

3.6.3 As set out in Circular 05/05, additional or expanded community infrastructure, which is necessary in planning terms, may be sought through a planning obligation. Policies PA11, PA14 and PA15 of the West Midlands Regional Spatial Strategy (June 2004) promote sustainable diversification and development of the rural economy, highlighting Herefordshire as a Rural Regeneration Zone (RRZ). A daughter document of the Regional Economic Strategy 2004-2010, called Rural Renaissance, has four themes for the economic development of the rural West Midlands:

- Fostering and supporting rural business growth
- Identifying and supporting rural skills development
- Developing and modernising rural infrastructure and environmental conditions; and
- Regenerating sustainable, well-supported rural communities.

3.6.4 The reasoned justification to Policy DR5 on Planning Obligations states that the Council is keen to seek obligations which make a positive contribution to furthering the UDP's vision, guiding principles and Part 1 strategic policies and specifically includes promoting urban and rural regeneration and social inclusion through stimulating local employment and training opportunities.

3.6.5 Assessment of need

From the State of Herefordshire Report 2005 it can be seen that despite a relatively healthy economic position in terms of actual employment rate, Herefordshire lags behind many other authorities in the West Midlands region in terms of lower levels of pay for its workers, but has higher numbers in part-time employment. In 2005, people working in Herefordshire earned on average 13% less than those working in the West Midlands region as a whole, but worked for longer hours. Lower wages have a consequential effect on the affordability of housing with average house prices of semi-detached properties rising from 7 times average earnings in 2004 to 7.8 times average earnings in 2005 (this exceeded increases for neighbouring authorities). Generally, Herefordshire suffers from a net out-flow of workers to adjoining areas, which could be due to higher earning potential elsewhere or lack of jobs for particular skills in the County. In terms of Adult Education, Skills and Training, Hereford City south is within the 25% most deprived areas nationally. Indeed, one quarter of Herefordshire's 16-74 year olds have no qualifications (2001 Census) and the number employed in technology and knowledge intensive industries was 15.2% in 2004 compared to 24.25% in the region. For the first time in 2005, Herefordshire has seen the number of businesses de-registered for VAT exceed those actually registering.

3.6.6 Thresholds for contributions

Planning obligations will be sought in respect of economic development and regeneration, in particular skills development (both work and community based learning and training), business support and transport infrastructure. The policy will be applied to planning

applications for employment generating development which meets the criteria identified in the following paragraphs and/or where a proposal results in a loss of employment floorspace. Contributions to training may also extend to larger residential schemes where increases in population will have an impact on employment.

- 3.6.7 The threshold for seeking contributions to training and business support from employment-generating development (office, retail, commercial) will be schemes with a gross floor area of 2500 sq m or more, both new developments (including extensions) and changes of use. It is also expected that all employment generating development proposals above 2500 sq m and other schemes that involve the demolition of small units, will incorporate new or replacement units, relative in scale to the amount of existing space lost and the size of the development proposed.
- 3.6.8 **How contributions will be calculated and used**
It is considered inappropriate to suggest a blanket formula for developer contributions from employment-generating uses in Herefordshire. Rather, each proposal will be assessed on its scale and impact. Specific project needs will be negotiated on a case-by-case basis in consultation with the Council's Economic Development Officer.
- 3.6.9 Where funding for training is sought in association with new development, the training will be for people living in the County's target wards and working in the County and directly related to the employment needs of the area. It may include;
- Financial contributions towards established training initiatives (e.g. Hereford's Learning Village);
 - Financial contributions to support the development of new employment and training programmes to meet specific community or sector needs or improving the business offer in a particular location (e.g. Edgar Street Grid in central Hereford, other social enterprise development); and/or
 - The provision of resources and appropriate tools in existing premises to ensure they are "fit-for-purpose" and offer those undertaking skills development and work-based training excellent and up to date facilities.
- 3.6.10 Contributions may be used to provide focussed business support programmes and activities by Council-approved agencies such as Business Link to improve business survival rates and sustain levels of enterprise. These will be monitored to ensure maximum returns and sustainability.
- 3.6.11 Contributions from larger employment generating developments towards communications and wider transport infrastructure may be required for specific projects such as the Herefordshire in Touch programme or Rotherwas Futures.

3.7 Flood Risk and Air Quality

3.7.1 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.

3.7.2 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.

3.7.3 How contributions will be calculated and used

Flood Risk

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. Financial contributions will be calculated on a site-by-site basis.

