

DEVELOPER CONTRIBUTIONS (S.106) SUPPLEMENTARY PLANNING DOCUMENT

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1.0 Purpose of this document

- 1.1 In order to create sustainable communities the Council wants to ensure that the necessary infrastructure is put in place to meet local community needs. This includes not only the physical infrastructure such as roads and utilities that enable development to proceed, but also the community facilities and environmental improvements which will ensure occupiers of those developments have adequate access to services such as education and leisure activities which will secure their quality of life.
- 1.2 The main purpose of this **Supplementary Planning Document (SPD)** is to identify the infrastructure needs of the Borough, assess the viability of new housing development to meet those needs, and consequently provide guidance on which of these needs developments will be expected to contribute to.
- 1.3 Contributions covered by this SPD relate primarily to residential developments. Non-residential development requirements, particularly retail and commercial, will be considered on a case-by-case basis.
- 1.4 This SPD will be a material consideration when assessing planning applications. As an SPD, this document does not introduce new policy and its content is in conformity with the adopted Erewash Core Strategy and remaining Saved Policies. It is intended to support and expand on policies which have already been consulted on, examined in public and ultimately adopted.
- 1.5 The SPD will be kept under review to take into account new information such as emerging infrastructure needs and changes in development viability.
- 1.6 This SPD has now superseded the following SPD's which have been withdrawn:
 - Planning Obligations – Community Benefits (April 2006)
 - Affordable Housing (April 2006) and subsequent amendments of April 2007 (Threshold) & August 2007 (Tenure Mix).

2.0 Policy context

2.1 The SPD has been developed in full conformity with the planning priorities contained within the Erewash Core Strategy and has also been informed by the evidence base which supports the Core Strategy. In accordance with the National Planning Policy Framework (NPPF, Para 153), it does not set out any additional policy requirements; rather it clarifies the delivery mechanisms necessary to secure essential infrastructure in Erewash as defined in the adopted Core Strategy and Saved Policies. A list of common Planning Obligations sought by Erewash Borough and their policy justification can be seen in Table 1 below:

Table 1 – Planning Obligations and their policy justification

Planning Obligation	Policy
Affordable Housing	Policy 8 – Erewash Core Strategy
Community Halls	Policy 18 – Erewash Core Strategy Policy H9 – Saved Policies Document Appendix D – Core Strategy infrastructure Delivery Plan
Highway Works	Policy T9 – Saved Policies Document
Sustainable Transport:	Policy 15 – Erewash Core Strategy Appendix D – Core Strategy Infrastructure Delivery Plan
Cycling	Policy T6 – Saved Policies Document
Town Centre Regeneration	Policy 2 – Erewash Core Strategy
Flood Risk/Sustainable Drainage	Policy 1 – Erewash Core Strategy Policy DC7 – Saved Policies Document SPD – Flood Risk and Development
Environmental Sites (Woodlands and Biodiversity)	Policy EV10, EV11, EV12, EV13 and EV14 – Saved Policies Document SPD – Biodiversity
Heritage	Policy EV5, EV6, EV7, EV8 and EV9 – Saved Policies Document
Public Art	Policy DC5 – Saved Policies Document
Open Space	Policy H9 – Saved Policies Document The Green Space Strategy and PPG17 Audit
Education	Policy 12 – Erewash Core Strategy Appendix D – Core Strategy Infrastructure Delivery Plan
Greenways	Policy R1 and R4 – Saved Policies Document

- 2.3 The Erewash Core Strategy is clear in setting out that where new development creates a need for new or improved infrastructure, contributions from developers will be sought. Policy 19 of the Erewash Core Strategy, which is set out below, gives the local policy context for the guidance in this SPD:

Policy 19: Developer Contributions

1. **All development will be expected to:**
 - a) **meet the reasonable cost of new infrastructure required as a consequence of the proposal;**
 - b) **where appropriate, contribute to the delivery of necessary infrastructure to enable the cumulative impacts of developments to be managed, including identified transport infrastructure requirements; and**
 - c) **provide for the future maintenance of facilities provided as a result of the development.**
2. **The Borough Council may introduce a Community Infrastructure Levy (CIL) to secure infrastructure that has been identified as necessary to support new development and to achieve Core Strategy objectives.**
3. **Prior to the implementation of a CIL, planning obligations will be sought to secure all new infrastructure necessary to support new development either individually or collectively.**

- 2.5 Policy 15 of the Erewash Core Strategy which is set out below is also important in that it sets the Transport Infrastructure Priorities for the Borough which are essential to support the economic and social well-being of the plan area as outlined in the Erewash Infrastructure Delivery Plan:

Policy 15: Transport Infrastructure Priorities

1. **Where new development gives rise to the need for additional transport infrastructure, it should be prioritised in accordance with delivering the Spatial Strategy in Policy 2, the principles of travel demand management in Policy 14 and the priorities of the Local Transport Plans covering the plan area. Further details are in the Infrastructure Delivery Plan.**

2. New development, singly or in combination with other proposed development, must include a sufficient package of measures to ensure that journeys by non private car modes are encouraged, and that residual car trips will not unacceptably compromise the wider transport system in terms of its effective operation.

2.6 The Erewash Core Strategy approach to Affordable Housing contained in Policy 8 is also very important in setting the policy context for this SPD:

Policy 8: Housing Size, Mix and Choice

Approach to Affordable Housing

4. On sites capable of supporting 15 or more residential units, up to 30% of those units will be sought by negotiation to be delivered as affordable housing, subject to consideration of viability. Viability is likely to constrain this target in the following areas:

- a) In the Ilkeston Urban Area excluding the Stanton Regeneration Site to around 10%**
- b) At the Stanton Regeneration Site to around 10 to 20%**
- c) In the Long Eaton Urban Area to around 20%.**

2.7 In addition to this policy; where developments meet a threshold of 25 dwellings (or 1 hectare) the Housing Strategy Officer is consulted to seek their views on an appropriate contribution to special needs housing. This is usually in the form of a percentage of the Housing (usually the affordable housing) to be to Lifetime Homes standard which achieves compliance with Saved Local Plan Policy H7:

POLICY H7 – SPECIAL NEEDS HOUSING

IN DEVELOPMENTS OF 25 DWELLINGS OR MORE OR ON SITES IN EXCESS OF 1 HECTARE AND WHERE THERE IS CLEAR EVIDENCE OF NEED, THE BOROUGH COUNCIL WILL NEGOTIATE WITH DEVELOPERS TO PROVIDE A PROPORTION OF DWELLINGS THAT ARE DESIGNED TO SPECIAL NEEDS STANDARDS, PARTICULARLY ON LEVEL SITES THAT ARE WELL SERVED BY SHOPS, COMMUNITY SERVICES AND PUBLIC TRANSPORT.

