

PLANNING OBLIGATIONS

SUPPLEMENTARY PLANNING DOCUMENT

SEPTEMBER 2007



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এই তথ্য অন্যান্য সংস্করণেও সরবরাহ করা যেতে পারে। আপনি যদি বড় হরফে ছাপা, টেপ-এ রেকর্ড করা অথবা বাংলা ভাষা: অনুবাদ করা কপি চান, তাহলে এই নম্বরে যোগাযোগ করবেন (টেলিফোন) 01582 547096..... (মিনিকম/টেক্সটফোন)

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یہ معلومات آپ کو دوسری صورتوں میں مہیا کی جاسکتی ہیں۔ اگر آپ کو اس کی کاپی بڑے حروف میں، یا آواز کی صورت میں کیسٹ پر آرڈوز بان میں درکار ہے، تو براہ کرم اس فون نمبر 01582 547096..... منی کوم/ٹیکسٹ فون پر رابطہ کریں۔

Chapter 1 Introduction

1.1 This document is intended to provide users of the planning service in Luton with an appropriate framework for assessing what planning obligations will be sought in conjunction with planning applications for development. It has been prepared in accordance with government advice on Supplementary Planning Documents (SPDs) and Planning Obligations Practice Guidance (July 2006) and complies with the Audit Commission's Section 106 Toolkit. This document, which was adopted in September 2007, will be a "material consideration" of significant weight (i.e. importance) in the determination of planning applications.

The Current System

1.2 The legislative framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990. Planning obligations are intended to make acceptable those developments that would otherwise be unacceptable in planning terms. The legislation permits local authorities and developers to make agreements over the use of land, including those which may require sums to be paid to the local authority.

1.3 Planning obligations can take the form of either unilateral undertakings, made by a developer, or agreements made jointly between local authorities and developers following negotiation in the context of granting planning permission. They provide a means to enable the proposed development to proceed and to meet the needs of the local community associated with the new development by securing infrastructure and services or developer contributions towards their provision.

1.4 Planning obligations are implemented by developers making cash or in-kind contributions towards a range of infrastructure and services including local roads, public transport schemes, public spaces, community facilities and affordable housing.

1.5 Current Government policy is set out in ODPM Circular 05/2005, "Planning Obligations" (which superseded its predecessor DOE Circular 1/97). It requires fair, open and reasonable negotiation of planning obligations, so that the obligations enhance the quality of development and enable proposals to go ahead which might otherwise be refused.

1.6 The Circular advises that the local authority should not seek a contribution through a planning obligation unless it is:

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

1.7 This policy in the Circular mentioned above has become known as the 'Necessity Test'.

1.8 However case law has allowed a broader interpretation of the type of developer contribution that can be secured. *Tesco Stores Ltd v. Secretary of State for the Environment* [1995] clarified that a failure to comply with the requirements of the then current Circular 1/97 would not invalidate a planning permission as a matter of law. Local planning authorities are thus not legally bound to apply the Secretary of State's policy, and so would not be acting unlawfully if they failed to apply the 'necessity test' in considering whether a planning obligation should be accepted.

1.9 It is important to point out that, whilst planning obligations can facilitate development that would otherwise be unacceptable, this is through overcoming the problems in order to make it

acceptable. It does not involve selling planning permission. Neither are planning obligations to be used purely as a means of securing a share in the profits of development for the local community (i.e. a betterment levy).

Need for a new system

1.10 Planning obligations can be used successfully to unlock development. However, the time taken in their negotiation can frustrate or delay development. There is a lack of clarity about what sort of contributions can be sought, because of the distinction between existing policy and case law, and contributions may not accurately reflect the true impact of development on services and infrastructure. These concerns have led to a consensus that the current system of using planning obligations to secure contributions, and the way it operates, needs to be changed.

1.11 The government now proposes a new approach to planning obligations. It intends that they should:

- a. help deliver high quality, sustainable development that provides social, economic and environmental benefits to the community as a whole;
- b. continue to provide affordable housing as well as the facilities and infrastructure needed to accommodate the demands of new development;
- c. help deliver the physical investment needed to secure high and stable economic growth and higher productivity;
- d. be more transparent to all stakeholders in the planning process so that all can see what contributions are being secured through planning obligations;
- e. provide an effective mechanism for delivering desirable development without causing delays;
- f. not impose financial burdens on developers which in themselves deter desirable development; and
- g. be sufficiently flexible to reflect the circumstances of individual proposed developments.

1.12 This document is intended to allow these aspirations to be realised. It is intended to facilitate a system which is fast, predictable, transparent and accountable.

Planning Policies

1.13 This document supplements the Luton Local Plan which was adopted in March 2006. The relevant policy to which this SPD relates is IMP1 which states that:

"In granting planning permission, the Borough Council will, in appropriate circumstances, seek to enter into legal agreements to secure:

- A. the provision, or the financial cost, of facilities made necessary by the implementation of the development; and
- B. an appropriate level of provision, or contribution, towards facilities for which there is either:
 - i. a recognised need in the Borough; or
 - ii. a recognised deficit in the locality."

1.14 The policy and supportive text features as Appendix 1 'Local Plan Policy and Text'. The explanatory text goes on to say (at para. 10.11) that: "the level of contributions required will depend on the size of the development and in the event of a cash sum being required this will be placed in

a fund controlled by the Borough Council for the provision of that service or facility. The payments will be subject to legal agreements whereby the money will be spent on improvements to meet the needs of the development as well as a method of reimbursement, with interest, should the money not be spent within a defined period following the completion of the development.”

1.15 The Plan incorporates two performance indicators relevant to planning obligations. These are to take 100% of the opportunities to secure actual, or financial provision towards, facilities both made necessary by development schemes and those for which there is a local or Borough need. This document is an integral part of the justification of what is made necessary by, and therefore what will be sought in association with, development. As such, it contributes towards the intended fast, predictable, transparent and accountable system.

Chapter 2 Application

2.1 The following sections of this guidance give an indication of the requirements likely to be sought. Each development proposal will be considered in relation to the general standards set out in this guidance, specific requirements and programmes set out in other policy documents such as the Local Plan, planning briefs and the Local Transport Plan 2.

Relevant Development

2.2 The guidance will normally apply to all developments comprising a net addition of 1 dwelling or more and to all commercial floor space comprising a net addition of more than 100sq.m.

2.3 All development is likely to impact upon the demand for, and consequent use of, a wide range of facilities and infrastructure. It is therefore considered to be right and proper for the developers to either provide or fund the provision of the facilities made necessary by the development. But what is sought by the Council must be both directly related to, and "... fairly and reasonably related in scale and kind to the proposed development".

2.4 The majority of developments by themselves may not warrant major investment in new infrastructure, services or facilities. For example, a development of ten houses in itself would be of insufficient size to require an extension to a primary school. However, a number of small developments are likely to have a cumulative impact on existing infrastructure, services and facilities and those bodies responsible for their provision will find it more cost effective to make a single improvement after a number of small developments have been developed.

2.5 To achieve this, the Council will endeavour to negotiate a contribution from all developments, which are likely to generate a need for a particular infrastructure, service or facility. The level of contributions will, in some instances, be based on standard charges for various facilities which is an approach recommended by government. The charges are derived from the anticipated overall cost of provision and, where appropriate, maintenance of facilities. This is done having regard to the actual impact, and therefore financial cost, of one individual unit of residential accommodation and/or unit of commercial floor space. The standard unit of charge is then increased in accordance with the scale of development.

2.6 These standard charges are set out in Appendix 2. It is, however, imperative that developers have regard to the remainder of this SPD which deals, in detail, with the contributions that will be sought in certain circumstances associated with larger developments. It is that which the Council will apply in considering development proposals and it may well be that the benefits sought in association with some schemes significantly outweigh those that might be expected solely on the basis of the standard charges. Should a developer attempt to avoid this, by submitting several lesser schemes, then the Council will deal with these as if it were one large scheme and seek the appropriate provision of facilities and/or financial contributions.

2.7 It will therefore be appropriate for developers to have regard to the likely level of contribution that will be sought, by the Council, in their negotiations with landowners for the purchase of a site for development.

2.8 Hence the financial contribution required will depend on the size of the development and, in the event of a cash sum being required, this will be placed in a fund controlled by the Division of the Borough Council responsible for the provision of that service or facility. The payments will be subject to legal agreements whereby the money will be spent on improvements to meet the needs generated by the development as well as a method of reimbursement, with interest, should the money not be spent within a defined period following the completion of the development. This will also apply in

the case of “pooled contributions” (which are contributions combined from more than one development which are then utilised to address the cumulative impact arising from a number of developments).

