

# **DEVELOPER CONTRIBUTIONS**

## Supplementary Planning Document (SPD)

**January 2023**

North Hertfordshire  
**Local Plan** 2011 - 2031



**North  
Herts**  
Council

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## 1 INTRODUCTION

### 1.1 Overview

- 1.1.1 North Herts Council (NHC) is committed to ensuring that the necessary infrastructure, services and facilities are provided to support growth and development in the District.
- 1.1.2 This Supplementary Planning Document (SPD) sets out detailed guidance on the type and scale of developer contributions that will be sought to support new development in our area.
- 1.1.3 The aim of the document is to assist Council Officers, applicants, agents and Members through the planning application process in a fair, transparent and consistent way.

### 1.2 Background and status of the SPD

- 1.2.1 This document has been produced by NHC to provide further information on requirements set out in our Local Plan. In particular, it expands upon Local Plan Policy SP7: Infrastructure Requirements and Developer Contributions.
- 1.2.2 This SPD has been widely consulted upon, including with developers and members of the public.
- 1.2.3 This SPD is a material consideration when determining planning applications in the District and will be used when securing obligations, whether by Section 106 agreements or unilateral undertakings.

### 1.3 Legislative context

- 1.3.1 SPDs are documents which add further details to policies in a Local Plan. They can be used to provide further guidance on particular issues, but they cannot introduce new policies. SPDs are a form of Local Development Document produced under the 2004 Planning and Compulsory Purchase Act (as amended). Government regulations set out the requirements for producing SPDs<sup>1</sup>.
- 1.3.2 Section 106 of the Town and Country Planning Act 1990 allows Local Planning Authorities (LPA's) to enter into agreements with persons with an interest in land. These agreements can be used (but are not necessarily limited) to:
- Restrict the development or use of the land;
  - Require (parts of) the land to be used in a specific way;
  - Require the payment of a sum to the local authority.

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<sup>1</sup> The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

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- 1.3.3 The Community Infrastructure Levy Regulations 2010 (as amended) set out the requirements that planning obligations must fulfil. Planning obligations can only be used:
- To make the development acceptable in planning terms
  - Where they are directly related to the development; and
  - Are fairly and reasonably related in scale and kind to the development.
- 1.3.4 Paragraph: 4, reference ID: 23b-004-20190901 of the National Planning Practice Guidance (NPPG) makes clear that it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in SPD's or supporting evidence base documents, as these would not be subject to examination. Whether or not an obligation meets the test of fairly and reasonably related in scale and kind to the development will be assessed on a case-by-case basis considering the project, harm or stress added to such facilities (in the round) from the development proposed and considering the residual S106 figures arising from the viability evidence supporting the Local Plan<sup>2</sup>.
- 1.3.5 The pooling limits previously imposed by regulation 123 of the above Regulations have been omitted by way of regulation 11 of The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019. This omission now allows more than five obligations to fund a single infrastructure project where the contribution meets the three tests set out in paragraph 1.3.3 of this document.

## 1.4 National policy context

- 1.4.1 The National Planning Policy Framework (NPPF) says that Local Plans should set out the contributions expected from development. This should include the levels and types of affordable housing and other infrastructure requirements. These policies should not undermine the deliverability of the Local Plan.<sup>3</sup>
- 1.4.2 LPA's should consider whether otherwise unacceptable development can be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition<sup>4</sup>.
- 1.4.3 Where up-to-date policies set out the contributions expected from development, planning applications that comply with them should be assumed to be viable<sup>5</sup>.
- 1.4.4 The Government sets out requirements for considering viability in the NPPF and in associated NPPG. Local Plans should clearly set out the contributions that developers are expected to make towards infrastructure and affordable housing;

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<sup>2</sup> DSP – North Hertfordshire District Council – Local Plan Viability Assessment – Update – Final Report (August 2016); DSP – North Hertfordshire District Council – Local Plan Examination Addendum (Viability) (Proposed policies HS4 and HS5) (January 2018)

<sup>3</sup> NPPF Paragraph 34

<sup>4</sup> NPPF Paragraph 55

<sup>5</sup> NPPF Paragraph 58

there should be a standard approach to establishing land value; transparency and accountability through the publication of viability assessments and through improvements to the monitoring and reporting of Section 106 planning obligations<sup>6</sup>.

### 1.5 The Local Plan and Neighbourhood Plans

1.5.1 The North Hertfordshire Local Plan was adopted in November 2022. Policy SP7 of the Local Plan provides the main policy 'hook' for this SPD while other Local Plan policies have further requirements for developer contributions. This Policy is shown below.

#### Policy SP7: Infrastructure requirements and developer contributions

The Council will require development proposals to make provision for infrastructure that is necessary in order to accommodate additional demands resulting from the development. We will:

- a) Require developers to provide, finance and / or contribute towards provision which is fairly and reasonably related in scale and kind to the development, including:
  - i. on-site and/or off-site improvements and infrastructure necessary as a result of the development in order to:
    - ensure appropriate provision of facilities and infrastructure for new residents;
    - contribute toward addressing cumulative impacts that might arise across multiple developments;
    - avoid placing unreasonable additional burdens on the existing community or existing infrastructure;
    - mitigate adverse impacts where appropriate; and/or
    - enhance critical assets or make good their loss or damage; and
  - ii. maintenance and/or operating costs of any such new provision;
- b) Ensure essential new infrastructure to support new development is will be operational no later than the completion of development or during the phase in which it is needed, whichever is earliest;
- c) Refuse planning permission where appropriate agreements or processes ensuring criteria (a) and (b) can be met are not in place;
- d) Have regard to relevant national guidance or requirements in relation to planning obligations and any Community Infrastructure Levy or successor funding tariff which may be introduced by the Council;
- e) Work with landowners, developers and other agencies in facilitating the delivery of sites identified in the Local Plan and associated infrastructure and seek to overcome known obstacles; and
- f) Need robust evidence to be provided where developers consider that viability issues impact upon the delivery of key infrastructure and/or mitigation measures. This evidence will be used to determine whether an appropriate and acceptable level of contribution and / or mitigation can be secured.

<sup>6</sup> <https://www.gov.uk/guidance/viability>

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1.5.2 This document has been structured to broadly follow the chapters and topics set out in the Local Plan.

1.5.3 Developer contributions may also be required by policies set out in Neighbourhood Plans and applicants should have regard to such policies when formulating development proposals.

### **1.6 Developer contributions, planning obligations, S106 and Community Infrastructure Levy (CIL)**

1.6.1 Developer contributions are normally secured through planning obligation agreements under Section 106 of the Town and Country Planning Act 1990.

1.6.2 The terms ‘developer contributions’, ‘planning obligations’ and ‘Section 106’ (s106) are used interchangeably but generally refer to the same things. Agreements may be used to ensure that the impacts arising as a result of a new development can be addressed. They are also a valuable way of ensuring that a development complies with planning policies contained in the Local Plan and any Neighbourhood Plans.

1.6.3 Planning obligations may be set out in a Section 106 agreement between the Council and the developer (and any other relevant parties) or in a unilateral undertaking offered by the developer. Section 106 agreements and unilateral undertakings are individual, scheme-specific, legal documents. Such agreements or undertakings can contain a number of planning covenants which can relate to both financial and non-financial obligations. For further information on the instances where contributions may be sought, please refer to paragraph 2.1.3 below.

1.6.4 The Government has set out the intention to introduce a new Infrastructure Levy (IL) in the Levelling-up and Regeneration Bill. The IL would be charged on the value of the property when it is sold and applied above a minimum threshold, with levy rates and minimum thresholds set by local authorities. A consultation on the IL is expected in the coming months. We do not yet know the precise nature of, or timetable for, any IL and the information to date suggests that site-specific obligations will continue to have some role. It is likely that elements of this document and the guidance contained within will remain a material planning consideration in the assessment of future planning applications if an IL is subsequently introduced.