2.8 Saved Policy H9 is another important policy in the context of this SPD and sets the threshold on housing sites for other S.106 obligations (apart from affordable housing) the Council will seek:

POLICY H9 - SECTION 106 PLANNING OBLIGATIONS - HOUSING SITES

FOR PROPOSED HOUSING DEVELOPMENTS COMPRISING 10 OR MORE DWELLINGS THE COUNCIL WILL SEEK TO ENTER INTO SECTION 106 OBLIGATIONS WITH DEVELOPERS TO ENSURE THAT EDUCATION AND COMMUNITY FACILITIES, INCLUDING INFRASTRUCTURE REQUIREMENTS, OPEN SPACE, HEALTH CARE AND LOCAL SHOPS, ARE PROVIDED TO THE EXTENT NECESSARY TO MEET DEMAND ARISING FROM OCCUPIERS OF THE NEW DWELLINGS.

2.9 However, in November 2014 the government made the following change to National Planning Practice Guidance (NPPG):

'Contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm'

2.10 Therefore Policy H9 is now superseded with the following thresholds for when the Council will seek to enter into S.106 agreements with developers:

- **On sites of 11 units and more; and**
- **On sites of 10 units and less which have a combined floor space above 1,000 sq. metres**

Infrastructure

2.11 Policy 18 of the Core Strategy seeks the provision of adequate infrastructure and services to meet the needs created by new development. New development should not overburden existing infrastructure or communities:

Policy 18: Infrastructure

- 1. New development must be supported by the required infrastructure at the appropriate stage. Erewash Borough Council will work in partnership with infrastructure providers, grant funders, the development industry and other delivery agencies in seeking the provision of necessary infrastructure to support new development.**
- 2. Direct provision or contributions will be sought from development proposals which give rise to the need for new infrastructure.**

2.12 In line with the National Planning Policy Framework, an Infrastructure Delivery

Plan has been prepared for Greater Nottingham alongside the Derbyshire Infrastructure Delivery Plan. These have been prepared with the assistance of all the main infrastructure and utility providers, including the local highway authorities, education authorities and utility companies.

- 2.13 The Greater Nottingham and Derbyshire Infrastructure Delivery Plans have been used to inform the Erewash Infrastructure Delivery Plan. The Erewash Infrastructure Delivery Plan sets essential and desirable elements of infrastructure which are important to the delivery of the Erewash Core Strategy. The schedule in Appendix D includes approximate costs, timescales and funding sources and likely delivery agents where known.
- 2.14 The Erewash Infrastructure Delivery Plan is important to the delivery of not only the Core Strategy vision and core objectives, but also the priorities and objectives of public bodies and other service providers where they can be delivered through the planning system. The Plan will also assist in providing a basis for making bids for public funding to support growth in Erewash.

3.0 Mechanisms for securing developer contributions

3.1 There are four different mechanisms which can be used to ensure that new development addresses any adverse impacts as well as contributing to the local economy and improving the environment, where possible. This can include:

- planning conditions;
- planning obligations; or the
- community infrastructure levy

Planning conditions

3.2 Planning permissions are usually subject to conditions which either control the use or require certain things to be done before the development is commenced or occupied.

3.3 Paragraph 206 of the National Planning Policy Framework (NPPF) states that planning conditions should only be imposed by local authorities where they are:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

3.4 Planning conditions may not require the payment of money or the transfer of land ownership. A “Grampian” condition may be used to control aspects of the development which are required to occur outside the development site (such as related highway improvements) and on land which is not necessarily owned by the applicant. The condition is worded to the effect that the development being permitted must not be commenced (or must not be occupied, as appropriate), until the required off-site works have been completed.

Planning Obligations

3.5 Paragraph 203 of the National Planning Policy Framework (NPPF) states that planning obligations should only be used where it is not possible to address unacceptable impacts of development through a planning condition.

- 3.6 Where planning conditions are not suitable it may be possible to enter into a legal agreement with the applicant and anyone else that has a legal interest in the land, to secure planning obligations under section 106 of the Town and Country Planning Act 1990. Planning obligations can allocate specific actions to specific parties and can include payment of financial contributions to allow local authorities (or other bodies) to carry out works to mitigate the impacts of the development. They may also restrict the development or use of the land, operations or activities.
- 3.7 In line with Para 204 of the NPPF and the Community Infrastructure Levy (CIL) Regulation 122, planning obligations, in order to be a material consideration in reaching planning decisions, must be:
- Necessary to make the development acceptable in planning terms
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development
- 3.8 Unless it is stated otherwise, planning obligations run with the land in perpetuity and may be enforced against the owners and their successors. Planning obligations are registered on the title of a property at HM Land Registry and can only be secured through the following types of deed:
- Section 106 agreements (bi-lateral agreements) with mutual obligations between local planning authorities and owners with interests in the application site. A draft agreement is prepared by the Council (although this is sometimes prepared by the applicant's solicitor) and sent to the applicant's solicitor for approval. Because the Council incurs additional costs in preparing the agreement, the applicant will be required to pay the Council's legal fees including abortive costs where for whatever reason the agreement does not proceed to completion.
 - Unilateral planning obligations, sometimes called unilateral undertakings. A unilateral undertaking is an obligation offered by the applicant to the planning authority either in support of a planning application or a planning appeal. Usually, this will be submitted with the planning application. The Council is not a signatory to a unilateral undertaking.

The Community Infrastructure Levy

- 3.9 The Planning Act 2008 and accompanying Community Infrastructure Levy (CIL) Regulations enable financial contributions to be levied from all development that involves one or more dwellings or is 100 square metres or more in size.

3.10 CIL is intended to help pay for the infrastructure required to serve new development. This includes development that does not require planning permission. However, CIL cannot be used to remedy pre-existing deficiencies, unless the new development makes the deficiency more severe. CIL is an optional charge available to local authorities in England. The Council may introduce a CIL in Erewash in the future. If the Council does introduce a CIL, planning obligations will still be used for site specific mitigation measures and for pooling contributions for certain infrastructure requirements and also affordable housing contributions.