In addition, where developments increase demand for water services developers may be required to support off-site infrastructure costs. 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.

3.7.4 Air Quality

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.

3.8 Heritage and Archaeology

3.8.1 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.

3.8.2 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.

3.8.3 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:

- 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;
- 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; or
- 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.

3.9 Landscape and Biodiversity

3.9.1 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 “Biodiversity and Geological Conservation” sets out the Government’s objectives for biodiversity conservation. Policies in the UDP relating to biodiversity are listed in Appendix 2. UDP policy NC7 sets out the requirements for appropriate mitigation and compensatory measures to avoid, minimise or offset the loss of or damage to any biodiversity feature covered by policies NC2 - NC6. Such measures will be at least proportionate to the scale of the loss or impact. Policy NC8 seeks to enhance existing wildlife habitats and provide new habitats wherever possible. The Councils Biodiversity Interim SPD provides further in-depth guidance to these policies. In particular, Section 5.6 on mitigation and compensation and Chapter 6, creating new wildlife habitats and enhancing biodiversity on development sites, provide guidance. Where a proposed development would affect a site of importance, the proposal should seek to avoid adverse impacts on the nature conservation value of the site. If development proposals are likely to so affect sites of biodiversity interest then the Council may seek to enter into a planning obligation with a developer to protect, or reduce harm, to these sites. If adequate mitigation or compensation cannot be secured, planning permission will normally be refused.

3.9.2 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, a comprehensive landscaping assessment, and the provision of additional landscape and habitat protection works beyond the application site, may be secured via a Section 106 Agreement.

3.9.3 How contributions will be calculated and used:

The Council has published its Biodiversity Action Plan, which sets targets to ensure that the county’s natural heritage is kept and enhanced. Biodiversity Enhancement Areas are identified within the plan with proposals to identify more. Many innovative projects have been launched to meet these targets. Delivery of the action plan is a key element of work recognised in the Community Strategy. Wherever relevant and appropriate, development proposals will be required to incorporate measures to help implement the action plan.

3.9.4 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:

- Reinstating riverbanks with new planting to protect the ecological value and continuity of green corridors within the County;
- Implementing conservation agreements to secure the appropriate management of sites of importance for biodiversity;
- Mitigation/compensation measures may involve the creation of other sites of at least equal nature conservation value and may include offsetting the loss of habitats by creating new ones;
- Implementing and/or maintaining landscaping schemes beyond the application site area; and/or
- Enhancing existing or creating new sites to benefit residential amenity.

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

3.9.6 UDP policies LA6 and NC9 require maintenance and management of sites. The Council will, therefore, seek a contractual arrangement possibly supported by a commuted payment prior to the grant of an associated planning permission. In the case of flatted development, a service charge secured by a management company may be the best way of achieving the maintenance or management of a landscaping and/or nature conservation scheme. A management plan or any other obligation involving landscape or biodiversity may also require the involvement of, and consultation with, the appropriate agency, such as the Environment Agency, Natural England or the Herefordshire Wildlife Trust.

3.10 Open Space and Sports Facilities

3.10.1 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 2. 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.

3.10.2 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 and sports provision in the County, but also future needs as well as under and over supply at the local level. This information will be used to complement interim UDP policy requirements, which are based on the 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 in regards to open space and sports provision. The UDP Inquiry Inspector supported this approach.

3.10.3 A preliminary report of the audit indicates:

- there is a lack of quality in the existing open space and recreation provision in the County;
- there are issues concerning accessibility of existing open space and recreation provision;
- there are issues concerning the infrastructure of existing open space and recreation provision; and
- there is an extensive countywide deficiency in the provision of outdoor sports facilities.

3.10.4 Thresholds for contributions

Financial or in-kind contributions towards open space will be required from all residential developments of 6 units or more, or sites of 0.5ha or more. Large-scale 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. If it is not realistic to make on-site provision, developers may be required to contribute to local green spaces likely to be used by their staff or customers. The threshold at which provision will be required is gross floor space greater than 1000m² or sites of 1 ha or more.

3.10.5 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 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 3.10.11 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 is adopted, the Council will use the National Playing Fields Association (NPFA)

standards for the minimum amount of open space to be provided. The standards require 2.4 hectares of outdoor playing space per 1000 population and, 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.