### **1.7 Sustainability Appraisal**

1.7.1 This SPD has been reviewed against the Environmental Assessment of Plans and Programmes Regulations 2004 (commonly referred to as the ‘Strategic Environmental Assessment Regulations’). This scoping exercise has shown that this SPD does not require an SEA to be undertaken.

## **1.8 Cross-boundary issues**

- 1.8.1 There may be instances where the impacts of development that lie within other local authority areas may affect areas within the District. When notified of developments that could potentially affect the delivery of services by NHC, the authority will discuss these with the relevant local authority and seek obligations from the developer accordingly. In these cases, the Council would expect a clause enabling money to be transferred for spending in the District if necessary.
- 1.8.2 The Council will make reciprocal arrangements to those set out above should a development falling within the NHC administrative boundary have cross-boundary impacts affecting another authority area(s).
- 1.8.3 The above approaches will also apply, having regard to the general principles in this document, in relation to any Nationally Significant Infrastructure projects (NSIPs) in or affecting the District.

## **1.9 Other providers that may seek S106 contributions**

- 1.9.1 A range of infrastructure providers may seek contributions from new development. This includes, but is not limited to, Hertfordshire County Council, the NHS, the Police and Crime Commissioner for Hertfordshire and local Parish, Town or Community Councils. These are indicated under the relevant topic areas below. Guidance should also be taken from programmes from these other authorities, such as the Hertfordshire County Council Guide to Developer Infrastructure Contributions document<sup>7</sup> (or any such subsequent Hertfordshire County Council document), or neighbourhood development plans from local Councils.
- 1.9.2 Hertfordshire County Council will normally be signatories where contributions are required for services they provide. Other providers may also be required to be signatories to the S106 agreement. The decision to make any other provider a signatory will be based on the level of financial contribution sought by the other provider.

## **1.10 Infrastructure Planning and Funding**

- 1.10.1 Any provider (other than NHC, Hertfordshire County Council and any Parish or Town Council) seeking a financial contribution in excess of £250,000 will, on a case-by-case basis, be requested to be a third-party signatory to the Section 106 agreement. This threshold has been set as holding funds in excess of this figure for third parties or transferring monies without adequate safeguards represents an unacceptable financial and audit risk for NHC. The need for third parties to become signatories will be considered having regard to, but not limited to, the level of contributions anticipated, the matters they relate to, the number of

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<sup>7</sup> Hertfordshire County Council Guide to Developer Infrastructure Contributions, [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)



signatories involved and any bearing on the timescales for the delivery of the development.

- 1.10.2 An Infrastructure Delivery Plan (IDP)<sup>8</sup> is part of the Local Plan evidence base and sets out the requirements for infrastructure over the plan period. The IDP will need to be updated regularly to take into account the infrastructure needs of the District, including any updating of costs that is required.
- 1.10.3 The IDP examines the supply and demand for infrastructure based on forecasts of population growth.
- 1.10.4 Individual Council departments have priority projects that are set out in relevant strategies and action plans. These are identified under specific topics elsewhere in this SPD. Applicants should also have regard to other plans and strategies prepared by other service providers.
- 1.10.5 In addition to updating the IDP, Annual Infrastructure Funding Statements are a requirement of Regulation 121A of the Community Infrastructure Levy Regulations 2010 as amended by Regulation 9 of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019.

### 1.11 Strategic sites and masterplanning

- 1.11.1 Policy SP9 of the Local Plan requires the masterplanning of strategic and significant development sites, generally defined as developments of 100 or more homes. The Council has published detailed guidance on the masterplanning process and the expected contents of masterplans<sup>9</sup>. This includes an IDP allowing for early identification of strategic infrastructure requirements. This would involve a high-level indication of the key items of infrastructure required by the development, which would be linked to the phasing of the scheme. It would also set out the mechanisms required for management and maintenance. The Local Plan identifies six Strategic Sites, for which there are detailed policies. For these sites a strategic masterplan should be provided for the whole allocation to ensure that infrastructure provision fully meets the demands arising from development. The Strategic Sites are:
- Policy SP14: Site BA1 – North of Baldock
  - Policy SP15: Site LG1 – North of Letchworth Garden City
  - Policy SP16: Site NS1 - North of Stevenage
  - Policy SP17: Site HT1 - Highover Farm, Hitchin
  - Policy SP18: Site GA2 - Land off Mendip Way, Great Ashby
  - Policy SP19: Sites EL1, EL2 & EL3 - East of Luton
- 1.11.2 The Strategic Sites will need to address any specific contribution requirements set out in their individual policies, other relevant policies in the Plan and in this document. Developers should be aware that non-financial obligations may be

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<sup>8</sup> Infrastructure Delivery Plan to support the North Hertfordshire Local Plan 2011-2031 (2016) - [T11 Infrastructure Delivery Plan.pdf \(north-herts.gov.uk\)](#)

<sup>9</sup> <https://www.north-herts.gov.uk/approach-masterplanning>

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required to secure details outside of the scope of this document, such as securing a masterplan, the final location and use splits of local neighbourhood centres, or management plans for the maintenance and sustainability of any new neighbourhood centres required as a result of the development.

- 1.11.3 For sites of between 100 and 500 homes (or as otherwise captured by Policy SP9), the Council's masterplanning requirements will be applied in a proportionate manner having regard to the nature of the scheme proposed and the key issues.
- 1.11.4 The Council encourages the production of masterplans prior to the submission of a planning application. Detailed Section 106 discussions will not normally take place at this stage. However, it is anticipated that the masterplan process will normally 'dovetail' into a bespoke pre-application and / or a planning application where more detailed information may be sought or provided in line with this SPD.

### **1.12 Nationally Significant Infrastructure Projects (NSIPs)**

- 1.12.1 Since the production of the Local Plan, work to expand Luton Airport has commenced. The Council has been involved in ongoing engagement regarding this project. The project has been registered with the National Infrastructure Commission and a Development Consent Order application is anticipated in 2023. The expansion of Luton Airport and any further NSIPs will be dealt with by the Planning Inspectorate, as set out in the Planning Act 2008.
- 1.12.2 The Council may seek appropriate contributions from any part of any NSIP in or affecting the District, in line with the advice and principles in this document.

## **2 PROCESS, PROCEDURE & MANAGEMENT**

### **2.1 Pre-application stage**

- 2.1.1 Pre-application discussions offer the opportunity for the council to clarify the planning policies and material considerations that will be relevant to determining an application, as well as enabling issues to be resolved through a collaborative process.
- 2.1.2 NPPF paragraph 96 sets out that engagement between local authorities and promoters, delivery partners and statutory bodies before applications are submitted can ensure the faster delivery of public service infrastructure.
- 2.1.3 Discussions regarding the type and level of developer contributions should take place at the pre-application stage. Draft S106 Heads of Terms will be considered at this stage. The Council will accept the submission of and develop a draft Heads of Terms as part of any pre-application advice for housing developments expected to exceed 10 units or 0.5 hectares, or any other form of development for which an obligation may be expected. The level of detail included will depend on the specific issues relating to the proposed development, as well as whether an Outline or Full planning permission to be is sought. Where proposals are general in nature, for instance unit mixes are not yet specified, indicative S106 contributions will be calculated on the assumption that any future scheme would be fully policy- compliant.
- 2.1.4 Where an application requires developer contributions that would be delivered by an organisation other than the Council or the applicant, pre-application discussions may be encouraged with that organisation also. This may include, but is not limited to, discussions with: Registered Providers, Hertfordshire County Council, the Police and Crime Commissioner on behalf of Hertfordshire Constabulary, utility providers and the NHS. The Council will approach most organisations which will be engaged in the forming of the S106 obligations document. The above organisations are recommended as they provide independent, chargeable, pre-application advice services, or have particular requirements which may require further, independent engagement.
- 2.1.5 For schemes where viability is raised as an issue by the applicant, a draft viability appraisal will be required at pre-application stage if comments from the Council are required on this matter. For further advice, please see section 2.3 of this document.