4.0 The Council's approach to developer funding of infrastructure

- 4.1 Infrastructure provision if not made directly by the developer (through planning conditions) will be secured through S.106 planning obligations. Planning obligation agreements will be drafted by the planning authority with the developer being responsible for the costs resulting from administering and monitoring the agreement (a S.106 protocol can be viewed in Appendix 3).

Pooled Contributions:

- 4.2 The Council aims to take a strategic approach to infrastructure delivery, which includes taking a view on the most appropriate funding routes and identifying investment and delivery plans for key development sites. It will use this process to anticipate development proposals which may make contributions through planning obligations to fund critical infrastructure projects.
- 4.3 The CIL regulations limit the number of planning obligations that can be pooled to provide a single piece of infrastructure to 5. Such contributions will be pooled together, for a period of time as specified in the legal agreement and then used to fund the infrastructure once the funds required to deliver the scheme are raised. In addition to this, where items of infrastructure, which have been made necessary by the cumulative impact of a series of developments, are provided before all developments have come forward, then the later developments may still be required to contribute to the relevant proportion of the costs and expenditure.

Monitoring

- 4.4 Once development is commenced it is important that undertakings given are complied with and that contributions are provided on time. This will normally be on commencement of the development unless an alternative phasing has been agreed. The developer will be expected to inform the Council when the development is about to commence. This will trigger the necessary steps to be undertaken to comply with the terms of the agreement, and will be the basis for monitoring later stages in the process.
- 4.5 The Council will monitor and track compliance with each provision contained in a legal agreement as a development proceeds and ensure the money due is collected and passed to the relevant service or infrastructure provider on time.
- 4.6 If a Section 106 agreement is not being complied with, the Council may instigate enforcement action. Planning obligations can be enforced through

the use of an injunction, which will stop the development proceeding. The Council also has the power to enter land and carry out any works that were required, if necessary, and recover costs from the developer or landowner.

5.0 Infrastructure requirements

- 5.1 The following paragraphs list the Infrastructure which the Borough Council thinks is necessary to deliver the strategy of urban concentration with regeneration as set out in the Erewash Core Strategy. This makes the most of existing infrastructure, takes account of the significant regeneration challenges faced by Ilkeston, and recognises the importance of protecting the openness of the Green Belt between Nottingham and Derby.
- 5.2 Each of the infrastructure items listed below shows the costings and the justification for asking for each of these obligations. The policy justification for each of the items is detailed in section 2 of this document.

Ilkeston Travel Plan

- 5.3 Erewash Borough Council has employed a dedicated Travel Plan Officer to work with all relevant partners and organisations to sustainably influence travel patterns and movement across the Ilkeston area through a program of “smarter choices”.
- 5.4 Core Strategy Appendix D estimated a 5 year programme at £50,000 per year, totaling £250,000. However, developments with a delivery schedule beyond that time frame will need to provide additional support to maintain the travel planning initiative to the end of their build programme.
- 5.5 Does the obligation meet the three Legal Tests (See paragraph 3.4)?
1. *Necessary to make the development acceptable in planning terms*
Traffic modelling supporting the Core Strategy concluded that the level of development proposed for Ilkeston could not be accommodated without a change in travel behaviour across the whole town.
 2. *Directly related to the development*
Significant new residential development will contribute to increased congestion, and the Ilkeston town travel plan will address this impact.
 3. *Fairly and reasonably related in scale and kind to the development*
The costs will be shared across relevant application on a per dwelling basis. The Gardner Aerospace appeal decision has initially set this at £419 per dwelling, which is considered to equate to the cost of providing a stand-alone travel plan for a major development.

Walking and Cycling Networks

- 5.6 High quality, well connected walking and cycling networks are a necessary pre-cursor to encouraging people to make smarter travel choices. However, the increase in traffic from new development on a more or less static highway can serve to only further marginalise pedestrians and cyclists, hence the need for new developments to enhance town wide cycle and pedestrian priority routes.
- 5.7 With nearly 200km of urban highway serving 27,000 dwellings, each dwelling in the urban areas of Erewash is supported by around 7m of highway. This represents an investment of some £21,000 per dwelling. New developments will match some of this through new estate streets, which is reflected in the accepted external development costs of around £11,500 per house. However an additional contribution of up to £3,000 per dwelling towards walking and cycling networks appears reasonable, and is far cheaper than the costs of providing new roads.

Ilkeston Networks

- 5.8 Around £2 million of improvements that would benefit the eastern side of Ilkeston have already been identified in the Ilkeston Gateway SPD, whilst the Derbyshire Infrastructure Plan identifies around £0.5 million of improved links to the Nutbrook Trail that would benefit the western side of the town. Other opportunities for enhancement exist elsewhere in Ilkeston, e.g. new and enhanced road crossings.

Long Eaton Network

- 5.9 National Cycle Routes 6 and 67 currently cross at the Broad Street canal bridge, but the bridge is too low to cycle under and the two routes have no interconnection here. A new bridge could deliver enhanced cycle benefits for the whole town at an estimated cost of £350,000.
- 5.10 Does the obligation meet the three Legal Tests (See paragraph 3.4)?

1. Necessary to make the development acceptable in planning terms

Traffic modelling supporting the Core Strategy concluded that the level of development proposed for Erewash could not be accommodated without a change in travel behavior. Improved walking and cycling facilities are necessary to encourage the sustainable transport choices needed to allow new development to be accommodated.

2. Directly related to the development

Improvements to the walking and cycling network between new developments and key travel locations such as town centres, public transport interchanges, employment centres and schools are directly related to those developments.

3. Fairly and reasonably related in scale and kind to the development

Contributions will be proportional to the scale of new development.

Ilkeston Bus Services

- 5.11 The Borough Council is strongly committed to the long-term regeneration of Ilkeston. The scale of development planned within and adjacent to the town will help to strengthen the case for sustainable transport improvements, including enhancing bus connectivity to and from Ilkeston.

Extension of i4 service from Nottingham to Ilkeston

- 5.12 Core Strategy Appendix D identifies the need for at least three buses running per hour between Ilkeston and Nottingham via the Stanton Regeneration site as a sustainable transport alternative to the use of the private car. This could be achieved by extending the existing i4 service from Nottingham to Sandiacre to continue through the Stanton site to Ilkeston town centre. Trent Barton (Bus Operator) have confirmed a cost of £2.1 million to support such a service over the 5 year period considered necessary to build a financially sustainable passenger base.

- 5.13 Does the obligation meet the three Legal Tests (See paragraph 3.4)?

1. Necessary to make the development acceptable in planning terms

Traffic modelling supporting the Core Strategy concluded that the level of development proposed for Ilkeston could not be accommodated without substantially improved public transport services to provide alternatives to travel by private car.