3.10.6 The population arising from new residential development will be assessed by assuming an average persons per dwelling from the 2001 Census. From this, the area of open space that a development 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. 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 and Countryside Department. On-site playing fields may be sought on very large sites and the developer will be required to lay out the pitches and provide pavilions with changing rooms, parking and all appropriate support infrastructure. In certain circumstances developers may be required to make provision above that required by the adopted standards, such as structural or shelter planting to reduce noise; measures to control ground water, prevent flooding or promote sustainable urban drainage; or measures to protect biodiversity or promote nature conservation.

3.10.7 Off-site provision

In most 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 immediate locality of the development to bring them up to standard or the enhancement/upgrading of key strategic facilities in the locality. The 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 skateparks which may arise in response to a specific need where the contribution will be negotiated on a case by case basis.

3.10.8 For industrial and commercial development (including commercial leisure and retail), the Council consider it appropriate to base the level of contribution in line with that established for residential development, i.e. NPFA standards should be met for each employee. The Council recognises, however, that 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.

3.10.9 Figure 6: Calculation for Off-Site Provision of Open Space

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

- Average number of persons per dwelling – currently 2.32 from the 2001 Census
- The NPFA standard for the provision of outdoor playing space of 28m² per person
- The provision cost and maintenance per m² of outdoor open space

The calculation for commercial development will be based on the following:

- The number of employees expected to be working in the proposed development
- The NPFA standard for provision of outdoor open space less children's equipped play space
- The provision cost and maintenance per m² of outdoor open space

3.10.10 The composition of the NPFA standard and the cost of provision and maintenance are set out in the following table.

Recreation Type	NPFA standard/ m2	Provision cost maintenance/ m2	Contribution/ person
Parks & Gardens	4	£66.82	£267.29
Sport Space	16	£66.40	£1062.40
Equipped Children's Play	8	£54.02	£432.16
Natural Green space		£14.40	
Informal Green space		£11.60	
Total	28		£1,761.85

3.10.11 Maintenance

In addition to the provision of open space, a payment by the developer of a commuted sum to cover a 20-year cost of maintenance is also required. The tariff for calculation of commuted sums is updated annually, and the 2006 tariff is attached in Appendix xx. 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.

3.10.12 Sports Facilities

Off site contributions through financial payments will also be sought for community sports and recreation facilities including indoor facilities, as per the advice of Sport England, on residential developments in order to meet the government's national strategy for improving sport and physical activity. These contributions are to be directed to the key strategic facilities within the locality in which the development is proposed. Sport England has developed a "calculator" to determine the level of contribution required towards these facilities, which will be utilised by Herefordshire Council.

3.10.13 **Public Rights of Way (PROW)**

Contributions may be also required towards public rights of way where such routes are affected or development is located in a sector where the upgrading and enhancement of the PROW network is a key strategic priority. The PROW network in Herefordshire benefits the County as a whole and forms a dual role in regards to recreation and countryside access opportunities. Schemes that affect the PROW network may be required to either re-route or enhance and mitigate the effect on the network and implement any modifications to acceptable standards. The Edgar Street Grid area in Hereford is a good example of where planning obligations may be used to enhance or create public rights of way.

3.11 Town Centres, Community Safety and Public Realm

3.11.1 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.

3.11.2 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.

3.11.3 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.'

3.11.4 Thresholds for Contributions

All major developments in Hereford or the Market Towns will be expected to contribute to art in the public realm, community safety or town centre regeneration. A major scheme will be regarded as one where, in the case of residential development, the number of dwellings to be constructed is ten or more or where the site area exceeds 0.5 hectares. For all other forms of development, particularly commercial/retail development, the following thresholds shall apply:

- New schemes/extensions/changes of use over 200 sq.m gross floor area;
- A3/A4/A5/D2 uses over 100 square metres gross floor area;
- 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.

Consideration will also be given to smaller development including regeneration projects in prominent town or village locations or those abutting public open space.

3.11.5 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.

3.11.6 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

3.11.7 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.

3.11.8 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. 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.

3.11.9 ***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 flood alleviation scheme utilising the Widemarsh Brook;
- Relocation of the Hereford Livestock Market; and
- Provision of public offices and library.

3.11.10 **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.

3.11.11 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.

3.12 Waste Reduction and Recycling

3.12.1 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.

3.12.2 Thresholds for Contributions

Developer contributions will be required from residential developments on sites of 10 or more dwellings or a site area of 0.5 ha or more (in line with the definition of significant development as set out in the Statement of Community Involvement) towards recycling initiatives depending on the development and particular site characteristics.