2.9 In some instances, such as the case of pooled contributions, there may be associated financial burdens placed upon the Council as a consequence of administration and monitoring requirements. Any such costs will be met from the monies attracted through Section 106 Agreements and will be limited to those which are necessary for the successful implementation of the relevant schemes.

Exceptions

2.10 It may not be possible to use this guidance in a manner which will enable applicants and developers to accurately determine the benefits that will be sought in each case. That is because of the variety of factors that could impact upon what it is desirable, and feasible, to provide, depending upon the prevailing circumstances. Relevant factors may include:

- the scale of development proposed;
- the need for additional and/or improved facilities in the immediate area of the site, as distinct from in the Borough as a whole;
- whether there are any practical problems to be overcome (e.g. decontamination/demolition/infrastructure provision) before the site can be developed.

2.11 Hence the Council will endeavour to provide design/development briefs for sites where the nature and/or scale of the benefits sought might have a bearing upon the nature and/or scale of the development proposed.

2.12 It will be beneficial for applicants/developers to contact Planning Officers at an early stage in the process. This is so that they can be made aware of the Council's aspirations and intentions for particular schemes. It is, however, acknowledged that in some instances this will be a starting point for discussion and negotiation. This situation might arise if it can be demonstrated that there are sound and justifiable reasons as to why the benefits sought by the Council cannot be achieved.

2.13 In some instances prospective developers may claim that the economics associated with their proposal are such that they cannot provide the requirements sought by the Council. This may well mean that planning permission must be refused if the development is unacceptable in terms of its impact both on the site and the surrounding area. However, it may be that the benefits associated with the development (e.g. providing a much-needed facility or the redevelopment of a site which might otherwise be redundant in the long term) are such that it is appropriate to enable it to progress without all of the benefits. The exact circumstances as to when this may apply and what will, or will not, be an essential pre-requisite to the development going ahead will depend on the circumstances of each particular case. It will be a matter of fact and degree, in each instance.

2.14 Any relevant factors will be regarded as "material considerations" in the determination of the particular planning application. Whether or not sufficient importance, and therefore weight, can be attributed to them to warrant making an exception to planning policy and granting planning permission accordingly, will be a matter for the Council to determine at the time. In reaching its decision, the Council will have regard to both the requirements and the aspirations of service providers across the Council as well as those of other agencies. This may result in benefits having to be prioritised. However, what the priority is will be dependant upon the nature, scale and location of the particular developments proposed.

2.15 If the Council is to accede to a developer not providing some associated benefit which is generated by a development then this would only be subject to the developer providing comprehensive and convincing proof that to do so is not viable. The Council will require this to be demonstrated by

the developer funding an assessment of the finances of the scheme by an independent body that is mutually acceptable to both the developers and the Council. It would involve the independent body having full and unlimited access to the anticipated financing of the project and making its analysis available to both parties.

Guarantees

2.16 Any financial contributions that are required as part of a development proposal will normally be required to be paid prior to the commencement of development or on a date specified in the legal agreement. However, there may be occasions, for example, where the contribution is to be placed in a fund awaiting expenditure on works at a future date, when the landowner agrees to pay the contributions to the relevant authority when the works are to be implemented. In this event, the landowner will also be required to enter into a bond with a bank or insurance company in order to prevent any default in payment through bankruptcy, liquidation or refusal to pay. In these cases the agreement would include a stop-date, of for example 5-10 years depending on the nature of the contribution, after which both the landowner's liability and the bond ceases should the works not be implemented.

2.17 It is critical that all of the legal agreements requiring contributions are clear and transparent to all parties. It is important that both the type and amount of contribution required, whether material or financial, and the time at which it is to be paid is clearly and unambiguously stated. For example, a contribution may be required, 'one year following the commencement of the development', 'prior to the occupation of the x dwelling' or 'no more than y properties shall be occupied until....'. In respect of financial contributions the Council will endeavour to include actual sums of money (index-linked, from the base date of April 2006, appropriate to the subject matter) rather than, for example, referring to the 'market value' of a particular site at a given time which could be capable of different interpretations and definitions.

2.18 Any legal agreements requiring developer contributions will be enforceable against any future freehold or leasehold owners of the land who may derive the title from the person who originally entered into the agreement. This would include subsequent freehold or leasehold owners of any property developed on a site. Agreements will also usually exclude the right of third parties to enforce via the Contracts (Rights of Third Parties) Act 1999.

Services/Facilities

2.19 This guidance provides advice on making contributions to the following services and facilities:

- Affordable housing;
- Transport facilities;
- Open space and play facilities;
- Education
- Libraries;
- Museums;
- Economic development;
- Public art;
- Preparing and completing planning obligations agreements.

2.20 Each of these is dealt with in turn below. Requirements in relation to these areas of provision not covered in this SPD will be negotiated separately on individual schemes.

2.21 The Council recommends developers to refer, in the first instance, to a model Section 106 Agreement prepared by the Law Society's Planning and Environmental Law Committee for use by all parties involved in the planning obligations process. It is available on the website of Communities and Local Government and is intended to be a 'living' document that reflects latest good practice. Revised versions will therefore be published from time to time to reflect any such changes.

2.22 The agreement should not be seen to imply that planning obligations should cover the full range of types of obligations set out in it. It should be seen as a template from which the Council and developers can select relevant sections to comply with policy, the circumstances of the application and the requirements of this SPD.

2.23 This document may subsequently be formally revised, following further consultation, to take account of any future strategies or expenditure programmes which the Council may adopt to which it may be reasonable for developers to contribute. These may include:-

- local standards of open space provision
- environmental improvement/enhancement works
- community infrastructure (including sports facilities)
- environmental sustainability schemes
- community safety initiatives
- Public Arts Strategy
- Luton & South Bedfordshire Green Space Strategy
- Luton Play Strategy
- subsidised bus services
- Rights of Way Improvement Plan

Chapter 3 Affordable Housing

Introduction

3.1 The Luton Local Plan defines affordable housing as “...housing that will be available to people who cannot afford to rent or buy houses generally available on the open market”. The Council seeks to ensure that 50% (as an indicative target) of the proposed new units in all residential developments of 15 dwellings units or more (or 0.5ha and above) are affordable housing. It can include refurbished buildings as well as new build properties. Affordable housing is required on all such sites proposed for housing development irrespective of whether they are allocated in the Local Plan or come forward through planning applications on other land. In instances where the Council suspects that developers are sub-dividing or phasing development schemes in an attempt to try and avoid providing affordable housing in accordance with the Council’s policy, then the full requirement will be applied to the whole site or, where part has already been developed, to the remainder. Applications for the renewal of expired permission will be considered in the context of planning policies, guidance and circumstances prevailing at the time of renewal.

3.2 Affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. This is the definition in PPS3 ‘Housing’, issued in November 2006, and which now no longer includes low cost market housing. It does not exclude any particular form of tenure, but can include properties for rental or sale or for occupation on a shared-ownership basis. The Housing Requirements Study identified a need for a variety of types of affordable housing to meet the needs of those households unable to afford market housing available in the Borough. The Council will seek to provide the following forms of tenure in accordance with Circular 6/98:

- **Social Housing for rent** - normally housing which is managed by a Registered Social Landlord (RSLs), where rent levels are determined by a Government formula, which takes account of the capital value of the property, property size/type and average wages in the area.
- **Low cost or discounted housing for sale** - at a price affordable to local people unable to obtain housing in the open market. Generally, a discount will be agreed on the market value of the property, which will be held in perpetuity through a covenant, which subsequent owners of the property will gain benefit from.
- **Shared Ownership** - between 40% and 75% shares with the shared owner paying an affordable rent on the remainder. A minimum equity share of 25% is required in order to ensure that the units are affordable.
- **Homebuy** - A government backed scheme, which is funded and supervised by the Housing Corporation. Those who qualify for the scheme contribute 75% of the purchase price of a home through a mortgage and/or personal savings. The Registered Social Landlord, who administers the scheme locally, lends the remaining 25% of the value of the home through an interest free loan with no monthly repayments. The loan is repaid when the property is sold; the amount to be paid is 25% of the sale value of the property.
- **Shared Equity** - The occupier owns a percentage of the property of “equity share” (typically around 70%) and the remainder is owned by a third party, (RSL, developer, landowner, employer or their agent). No rent is charged on the outstanding equity.
- **Sub Market or Intermediate Rented Housing** - property that is available for rent at a cost, which is below that normally, charged by private landlords for comparable property. Sub market renting could be managed by a Registered Social Landlord or a Lettings agent.