2. Directly related to the development

Significant new residential development in Ilkeston in locations where new services are required to service them will be expected to contribute towards these improved bus services.

3. Fairly and reasonably related in scale and kind to the development

The timing of new services is critical to securing sustainable travel patterns from the occupiers of new development. Consequently, contributions will have to be at a level capable of delivering the improved bus services new developments need, subject to viability considerations.

Education

- 5.14 The County Council as the Local Education Authority has a statutory duty to ensure that sufficient school places are available within their area for every child of school age whose parents wish them to have one. The requirement for a financial contribution towards school places is based on the net capacity and current number on roll at the relevant normal area school, as well as projected pupil numbers for the next five years.

Ilkeston Primary Schools

- 5.15 Ilkeston primary schools are already at capacity, and all new growth will create demand for additional school spaces. Currently, those spaces can be provided through building additional classrooms at existing school sites. When proportioned to the number of pupils expected to be generated, the cost is around £2,300 per dwelling. Where new schools are required to meet need, this will have a higher cost e.g. around £3,000 per dwelling.

- 5.16 Does the obligation meet the three Legal Tests (See paragraph 3.4)?

1. Necessary to make the development acceptable in planning terms

Yes, the growth planned for Ilkeston especially will place a burden on the existing schools in the area.

2. Directly related to the development

The need for additional primary school provision is directly related to the additional pupils generated by new housing development.

3. Fairly and reasonably related in scale and kind to the development

The scale of need for additional primary school provision is directly related to the additional pupils generated by new housing development.

Open Space

5.17 Open spaces are an essential resource for play and recreation, providing an important social and increasingly health function. Most developments will need to provide some open space in order to provide an acceptable design, and larger developments without access to existing play areas will be expected to provide public open space on site, including equipped children's play facilities. However, in many cases a financial contribution to upgrade the facilities at a nearby hub play area will be more practical.

5.18 The Green Space Strategy includes an action plan to set out the Borough Council's aspirations to deliver improvements to all open space in the Borough and the strategy also sets out quantity and quality standards (and a Section 106 Zoning Map) for each type of green space identified (as well as setting out budget costings for providing and maintaining play areas).

5.19 Does the obligation meet the three Legal Tests (See paragraph 3.4)?

1. Necessary to make the development acceptable in planning terms

New development will lead to an increase in population which will place a burden on the existing open spaces in the Borough.

2. Directly related to the development

Contributions will be sought to provide public open space on site (including maintenance) or for improvements to existing green spaces accessible to the new development in question.

3. Fairly and reasonably related in scale and kind to the development

The level of contribution will need to provide specific new or enhanced play equipment items in proportion to the scale of the development. Around £315 per dwelling would equate to the cost of providing such provision on site.

Town Centres

- 5.20 The Borough's town centres act as retail, business and social hubs, providing essential support services for their catchment areas. Further qualitative and quantitative improvements to those town centres will be required as a consequence of new development.

Long Eaton Town Centre

- 5.21 Parts of Long Eaton town centre already benefit from new paving and street furniture. Further investment in High Street is needed to tie those improvements together across the town, and also resolve long running vehicle / pedestrian conflicts. Such a scheme would have an estimated cost of £1 million.
- 5.22 The public realm of the town centre currently benefits from £12 million investment in paving, parking and green space, equating to £2,000 for each of the 6,000 dwellings within the immediate walking catchment. It appears reasonable for new development to make a similar contribution to the improvement of the town centre.
- 5.23 Does the obligation meet the three Legal Tests (See paragraph 3.4)?
1. *Necessary to make the development acceptable in planning terms*
New development will lead to an increase in population which will place a burden on existing town centre facilities (such as improvements to the public realm) in the Borough.
 2. *Directly related to the development*
Developments within the catchment area of a specific town centre are directly related to that town centre.
 3. *Fairly and reasonably related in scale and kind to the development*
Contributions will be proportional to the number of new dwellings proposed.

6.0 Development viability

Introduction

- 6.1 The NPPF in paragraph 173 puts the emphasis on the need for Local Authorities to consider the viability of schemes carefully. It states that “to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”
- 6.2 Viability considerations are emphasised further in the government’s Planning Practice Guidance (Viability – Viability and Decision Making), which states that “In making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.”
- 6.3 The NPPF Framework is clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted. This means that whilst the Council will be flexible in seeking planning obligations where viability is a concern, development that cannot provide the necessary requirements may be considered unacceptable and planning applications will, in such cases, be refused.
- 6.4 **This SPD will help the Development Management Team and Developers have a better understanding of viability and the ability of a site to help to deliver Erewash’s infrastructure requirements before entering into negotiations.**
- 6.5 Planning obligations are negotiated between the Council and developers, on a case by case basis. Where developers believe that viability is an issue, applicants will need to make a submission using a recognised viability appraisal tool. The Council may also use figures from the viability appraisal to feed into its own viability model in order to ensure that the assessment is accurate and that a consistent approach is taken by the Council when assessing viability for all residential developments.

- 6.6 The Council will always try and reach an agreement with developers when discussing viability appraisals regarding the costing and approach sought for the elements that make up a viability appraisal. Where no agreement can be reached the Council may instruct the Valuation Office (District Valuer Services) to undertake an independent viability appraisal, the cost of which will be expected to be borne by the Developer.
- 6.7 Based on these financial viability findings and other evidence, planning obligations may be deferred/phased, or discounted, where this would not make the development unacceptable in planning terms.

Methodology Overview

- 6.8 Firstly it should be noted that this SPD focuses on residential development and does not appraise the viability of commercial sites. The Borough Council does not intend to seek financial contributions from employment development, and retail and commercial development will be considered on a case by case basis.
- 6.9 **The Local Housing Delivery Group advice note (The Harman Report)** recommends that the **Residual Land Value Approach** is taken when assessing the viability of local plan policies. This method is used by developers when determining how much to bid for land and involves calculating the value of the completed scheme and deducting development costs. The residual amount is the sum left after these costs have been deducted from the value of the development, and guides a developer in determining an appropriate offer price for the site.
- 6.10 When running a viability appraisal, it is necessary to identify the key variables, such as build costs, with some degree of accuracy in advance of implementation of a scheme. Even on the basis of the standard convention that current values and costs are adopted (not values and costs on completion), this can be very difficult.
- 6.11 Ultimately, the landowner will make a decision on implementing a project on the basis of return and the potential for market change, and whether alternative developments might yield a higher value. The landowner's 'bottom line' will be achieving a residual land value that sufficiently exceeds 'existing use' or another appropriate benchmark to make development worthwhile. The margin above existing use value may be considerably different on individual sites, where there might be particular reasons why the premium to the landowner should be lower or higher than other sites.