### **2.2 Application stage**

- 2.2.1 Where pre-application discussions have identified that developer contributions will be required, applicants should submit heads of terms with their planning application.
- 2.2.2 Any developer contributions required will be considered at application stage by the case officer, other Council directorates, Hertfordshire County Council and

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any other external service providers and statutory consultees as relevant to the application. All developer contribution requests and requirements will be coordinated by the relevant NHC case officer. This is to ensure that:

- correct processes are followed;
- applications can be dealt with in a fair and consistent way having regard to all relevant policy requirements; and
- all requests for contributions are assessed to meet the relevant regulatory and policy tests.

2.2.3 This holistic approach may require compromise between competing interests (for example the preferred approach of the highway authority vs urban design and place-making considerations). Whilst applicants are encouraged to engage in pre-application discussions with certain organisations, no obligation should be agreed in principle independently of the case officer representing the Council to ensure that competing demands can be appropriately balanced.

2.2.4 The case officer will discuss the required developer contributions with the applicant, ensuring conformity with CIL Regulations 2010 (as amended). Where agreement cannot be reached between the applicant and the Council regarding the required obligations, or the applicant does not sign the S106 legal agreement within the required timescales, the planning application may be refused by the Council<sup>10</sup>. For this reason, close dialogue between case officers and specific Council service areas and applicants is recommended from an early stage.

2.2.5 Planning applications that require obligations and that are determined by the Council's Planning Control Committee will not normally be recommended favourably to the Planning Control Committee until all parties to the agreement have agreed the content of the document. The legal documents which secure the obligations, whether via section 106 or unilateral undertaking, must be agreed with regard to wording of definitions, scale, phasing of delivery and trigger points of any obligations prior to the deadline for draft reports for the targeted Committee date.

2.2.6 Standard templates for legal agreements and Unilateral Undertakings can be found on the Council's webpage at: <https://www.north-herts.gov.uk/home/planning/apply-planning-permission/planning-obligations/>.

2.2.7 Developers / applicants will need to produce satisfactory proof of title for their particular site and all persons with an interest in the development site including owners, mortgagees, tenants and option holders must be party to the agreement.

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<sup>10</sup> Where planning applications are refused in this way on the advice of a consultee, that consultee will be responsible for defending their advice to the Council at any future appeal by the applicant. Consultees can have costs awarded against them at appeal in specified circumstances. See <https://www.gov.uk/guidance/appeals>

- 2.2.8 Applicants will be required to pay the Council's legal costs as well as their own for drafting and checking legal agreements and will need to provide a solicitor's undertaking to do so. Applicants should also be aware that a solicitor's undertaking to cover the County Councils legal costs for negotiating and checking of the legal agreement as well as proof of title will be required by Hertfordshire County Council where applicable.
- 2.2.9 Where an applicant challenges the contributions required at application stage on viability grounds, a viability appraisal will be required. For further advice, please see section 2.3 of this guidance document.

### 2.3 Viability

- 2.3.1 Applicants should ensure that development proposals adhere to Local Plan and Neighbourhood Plan policies and that these requirements are factored into land value. The Local Plan should be treated as the starting point, with the underlying viability evidence demonstrating overall viability<sup>11</sup>. This reflects NPPG, which states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is therefore up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage and where needed, provide evidence of what has changed since then.
- 2.3.2 Overpayment for land will not be accepted as a reason for reducing contributions.
- 2.3.3 A viability appraisal should cover and consider whether viability enhancements could improve the situation, for example deferring triggers for contribution payments. It should be an 'open book' assessment which should include information covering (but not necessarily limited to) the following:
- Existing use values;
  - Proposed use values (sales and rental);
  - Demolition and construction costs;
  - Finance and marketing costs;
  - Assumed yield;
  - Construction site abnormalities;
  - Development phasing/timetable.
- 2.3.4 A viability appraisal should be submitted at application stage for any planning application where viability is a factor in determining the application. The viability appraisal will be independently assessed by consultants acting on behalf of the Council and the cost of this will be covered by the applicant.

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<sup>11</sup> DSP – North Hertfordshire District Council – Local Plan Viability Assessment – Update – Final Report (August 2016)

DSP – North Hertfordshire District Council – Local Plan Examination Addendum (Viability) (Proposed policies HS4 and HS5) (January 2018)

- 2.3.5 A revised viability appraisal will be required where material changes are made following the submission of the planning application, or where there are delays where issues have not been resolved within the timescales originally envisaged.
- 2.3.6 NPPG provides further information on the expected requirements in relation to viability appraisals, including but not limited to: assessment of land value, inputs and assumptions as well as an open book approach and ensuring accountability. The viability assessment shall be treated as a public document and made available on the Council's planning portal in line with national policy.

### **2.4 Viability review mechanisms**

- 2.4.1 The Council will consider using a viability review mechanism where obligations or covenants are agreed at lower than policy compliant levels on viability grounds. A viability review mechanism can trigger a review of the originally agreed contributions where there is an improvement in viability and/or broader economic conditions since the original viability appraisal was undertaken.
- 2.4.2 A viability review mechanism may be used for multi-phased or long-term development schemes. Viability review mechanisms may also be appropriate whereby there are large scale, estimates or bespoke costs which may be subject to change or further surety upon investigation. The trigger point(s) for review will be set out at application stage and be relevant to the reason for the inclusion of the viability review mechanism. Further developer contributions will only be required if a surplus is identified during the review over and above the returns necessary to be deemed viable.
- 2.4.3 The applicant will be expected to pay for the full cost of a viability appraisal required by a viability review mechanism. The appraisal should meet the requirements set out above. The viability review mechanism would be included in the S106 agreement, and will, as is necessary, be bespoke based on the facts of the case and reasons for its inclusion in the first place.

### **2.5 Policy priorities and planning obligations**

- 2.5.1 This SPD outlines in further detail the type of planning obligations that may be required. The coverage of likely obligations is not exhaustive, and each application will be considered on its merits on a case-by-case basis. Nonetheless, in every instance, the obligations sought will be in line with the CIL Regulations 2010 (as amended or subsequently replaced).
- 2.5.2 Paragraph 4.90 of the Local Plan identifies that there may be instances whereby policy requirements are prioritised. Where an agreed viability study has been produced in accordance with relevant policies, the Council will consider the requirements most critical to securing development and meeting the overall objectives of the Local Plan.
- 2.5.3 The Council will normally prioritise those contributions that have been properly tested through the Local Plan, in accordance with NPPG. The Council will have

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regard to potential alternative sources of funding and / or the likelihood of direct funding (in whole or part) of infrastructure for which S106 requests have been received.

- 2.5.4 Whether contributions have been subject to appropriate levels of consultation, examination and / or testing, is a significant factor in the viability of a scheme. The Council reserves the right to continue to require fully policy-compliant affordable housing provision (and other forms of properly tested contributions) at the expense of other requests.
- 2.5.5 The Council will seek to work with the relevant infrastructure provider to understand other potential forms of funding to fill any shortfall and negotiate an appropriately reduced level of contribution from the applicant.