3.12.3 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; 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.

3.12.4 How contributions will be calculated and used

On sites of 10 or more dwellings the Council will normally expect a financial contribution towards the cost of a local recycling facility if the proposed development is in a location where there is an existing deficiency. 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).

3.12.5 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.

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

3.12.7 Figure 7: Calculation for Off-site Provision of Recycling and Refuse Facilities

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.

Appendix 1 Standard Form of Unilateral Undertaking

[insert date in following format: day month year eg 20 January 2006]

UNILATERAL UNDERTAKING

GIVEN BY

[NAME - note 1]

Pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)

IN RESPECT OF

[STATE ADDRESS - note 4]

THIS DEED is made on the [state day eg 20] of [state month eg January] [state year eg 2006]

BY [state name - note 1] [address - note 2] ("the Owner")

WHEREAS

- (1) The Owner is the registered proprietor at H M Land Registry under title number [state title number - note 3] of the Land
- (2) The Council is the Local Planning Authority for the purposes of the Act for the County of Herefordshire within which the Land is situated
- (3) The Owner has by the Application applied to the Council for permission to develop the Land
- (4) The Owner has determined to enter into a unilateral planning obligation by way of this deed as hereinafter set out with the intent that the covenants by the Owner contained in Schedule 2 hereto shall be planning obligations for the purposes of Section 106 of the Act

NOW THIS DEED WITNESSES as follows:-

1. Definitions and interpretation

In this Deed:

- 1.1 "the Act" means the Town and Country Planning Act 1990 (as amended)
- 1.2 "the Application" means a written application registered on the [state date in following format: eg "29 June 2006"] and numbered [state application number] applying to the Council for planning permission in respect of the Land
- 1.3 "Commencement of the Development" means the carrying out of a material operation as defined in Section 56(4) of the Act in relation to the Development
- 1.4 "the Council" means Herefordshire Council and its successors in title as the Local Planning Authority for the County of Herefordshire
- 1.5 "the Land" means the land described in the First Schedule hereto
- 1.6 "the Planning Obligations" means the covenants by the Owner contained in the Second Schedule hereto
- 1.7 "the Planning Permission" means a planning permission granted (whether by the Council or otherwise) in respect of the Application
- 1.8 "the Development" means such development as may be authorised by the Planning Permission
- 1.9 Words importing one gender shall be construed as importing any other gender
- 1.10 Words importing the singular shall be construed as importing the plural and vice versa
- 1.11 The clause and paragraph headings in the body of this Deed and in the Schedules hereto do not form part of this Deed and shall not be taken into account in its construction or interpretation

2. The Planning Obligations

- 2.1 The Planning Obligations are planning obligations for the purposes of Section 106 of the Act
- 2.2 The Council is the Local Planning Authority by whom the Planning Obligations are enforceable
- 2.3 Any person deriving title from the Owner shall not be bound by the Planning Obligations during any period in which he no longer has an interest in any part of the Land

3. Council's Legal Costs

The Owner shall pay the Council upon the date hereof its legal costs of £190 (ONE HUNDRED AND NINETY POUNDS) in connection with the assessment of this Deed and its registration as a local land charge

IN WITNESS whereof this instrument has been executed as a Deed by the Owner the day and year first before written

THE FIRST SCHEDULE

The Land

[state address of the land here - note 4] in the County of Herefordshire shown for the purposes of identification only edged red on the plan attached hereto.

THE SECOND SCHEDULE

Covenants by the Owner - the Planning Obligations

[select the appropriate clause(s) from the four set out below and delete those not required -note 5]

1. Contribution to recreational space and facilities

The Owner hereby covenants with the Council that the Owner will pay to the Council prior to the Commencement of the Development the sum of [state sum - note 6] for expenditure on the provision, improvement and/or maintenance of either:

- a) Local recreational space and facilities; or (as the Council shall determine)
- b) Strategic recreational space and facilities within the administrative area of the Council

PROVIDED THAT in this clause "local" means situated within 1 mile of the Land and "strategic" means intended for the use and benefit of all persons living or working within the administrative area of the Council

2. Contribution to traffic and highways measures [renumber this paragraph if necessary - note 7]

The Owner hereby covenants with the Council that the Owner will pay to the Council prior to the Commencement of the Development the sum of [state sum - note 6] for expenditure on

the provision and/or improvement of any traffic management and/or highways measures (including the promotion, making and implementation of any associated Traffic Regulation, Parking or other formal Order or Notice) which the Council in its capacity as Highway Authority or Traffic Authority shall deem to be appropriate in consequence of the implementation of the Development