3.3 The provision of affordable housing will be based on the Luton Housing Requirements Study 2004/5, commissioned by the Council or any subsequent Council housing requirements/needs study

that updates this. The 2004/5 study indicates that, to meet the identified needs of Luton (addressing the backlog over 15 years), there is an annual need for 934 units of which 38% should be social rented homes and a further 10% should be "intermediate" housing. The total requirement is therefore for almost 50% of all new housing provided to be "affordable". This is reflected in Local Plan Policy H5 which seeks 50% affordable housing on larger sites as outlined above. Given the identified level of need for social rented homes, the Council will normally require at least 80% of the affordable housing on each site where it is provided to be for social rent. This will be sought unless the Council is presented with what it considers to be clear and convincing reasons which might warrant an exception (see paras. 2.10-2.15 above).

3.4 In addition the Housing Requirements Study also provides clarity on the sizes of affordable units that should be provided to meet need and these are shown in percentage terms in Table 1 below:

Table 1 Size Requirements of Affordable Housing

| Property Size | Affordable % (of which 79% is social rented and 21% other forms of affordable housing) |
|---------------|--|
| 1 bed | 11 |
| 2 bed | 38 |
| 3 bed | 39 |
| 4/5 bed + | 12 |

3.5 The Council will specify the size and type of affordable housing that is likely to be needed in particular locations and, where appropriate, on specific sites, in accordance with PPS3.

3.6 The following examples offer further clarity on the Council's expectations although the extent to which this provision of dwellings of particular sizes is achieved will be influenced by the scale and location of the development in question.

Example 1

A site producing 200 units

Of these 100 will be affordable

Of these 79 will be social rented

Of these 30 will have three bedrooms and 9 will have 1 bedroom

Example 2

A site producing 30 units

Of these 15 will be affordable

Of these 12 will be social rent

Of these 3 would be 4/5+ bedrooms and 9 will have two bedrooms

Example 3

A site producing 150 units

Of these 75 will be affordable

Of these 16 will be 'other' affordable

Of these 2 will have 1 bedroom and 6 will have two bedrooms

3.7 The above examples assume an even spread of provision across all forms of affordable housing but it is likely however that the majority of the 'other' affordable will be provided as 1 or 2 bedroom units and it may be assumed that most three bedroom and all 4/5+ bed units will be produced as social rent. This means that the provision of social rented units in the 3 and 4/5+ as shown in the first two examples above must be seen as a minimum.

3.8 Affordable housing does not exclude any particular form of tenure, but can include properties for rental or sale or for occupation on a shared-ownership basis. Given the identified level of need for social rented homes, the Council will normally require at least 80% of the affordable housing on each site where it is provided to be for social rent. This will be sought unless the Council is presented with what it considers to be clear and convincing reasons which might warrant an exception (see paras. 2.10 - 2.15).

3.9 Applicants should also be aware that the provision of affordable housing is in addition to, and not instead of, any other requirements that may result from the proposed development. In some cases, developments will attract contributions towards other facilities (e.g. transport, education and open space). It is acknowledged that this may cause strain on the viability of a development. Where this occurs, the Council will ask the developer to provide relevant financial information, on a strictly confidential basis, to a mutually agreed independent third party with relevant expertise to facilitate a financial appraisal. The appraisal will be funded by the developer and made available to the Council. The Council will then determine what it considers to be reasonable to facilitate some form of acceptable development going ahead but with little or no adverse impact and an appropriate amount of affordable housing.

3.10 The Council's top priority is for on-site provision of affordable housing, wherever possible. The second option is provision off-site (if both the Council and the developer agree that it is more expedient) and the third is the provision of a commuted sum (though this will only be acceptable in exceptional circumstances and as a last resort). Any such monies will be used to provide or support affordable housing provision elsewhere in Luton.

3.11 There will be instances where the Council's preferred housing mix is not appropriate on a site for physical, economic or social reasons resulting from its particular characteristics or location. In such circumstances the Council will seek the optimum practical solution to the development of that site with regard to the provision of affordable housing. This may comprise alternative forms of tenure and size requirements of properties (in terms of numbers of bedrooms) as an exception to the findings of the Housing Requirements Study (see Table 1 above). However, if a preponderance of properties of a particular size or tenure results as a consequence, consideration will be given to redressing the balance elsewhere across the Borough to achieve the overall target. In so doing, the Council will seek to ensure that the developer is not disadvantaged either financially (from what would have been sought to meet the requirements in Table 1) or in terms of the design and functionality of the development.

Form of Development

3.12 Development densities should normally comply with the levels laid down in the local plan (i.e. a net minimum density of 40 dwellings per hectare and 50 per hectare in the central area and in areas with good accessibility by modes of transport other than the private car (Policy H3)). Circumstances which might warrant an exception to this are where this would have a significant adverse impact on the surrounding area or where development at lower densities is required to facilitate the identified local housing needs (as set out in the policy).

3.13 Affordable housing should not be visually distinguishable from the market housing on the site in terms of build quality, materials, details, levels of amenity space and privacy. It should be fully integrated with the market housing and distributed evenly across the site or, in the case of flats, in small clusters distributed evenly throughout the development.

3.14 The size of units and the mix of affordable dwellings will depend on the needs identified at the time and place the scheme is expected to come forward having regard to the then current housing requirement survey. Providers of specialist market housing (for example, sheltered housing for the elderly) will be expected to provide affordable units. The details of the size and type of the affordable housing scheme will be included either in conditions attached to the planning permission, in legal agreements between the landowner/developer and Council or in unilateral undertakings by the developer. Even where the obligation to provide affordable housing is imposed by a condition, the detailed scheme for that provision may be required, subject to legal advice, to include section 106 obligations to provide a satisfactory level of enforceability. Where the delivery of affordable housing involves the use of Housing Corporation Social Housing Grants (SHG), the Council will require that the housing so provided conforms to the Housing Corporation's Scheme Development Standard and that it meets or exceeds the Corporation's current Design and Quality Standards. The Housing Corporation's latest standards are on its website (and the regional offices can provide further clarification).

Delivery of Affordable Housing

3.15 The development of a site may be required to be phased in order to ensure that the affordable housing is built and not left unimplemented. There may also be a limit imposed upon the number of market houses that can be built before the first affordable house is produced. Thresholds will be established regulating when the first and last affordable house will be produced on a site. There should be no outward difference in the style of units or layouts between affordable and market units. The floorspace of affordable units should at least be equal to that of market houses house type for house type and must meet or exceed the current Housing Corporation Scheme Development Standards

3.16 Affordable housing can be provided by housing associations or other landlords or by housing developers who build market housing. Usually the landlords are registered with, and obtain grants

from, the Housing Corporation. These are known as Registered Social Landlords (RSLs) and can take several forms (e.g. housing association, housing trust). None are profit-making and reinvest any surplus money in maintenance or the development of new affordable housing. RSLs have been developed specifically to manage affordable housing under the auspices of the Housing Corporation and are a means of ensuring that the housing is available to households in housing need. The Council has established partnerships with a number of RSLs to progress the delivery of affordable housing in the Borough.

3.17 Where the developer of any social rented housing is not an RSL, the dwellings, when completed, shall be transferred to an RSL who will hold and manage them in perpetuity (i.e. indefinitely). Therefore, developers are urged to engage with an RSL as early as possible when a potentially relevant development is contemplated in order not to delay the process unduly. Details of RSLs operating in Luton can be obtained from the Housing Development & Enabling Officer.

3.18 Where low cost market housing is provided, a significant discount should be offered such that the housing is "affordable" by those in housing need and the housing should remain low cost to subsequent occupiers indefinitely. It should be discounted having regard to income levels identified in the Council's Housing Requirements Study 2004-05 (p. 26-28), Land charges will be used to retain the discount over time and these will be initialised through Section 106 agreements. Alternatively an RSL could manage the properties.

3.19 One possible method of delivering affordable housing is for the developer to make fully-serviced plots available to a RSL at nil or nominal cost and free of all further financial or other encumbrances. In some cases it may be appropriate for a developer to offer to build all the affordable units within a scheme to Housing Corporation specifications and housing costs. These would then be sold to the RSL at build cost only (i.e. net of land, infrastructure and other costs). The design of the scheme will need to accord with the Housing Corporation's Scheme Development Standards as well as the Council's planning requirements.

3.20 Because developer subsidy figures and Housing Corporation grant figures will change from site to site, it is not considered helpful to include detailed worked examples. However, the Council will be happy to provide an illustration upon request by contacting the its Development & Enabling Manager for further information.