## 2.6 Deeds of variation

- 2.6.1 In some cases, it may be necessary to change the contents of an agreement after it has been completed and signed. In such instances, the variation would need to be agreed by all parties affected by the variation prior to the submission of any application under Section 106B of the Town and Country Planning Act 1990 (as amended). This will result in additional costs to the applicant to take into account the negotiation, preparation and drafting of the variation. These costs include the costs of the applicant's legal representation, the reasonable costs of any signatories' legal representation as well as the costs of the application to vary or modify an obligation in of itself.

## 2.7 Monitoring, enforcement and allocation

- 2.7.1 The Council monitors all agreements, taking into account the trigger points and the different obligations included. Monitoring fees will be sought through S106 agreements and will meet the requirements of Part 11 Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended by Regulation 10 of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019. Those requirements are that the sum to be paid fairly and reasonable relates in scale and kind to the development and does not exceed the authority's estimate of its costs. Fees may be required to cover the cost of land transfer, where applicable.
- 2.7.2 The authority's estimate of costs for monitoring of obligations will, necessarily, be bespoke and context dependent. The estimated costs may include the monitoring costs of other departments in and or outside of the Council. Fees for monitoring will be negotiated by the case officer.
- 2.7.3 The Council may additionally seek contributions to cover reasonable legal costs, such as for the transfer of land for open space.
- 2.7.4 The Town and Country Planning Act 1990 (as amended) outlines provisions for local authorities to enforce planning obligations. Due to this, the applicant may

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be required to provide evidence as the development progresses that all financial and non-financial obligations have been met.

- 2.7.5 The Council will charge interest on any payment that is paid late, and this will be payable from the date that the payment was due to the date of payment. Interest will be applied at two percentage points above the base lending rate of Lloyds Bank, as varied from time to time.
- 2.7.6 A S106 agreement and Unilateral Undertaking report is produced by the Planning Department and the information is reported to the Area Committees annually. This information can be found on the following webpage:  
<https://democracy.north-herts.gov.uk/mgListCommittees.aspx?bcr=1>
- 2.7.7 The Council will comply with the requirements of Part 10A, Regulation 121A of the Community Infrastructure Levy Regulations 2010 as amended by Regulation 9 of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 in so far as it relates to planning obligations. The Council also produces an annual Infrastructure Funding Statement.

## 2.8 Indexation

- 2.8.1 Commuted sums will be indexed linked from the date of the agreement to the date when the contribution is requested. Where the contribution relates to a commuted maintenance payment, this will be index linked from when maintenance costs are agreed. The Retail Price Index (RPI) will be used for ongoing revenue costs, and PubSec for all capital costs. This is to ensure that the value of an obligation does not reduce over time. This information is subject to change.
- 2.8.2 For contributions required by Hertfordshire County Council, indexation will be calculated having regard to any relevant requirements in their own planning obligations guidance<sup>12</sup>.

## 2.9 Bonds

- 2.9.1 A bond may be used in cases where a developer will be delivering the work or where payments are phased. For instance, where the contribution relates to Highway infrastructure works, a bond may be used to provide a guarantee to the Council that the infrastructure can be delivered and to required standards.
- 2.9.2 Bonds may also be requested by the Council to hold for future decommissioning works, such as a solar farm subject to a temporary planning permission or in other circumstances deemed appropriate.

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<sup>12</sup> Hertfordshire County Council Guide to Developer Infrastructure Contributions, [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)



### 3 ECONOMY AND TOWN CENTRES

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> <li>• SP3: Employment</li> <li>• SP4: Town Centres, Local Centres and Community Shops</li> <li>• SP9: Design and sustainability</li> <li>• ETC3: New retail, leisure and other main town centre development</li> <li>• ETC6: Local Centres</li> <li>• D1: Sustainable design</li> <li>• Site-specific policy criteria</li> </ul>	<ul style="list-style-type: none"> <li>• Hertfordshire LEP Strategic Economic Plan</li> <li>• Hertfordshire Skills Strategy</li> <li>• NHDC Economic Development Strategy</li> <li>• Town Centre Strategies for Baldock, Hitchin, Letchworth Garden City and Royston</li> <li>• Hertfordshire Growth Board Strategies</li> </ul>

#### 3.1 Policy context

- 3.1.1 The NPPF seeks to support economic growth and support the role that town centres play at the heart of local communities<sup>13</sup>.
- 3.1.2 The Local Plan sets out our aspiration to provide an appropriate balance between skills, housing, and economic development. It recognises the contribution of ‘footloose’ careers in sectors such as construction and the trades in the overall employment balance of the District.
- 3.1.3 The retail policies of the Plan seek to maintain the vibrancy and vitality of key centres within the District. This includes the main town centres of our largest settlements as well as smaller parades of shops serving a local function.
- 3.1.4 The Hertfordshire Local Enterprise Partnership (LEP) provides the strategic framework for economic growth within the county. This is supported by local strategies for economic development in the District and our town centres.

#### 3.2 Business, economic development, local employment and training

- 3.2.1 We will support and promote the use of local people and businesses through the construction and delivery phases of new developments. We will particularly encourage these on our larger and strategic sites. These will have build-out periods lasting a number of years and will deliver significant employment and supply-chain opportunities over a prolonged period. Once implemented they will

<sup>13</sup> NPPF Paragraphs 86

provide ongoing employment opportunities in shops, schools, and other facilities. On longer-running schemes we will also encourage the creation of apprenticeship programmes providing the opportunity for local people to develop skills and put these into practice. These approaches will help to deliver social value through the planning system.

- 3.2.2 Where these measures are pursued, we will incorporate a (commitment to the production of a) Local Labour Agreement within the S106 agreement. The detail of the Local Labour Agreement should be informed having regard to recognised resources and toolkits such as the Construction Industry Training Board's client-based approach<sup>14</sup>. The Hertfordshire Opportunities Portal ([HOP](http://hopinto.co.uk)) ([hopinto.co.uk](http://hopinto.co.uk)) and the North Herts College will be encouraged for training, apprenticeships and employment opportunities.
- 3.2.3 Any specific requirements relating to built development for employment uses are set out in relevant policies and site criteria. Where appropriate and necessary, relevant measures may be secured in any legal agreement relating to the relevant planning application(s) for those schemes.

### 3.3 Regeneration, town centres and streetscapes

- 3.3.1 Each of the District's four main towns has a recognisable town centre. Over time a range of enhancement works have been carried out to maintain their distinctive characters and vibrancy. A range of organisations may be involved in projects in the town centres, including but not limited to, the Business Improvement Districts (BIDs) and the Letchworth Garden City Heritage Foundation. Contributions towards future town centre public realm enhancements will be sought from relevant major development schemes potentially including (but not necessarily limited to):
- Schemes for development within existing town centres;
  - Schemes for out-of-centre development where such contributions may help preserve the vitality and / or viability of the existing centre(s); and
  - Schemes elsewhere that may result in a substantive increase in footfall in existing town centres.
- 3.3.2 Major residential or non-residential development schemes near town centres have the potential to drive substantive increases in footfall in town centres. Schemes for out-of-centre development will have to meet the necessary policy tests with regard to the sequential and impact tests. It may be that within the impact tests, contributions could be nominated or sought to mitigate harm to the vitality or viability of an existing town centre to an acceptable level.
- 3.3.3 Contributions may be sought for improvements to the wider public realm, the installation of specific facilities such as bike racks or street furniture or features such as public art. Specific projects for which contributions may be sought will be

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<sup>14</sup> [National Skills Academy for Construction \(NSAFC\) - CITB](http://www.nsa.gov.uk)

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identified in an updated suite of Town Centre Strategies. Work on these is due to commence now the Local Plan has been adopted.