3. Contribution to public transport improvements [renumber this paragraph if necessary - note 7]

The Owner hereby covenants with the Council that the Owner will pay to the Council prior to the Commencement of the Development the sum of [state sum - note 6] for expenditure on the provision of improvements to public transport services and facilities (including the provision and/or enablement of bus services, Park and Ride facilities and traffic management and highways measures) which serve the administrative area of the Council

4. Contribution to car club scheme [renumber this paragraph if necessary - note 7]

The Owner hereby covenants with the Council that the Owner will pay to the Council prior to the Commencement of the Development the sum of [state sum - note 6] for expenditure on the establishment operation and/or expansion of a car club scheme of which membership will be available to persons residing in the Development

PROVIDED THAT in this clause:

- a) "car club scheme" shall mean a scheme approved by the Council and having the aim of reducing reliance on private vehicle use by making available conveniently accessible vehicles for hire by persons who are members of the scheme.
- b) "establishment operation and/or expansion" shall include the promotion making and implementation of Traffic Regulation or Parking Orders, the carrying out of consultation, research and/or publicity in connection with any car club scheme and/or the administration of any car club scheme

5. Provision for Index Linking [renumber this paragraph if necessary - note 7]

5.1 In this clause:

5.1.1 "the Index" means the All Items Retail Prices Index published by the Office for National Statistics or any publication substituted therefore

5.1.2 "the Increase" means the amount (if any) by which the Index for the month preceding the date of payment of an amount pursuant to the provision of this Deed exceeds the Index for the month immediately preceding the date of this Deed

5.1.3 "the Base Figure" means any sum payable pursuant to the provisions of any preceding clause of this schedule

5.1.4 "Additional Payment" means the sum that bears the same proportion to the Base Figure as the Increase bears to the Index for the month immediately preceding the date of this Deed.

5.2 The Base Figure shall be increased by the Increase and the Owner hereby covenants with the Council that it will pay to the Council any Additional Payment at the same time it shall pay the Base Figure to which it relates **PROVIDED ALWAYS THAT**

- 5.2.1 If the reference base used to compile the Index shall change after the date of this Deed then the figure taken to be shown in the Index after the change shall be deemed to be the figure, which would have been shown in the Index if the reference base current at the date of this Deed had been retained
- 5.2.2 If it becomes impossible by reason of any change after the date of this Deed in the methods used to compile the Index or for any other reason whatever to calculate the Additional Payment by reference to the Index or if any dispute or question whatever shall arise between the Owner and the Council with respect to the amount of the Additional Payment or the construction or effect of the provisions of this clause then the determination of the Additional Payment or other matter of difference shall be determined by an Arbitrator who shall be appointed either by agreement of the Owner and the Council or (in the absence of agreement) by the President for the time being of the Royal Institution of Chartered Surveyors (or any person authorised by him to make appointments on his behalf) on the application of either the Owner or the Council and who shall have full power to determine on such date as he shall deem appropriate what would have been the increase in the Index had it continued on the basis and in view of the information assumed to be available for the operation of this Schedule or (if that determination shall also be impossible) to determine a reasonable Additional Payment having regard to the purposes and intent of the provisions of this clause

6. Monitoring Fee [renumber this paragraph if necessary - note 7]

The Owner covenants that, upon receipt of a notice in writing from the Council, the Owner shall pay to the Council the sum of [state sum - note 8] as a contribution towards the Council's costs of monitoring the implementation of this Deed

EXECUTED as a deed by:-

[state name - note 1]

In the presence of :- [note 9]

Witness signature

Witness name:

Witness address:

Appendix 2 – UDP Policies

Topic	Community Strategy Ref	UDP Policy	Associated Obligations
Development Requirements		DR1 DR3 DR4 DR5 DR7 DR10	Public art Pedestrian and cycle requirements Public transport/access Open space provision Education Protection of biodiversity Environment benefits Flood defence and alleviation
Housing		H2 H3 H5 H6 H7 H8 H9 H10 H13 H19	Affordable housing Open space Landscaping Infrastructure Pedestrian and cycle facilities Children's play areas
Employment		E1 E2 E7 E8	Open space Infrastructure Landscaping Residential amenity Pedestrian, cycle and public transport access
Town Centre and Retail		TCR2 TCR20R thru TCR23R TCR25R	Improvements to the public realm Traffic management contributions Environmental enhancement scheme Pedestrian and cycle links Community safety/CCTV Affordable housing Infrastructure
Transport		T1 T6 T7 T10 T14	Traffic management measures Road schemes Pedestrian and cycle schemes Safer routes to school
Landscape		LA2 LA3 LA4 LA5 LA6	Landscape schemes including enhancement Replacement planting
Nature Conservation		NC5 NC7 NC8 NC9	Habitat protection or replacement Management of habitats and species
Archaeology		ARCH6 ARCH8	Excavations and recordings Management strategies including access
Recreation, Sport and		RST1 RST3	Establishment of new facilities Enhancement of existing facilities

Tourism		RST4	Provision standards Replacement provision
Minerals		M3	Mitigation of impact
Community Facilities		CF5 CF6 CF9	Pedestrian and cycle access and facilities Alternative/new provision

- Policy DR3 provides the access, design and layout requirements for any new development relative to vehicular and pedestrian/cyclist movements.
- Policy DR9 makes clear the air quality issues to be addressed and any mitigation measures.
- Policies S1/S2 set out the transport related requirements for new development and sustainable development.
- Policy S6 seeks to reduce the need to travel, promotes alternative modes, infrastructure implications and safeguarding land.
- Policy T1 encourages new or improved public transport facilities and interchange between all modes.
- Policy T2 sets out the requirements for park and ride schemes.
- Policies T3-T5 seek to support/safeguard additional land/facilities for rail use.
- Policies RST7 and RST9 support and protect current or previously used water corridors where their recreational use complements sustainable transport.
- Policies T6/T7/T14 support improvements and access to existing and new walking/cycling routes.
- Policy T10 protects land for road improvements/new roads to ease congestion.
- Policies T11/T12 set out the requirements for parking provision support to re-use of private parking areas and the limitation of non-residential provision within Hereford central area.
- Policy T13 outlines the benefit of traffic management schemes to improve traffic flow, safety and the local environment.
- Policies TCR20-TCR23 make up the land use proposals for the Edgar Street Grid area setting out access and urban design requirements.

Appendix 3 – Procedure for Negotiating, Preparing and Completing a Planning Obligation

Stage	Action	Responsibility
Pre Application	Applicant to consider relevant SPD and UDP policies prior to submitting application and submit draft Heads of Terms for planning obligations if appropriate.	Applicant/ Officer
Application Submitted	Application on hold until draft Heads of Terms received	Case Officer
	Notify Members, Parish Councils and other interested consultees of likely planning obligations.	Case Officer
	Major Development Project Board meets to consider proposal and identify areas for negotiation and agreement.	Officer Group
	Heads of Terms finalised for inclusion in Committee report	Case Officer
	Committee	Consider application with Heads of Terms included in Committee report. If proposal acceptable grant permission subject to completion of planning obligations with time frame for completion imposed.
Post Legal Agreement Completion	Copy of legal agreement, planning permission sent to applicant, Planning Obligations Monitoring Officer and other officers as necessary.	Legal/Case Officer
	Statutory Register updated to show permission granted, copy of S106 placed on register.	Admin
	Agreements and consents registered as local land charges.	Legal
	Agreement registered as a charge against the title at HM Land Registry (if appropriate).	Applicant
	Monitoring	Details of agreement including clauses and triggers recorded on database and linked to implementation of planning permissions.
Fulfilment of applicant's and Council's obligations monitored and recorded on database along with UDP policy ref. Compliance enforced as necessary.		Monitoring Officer

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.