- 6.12 Clearly, however, landowners have expectations of the value of their land which often exceed the value of the existing use. Ultimately, if landowners' expectations are not met, they will not voluntarily sell their land (unless a local authority is prepared to use its compulsory purchase powers) and may simply hold on to their sites, in the hope that future market conditions will change to yield higher values.
- 6.13 This methodology has been developed for indicative purposes only. Appraisals for individual schemes will be tailored to the specific circumstances of these schemes. The full methodology can be seen in Appendix 1.

7.0 Appraisal results and conclusions

7.1 The full appraisal results detailed in Appendix 2 (Table 2 below shows a breakdown of these results) show that each of the six typologies are viable in terms of a competitive return to the developer and a willing landowner, an appropriate affordable housing contribution and an appropriate S.106 contribution. The different affordable housing percentages applied to each typology are the biggest factor to consider when assessing what each of the differing typologies can contribute in terms of other S.106 contributions.

Table 2 – Appraisal Results

Typology	Affordable Housing Contribution (%)	S.106 Contribution per plot
Ilkeston Greenfield	15%	£5k
Ilkeston Brownfield	10%	£4k
Long Eaton Greenfield	25%	£3k
Long Eaton Brownfield	20%	£5k
Rural Greenfield	30%	£9k
Rural Brownfield	30%	£7k

7.3 Consideration of the infrastructure needs identified in section 5 against the viability summarised in table 2 above suggests the following range of contributions for each of the six typologies as a starting point for negotiation. Rural sites are not included in this table, as in reality very few schemes of 10 dwellings or more come forward in these areas.

Table 3 – Infrastructure Requirements

Typology	Affordable Housing	Other S.106 Contribution per plot
Ilkeston Greenfield	15%	£2,300 primary schools £2,400 sustainable transport £300 open space
Ilkeston Brownfield	10%	£2,300 primary schools £1,400 sustainable transport £300 open space
Long Eaton Greenfield	25%	£2,700 sustainable transport £300 open space
Long Eaton Brownfield	20%	£2,000 Long Eaton town centre £2,700 sustainable transport £300 open space

- 7.4 These sums are commensurate with recently negotiated S.106 contributions (See Appendix 4).
- 7.5 On sites of less than 100 dwellings, heads of terms submitted with planning applications that accord with the position in Table 3 will be acceptable. Alternative proposals will have to be supported by a viability assessment that will be subject to independent scrutiny.
- 7.6 On sites of 100 or more dwellings, planning obligations will be assessed on an individual basis taking into account the specific needs and circumstances of that development.

8.0 Glossary

Affordable Housing: Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.

Benchmark Land Value: Same as Threshold Land Value definition below.

Brownfield (or Previously Developed) Land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

Building Cost Information Services (BCIS) - A subscriber service set up in 1962 under the aegis of RICS (See definition below) to facilitate the exchange of detailed building construction costs. The service is available from an independent body to those of any discipline who are willing and able to contribute and receive data on a reciprocal basis.

Community Infrastructure Levy (CIL): A standard charge levied by councils on developers towards the cost of local and strategic infrastructure to support development (including transport, social and environmental infrastructure, schools and parks). Introduction of CIL is not mandatory but CIL will limit the use of S.106 agreements (See definition below).

Density: The intensity of development in a given area. Usually measured as net dwelling density, calculated by including only those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas, where these are provided.

Department for Communities and Local Government (CLG): Is the Government department for communities and local government in England.

Greenfield Land: Land which has not been previously developed is known as "Greenfield" land (See Brownfield land definition).

Gross Development Value (GDV): The total value of a completed development project.

Gross Internal Area (GIA): Measurement of a building on the same basis as gross external area (The aggregate superficial area of a building taking each floor into account), but excluding external wall thicknesses.

Homes and Communities Agency (HCA): The national housing and regeneration delivery agency for England, enabling local authorities and communities to meet the ambition they have for their areas.

Infrastructure Delivery Plan (IDP): Sets out a range of infrastructure required to support a Local Plan (Derbyshire County Council have also produced an IDP). Infrastructure projects set out in IDP's are important to the successful delivery of Local Plans including when they are needed and how they will be funded and delivered.

Local Housing Delivery Group: Is a cross-industry group involving a broad group of stakeholders with an interest in home building in England. It was set up in 2011 to respond to the Government's challenge to boost the delivery of new homes, to

simplify housing standards where possible, and to support growth and high standards in home building by helping local authorities and developers find agreed ways in which they can fulfil their obligations under the National Planning Policy Framework (NPPF).

Local Plans: The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. Current **Core Strategies** or other planning policies, which under the regulations would be considered to be development plan documents, form part of the Local Plan. The term includes old policies which have been saved under the 2004 Act.

Local Transport Plan (LTP): Set out the development of local, integrated transport, supported by a programme of transport improvements and are used to bid for Government funding towards transport improvements. They are prepared by upper tier authorities. The LTP prepared by Derbyshire County Council covers Erewash Borough.

National Planning Policy Framework (NPPF): The NPPF replaced all other national planning policy documents (PPG/PPS) and many circulars, streamlining them all into one document. It sets out the Government's planning policies for England and how these are expected to be applied. It provides a framework within which local and neighbourhood plans can be produced reflecting the needs and priorities of the local area.

National Planning Practice Guidance (NPPG): Following an external review, the Government have produced new streamlined planning practice guidance.

Planning Conditions: Planning permissions are usually subject to conditions which either control the use or require certain things to be done before the development is commenced or occupied.

Planning Obligation (Contribution): A legally enforceable obligation entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal (See Section 106 Agreement).

Section 106 Agreement (S.106): Section 106 (S.106) of the Town and Country Planning Act 1990 allows a Local Planning Authority to enter into a legally binding agreement or planning obligation with a landowner in association with the grant of planning permission. This agreement is a way of addressing matters that are necessary to make a development acceptable in planning terms and secures the provision of essential services and infrastructure, such as highways, recreational facilities, education, health and affordable housing. The Community Infrastructure

Levy (See definition above) regulations limit the number of S.106 planning obligations that can be pooled to provide a single piece of infrastructure to 5.