Off-Site Provision

3.21 If a site is suitable for housing development within the terms of the Local Plan, it is most unlikely that there will be circumstances in which the alternative of off-site provision of affordable housing will be appropriate. Therefore, such cases are likely to be quite exceptional and, by their nature, it is impossible to provide an exhaustive list of such exceptional circumstances in this guidance note.

3.22 Nevertheless possible examples of such circumstances may include cases where physical constraints on the site and/or its surroundings (such as the topography or the presence of protected trees) result in such low development densities that the size of gardens and/or the management costs render the development or maintenance of affordable housing uneconomical on the site.

3.23 In the case of off-site affordable housing in lieu of on-site provision, the developers will need to:

- find suitable alternative land or property to purchase in the locality; and
- prepare and submit schemes for approval with the correct number of houses within budget; and

- ensure any scheme fits in with their own and the Council's annual capital programmes; and
- complete their purchase of alternative sites or properties.

3.24 This should be done following consultation with the Council's Development & Enabling Manager and will normally involve an RSL to ensure Housing Corporation scheme development standards can and will be met.

3.25 Whilst proposals for provision in kind of land or property giving rise to a requirement for affordable housing will be considered, such provision will only be acceptable where it would be equal to or better than that which would have been provided on-site. Where off-site provision is to be made instead of houses on site, this will be based on the total number of dwellings receiving planning permission on both proposed sites.

3.26 If a developer considers that there are sound planning grounds for preferring off-site provision, then the developer should write to the Council at the earliest possible opportunity (preferably before a planning application is lodged) with the following information:

1. brief details of the proposed development in question, including the anticipated development timetable;
2. a detailed explanation of why the off-site provision is considered more appropriate (having regard to the advice elsewhere in this document) in this particular case;
3. details of an alternative site, in the ownership or control of the developer which;
 - either benefits from an extant planning permission or is acceptable for development in terms of the Local Plan's policies; and
 - the developer proposes to make available at an earlier date as an alternative site for the required affordable housing.
4. details of the alternative proposed (e.g. a cash contribution to be secured by way of a Section 106 Agreement equivalent to the cost of providing a specified number of homes off-site);

Financial Contributions

3.27 Where a financial contribution in lieu of actual on-site provision of affordable housing is appropriate, the contribution will be calculated on the basis that it should be equivalent to the developer subsidy required for the affordable housing on-site (based on income levels and market prices) plus any public subsidy where appropriate adjusted, as necessary, by the parity rule set out above. Before any calculation can be properly made using this formula, it will be necessary to agree a theoretical house type mix. This will be proposed by the Council with reference to current information on housing needs.

3.28 The necessary legal agreement will require the first stage of any financial contribution-in-lieu to be made prior to the commencement of development. This will help the Council to maintain a stable social housing enablement programme. In order to protect the value of financial contributions from erosion by inflation, the legal agreement securing such contributions will provide for these to be based upon the figures applicable in the financial year in which the payment is actually made. Subsequent stages may be phased through the development of the scheme with the final one payable before completion of the private accommodation.

3.29 In the exceptional circumstances which warrant the payment of a financial contribution in lieu of housing, the Section 106 Agreements will allow monies to be applied to social housing projects elsewhere in Luton, or returned (together with accrued interest) if not used within 10 years of the date of payment. The repayment period will run from the completion of the last market dwelling.

Chapter 4 Transport Facilities

Introduction

4.1 All new developments and some changes of use and extensions have direct and indirect impacts for the transport systems in Luton and should therefore contribute towards mitigation of the negative impacts and the provision of integrated and public transport. The movement of people and/or goods resulting from new developments have impacts to a greater or lesser degree on the transport infrastructure in terms of traffic movements and the need for people to gain access and egress. Developments should make provision for necessary improvements to the transport infrastructure arising directly from their use. Reduced car parking provision that enables higher density development means that it is essential that such developments make appropriate provision for upgrading systems of non-car transport to enable residents and workers appropriate levels of accessibility.

4.2 This is particularly the case in Luton Town Centre which, for the purposes of this document, is defined by the Central Area Inset Map shown on the Proposals Map forming part of the Luton Local Plan.

4.3 In addition, new development has impacts on wider transport systems. In the future, efficient movement in and around the Borough and elsewhere will necessarily depend on the development of more integrated transport systems. Passenger and freight movements generated by the new development add significantly to the need to improve and develop transport systems and should therefore contribute towards the improvement and development of such systems. The proposed Luton and Dunstable Guided Busway is a prime example of such a system necessary to address such impacts.

Policy Context

4.4 Planning Policy Guidance Note (PPG) 13 - Transport states that planning obligations may be used to achieve improvements to public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved, either on their own or as part of a package of measures. Examples might include improvements to a bus service or cycle route, which goes near to the site, or pedestrian improvements, which make it easier and safer to walk to and from the site. Where development can only take place with improvements to public transport services, a contribution from the developer would be appropriate. It may also be appropriate to negotiate for contributions towards the provision of a park and ride scheme, where this will improve accessibility to the site by public transport, or towards the costs of introducing on-street parking controls in the vicinity of the site.

4.5 The transportation objective of the Luton Local Plan is to promote public transport, cycling and walking in Luton to reduce the need to travel by car, thereby reducing congestion and motorised transport's contribution to greenhouse gases. Policy T2 of the Luton Local Plan specifies that proposals for development with potential to have significant transport implications will not be permitted unless it can be demonstrated that either:

- the site is served by public transport with sufficient capacity to meet the potential demand generated by the proposed development; or
- public transport will be provided to meet the anticipated demand generated by the development.

4.6 Developers will be required to submit Transport Assessments and Travel Plans with such applications (see Local Plan Appendices 6 and 7 respectively). Where necessary, the Council will

make Travel Plans binding either through conditions attached to a planning permission or through a related planning obligation.

4.7 The Luton Local Plan contains a number of proposals which require specific improvements to transport infrastructure, ranging from new roads to enhanced pedestrian routes, and it is envisaged that developer funding will be sought for many of them. In particular, the Council will seek planning obligations to secure private sector contributions to the Luton and Dunstable guided bus scheme's infrastructure in cases where development proposals are likely to generate additional use of the system. It will also seek obligations where it is necessary in order to overcome a public transport deficiency which would otherwise lead to a refusal of planning permission. The Council will also seek planning obligations to secure the relocation of the Bus Station and refurbishment of Luton Railway Station to facilitate the implementation of Policy CA6 in the Local Plan.

4.8 The Council will seek contributions from developers to facilitate access by public transport through infrastructure and/or service enhancements appropriate to the location and nature of the proposed development. It may also seek contributions to the implementation or enhancement of strategic footpath or cycling networks and, in respect of employment-generating development proposals, for the provision of showers and changing facilities for cyclists. These policies are reiterated in the Second Local Transport Plan (LTP2), and more detailed modal strategies on cycling, walking and buses.

Site-Specific Localised Impacts

4.9 Developments will be required to provide on-site access and estate roads and to provide or contribute towards off-site improvements, such as junction improvements made necessary by the level of movement anticipated from that development or providing links to the local pedestrian/cycle system. Such developments will also be expected to provide footways, cycleways, lighting, bus stops, contributions to public transport services, etc., within the development and to provide infrastructure such as footpaths, cycleways and public transport infrastructure and services to ensure at least a minimum level of accessibility by different modes from their sites to local services and facilities.

4.10 Developers of employment uses and other traffic-generating schemes will also be expected to enter into agreements to prepare and to operate in accordance with agreed travel plans that aim to reduce travel and car use and promote non car modes of transport for access to any development. In this respect, floorspace trigger levels will be applied and these are shown in Table 2 below:

Table 2 Development Schemes Warranting Travel Plans

| Use Class and Development Type | Size thresholds (Gross Floor Area) |
|---|--|
| A1 Retail all types | >1,000 sq.m. |
| A2 Financial and professional services | >1,000 sq.m. |
| A3 to A5 Food and Drink | >1,000 sq.m. |
| B1 Business all types | >2,500 sq.m. |
| B2 Industry | >5,000 sq.m. |
| B8 Storage and Distribution | >10,000 sq.m. |
| C1 Hotels and Hostels | >1,000 sq.m. |
| D1 Non-residential institutions (including Hospitals, Higher and Further Education) | >2,500 sq.m. |
| D2 Assembly and leisure | >1,000 sq.m. or 1,500 seats for stadia |
| Sui Generis | >1,000 sq.m. |

4.11 A Travel Plan may also be sought below these thresholds if:

- The locality has been identified for traffic reduction or sustainable transport promotion;
- A proposal would result in a particular local problem that can be overcome by a Travel Plan
- The proposal is one which, cumulatively with others in a locality, would be a major travel generator
- A proposal is in close proximity to a development or developments with an existing travel plan and can be integrated with it (e.g. by payment of pro-rata contributions)

Wider Transport Impacts

4.12 In addition, all developments will be expected to contribute to wider and strategic transport improvements, particularly in relation to roads, public transport, safety, accessibility and facilities for cycling and pedestrians. Such improvements are set out in LTP2 and Annual Progress Reports on the Plan. New development should contribute towards transport works serving the wider area. A large proportion of the works under LTP2 will only go ahead, thus facilitating the levels of development anticipated, if funding is forthcoming from all new development.