- 3.3.4 Where potential improvements are identified adjacent or otherwise in close proximity to a development site it may be appropriate for the applicant to carry out works directly with the approval of any other relevant bodies (such as the freeholder of the land affected). Such an agreement will be on a case-by-case basis, and if not feasible, financial contributions may be sought.
- 3.3.5 Improvements to public realm will not necessarily be confined to the main town centres. Where appropriate, we will seek contributions towards public realm improvements in smaller centres and other areas which play an important role in defining place and supporting the day-to-day function of the built environment. Priorities for public realm enhancements may be identified in Neighbourhood Plans or other locally led strategies or initiatives, such as Parish Plans. Applicants should have regard to any relevant policies or requirements applicable to their scheme.
- 3.3.6 The Council may seek contributions towards the ongoing maintenance of any public realm improvements to be provided.

## 4 TRANSPORT

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> <li>• SP6: Sustainable transport</li> <li>• SP9: Design and sustainability</li> <li>• SP10: Healthy communities</li> <li>• T1: Assessment of transport matters</li> <li>• T2: Parking</li> <li>• D1: Sustainable design</li> <li>• D4: Air quality</li> <li>• Site-specific policy criteria</li> <li>• Appendix 4: Car Parking Standards</li> </ul>	<ul style="list-style-type: none"> <li>• Vehicle Parking at New Developments SPD</li> <li>• Design SPD</li> <li>• NHDC Transport Strategy</li> <li>• NHDC Local Cycling and Walking Infrastructure Plan (LCWIP)</li> <li>• NHDC Parking Strategy</li> <li>• Hertfordshire County Council Guide to Developer Infrastructure Contributions<sup>15</sup></li> <li>• Hertfordshire Local Transport Plan and supporting strategies</li> <li>• The North Central Hertfordshire Growth &amp; Transport Plan</li> <li>• Hertfordshire County Council's Highways Design Guide</li> <li>• Department for Transport (DfT) Circular 02/2013<sup>16</sup></li> </ul>

### 4.1 Policy context

- 4.1.1 The levels of growth and development envisaged in the plan will place additional demands on transport and highway networks and planning obligations can be used to mitigate against these effects.
- 4.1.2 The NPPF asks that transport issues be considered from the earliest stages to allow development impacts to be addressed and so that opportunities to promote more sustainable modes of travel can be identified and pursued.<sup>17</sup>
- 4.1.3 Hertfordshire County Council is the local highway authority and has the primary responsibility for providing and maintaining transport infrastructure and some bus services in the District. As a statutory consultee, it is consulted on all applications

<sup>15</sup> Hertfordshire County Council Guide to Developer Infrastructure Contributions, [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)

<sup>16</sup> Currently being updated

<sup>17</sup> NPPF Paragraph 104

for which S106, S278 or S38 works or contributions may be required (please see also paragraph 4.2.3 below).

- 4.1.4 The County Council's Local Transport Plan (LTP4) states that sustainable transport modes such as walking, cycling, and improving access to public transport are to be prioritised while working to reduce need for journeys overall. LTP4 is supported by a range of strategies. These are both topic-specific (e.g. rail strategy) and geographically based (e.g. area growth and transport plans). In particular, regard should be had to promoting modal shift as endorsed in LTP4, the Hertfordshire County Council's Highways Design Guide, as well as the management of highway impacts arising from the Local Plan where those impacts would be directly related to the development proposed.
- 4.1.5 The Local Plan sets out policies that align with LTP4 to ensure that transport provision across the District is sustainable and safe and that negative environmental impacts, such as noise and air pollution, can be avoided or mitigated.
- 4.1.6 Local Plan Policy T1: Assessment of transport matters, requires Transport Statements, Transport Assessments and/or Travel Plans depending on the development type and size. These documents provide an assessment of the likely transport impacts of the development in question. Where impacts cannot be fully mitigated, sustainable transport and highways planning obligations will be sought. This may include contributions towards more strategic projects in accordance with the CIL Regulations.
- 4.1.7 The Plan is supported by a proposed Transport Strategy. This identifies areas for intervention, recognising that these will be reviewed and refined on an on-going basis.
- 4.1.8 National Highways is responsible for the Strategic Road Network (i.e. in North Hertfordshire the A1(M)).
- 4.1.9 It is worth noting that in some instances, private landowners may be responsible where the provision is not on public highway.

## **4.2 Financial and non-financial obligations**

- 4.2.1 The Council will be guided by the response(s) of Hertfordshire County Council in determining measures required to mitigate transport impacts. The County Council's Guide to Developer Infrastructure Contributions provides an indication of the scale of requests they are likely to make in response to planning application consultations.
- 4.2.2 (Prospective) applicants should review the relevant strategies and guidance documents, including those listed above, to identify potentially relevant and suitable projects for which contributions may reasonably be sought.

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- 4.2.3 In addition to S106 agreements, Section 278 (S278) agreements can be used as a mechanism to secure highway measures that cannot be addressed through the design of the proposed development. S278 agreements are used when the proposed works relate to the existing highway network, and Section 38 of the Highways Act is used where new highways are to be created and this can be provided by way of commuted sum where necessary. On occasions where the developer is solely responsible for delivering works, a S278 agreement may be used in place of S106, secured by way of Grampian condition. This will only apply to matters relating to timing and delivery, rather than the detail of the works.
- 4.2.4 Section 278 agreements, Creation Agreements (under S.25 of the Highways Act 1990), Creation Orders (under S.26 of the Highways Act 1990) or whereby landowners expressly dedicate under common law are methods by which Public Rights of Way can be delivered.
- 4.2.5 The applicant should discuss with the Council and other relevant service providers whether the developer is best placed to deliver the works on-site, or to provide a financial contribution for another party to deliver the infrastructure required.
- 4.2.6 The cumulative transport impact of development proposals will also be taken into account as set out in the Local Plan, which may mean that smaller schemes may be requested to make appropriate contributions towards schemes which are required to address the combined impacts of future growth.
- 4.2.7 Non-financial contributions towards sustainable transport may also be required and may include establishing car clubs, providing electric vehicle charging infrastructure, land for Rights of Way improvements, and safe cycle storage. This may be particularly important at transport hubs and interchanges.
- 4.2.8 Where Travel Plans are required for a development, contributions may be sought for monitoring.

## 5 HOUSING

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> <li>• SP8: Housing</li> <li>• HS2: Affordable housing</li> <li>• HS3: Housing mix</li> <li>• HS4: Supported, sheltered and older persons housing</li> <li>• HS5: Accessible and adaptable housing</li> <li>• Site-specific development criteria</li> </ul>	<ul style="list-style-type: none"> <li>• Housing Strategy</li> <li>• Homelessness Strategy</li> <li>• Tenancy Strategy</li> <li>• North Hertfordshire District Council Self-build and Custom House Building Guidance</li> </ul>

### 5.1 Policy context

- 5.1.1 The NPPF stresses the importance of addressing the needs of groups with specific requirements for housing<sup>18</sup>.
- 5.1.2 The Council’s overall planning approach to Affordable Housing is set out in Policy HS2 of the Local Plan and supporting text. This section of the SPD provides additional information to aid interpretation of these requirements.
- 5.1.3 Further information on the Council’s approach to Affordable Housing is set out in our Housing Strategy and Tenancy Strategy. These, and other relevant documents, including the latest Strategic Housing Market Assessment, are provided on our website. Where relevant, this section of the SPD makes reference to the latest findings from these reports. However, these documents may be updated over the lifetime of this SPD and should always be referred to for the most up-to-date information.
- 5.1.4 Policies HS4 and HS5 contain specific requirements relating to housing for older persons and accessibility respectively.