Smarter Choices (Sustainable Travel): Initiatives to help people to think about transport and help them move towards more sustainable travel options such as walking, cycling, public transport and car sharing.

Supplementary Planning Document (SPD): Documents which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

Residual Land Value (RLV): Is a methodology used to assess viability (used by most models) which will approximate the sums of money which will be left available for land purchase once all the development costs, including profit requirements, are met (hence “land residual”).

Royal Institute of Chartered Surveyors (RICS): Is the world's leading professional body for qualifications and standards in land, property and construction.

Threshold Land Value: Threshold Land Value should represent the value at which a typical willing landowner is likely to release land for development, before payment of taxes (such as capital gains tax).

Travel Plan: Is a package of actions designed by a workplace, school or other organisation to encourage safe, healthy and sustainable travel options.

Viability: An individual development can be said to be viable if, after taking account of all costs, including central and local government policy and regulatory costs and the cost and availability of development finance, the scheme provides a competitive return to the developer to ensure that development takes place and generates a land value sufficient to persuade the land owner to sell the land for the development proposed. If these conditions are not met, a scheme will not be delivered.

Appendix 1 – Appraisal methodology

- 1.1 The SPD assesses indicative development values to ascertain how much money will be available per plot for S.106 contributions. This methodology has been developed for indicative purposes only. Appraisals for individual schemes will be tailored to the specific circumstances of these schemes.
- 1.2 The appraisal will assess the following six site ‘typologies’ which form the majority of the unconsented land supply in the Borough.

Six Site Typologies to be assessed

1. Ilkeston Greenfield
2. Ilkeston Brownfield
3. Long Eaton Greenfield
4. Long Eaton Brownfield
5. Rural Greenfield
6. Rural Brownfield

- 1.3 The following assumptions have been applied to the six site typologies listed above:

Geography

- 1.4 The SPD has utilised nine of the postcode sectors used in the Erewash Housing Viability Assessment Report 2012. Each of the postcode sectors (see table 1 below) has been grouped together to form **3 different spatial areas in Erewash; Ilkeston, Long Eaton Urban Area and the Rural area**. These three spatial zones are reflected in Policy 2 – The Spatial Strategy and Policy 8 – Housing Size, Mix and Choice (variations in affordable housing contributions asked for by spatial area) of the Erewash Core Strategy:

House Type and Size

- 1.5 **It was decided to model 3 bed semi-detached housing on each of the six site typologies** as this equates to an average value dwelling. **A dwelling size of 75 sq m was chosen** as the standard size for a 3 bed semi-detached house in Erewash (taken from recent applications at the Stadium Industrial Estate, Long Eaton and Quarry Hill at Ilkeston. **A housing density of 35 dwellings per hectare was selected**. This is compatible with established policy and practice in the Borough.

Residential sales values

- 1.6 The indicative new build house prices used in this SPD have been taken from the Erewash Housing Viability Assessment Report 2012 – See Table 1 below. The figures were given a 2% increase across the board as this is the latest price increase as sourced in May 2014 from the Land Registry Index (this is Derbyshire) - Nov 2012 to March 2014.

Table 1 - Indicative new build house prices by Spatial Area

Typology	Postcode Sector	Areas; Settlements	3 bed Semi Detached House Price*
Ilkeston Greenfield and Brownfield	DE7 5	Ilkeston Central, Little Hallam and Gallows Inn	£146,000
	DE7 8	Ilkeston North and Cotmanhay	£144,000
	Average £145,000 Ilkeston Area		
Long Eaton Greenfield and Brownfield	NG10 5	Sandiacre North	£169,000
	NG10 3	Wilsthorpe and New Sawley	£168,000
	NG10 4	Sandiacre South and Derby Road West	£165,000
	NG10 1	Long Eaton Central	£164,000
	NG10 2	Nottingham Road	£161,000
	Average £165,400 Long Eaton Urban Area		
Rural Greenfield and Brownfield	DE72 3	Breaston, Borrowwash, Draycott and Ockbrook	£209,000
	DE7 6	West Hallam and Rural West	£206,000
	Average £208,000 Rural Area		

Source: HM Land Registry *(2% price increase applied – See paragraph 1.6)

Affordable Housing

- 1.7 The Council's policy position is for 30% affordable housing with viability likely to constrain this target (See Appendix 1) to the following levels which will be tested for each typology:

1. Ilkeston Greenfield – *15% affordable
2. Ilkeston Brownfield – 10% affordable
3. Long Eaton Greenfield – *25% affordable
4. Long Eaton Brownfield – 20% affordable
5. Rural Greenfield – 30% affordable
6. Rural Brownfield – 30% affordable

*An uplift of 5% was given to the Ilkeston and Long Eaton greenfield typologies to reflect the lower cost of developing greenfield sites.

- 1.8 The appraisal assumes that **one affordable dwelling will sell at 50% market value**. Consequently the appraisal calculates that the affordable housing cost to a development is 0.5% sales value per 1% affordable housing.

- 1.9 The CLG/HCA '2011-2015 Affordable Homes Programme – Framework' (February 2011) document clearly states that RSLs will not receive grant funding for any affordable housing provided through planning obligations. Consequently, the appraisals assume nil grant.

Sales and Marketing costs

- 1.10 An allowance of 4% for marketing costs (on residential sales values) has been incorporated into the appraisals which is the mid-range of the 3-5% recommended by the Harman Report.

Developer's profit

- 1.11 The Homes and Communities Agency (HCA) in its Development Appraisal Tool (DAT) is not explicit on this input. However, the HCA area wide viability model gives illustrative figures for market value dwellings of 17% of gross development value (GDV) together with 6% profit on cost in respect of affordable units. Recent viability appraisals undertaken by District Valuer Services (DVS) on behalf of the Borough Council have also assumed a GDV on market housing in this region. **Erewash propose to use an indicative figure of 18% of GDV.**

Construction Costs

- 1.12 The Harman report "*states that these should be based on the BCIS or other appropriate data, adjusted only where there is good evidence for doing so based on specific local conditions and policies including low quantities of data*". Drawing from recently submitted viability assessments which have included BCIS construction data **a cost of £854 per square metre has been applied**. It is important to understand that BCIS costs do not include external structural and local site works and are based on Gross Internal Area (GIA). Preliminary costs are included in the BCIS build costs figures so should not be included as a separate cost.