4.13 The level of movement associated with new development, and consequently the amount of contribution that should be sought, can vary according to location. Residential properties in the town centre, particularly where car-parking provision is low, are highly accessible locations for walking and cycling. Residents of developments in such locations can access a wide range of services and facilities including employment, with minimal amounts of travel. However, in order to ensure a high level of access both within and around the town centre, transport facilities continue to need to be dramatically improved. Residents of the town centre may work outside the centre or need to have access to facilities outside the centre, in which case they add to the need to provide transport improvements and developers should make an appropriate contribution. Such residents will also benefit enormously from programmed and planned improvements to transport systems serving the Luton area in the future.

4.14 Similarly, employment located in the town centre is highly accessible and this is undoubtedly the most sustainable location for such development. Town centre accessibility does, however, need to be improved both for journeys within the town centre and journeys to and from it. For Luton, high levels of investment will be required for improving town centre accessibility in terms of capacity, quality, convenience, etc. Works providing better facilities for walking and cycling, improving bus links, major improvement works around Luton Railway Station, completion of the inner ring road and the Luton-Dunstable busway will greatly improve town centre accessibility.

Contributions

4.15 Projected shortfalls in the Government's spending allocations that would be necessary to fund schemes that would enable the stated objectives of LTP2 to be met approximate to £ 27.25 million (M) over the plan period (see Table 3 below). This equates to approximately £5.4 million (M) per annum. The types of schemes that would be funded by this sum are sustainable including environmental improvement schemes and improved bus services and facilities (including "real time" passenger information and " the Luton-Dunstable busway"). Hence it is necessary to secure this sum from developers to assist with the delivery of an integrated, and sustainable, transport system by 2011. All non-householder developments will be required to make the appropriate contributions on the basis of the number of trips likely to be generated by the development.

Table 3 Derivation of Identified Shortfalls in LTP2

| Main Areas of Work: Integrated Transport | Indicative LTP 2006-2011 (£ thousands) | Additional funding required 2006-2011 (£ thousands) | Difference 2006-2011 (£ thousands) |
|--|--|---|---------------------------------------|
| Congestion (Traffic Management Act) | 1,000 | 5,000 | -4,000 |
| Bus route improvements | 2,000 | 7,500 | -5,500 |
| Intelligent Transport Systems (UTMC) | 1,000 | 5,000 | -4,000 |
| Traffic Signal Modernisation | 1,000 | 3,500 | -2,500 |
| Area Studies | 2,500 | 9,500 | -7,000 |
| Strategy implementation; accessibility, freight, walking, cycling, bus | 2,000 | 5,000 | -3,000 |
| Parking; review of CPZ and residents parking | 750 | 2,000 | -1,250 |

4.16 The first column shows the main areas of work carried out using LTP Integrated Transport funding. The second column shows the amount that is likely to be allocated to each area over the life of the current LTP (2006-2011) and the third column the level of funding necessary to fully meet our aims within the life of the current plan. Therefore, it is necessary to seek a contribution of some £27.25m from developers to make up the difference and enable the timely delivery of an integrated and sustainable transport system by 2011.

Chapter 4. Transport Facilities

4.17 The TRICS database published by JMP consulting on behalf of the TRICS consortium provides estimates of trips generated by different uses. Using these estimates, development impacts on the transport system can be apportioned and a contribution per trip towards the annual figure for expenditure calculated. In order to give a balanced approach, trip generation estimates have been limited to Monday to Friday only when transportation and transport systems are under most stress. Daily trip rates estimates are as set out in Table 4 below.

Table 4 Daily Trip Rates Estimates

| Development type | Average Daily No. of Trips (rounded up/down) |
|---|---|
| Residential - Private Housing per house | 8 |
| Residential - Private Flats per flat | 3 |
| Residential - Rented Housing per house | 5 |
| Residential - Rented Flats per flat | 2 |
| Residential - Care homes/Sheltered housing per bedroom/unit | 1 |
| Office Employment per 100 sq.m. gfa | 16 |
| Light Industry - Class B1 per 100 sq.m. gfa | 7 |
| General Industry - Class B8 per 100 sq.m. gfa | 6 |
| Storage and Distribution - Class B8 per 10 sq.m. gfa | 5 |
| Leisure per 100 sq.m. gfa | 51 |
| Retail (non-food) per 100 sq.m. gfa | 33 |
| Retail (non-food superstore/retail park) per 100 sq.m. gfa | 39 |
| Retail (food) per 100 sq.m. gfa | 105 |
| Retail (food superstore) per 100 sq.m. gfa | 177 |
| Hotel per bed | 5 |
| Pubs and Restaurants per 100 sq.m. gfa | 85 |
| Fast Food per 100 sq.m. | 243 |
| Fast Food Drive-Thrus per 100 sq.m. gfa | 450 |

4.18 New development is the primary source of this funding to implement the programme of works covering the period 2006-2011. The main sources of development funding towards transport will come from housing and employment developments although retail and other commercial developments will also contribute at a level commensurate with the level of movements generated by such development. There are, however, only limited amounts of such development in any year.

Table 5 Average Annual Development Levels

| Development Type | Daily Trip Rate | Units/sq.m. | Total Daily Trips |
|---|-----------------|-------------|-------------------|
| Private housing per dwelling | 8.00 | 205 | 1640 |
| Private flats per flat | 3.00 | 170 | 510 |
| Rented housing per dwelling | 5.00 | 85 | 425 |
| Rented flats per flat | 2.00 | 48 | 96 |
| Care homes per bedroom | 1.00 | 0 | 0 |
| Offices per sq metre | 0.16 | 31535 | 5046 |
| Light industry per sq metre | 0.07 | 0 | 0 |
| General industry per sq metre | 0.06 | 12636 | 758 |
| Warehousing per sq metre | 0.05 | 9526 | 476 |
| Leisure per sq metre | 0.51 | 1941 | 990 |
| Retail non food per sq metre | 0.33 | 9550 | 3152 |
| Retail non food superstore/retail park per sq metre | 0.39 | 0 | 0 |
| Retail food per sq metre | 1.05 | 8547 | 8974 |
| Retail food superstore per sq metre | 1.77 | 0 | 0 |
| Hotel per bedroom | 5.00 | 193 | 965 |
| Pubs/restaurants per sq metre | 0.85 | 0 | 0 |
| Fast food per sq metre | 2.43 | 0 | 0 |
| Fast food drive thrus per sq metre | 4.50 | 0 | 0 |
| | | | 23032 |

4.19 The amount and types of development used in the determination of the contributions sought is set out in Table 5 above. It is derived from the number of units of residential accommodation that were completed in 2004/5 and an approximation of the amounts of different types of floorspace that were granted planning permission during 2004/5. This was applied to the estimated daily trip rates

Chapter 4. Transport Facilities

derived from TRICS (in Table 4 above) to provide an estimate of the total number of additional trips generated as a consequence of anticipated new development in Luton in one year. For the purposes of calculating the levels of contribution, it will be assumed that this level of trip generation will continue, on an annual basis, throughout the plan period.

4.20 Given the expected level of development set out in Table 4, and the estimated level of trip generation based on the above, the cumulative impact will amount to 23,032 daily trips. Therefore, in order to raise £5.4M per year towards the LTP programme, Section 106 agreements would require £ 234 per daily unit trip. The resulting rounded contribution level for various forms of development is set out in Table 6 below. For the avoidance of doubt, contributions will be required for all development resulting in net increases in trips, including change of use.