Appendix 5 Summary of Planning Obligations

Subject	Contributions sought from	Formulae	Contribution to go towards
Accessibility, Transport and Movement	<p>All developments that cause increased trips and have a wider transport impact can be expected to contribute</p> <p>All developments of 6 or more dwellings</p>	<p>Each contribution is based on the number of person trips created from each new development. In line with government guidance, the charges indicated in Figure 1 will not be applied rigidly in all circumstances without regard to the context of an individual application and site</p>	<p>Contributions to on/off site mitigation measures; transport infrastructure; LTP measures; UDP policies.</p>
Affordable Housing	<p>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).</p>	<p>The Council will seek an indicative target of 35% affordable housing.</p> <p>In circumstances where a financial contribution is offered to provide affordable housing elsewhere in the County, the following formulae will be applied:</p> <p>Cost of constructing affordable element of proposed scheme + cost of serviced land in the area of the application site + professional/legal fees (See Figure 2 on page 26).</p>	<p>Providing affordable housing on site.</p> <p>Providing a contribution to an affordable housing scheme elsewhere</p>
Community Services	<p>Any proposal that results in the loss of a community service and/or involves a proposal of 6 or more dwellings</p> <p>Commercial schemes where floor space is greater than 1000m² or involving sites of 1 hectare or more. Smaller schemes may also be expected to contribute if they have an identifiable impact</p>	<p>Based on need, assessed on a case by case basis</p>	<p>Contributions towards providing community buildings/infrastructure – including equipment and maintenance</p>
Community Centres/Youth Centres/Halls	<p>Typically residential development exceeding 200 dwellings</p>	<p>Based on need, assessed on its scale and impact on a case by case basis</p>	<p>Contribution to new/improved community buildings/facilities/equipment</p>
Library Services	<p>All developments of 6 or more dwellings</p>	<p>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</p>	<p>Contributions towards new/improved library services/buildings/equipment</p>

		therefore: Number of persons generated x £86 per person (£2880 x 30/1000)	
Educational Contributions	Residential developments of 6 or more dwellings	Cost per dwelling = Pupil Yield x No. of year groups x Building Cost Multiplier	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, or one bedroom units. Rural exception sites will also be exempt.
Employment and Training	Commercial schemes with a gross floor area of 2500 sq m or more, both new developments (including extensions) and changes of use.	Each proposal will be assessed on its scale and impact	Employment/training schemes/programmes and/or facilities
Flood Risk and Air Quality	Any development where conditions are inadequate	Where flood risk assessment identifies mitigation measures are necessary	Flood/air quality assessments/mitigation measures/improvement schemes/infrastructure
Heritage and Archaeology	Where development conditions are inadequate	Assessed on a case by case basis	Mitigation measures/enhancement schemes
Landscape and Biodiversity	For any development which would adversely affect an identified Special Wildlife Site (SWS), Site of Importance for Nature Conservation (SINC), or an important ecological area or feature	Assessed on a case by case basis	Mitigation, compensatory measures/ enhancement schemes
Open space and sports facilities	Residential developments of 6 or more dwellings Commercial developments exceeding 1000 sq m / 1ha or more	The calculation for residential development will be based on the following information: <ul style="list-style-type: none"> • Average number of persons per dwelling – currently 2.32 from the 2001 Census • The NPFA standard for the provision of outdoor playing space of 28m² per person • The provision cost and maintenance per m² of outdoor open space The calculation for commercial development will be based on the following:	Provision of new/improved sport/recreation facilities and/or their maintenance either on site or elsewhere

		<ul style="list-style-type: none"> • The number of employees expected to be working in the proposed development • The NPFA standard for provision of outdoor open space less children's equipped play space • The provision cost and maintenance per m² of outdoor open space 	
Public Realm	<p>All developments of 10 or more dwellings Commercial/Retail Schemes incl extensions/changes of use over 200 square metres gross floor area; Retail and leisure uses (A3/A4/A5/D2) uses over 100 square metres gross floor area; For major developments (1000 sq m or above), developers will be expected to make direct improvements to the public realm to a standard satisfactory to the Council, in lieu of making contributions</p>	Based on the location, nature, scale and impact of the proposal. Assessed on a case by case basis	Contributions towards enhancement/improvement schemes/public safety/public art/infrastructure/equipment and/or maintenance, either on site or elsewhere
Community Safety	<p>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.</p>	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	Contributions towards enhancement/improvement schemes/public safety/public art/infrastructure/equipment and/or maintenance, either on site or elsewhere
Public Art	<p>All developments of 10 or more dwellings Commercial developments exceeding 1000 sq m</p>	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.	Contributions towards enhancement/improvement schemes/public safety/public art/infrastructure/equipment and/or maintenance, either on site or elsewhere
Waste Reduction and Recycling	<p>All developments of 10 or more dwellings On residential development of 50 or more dwellings the Council will normally require the provision of a local recycling facility</p>	<p>Contribution towards the cost of a local recycling facility if the proposed development is in a location where there is an existing deficiency</p> <p>Contributions towards</p>	

	The inclusion of a neighbourhood recycling centre may be justified in larger developments (i.e. more than 200 units)	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.	
--	--	---	--