External work

- 1.13 The Harman report "*states that these are likely to vary significantly from site to site. The planning authority should include appropriate average levels for each type of site unless more specific information is available. Local developers should provide information to assist in this area where they can, taking into account commercial sensitivity*". Drawing from recently submitted viability assessments **a figure of 15% has been applied to the base build costs for external work.**

Fees

- 1.14 Residential schemes will incur professional fees covering design, valuation highways and planning consultants and the cost of preparing and submitting the planning application and so on. The appraisals incorporate an 8% allowance, which is at the middle of the range for most schemes.
- 1.15 A building contingency of 5% has also been included for any abnormal (A figure used by the Nationwide CIL Consultancy Service which is a public/private sector partnership established between Heb Chartered Surveyors and Newark & Sherwood District Council); which means **a figure of 13% has also been applied to the base build costs for fees and contingency for abnormal.**

Brownfield Abnormal Costs

- 1.16 There is potential for 'abnormal' costs such as remediation and decontamination on previously used sites, in addition to costs of site clearance. The Nationwide CIL Consultancy Service estimates these costs to be £100,000 per hectare. However, it was decided to add a little flexibility (an additional contingency) into the brownfield abnormal costs for Erewash and use a cost of £140,000 per hectare or **£4k per plot** using the 35dph local 'norm' for Erewash.

Benchmarking

- 1.17 The NPPF does not prescribe any particular methodology for assessing the viability of developments. The Harman report notes that *"consideration of an appropriate Threshold Land Value [or viability benchmark] needs to take account of the fact that future plan policy requirements will have an impact on land values and landowner expectations. Therefore, using a market value approach as the starting point carries the risk of building-in assumptions of current policy costs rather than helping to inform the potential for future policy"*. Nevertheless, the RICS Guidance Note 'Viability in Planning' (August 2012) advocates a market value as a benchmark for testing viability.
- 1.18 In light of the weaknesses in the market value approach, the Harman report recommends that benchmark land value "is based on a premium over current use values" with the "precise figure that should be used as an appropriate premium above current use value [being] determined locally". The guidance considers that this approach "is in line with reference in the NPPF to take account of a "competitive return" to a willing land owner".
- 1.19 For robustness, it was decided to apply a benchmark value of £500k per hectare or 14k per plot (applying the 35 dph local 'norm' for Erewash) for

brownfield sites, and the lower value of £150k per hectare or £4k per plot for greenfield sites. This reflects the lower development expectations of the acceptability of development on greenfield compared to brownfield land (¹See footnote below for source of £500k and £150k figures).

- 1.20 It is also necessary to recognise that a landowner will require an additional incentive to release the site for development. This approach is consistent with the NPPF, which indicates that development should provide “*competitive returns*” to landowners. This SPD has applied a 20% return (or uplift) above existing use values as a competitive return when compared to other forms of investment. This is a blanket assumption as it is not possible to reflect circumstances of each individual site and gives a benchmark value for brownfield sites of £600,000 per hectare or **£17k per plot**, and for greenfield sites of £180,000 per hectare or **£5k per plot**, using the 35dph local ‘norm’ for Erewash.

Amount of Residual Land Value for Public Benefit

- 1.21 A reasonable approach is for **50% of the residual land value** to be caught as public benefit (S.106 contributions), as long as that leaves enough value to exceed the benchmark alternative use value for cleared commercial land.

¹A figure of £500k for cleared commercial land in Nottingham was taken from the Housing Viability Assessment Report Nov 2012 and re-affirmed in March 2013.

A figure of £150k for greenfield sites was used following advice from the District Valuer Services – DVS.

Appendix 2 – Appraisal results (per plot)

1. Ilkeston Greenfield

Sales price = £145k – 6k sales & marketing costs – 26k developer profit - £82k construction, fees & contingency = £31k residual.

Half residual = £16k, which exceeds the alternative use value of 5k

16k per plot available for public benefit.

15% affordable housing = $(15 \times 0.005 \times £145k \text{ sales price}) = £11k \text{ per plot}$
 $£16k - £11k = \text{£5k available for S.106 contributions per plot.}$

2. Ilkeston Brownfield

Sales price = £145k – 6k sales & marketing costs – 26k developer profit - £82k construction, fees & contingency - £4K brownfield cost = £27k residual.

Half residual = £14k, which does not exceed the alternative use value of 17k

11k per plot available for public benefit (reduced by 3k)

10% affordable housing = $(10 \times 0.005 \times £145k \text{ sales price}) = £7k \text{ per plot}$
 $£11k - £7k = \text{£4k available for S.106 contributions per plot.}$

3. Long Eaton Greenfield

Sales price = £165k – 6.5k sales & marketing costs – 29.5k developer profit - £82k construction, fees & contingency = £47k residual.

Half residual = £24k, which exceeds the alternative use value of 5k

24k per plot available for public benefit.

25% affordable housing = $(25 \times 0.005 \times £165k \text{ sales price}) = £21k \text{ per plot}$
 $£24k - £21k = \text{£3k available for S.106 contributions per plot.}$

4. Long Eaton Brownfield

Sales price = £165k – 6.5k sales & marketing costs – 29.5k developer profit - £82k construction, fees & contingency - £4K brownfield cost = £43k residual.

Half residual = £22k, which exceeds the alternative use value of 17k

22k per plot available for public benefit.

20% affordable housing = $(20 \times 0.005 \times £165k \text{ sales price}) = £17k \text{ per plot}$
 $£22k - £17k = \text{£5k available for S.106 contributions per plot.}$

5. Rural Greenfield

Sales price = £208k – 8k sales & marketing costs – 38k developer profit - £82k construction, fees and contingency = £80k residual.

Half residual = £40k, which exceeds the alternative use value of 5k

40k per plot available for public benefit.

30% affordable housing = $(30 \times 0.005 \times \text{£}208\text{k sales price}) = \text{£}31\text{k per plot}$
 $\text{£}40\text{k} - \text{£}31\text{k} = \text{£}9\text{k available for S.106 contributions per plot.}$

6. Rural Brownfield

Sales price = $\text{£}208\text{k} - 8\text{k sales \& marketing costs} - 38\text{k developer profit} - \text{£}82\text{k construction, fees \& contingency} - \text{£}4\text{k brownfield costs} = \text{£}76\text{k residual}$.
Half residual = $\text{£}38\text{k}$, which exceeds the alternative use value of 17k.

38k per plot available for public benefit.