Table 6 Trip Cost Calculator

| Development Type | Contribution (£) |
|---|------------------|
| Private housing per dwelling | 1872 |
| Private flats per flat | 702 |
| Rented housing per dwelling | 1170 |
| Rented flats per flat | 468 |
| Care homes per bedroom | 234 |
| Offices per sq metre | 37 |
| Light industry per sq metre | 16 |
| General industry per sq metre | 14 |
| Warehousing per sq metre | 12 |
| Leisure per sq metre | 119 |
| Retail non food per sq metre | 77 |
| Retail non food superstore/retail park per sq metre | 91 |
| Retail food per sq metre | 246 |
| Retail food superstore per sq metre | 414 |
| Hotel per bedroom | 1170 |
| Pubs/restaurants per sq metre | 199 |
| Fast food per sq metre | 569 |
| Fast food drive thrus per sq metre | 1053 |

Chapter 5 Open Space and Play Facilities

5.1 The Council is seeking to provide an adequate and appropriate level of open space and play space across the Borough by applying the National Playing Fields Association (NPFA) six acre standard. These standards, set out in Appendix 2 of the Local Plan, comprise a total outdoor playing space allocation of 2.43 ha. per 1000 population to be made up of:-

- a. formal playing space for sports of 1.6 - 1.8 ha. per 1000 population; and
- b. children’s playing space comprising 0.2 - 0.3 ha. per 1000 population for equipped playgrounds and 0.4 - 0.5 ha. per 1000 population of casual play space.

5.2 As set out in Section 5 ‘Public Playing Space’ of Appendix 2 of the Local Plan, the Council will also seek the provision of:-

- Neighbourhood Equipped Areas for Play;
- Local Equipped Areas for Play; and
- Local Areas for Play

5.3 In addition to this, the Council will also seek to implement its adopted standard of 0.2 ha. of allotments per 1000 population.

Resolving Existing Deficiencies

5.4 There is differential deficiency in public open space provision across Luton. A survey conducted by consultants in 2003 identified the main deficiencies of open space as being in the following areas:

| Area Description | Ward |
|--|------------------------|
| Grampian Way area | Sundon |
| Pirton Hill area | Leagrave |
| Beechwood school area | Leagrave |
| Wordsworth Road area | Lewsey |
| South of Luton and Dunstable Hospital | Challney |
| Biscot Road area | Biscot |
| Between Dunstable Road and Leagrave Road | Biscot/Saints/Challney |
| Dallow Road/Kent Road | Dallow |
| Turnpike Drive area | Bramingham |
| Old Bedford Road/Ringwood Road | Icknield |
| Bushmead Road area | Bushmead |
| Round Green/Birchen Road area | Round Green |
| Bloomfield Avenue area | Round Green |

| Area Description | Ward |
|---------------------------------|-----------|
| Putteridge/Wood Green Road area | Stopsley |
| Lyneham Road area | Crawley |
| Whipperley Ring area | Farley |
| Castle Street area | Park Town |

5.5 Depending on the type, location and scale of development proposed the Council may also seek, in addition to the facilities listed in paras. 5.1 and 5.2:-

1. an amount of public open space to be provided, properly laid out, landscaped (as appropriate), successfully established and maintained. (NB This may be required irrespective of the type of development proposed if there is a particular need for open space in the locality and the proposal offers the scope to facilitate functional open space); and
2. a financial contribution to the maintenance of open space, based upon the numbers of visitors likely to be generated by the development, unless this is considered to be adequately covered by (1) above.

5.6 The Council will therefore seek, where it is feasible and appropriate to do so, the provision of open space, landscaping and associated facilities, to both address the existing deficiencies identified and cater for increased local needs as a consequence of new development. Given the current shortages, the provision of outdoor playing space to meet the NPFA minimum standard will not, in isolation, resolve the open space deficiencies identified. It does however provide a means by which to reduce the compounding of an existing deficiency in outdoor playing space.

5.7 In circumstances where the Council's requirements for open space provision cannot be fully met, the developer will be required to either:-

1. make provision elsewhere in the vicinity of the site for an adequate properly laid-out area of open space that is readily and safely accessible; or
2. make a financial contribution towards the improvement of public open space in the vicinity; the level of contribution being the cost of whatever reasonable improvement, and associated maintenance, are considered necessary and appropriate by the Council.

5.8 New developments requiring the provision of new outdoor playing space, will be considered on their individual merits. Where open space already exists adjacent or close to proposed developments, the Council may seek to address the additional need by additional facilities on an existing site to meet the NPFA minimum requirements for outdoor playing space. Alternatively, it may be a requirement to improve the accessibility or quality of an existing open space to meet the increased demand or use related to the area of outdoor playing space already provided (e.g. to provide changing facilities or access improvements such as toilets, a pathway network and additional seating).

Maintenance and Transfer of new areas of outdoor playing space

5.9 The Council will normally be prepared to adopt and maintain properly laid out parks, public open space, outdoor playing space and associated landscaping, subject to a payment by the developer of a commuted sum. This payment should cover twenty years' costs of maintenance. On payment of the commuted sum, and when all liabilities for construction, equipment and maintenance have been met to the Council's satisfaction, 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.

5.10 The commuted sum for the maintenance costs of open space is calculated on the basis of the number of visitors to and users of the open space likely to be generated by the development multiplied by the average cost of the service per resident of the Borough per annum. This figure is multiplied to establish a twenty-year maintenance figure, which allows for inflation of the contract prices. Commuted sums within these agreements will be index-linked from the date the agreement is signed.

Financial Contribution to the Maintenance of Open Space

5.11 The level of this contribution is based upon the numbers of visits to parks and open spaces in the Borough that is likely to be generated by the development. Contributions will be required from all residential developments, including those resulting from changes of use, unless it is considered that adequate and appropriate provision has already been made by the provision of open space or play facilities in accordance with the guidance set out above.

5.12 A 2002 survey of adults (16+) visiting the parks and open spaces in Luton managed by the Council revealed that there are approximately 2,605,500 visits made by people in that age group during the year. Given that the Borough's population is 184,000 and that 76% of the population is 16+, this equates to every adult paying 18.6 visits, on average. The cost for the parks service in 2005-06 was almost £3.5 million such that, on average, it costs the Council approximately £3.5M/2,600,000 (i.e. £1.35) for each adult to visit the Borough's parks and open spaces. The Council will therefore seek to recoup this cost from the developers of new dwellings for a period of 5 years. The amount of payments that this will entail, and the manner in which it is calculated, are set out in Table 7 below.

Table 7 Developer Contributions for Maintenance of Open Space (Per Dwelling)

| Size of Property (No. of bedrooms) | Average no. of people per property | Average no. of adults per property (population x 76%) | Charge (average no. of adults x £1.35 x 18.6 x 5) |
|---------------------------------------|---------------------------------------|---|---|
| 1 | 1.7 | 1.2 | £150 |
| 2 | 2.0 | 1.5 | £187 |
| 3 | 2.7 | 1.9 | £237 |
| 4 | 3.3 | 2.3 | £287 |
| 5 | 3.5 | 2.7 | £337 |

NB - Population figures from Research and Intelligence Team, LBC Planning

Chapter 6 Education

6.1 Luton Borough Council is an education authority and is therefore required, by statute, to ensure that there are sufficient and suitable educational facilities available (i.e. primary and secondary school but not sixth form places) available for pupils living within Luton.

6.2 Where a development proposal is expected to result in some children being resident in the resulting scheme, the Council will seek a contribution from developers towards the costs of improving or providing schools and other educational facilities for young people in the area of the particular development, consistent with meeting its duties and responsibilities. The contribution sought will be determined by reference to the assumed 'pupil yield' from the development concerned.

6.3 Contributions from one-bedroom dwellings towards educational facilities will not be required due to their low pupil yield. Luton Borough Council's policy of admitting all children to the Academic Year in which they become 5 (i.e. 4 year olds) puts the primary school pupil yield range from ages 4 to 10 years in accordance with Government requirements. The secondary school pupil yield is for children aged 11 to 16. The pupil yield ratio for houses and flats/apartments in Luton is as stated in Table 8 below.

Table 8 Pupil Yield Ratio for Houses and Flats in Luton

| Dwelling Size | Primary (4-10) | Secondary (11-16) |
|--------------------|----------------|-------------------|
| 1 bedroom | 0.0 | 0.0 |
| 2 bedroom | 0.32 | 0.08 |
| 3 bedroom | 0.59 | 0.18 |
| 4 bedroom and over | 1.17 | 0.20 |

NB - These are based on figures derived from a study of the pupil yield of new housing in Luton, 2001 conducted by the Children and Learning Department of Luton Borough Council

6.4 The necessary contributions sought are calculated using the following formula:

Financial Contribution = Pupil Yield x DCFS Cost Multiplier x Regional Allowance x Scale Factor
where:-

- Pupil Yield = Number of children expected to be resident in a development;
- DCFS Cost Multiplier for 2006/2007 are:-

Primary = £ 10,372
Secondary = £ 15,848

- Regional allowance - currently 1.11 for Luton (this value takes into account regional variation in development and growth);
- Scale factor - currently 0.75 for improvement to existing facilities and 1.0 for providing additional places through extensions or new facilities.