### 5.2 Affordable Housing

#### Demonstrating compliance with Affordable Housing requirements

- 5.2.1 We encourage the submission of an Affordable Housing Statement alongside any relevant planning applications to demonstrate how the requirements of the Local Plan and this SPD have been met. Alternately, the approach to Affordable Housing should be clearly set out as a distinct section within one or more of the following documents (as applicable):

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<sup>18</sup> NPPF Paragraph 60

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- Design & Access Statement
- Planning Statement
- Environmental Statement

5.2.2 The following details set out the Council's expectations in line with policy HS2 of the Local Plan. All expectations set out below will be secured in a legal agreement in any potential approval of a relevant application. In the event of an outline planning application with all or most matters reserved, these matters will remain secured in a legal agreement, up to, including and not limited to amount, tenure, mix and design.

### Calculating the Affordable Housing requirement (Policy HS2(a)(i))

5.2.3 Policy HS2 sets the following target percentages of dwellings to be affordable:

Size of site (gross dwellings)	Target % of Affordable Housing
11-14 dwellings	25%
15-24 dwellings	35%
25+	40%

5.2.4 When calculating the number of affordable units, the general approach will be to round the requirement to the nearest whole number. Where the requirement is subject to rounding up, the target levels of Policy HS2 may be slightly exceeded. As a general principle, and having regard to the findings of our evidence<sup>19</sup>, this approach is unlikely to affect scheme viability. Subject to the exceptions below, the Council will not entertain viability appraisals or attempts to reduce the Affordable Housing contribution on this ground alone.

5.2.5 The impact of rounding the requirement can be more significant for smaller sites given the low numbers of units involved. We specifically recognise the potential impact upon schemes of 11, 14, 16 and 19 units. In these instances, we will determine the most appropriate approach having regard to:

- The nature of the scheme;
- The tenure of any proposed Affordable Housing products; and
- The proposed / potential Affordable Housing floorspace as a proportion of the overall development, particularly where larger units are proposed for private sale with smaller units proposed as the Affordable Housing contribution.

5.2.6 These factors will also be considered in other instances where the proposed Affordable Housing contribution does not comply with policy.

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<sup>19</sup> North Hertfordshire District Council Local Plan Viability Assessment Update 2016 (Dixon Searle Partnership (DSP))



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### Off-site provision of Affordable Housing

- 5.2.7 Where the off-site provision of Affordable Housing or a financial contribution is agreed in principle (see below), the requirements of Policy HS2 should be met when viewing the application site and the 'donor' site(s) (or other agreed alternate form(s) of contribution) as a single entity.
- 5.2.8 A scheme for 100 units would normally generate an on-site requirement for 40 affordable homes, with the remaining 60 homes available for market sale ( $40 / 100 = 40\%$ ).
- 5.2.9 However, a scheme of 100 market sale homes with no on-site Affordable Housing would require off-site provision or a financial contribution equivalent to 67 affordable units to make the same contribution: ( $67 / (67+100) = 40\%$ ).
- 5.2.10 The table below summarises the equivalent percentages required to meet the targets in Policy HS2 where fully off-site provision or a commuted payment is to be made.

Size of site (gross dwellings)	Target % of Affordable Housing (on-site)	Off-site equivalent
11-14 dwellings	25% of all dwellings	33% of market homes
15-24 dwellings	35% of all dwellings	54% of market homes
25+	40% of all dwellings	67% of market homes

- 5.2.11 We will use bespoke calculations where it is agreed that the Affordable Housing is to be split between on-site and off-site provision.

### Provision involving existing Affordable Housing

- 5.2.12 Where existing Affordable Housing is to be demolished or otherwise lost, we will normally expect that existing units will be replaced on a one-for-one basis with the targets of Policy HS2 then applied to any net additional units.
- 5.2.13 Exceptions to this approach will be considered on a case-by-case basis, for example when a scheme proposes replacement units that better meet identified Affordable Housing needs or where private sale units will cross-subsidise the scheme.

### Vacant Building Credit

- 5.2.14 National policy provides an incentive for brownfield development on sites containing vacant buildings. This requires Affordable Housing requirements to be reduced based on the quantity of floorspace being brought back into use or replaced.

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- 5.2.15 Vacant Building Credit is intended to incentivise the re-use of buildings or sites that would otherwise remain vacant or become derelict. It is not intended as a back-door means of reducing Affordable Housing contributions on otherwise viable sites.
- 5.2.16 Where Vacant Building Credit is applied for, the applicant should follow the principles set out for employment uses in Local Plan Policy ETC2 and provide evidence that the building has been actively marketed for its current use for a period of at least twelve months without success prior to submission of a planning application. This should demonstrate that the marketing has been conducted appropriately given the terms and rental / sales values compared to other similar properties.
- 5.2.17 Vacant Building Credit will not be applied where the above conditions are not met.

### Viability

- 5.2.18 Our overall approach to viability is set out in Policy SP7 of the Local Plan and Section 2.3 of this SPD. Where a developer seeks to reduce Affordable Housing below target levels on viability grounds, the appraisal should demonstrate the impact of full compliance with the Affordable Housing Requirements in the Local Plan and this SPD on a 'nil grant' basis.
- 5.2.19 Any departure from policy compliant Affordable Housing provision on viability grounds will be negotiated on a case-by-case basis having regards to the findings of the viability study, scheme-specific circumstances and the potential for any alternate and / or reduced forms of contribution towards Affordable Housing.

### On-site vs. off-site provision (Policy HS2(a)(ii))

- 5.2.20 Affordable Housing is normally delivered in partnership with Registered Providers and can include schemes built through Community Land Trusts or other forms of co-operative provision. Our presumption is strongly in favour of Affordable Housing provision being made on site. Although some sites will deliver relatively low numbers of affordable homes, Registered Providers operating in the District are normally willing to take these on as part of their wider portfolio.
- 5.2.21 We recognise that there can be specific circumstances where it is not possible or appropriate to make Affordable Housing provision on site. This might include in some smaller flatted developments or where specialised accommodation within Use Class C3 is being provided.
- 5.2.22 Any (proposed) departures from on-site provision will be considered on a case-by-case basis. Where it is accepted that on-site provision is not feasible, we will first seek provision on an alternate site. If this is not possible, we will seek a commuted sum in lieu of provision.

### Approach to off-site provision

- 5.2.23 Off-site provision may be an appropriate alternative where an alternate site is in possession of, or can be reasonably acquired or otherwise accessed by, the applicant who can then deliver affordable homes upon it in partnership with a Registered Provider in the normal way. The Affordable Housing provision on the 'donor' site will need to comply with relevant planning policies and the requirements of this SPD. It will normally be secured with an appropriate clause(s) in the legal agreement and / or Grampian condition on the principal site to ensure delivery of both schemes.
- 5.2.24 The 'donor' site should be reasonably related to the application site. In considering the acceptability of potential alternate sites, we will have regard to the approach taken by the Local Plan to Rural Exception sites. Alternate sites should normally be located within both a 15-minute drive time and a 30-minute journey time using passenger transport of the principal application site.