30% affordable housing = $(30 \times 0.005 \times \text{£}208\text{k sales price}) = \text{£}31\text{k per plot}$
 $\text{£}38\text{k} - \text{£}31\text{k} = \text{£}7\text{k available for S.106 contributions per plot.}$

Appendix 3 – S.106 protocol



DEVELOPMENT MANAGEMENT PROCEDURE NOTE

S106 Protocol

Pre-Decision

Planning Officer should identify at an early stage if a S106 Planning Obligation is likely to be required for a planning application. In many cases, this will be done at pre-application stage. Reference should be made to the NPPF, NPPG, the Saved Policies of the Local Plan, the policies of the Core Strategy, the Council's evidence base and the Council's SPD on planning obligations.

Prior to entering discussions with applicant/agent, Planning Officer should discuss the likely S106 requirements with DC Manager (DCM) and Head of Planning & Regeneration (HOPAR). Having agreed the heads of terms with DCM and HOPAR, the Planning Officer should commence negotiations with the applicant/agent to seek agreement for the Heads of Terms of the obligations deemed necessary.

Once agreement is obtained, the Planning Officer should complete the S106 Instructions Protocol form (attached to Actions Diary for all major applications) and pass to DCM and HOPAR for counter-signature. Once this has been signed, this can be sent to the Head of Law and Corporate Governance (HOLACG) as full instructions to commence the drafting of the S106, or for the checking of a Unilateral Undertaking.

All the relevant fields on the Protocol Form must be completed prior to sending the form to the HOLACG

The HOLACG will liaise with the applicants' solicitor in seeking to ensure the Heads of Terms agreed are appropriately reflected in the S106.

The HOLACG's sole contact for any subsequent discussions / clarification / negotiations from Officers, is the Planning Case Officer. The Case Officer will liaise with any other consultees as necessary before giving revised/additional information to the HOLACG.

The HOLACG will provide the Planning Case Officer with the draft S106 for their comments (in consultation with DCM and HOPAR where necessary) prior to it being signed.

Post Decision

Following the approval of planning permission, Legal department will circulate electronic copies of the S106 to:

- Developer
- Beneficiaries
- Land Charges
- Planning Admin (attach to Flare – as a separate line on Actions Diary) (upload to website)
- Planning Policy Monitoring & Information Officer (the Monitoring Officer) will enter details of the S106 Obligation into Flare Assessment record (or spreadsheet), recording details of the obligations, trigger points and payments.

The Lead Planning Enforcement Officer (LPE) checks the list of weekly commencement for compliance with planning conditions. The LPE will inform the Monitoring Officer in regard to any commencements on major applications. At commencement of development, Monitoring Officer to check S106 to establish if triggers in the S106 are reached. If so, Monitoring Officer to approach the developer to remind them of their S106 obligations (and copies finance in).

If the Planning Officer receives any correspondence from the developer suggesting development may be about to commence, eg discharge of conditions etc, Planning Officer should remind developer of any outstanding S106 obligations.

Where breaches of S106 Obligations are discovered, eg trigger points having passed without contributions being made, the Monitoring Officer should inform the Lead Planning Enforcement Officer who will set up an enforcement case and allocate to an Enforcement Officer.

Receipt of Financial Contributions

On receipt of BACS payment Finance Officer to confirm with the Monitoring Officer monies have been banked. Monitoring Officer to acknowledge receipt of payment (copies in beneficiaries as well) and informs developer of deadlines.

The Finance Officer will forward monies for non-Borough Council beneficiaries to those bodies, and create relevant budget income and expenditure codes on the balance sheet in respect to monies for Borough Council beneficiaries to ensure the money is ring-fenced for its specified purpose. The Finance Officer will notify the Monitoring Officer that the monies have been disbursed.

The Monitoring Officer will liaise with the beneficiary to monitor progress of the expenditure.

Having spent the money received, the beneficiary should email the Monitoring Officer, informing them when, how and on what, the contribution was spent. Monitoring Officer will check on site if required, then update the Flare Assessment record (or spreadsheet record) and inform the developer.

All correspondence shall be recorded on the Actions Diary on flare for the relevant planning application. Monitoring Officer to send Development Control Manager a quarterly S.106 monitoring report.

S106 INSTRUCTIONS PROTOCOL

ALL DETAILS TO BE COMPLETED BY PLANNING OFFICER AND FORM TO BE COUNTERSIGNED BY DEVELOPMENT CONTROL MANAGER AND HEAD OF PLANNING AND REGENERATION PRIOR TO BEING SENT TO THE HEAD OF LAW & CORPORATE GOVERNANCE

Planning Reference No:	
Site Address:	
Proposal:	
Planning Case Officer:	
13 Week Expiry Date: (or EoT date where applicable)	
Confirmation of who is to draft the S106 agreement:	Applicant's solicitor / EBC Head of Law & Corporate Governance <i>(delete as applicable)</i>
	Details of the application can be viewed on the Council's website
Applicant's Solicitors' Details:	
Name of Landowner and Developer: (if not the same)	
Heads of Terms: (including full details of requirements, contributions etc) (attach separate memo if necessary)	<ol style="list-style-type: none"> 1. 2. 3.

Countersigned: (Development Control Manager)	
Countersigned: (Head of Planning & Regeneration)	
Date of instructions:	

Attach (where relevant)

- 1. Copy of planning committee report and minute**
- 2. Copy of draft delegated report and decision notice**
- 3. Site plan(s)**

Appendix 4 – Recent S.106 contributions secured

SHLAA REF (Planning Perm)	Site Name	Location	Postcode	Dwg No.	Site Size (Ha)	Affordable %	S.106 Contribution
8 (ERE/1013/0022)	Stadium Industrial Estate	Long Eaton	NG10 2	54	1.69	20%	£245,889 (£125,389 education, £80,000 open space, £40,500 town centre improvements)
37 (ERE/1113/0005)	Waterside Close	Sandiacre	NG10 5	18	0.49	22%	£61,333 (£54,000 Sandiacre Lock Management Plan and £7,133 for open space improvement at Hayworth Road)
64 (ERE/1211/0024)	Wade Springs (Britannia Mills)	Long Eaton	NG10 4	80	1.88	20%	£253,686 (£250,000 for canal bridge and £3,686 on site open space maintenance)
229 (ERE/0913/0025)	Stanton Vale School	Ilkeston	DE7 4 -	18	0.6	16.5%	£55,147 (£45,496 Education Contribution and £9,651 contribution to improve a local area of public open space)
376 (ERE/0514/0037)	Gardner Aerospace	Ilkeston	DE7 8 -	85	2.83	10%	£259,398 (£193,783 education, £35,615 Travel Planning Officer, £30,000 open space improvement at Granby Park)

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EREWASH