6.5 A worked example of this formula is shown in the example below

A residential development of 200 (3 bedroom) houses would yield 118 primary age pupils and 36 secondary age pupils. If there were insufficient primary places available within the catchment then the following financial contributions would therefore be required:

Primary

- $118 \times £10,372 \times 1.11 \times 1.0 = £1,358,525$

Secondary

- $36 \times £15,848 \times 1.11 \times 0.75 = £474,965$

Total Education Contribution in this case will be;

- $£1,358,525 + £474,965 = £1,833,490$

6.6 Agreement will need to be made between the developer and the Council, as Local Education Authority, as to whether the facility will be funded by or constructed by the developer. If the facility is to be constructed by the developer, then this will only be acceptable where the specification is agreed by the Council in advance.

6.7 If the developer is to fund the education facility then a legal agreement will be sought whereby the developer:

- pays a number of instalments to an agreed authority prior to the completion of an agreed number of dwellings or after a specified time period following the commencement of the whole development; and
- pays for the design work to be carried out to a satisfactory standard and within the requisite time period; and
- transfers the land required for the facility to the Council at no charge and free from financial and any other encumbrances by a specified time period. The land is fully serviced and an access provided to the boundary to an adoptable standard.

Chapter 7 Libraries

7.1 Many new developments (particularly residential and university-related) place increasing pressure on existing local library facilities. Current national library standards are as follows:

- 88% of the population within 1 mile of static library; 100% within 2 miles
- 128 aggregate opening hours per week per 1000 person
- 6 PCs per 10,000 population
- 216 items (books, cd's dvd's etc.) added to stock per 1000 population/year.

7.2 In addition to the above, the Council also seeks 2 additional items of stock per head per year (current average cost per item is £11). Therefore, the amount of financial contribution to be sought from developers towards library facilities is as follows:

Table 9 Estimated Library Costs (Based on per 1000 Population Increase)

| Items | Multiplier | Amount per 1000 persons |
|---|---|---------------------------|
| Personal computer @ £1000 | 6 per 10,000 population | £600 |
| Stock | 2 items per head @ £11 each | £22,000 |
| Additional items/year | 216 items/1000 (@ £11) | £2,376/year |
| Additional opening hours to maintain current standard of 92 hours per 1000 population | 1.5 hours for an average branch size with 3 staff @ £10.41/person/hour is @ £47 | £31.50/week (£1,650/year) |
| Total | | £26,626 |
| Amount per person | | £26.50 |

7.3 The amount sought will therefore be £26.50 per person for the first year plus £4.50 for each of the subsequent four years (i.e. all items except new stock). Thus the total requirement that will be sought for a period of 5 years is £44.50 per person. The total amount sought will be calculated on the basis of the following table which indicates the number of persons who, on average, reside in dwellings, on the basis of bedrooms. This will be applied on the basis of the occupancy rates per dwelling and result in the required payments in Table 10.

Table 10 Contributions Required for Library Service per Property

| Size of Property (No. of bedrooms) | Average no. of people/property | Amount payable per property (£) |
|------------------------------------|--------------------------------|---------------------------------|
| 1 | 1.7 | 76 |
| 2 | 2.0 | 89 |
| 3 | 2.7 | 120 |
| 4 | 3.3 | 147 |
| 5 | 3.5 | 156 |

NB - Population figures from Research & Intelligence Team, LBC Planning

Chapter 8 Museums

8.1 Currently, the Museums Service welcomes 144,000 visitors per annum. Approximately 60% (86,400) of these are from the Borough⁽ⁱ⁾. Clearly, additional visits impact on the museum sites in terms of wear and tear on the exhibits and interactive displays, cleaning, staffing and so on. The Museum Service's annual budget is £2.2M such that each visit effectively costs £15.28.

8.2 The Borough's population of 184,000 generates 86,400 visits/year. Residents of the Borough therefore account for 47% of museum trips each year. Therefore, on average, the Museum Service spends £7.18 per Luton resident/year. Meeting the needs of residents over the next 5 years would therefore cost £35.90 per person. The average number of persons per dwelling is such that the cost per person is as in Table 11.

Table 11 Contributions Required for Museum Service per Property

| Size of Property (No. of bedrooms) | Av. no. of people/property | Amount payable per property (£) |
|---------------------------------------|----------------------------|---------------------------------|
| 1 | 1.7 | 61 |
| 2 | 2.0 | 72 |
| 3 | 2.7 | 97 |
| 4 | 3.3 | 118 |
| 5 | 3.5 | 126 |

NB - Population figures from Research & Intelligence Team, LBC Planning

Chapter 9 Economic Development, Training and Employment

9.1 Luton experiences above-average levels of unemployment and associated deprivation. There is, therefore, a need to ensure that appropriate skills are developed and that local people, particularly the unemployed and socially excluded, have the ability to access the new jobs being created by new development. The Council will seek to enable and promote this by requiring relevant developments to either adopt, and implement, an Employment/Recruitment Strategy for all posts requiring skills up to NVQ level 3 which gives priority to the residents of the Borough or make an appropriate contribution to an employment training scheme.

9.2 The relevant developments which are subject to this scheme are:-

- a. new commercial floorspace (i.e. private, non-residential) of 5,000 + sq.m. (gross); and
- b. the redevelopment, for other uses, of 5,000 + sq.m. (gross) of commercial floorspace.

9.3 In order to adequately demonstrate that sufficient priority is given to local residents, any such Strategy might include, for example, a skills audit undertaken by a Train to Gain Skills Broker or equivalent, advertising jobs locally first together with the offer of appropriate training to potentially suitable local candidates (subject to them subsequently proving themselves to be competent). Where a developer is able to demonstrate that such a Strategy is impractical or inappropriate then the contribution to training that would be sought would be the cost, at the current rate, of training 50% of staff requiring skills up to NVQ level 3 to the requisite level.

Chapter 10 Waste

10.1 Luton Borough Council and Bedfordshire County Council adopted a Supplementary Planning Document entitled "Managing Waste in New Developments" in April 2006. Its overall aim is to provide specific guidance on sustainable waste management during demolition, construction and the occupation of new developments in accordance with the Bedfordshire and Luton Waste Local Plan 2005. It sets out the circumstances in which a waste audit is required in association with the progress of a development proposal through the planning process. It also gives guidance on the design of new development with regard to waste and recycling facilities.

10.2 The "Managing Waste in New Developments" SPD remains valid. It is complemented by this SPD on Section 106 Agreements, which seeks to mitigate the impact of development proposals.

10.3 The heavily built-up nature of Luton, combined with the lack of opportunities for greenfield development in the Borough, are such that there is only limited scope for major redevelopment proposals which would generate a specific, identifiable need for a waste management facility. However, the progress of redevelopment, and associated intensification of development as previously developed sites, will inevitably place increasing pressure on the Council's waste management service. Clearly the amount of waste generated by particular developments will vary according to their nature and scale. It is estimated that the average cost to the Council of various dwellings is as follows: -

Table 12 Estimated Average Waste Management Cost per Dwelling

| Size of property | | Flat | House |
|------------------|---|------|-------|
| 1 bedroom | 2 small bins, plus box | £33 | |
| 2 bedroom | 2 medium bins, plus box | £39 | £57 |
| 3 bedroom | 3 medium bins, plus box | £39 | £57 |
| 4 bedroom | 2 medium bins, 1 large recycling bin, 1 box | | £63 |
| 5 + | 2 medium bins, 1 large recycling bin, 1 box | | £63 |

Source: LBC Waste Management Division

10.4 In the case of flats it is likely that the larger communal refuse and recycling bins will be used, but the price per property reflects this. The Council is prepared to negotiate on flats with communal refuse systems, but there are standard amounts of waste capacity they need, i.e. smaller flats are 180 litres refuse and 180 litres recycling, whilst larger flats are the same as houses at 240 litres refuse and 240 litres recycling.

10.5 The Council will therefore seek the provision of financial contributions towards the provision of the waste management service in association with the determination of planning applications.

Chapter 11 Public Art

11.1 Public Art can be defined as a permanent or temporary piece of new work improving a public space involving artists or crafts people. All developers will be required to include provision for Public Art within each scheme, where appropriate, to enhance the quality of significant development proposals (as stated in Local Plan Policy ENV12).

11.2 Developers will be encouraged to adopt Luton Borough Council's 'Percent for Art Policy' whereby at least 1% of total construction costs is given over to new public art either as part of the proposals or in the locality of the application site. This Public Art will be new work, of quality, and will contribute to the sense of place and local identity. Appropriate artwork can include:-

- Statues and sculptures
- Murals
- Decorative brickwork
- Stained or etched glass
- Tiling/mosaics
- Metalwork (e.g. railings/gates)
- Special lighting
- Street furniture
- Water feature
- Gardens.