### Commuted sums

- 5.2.25 Where it is accepted that a commuted sum is required, the starting point for negotiation will be an equivalent payment sufficient to deliver the Affordable Housing requirement on an alternate site:
- The Affordable Housing requirement will be calculated in line with the requirements set out in this section of the SPD;
  - The cost per required affordable unit (the unit cost) will be based upon the provision of a 2-bed house (including land);
  - The unit cost will be derived from the costs set out in the Council's most recent District-wide viability assessment.
- 5.2.26 At the time of writing this approach gives a unit cost of £123,000.<sup>20</sup>

### C2 Uses and affordable housing

- 5.2.27 For the purposes of the new Plan, the Council has treated the need for and provision of housing within use-class C3 separately from the need for and provision of more specialist accommodation within use-class C2. The overall housing requirement and references to dwelling estimates for the Strategic Housing Sites and Local Housing Allocations are for C3 uses only. The Plan relies on delivery of the housing allocations with policy-compliant affordable housing to meet future market and affordable housing needs in full.

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<sup>20</sup> Taken from *North Hertfordshire District Council Local Plan Viability Assessment Update 2016 (DSP)*. Figure based upon: a base build cost for a 79m<sup>2</sup> 2-bed home at £1,190/m<sup>2</sup>; £4,500 site prep and survey costs; a 17% uplift on the base build cost for contingencies, fees and sustainable design & construction standards; £2,447 to achieve M4(2) accessibility compliance; and £9,250 to purchase 1/40<sup>th</sup> hectare of land at assumed greenfield enhancement value of £370,000 per hectare. Total rounded to nearest £1,000.

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- 5.2.28 Requirements for C2 uses are set out separately and in addition. A minimum target for the overall provision of C2 bedspaces is set in Policy SP8(g).
- 5.2.29 The Council will not normally seek the provision of affordable housing or affordable housing contributions from:
- C2 uses where they satisfy a specific policy requirement on Strategic Sites; or
  - C2 uses on windfall sites not identified in the Plan
- 5.2.30 However, where a C2 use is otherwise proposed on a site allocated in the Plan for housing, the Council will seek a commuted sum for affordable housing that compensates for any loss of affordable housing units that might otherwise have been provided if the site had been fully developed for C3 use in accordance with the Plan.
- 5.2.31 The relevant sum will be calculated on a case-by-case basis using the dwelling estimate and affordable housing policies in the Plan and the guidance above on commuted sums.

### **Expenditure of commuted sums for Affordable Housing**

- 5.2.32 Any specific provisions relating to the expenditure of the commuted sum, including time limits, will be set out in the S106 agreement. In general terms, commuted sums for Affordable Housing might reasonably be spent upon (but is not necessarily limited to):
- The delivery of additional affordable units on other S106 schemes;
  - The provision of new affordable homes on (up to) 100% Affordable Housing schemes by the Council or a Registered Provider;
  - The acquisition of (serviced) land to facilitate such schemes;
  - The adaptation or modification of existing stock to meet standards and / or specific identified housing needs;
  - The acquisition of homes on the open market for Affordable Housing; or
  - The provision of other forms of housing providing homeless or temporary accommodation;
- 5.2.33 Specific projects may be identified in our Housing Strategy or other relevant documents and expenditure can take place anywhere in the District regardless of the location of the development to which the commuted sum relates. The Council will endeavour to locate commuted sum expenditure close to sites where the sum has been contributed, however, this may not always be viable or appropriate.

### **Ensuring affordability (Policy HS2(a)(iii))**

- 5.2.34 Housing affordability is a significant issue in the District. The ratios of house prices to earnings are at the highest levels ever recorded. Even with discounts

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applied, rents and purchase requirements for intermediate products remain difficult to afford for many households.

- 5.2.35 The Local Plan recognises that it will be necessary to introduce rental caps at below 80% of market rates to ensure affordability, particularly for larger units. Our approach to rents, and seeking to ensure the affordability of all Affordable Housing products, is set out in our Housing Strategy and Tenancy Strategy. We currently require the following rental levels:
- 1 & 2 bed properties: 80% of market rents
  - 3 bed properties: 70% of market rents
  - 4 bed properties: social rents
- 5.2.36 All rents are to be within Local Housing Allowance Rates. Rents for 1-, 2- and 3-bed properties should achieve the percentages above inclusive of any service charges, management fees or similar.
- 5.2.37 The requirements in the Plan are based upon households allocating 35% of their gross income to housing. Applicants should demonstrate that any intermediate products, including the initial purchase percentage(s), will be affordable on this basis having regard to local income and house price data. House prices vary significantly across North Hertfordshire and district-wide price averages will generally not be considered an appropriate basis for making these calculations. In determining the affordability of products, any service charges, management fees or similar which may be applied should be included.
- 5.2.38 For shared ownership units, applicants should be able to purchase an initial equity share in the property of between 25% and 75%. The rent on unsold equity will be capped at 2.75% in accordance with Homes England requirements.
- 5.2.39 Due to the high cost of housing throughout the District, some forms of intermediate tenure products are considered unlikely to meet the affordability requirements of the Plan. This includes, but is not necessarily limited to, discounted market sales housing.
- 5.2.40 The Government recognises that shared ownership products can be hard to replace, particularly in rural areas. To address this issue, regulations identify Designated Protection Areas<sup>21</sup>. Within these, any shared ownership products will be required to restrict 'staircasing' to a maximum 80% equity share in the property.

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<sup>21</sup> Designated Protected Area status only applies to parishes with populations of 3,000 or less. This is in accordance with The Housing (Shared Ownership Leases) (Exclusion from Leasehold Reform Act 1967) (England) Regulations 2009, which came into force on 07 September 2009. These regulations included the introduction of Protected Area Status for settlements exempt from the Right to Acquire (i.e. those with populations of less than 3,000).

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5.2.41 Where applicable, these requirements will be incorporated into the legal agreement. The following parishes within North Hertfordshire are currently Designated Protection Areas:

- Ashwell
- Barkway
- Barley
- Bygrave
- Caldecote
- Clothall
- Codicote
- Graveley
- Hexton
- Hinxworth
- Holwell
- Ickleford
- Kelshall
- Kimpton
- Kings Walden
- Langley
- Lilley
- Newnham
- Nuthampstead
- Offley
- Pirton
- Preston
- Radwell
- Reed
- Rushden
- Sandon
- St Pauls Walden
- Therfield
- Wallington
- Weston
- Wymondley

### **Affordable Housing tenures (Policy HS2(b)(i))**

5.2.42 Local Plan policy expects 65% of Affordable Housing units to be for rent with the remaining 35% other forms of Affordable Housing. The definition of the various housing types considered to be Affordable Housing is set out in Annex 2 of the NPPF.

5.2.43 When calculating the required tenure split, the number of rented units will normally be rounded to the nearest whole number. The number of intermediate units will normally represent the balance of the overall requirement.

5.2.44 On schemes of 25 units or more it should be possible to deliver the tenure split required by Policy HS2.

5.2.45 On schemes of less than 25 units, or in other instances where less than 10 Affordable Housing units are proposed or agreed, we will consider the most appropriate approach to tenure mix on a case-by-case basis having regard to the above advice. It may not, for example, be desirable for a scheme to deliver a single intermediate unit. Equally, it may not be practical to deliver affordable rented units within a small block of flats.

- 5.2.46 The most appropriate mix of intermediate products will be negotiated on a case-by-case basis having regard to relevant evidence (including upon affordability) and the type and size of Affordable Housing product(s) proposed by the applicant or otherwise considered realistic in the context of the site and overall scheme.
- 5.2.47 The NPPF allows for self-build housing to be Affordable Housing. For this to be the case, the self-build must fall within one of the Affordable Housing types contained in the NPPF definition. Where any self-build housing is accepted as being a form of Affordable Housing (and vice versa) it will count towards any relevant policy targets or requirements for both forms of provision. Self-build not falling within the NPPF definition of Affordable Housing will not count towards, or otherwise be offset against, the Affordable Housing requirement.