11.3 Significant development refers to

- Major retail development (of 1,000 + sq. m. (gross))
- Major residential developments (of 50 + dwellings)
- Major infrastructure projects
- Action areas
- Sites requiring a development brief
- Any visually prominent site.

11.4 However, artwork may also be highly appropriate and desirable either in association with or as integral parts of other developments.

11.5 In accordance with the percent for art policy, developers will also be encouraged to use an Artist or Artists at an early stage of the development to enable the work or contribution to be created specifically for the development. Many art objects need specialist maintenance and this should be identified, specified and agreed with the artist and developer before installation. Public art should always be located to avoid disrupting traffic or pedestrian flows. Public art is most likely to be successful if it complements the area in which it is sited by fostering a sense of place and local identity.

11.6 It is important to consult Luton Borough Council Planning and Luton Borough Council's Arts Service as they can give further practical advice on topics such as funding, finding artists, briefing artists, drawing up contracts and maintenance of work. The Council has developed various Arts Strategies which developers would be required to refer to and to thereafter consult with the Council's Arts Service.

Chapter 12 Preparing and Completing Planning Obligation Agreements

12.1 The Council will require financial contributions from developers in respect of the amount of time its staff spend on preparing and completing planning obligations. This incorporates all time spent on this, which will include all meetings and discussions, and the total amounts of time (i.e. not parts of hours) will be charged at the Council's normal reasonable costs for each of the officers involved. In the event that the Agreement is never finalised, for whatever reason, then this charge will still be levied. Therefore, in order to ensure that it is made, even in the event of abandonment, an initial payment of £1000 must be made to the Council before commencement of work on the legal document. In the event that the officers do not spend the time that would merit this amount of money, then any excess would be refunded.

12.2 In the event of a mediator being appointed to improve communication between the Council and the developer with a view to resolving a disagreement, this will be funded by the developer. As in the case of officer time, this must be funded in advance in case there is no ultimate resolution.

Appendix 1 Local Plan Policy and Text

Planning Obligations

10.3 The Borough Council can seek modifications or improvements to development proposals in order to have regard to the interest of the local environment and other planning considerations. Such modifications or improvements can be achieved through planning obligations under Section 106 of the Town and Country Planning Act 1990, as amended by section 12 of the Planning and Compensation Act 1991. These comprise both legal agreements (between the Council and the developer) or 'unilateral undertakings' (whereby developers independently commit themselves to a legally binding obligation). Such obligations may:

- i. restrict development or use of the land;
- ii. require operations or activities to be carried out;
- iii. require the land to be used in a specified way; or
- iv. require payments to be made to the authority either in a single sum or periodically.

10.4 PPG12 states that '...where a planning authority expects developers to enter into planning obligations on a regular basis...it should set out its policy in the Local Plan.'

10.5 Government guidance on the proper use of planning obligations is contained in Circular 1/97 (Planning Obligations). It sets out the circumstances in which certain types of benefit can reasonably be sought. The Circular states that the tests to apply for the use of planning obligations are that '...they should be necessary, relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development, and reasonable in all other respects.'

10.6 Circular 1/97 continues 'Acceptable development should never be refused because an applicant is unwilling or unable to offer benefits' and 'Unacceptable development should never be permitted because of unnecessary or unrelated benefits offered by the applicant.'

10.7 According to Circular 1/97, in general it will be reasonable to seek, or take account of, a planning obligation if what is sought or offered is:

- i. needed to enable the development to go ahead and, in the case of a financial payment, will meet or contribute towards the cost of providing such necessary facilities in the near future; or
- ii. necessary from a planning point of view and is so directly related to the proposed development and to the use of land after its completion that the development ought not to be permitted without it.

10.8 The Borough Council welcomes the opportunities created by Circular 1/97 to bring about the implementation of the Local Plan in appropriate circumstances. It will consider the obligations put

forward by developers in the light of its planning objectives. The scope offered is seen as enhancing the Borough Council's 'enabling' role. The following policy will therefore apply:

Policy IMP1

Planning obligations

In granting planning permission, the Borough Council will, in appropriate circumstances, seek to enter into legal agreements to secure:

- A. the provision, or the financial cost, of facilities made necessary by the implementation of the development; and
- B. an appropriate level of provision, or contribution, towards facilities for which

there is either:

- i. a recognised need in the Borough; or
- ii. a recognised deficit in the locality.

10.10 The majority of developments by themselves may not warrant major investment in new infrastructure, services or facilities. However, a number of small developments are likely to have a cumulative impact on existing infrastructure, services and facilities and those responsible for their provision will find it more cost effective to make a single improvement after a number of small developments have been developed.

10.11 The level of contributions required will depend on the size of the development and in the event of a cash sum being required this will be placed in a fund controlled by the Borough Council for the provision of that service or facility. The payments will be subject to legal agreements whereby the money will be spent on improvements to meet the needs of the development as well as a method of reimbursement, with interest, should the money not be spent within a defined period following the completion of the development.

10.12 In the first instance, discussions will take place between those submitting proposals for development and the Borough Council, in order to ascertain the requirements for particular sites. Discussions and negotiations will involve the landowner, developer, agents and officers of the Council to ensure that a development is only required to contribute to the extent that it directly impacts upon service needs. In accordance with Circular 1/97, this will ensure that required development proposals remain viable and are not frustrated by onerous demands for developer contributions. The use to which the contributions will be put will be dependent upon the nature of the development, the demands that it will generate and the needs of both the local area and those of the Borough as a whole. Matters for which contributions may be sought comprise transport, affordable housing, green space, environmental enhancement, sport and recreation, education, libraries, archaeology, health care, crime and disorder, recycling, air quality and flood alleviation.

10.13 The Borough Council intends to issue further guidance as to the level of contribution that will be expected with developments of various types and scale, as a supplementary planning document (SPD). (This SPD will also take into account Circular 5/05 [Planning Obligations], which came into force on 18th July 2005, i.e. after the Local Plan Inquiry.)

Replacement Facilities

10.14 When the replacement or relocation of facilities (e.g. libraries, clinics, sports grounds and buildings) takes place it is important to ensure that the provision of the facilities is maintained throughout the transition period. Consequently, the existing facility should be retained until the new one is in place.

Policy IMP2

Replacement facilities

Where replacement facilities are being provided, the Borough Council will require the new facility to be operational prior to the closure of the existing one.

10.15 This policy will be applied unless the Borough Council is satisfied that there are adequate reasons for not insisting upon the continued provision of facilities and that adequate and appropriate replacement will be provided within an agreed period.

Appendix 2 Schedule of Charges

Appendix 2. Schedule of Charges

| Affordable Housing | Transport | Open Space & Play Facilities | Education |
|--|--|--|--|
| 50% on requisite sites, of which: 80% for social rent | As necessary to facilitate acceptable form of development | Formal play space | Pupil yield (per number/type of dwelling) |
| + | + | Children's play space | x |
| 20% other forms of affordable housing | contributions on basis of trip cost calculator | + | DCSF cost multiplier |
| with targets: | (see Table 6) | Neighbourhood Equipped Areas for Play | x |
| (beds/dwelling) | | + | Regional allowance |
| 1 | 11% | Local Equipped Areas for Play | x |
| 2 | 38% | + | Scale factor |
| 3 | 39% | Local Areas for Play as appropriate | (see para 6.7 & Table 8) |
| 4/5 | 12% | + | |
| | | Landscaping and replacement as necessary (see also Open Space (maintenance)) | |

Appendix 2. Schedule of Charges

| Size of Property (no of bedrooms) | Open Space (maintenance) | Libraries | Museums | Waste | Economic Development | Public Art | Officer Time |
|-----------------------------------|--------------------------|----------------|----------------|----------------|--------------------------------|---|--|
| 1 | £150 | £76 | £61 | £33 | As appropriate (see Chapter 9) | As appropriate (see Chapter 11 - ideally at least 1% of total construction costs) | £1,000 down payment towards Council's costs (with any excess refundable) + cost of any independent mediator in advance |
| 2 | £187 | £89 | £72 | £39/£57 | | | |
| 3 | £237 | £120 | £97 | £39/£57 | | | |
| 4 | £287 | £147 | £118 | £63 | | | |
| 5 | £337 | £156 | £126 | £63 | | | |
| | (see Table 7) | (see Table 10) | (see Table 11) | (see Table 12) | | | |

www.luton.gov.uk/PlanningObligations