### First Homes

- 5.2.48 First Homes were introduced by government in June 2021 as an additional affordable housing product. Given the timing of the introduction of First Homes, the Local Plan does not account for First Homes in its housing policies. The housing policies contained in the Local Plan have been developed in line with the associated evidence base, which includes the Strategic Housing Market Assessment undertaken in 2016.
- 5.2.49 The Council is currently in the process of updating its Strategic Housing Market Assessment Volume II to include the implications of First Homes.<sup>22</sup> Once complete, this evidence base document will inform the approach to First Homes when determining planning applications.
- 5.2.50 Under transitional arrangements, once the Council has an up to date adopted Local Plan, there is not an automatic need to reflect the requirement for First Homes when considering planning applications.<sup>23</sup>
- 5.2.51 In addition, the Council has concerns over the operation of First Homes, including the following:
- The genuine affordability of this product to local residents that require assistance with their housing needs;
  - The potential 'displacement' of other forms of affordable housing; the combination of the 30% discount and £250,000 price cap means that smaller (1- and 2-bed) units are likely to be the most attractive option for developers to provide as First Homes but these are the unit types where there is the most pressing need to secure affordable homes for rent;
  - The potential impacts upon the viability of schemes to the detriment of affordable housing provision or other policy requirements or contributions; and

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<sup>22</sup> As agreed at Cabinet held on 22 March 2022

<sup>23</sup> [First Homes - GOV.UK \(www.gov.uk\) Paragraph: 018 Reference ID: 70-018-20210524](https://www.gov.uk/government/consultations/first-homes)

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- The potential administrative burdens on the Council, particularly in relation to monitoring and enforcement, given any First Homes would not be transferred to a Registered Provider.

5.2.52 Given these concerns and the transitional arrangements, the Council will not normally support the provision of First Homes as part of the affordable housing mix. Nonetheless, the Council do recognise that National Planning Practice Guidance recommends a flexible approach to the delivery of First Homes<sup>24</sup> and, on occasion, there may be specific circumstances where it is necessary to consider their inclusion as an affordable housing product. The appropriateness of any First Homes will be considered on a case-by-case basis.

5.2.53 When assessing planning applications, First Homes will normally only be supported where it would not adversely impact upon:

- the overall proportion of affordable housing that can be achieved on site having regard to the targets in Policy HS2 of the Local Plan and the guidance in this SPD;
- the proportion of rented housing that can be achieved on site having regard to the Local Plan requirement for 65% of affordable homes to be rented;
- the mix of rented housing indicated as being required by the Council's Strategic Housing Market Assessment or other relevant evidence (e.g. local needs assessments or the housing waiting list); and
- any other policy requirements or contributions that have been properly tested through the Local Plan examination

5.2.54 Furthermore, given that First Homes will not be transferred to a Registered Provider there are potentially significant administrative implications for the Council. Due to this, the Council reserves the right to require contributions towards monitoring and enforcement.

### **Evidence of housing need (Policy HS2(b)(ii))**

5.2.55 The starting point for evidencing Affordable Housing need is the Council's latest Strategic Housing Market Assessment (SHMA). This provides advice on overall requirements and advised tenure and mix requirements for the whole District. The SHMA Volume II is currently being updated. We supplement data from district-wide studies, with more localised information.

5.2.56 Prospective applicants should contact the Council's Housing team for up-to-date housing register data. We work with Hertfordshire County Council's Adults Supported Accommodation Strategic Board to identify and address specific housing needs. Surveys for individual parishes are conducted in partnership with Parish Councils and Community Development Action's Rural Housing Enabler. Applicants should have regard to the findings for any up-to-date Parish surveys

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<sup>24</sup> [First Homes - GOV.UK \(www.gov.uk\)](http://www.gov.uk)



relevant to their site. Where a prospective applicant is considering bringing forward a significant scheme in a parish where there is no survey, or the survey is out of date, they should liaise with the Council at the earliest opportunity to determine whether it is practicable to produce or update a survey in advance of the submission of an application.

- 5.2.57 Where an applicant is considering gathering their own evidence to inform the assessment of housing needs for their own project(s), we encourage early engagement with the Council's Housing Team to ensure any survey is appropriately defined.
- 5.2.58 Any findings from the above will help inform whether there is justification to depart from the general tenure and mix requirements set out in the Local Plan and this SPD on a case-by-case basis.
- 5.2.59 Applicants will need to demonstrate compliance with any additional or alternate requirements in Neighbourhood Plans that are brought forward following adoption of the Local Plan<sup>25</sup>.

### **Affordable Housing Mix (Policy HS2(b)(v))**

- 5.2.60 The aim of the Plan is to meet assessed district-wide needs for Affordable Housing over the period to 2031. The starting point for consideration of appropriate housing mix will therefore be our most recent Strategic Housing Market Assessment. This document is currently being updated.
- 5.2.61 The current SHMA concludes that the requirements for Affordable Housing are split on an almost 50% / 50% basis between smaller (1- and 2-bed) and larger (3+bed) units. However, in calculating these requirements, it is assumed that current patterns of occupation will continue. Our Housing Strategy recognises there is evidence of 'under-occupation' of the existing Affordable Housing stock within the District. This is a particular issue with 3-bed homes given their prevalence across North Hertfordshire. The Local Plan recognises that increasing the proportion of smaller homes may, in particular, provide additional opportunities for older households to downsize. Most households in the top preference bands of the Council's Housing Register require smaller homes.
- 5.2.62 The above shows how the SHMA is the starting point for consideration of affordable housing mix and split. Other existing evidence shows the Council may seek a slightly higher proportion of smaller units. The Council may seek a differing proportion of unit sizes for affordable housing than that suggested by a straight reading of the SHMA based on all available evidence.
- 5.2.63 As set out above, we will consider whether any specific, local evidence justifies a departure from this general guidance on a case-by-case basis.

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<sup>25</sup> If policies in an adopted Local Plan conflict with policies in an adopted Neighbourhood Plan (or vice versa) the most recent plan policy takes precedence.

- 5.2.64 In considering the suitability of the proposed Affordable Housing mix, we will also have regard to other relevant policies of the Plan. Please refer to the following sections of this chapter in relation to self-build, older persons housing and housing accessibility.

### **Affordable Housing Design**

- 5.2.65 Wherever practicable, affordable housing design should be tenure blind. It should be physically indistinguishable from the market housing and on larger sites be distributed across the site in small clusters, rather than concentrated on one of two parts of the site. Affordable Housing should be distributed in a way which ensures that access to key facilities such as schools, local shops and open space is equivalent to that provided for market homes.
- 5.2.66 Policy D1 of the Local Plan states that new homes must meet the Government's minimum nationally described space standards. In some instances, space requirements for Affordable Housing may be set at a higher level. Where there is conflict between two (or more) standards, the highest (most spacious) will be applied to the Affordable Housing.
- 5.2.67 The Local Plan requires that, where more than 10 Affordable Housing units are to be provided, 10% of these should be to the higher M4(3) wheelchair user standard. The 10% requirement will be rounded to the nearest whole number based upon the Affordable Housing requirement. These should be provided within rented tenure units and to wheelchair accessible standards wherever possible. Where this approach is not considered viable (and subject to the general guidance on viability in the Local Plan and this SPD), we will consider whether provision of units to the wheelchair adaptable standard is an appropriate alternative.

### **Registered Providers**

- 5.2.68 There are a large number of Registered Providers operating within the District. We do not have a preferred partner, nor do we recommend partners. We are able to provide contacts and facilitate introductions where required. The transfer of the Affordable Housing to the Registered Provider will normally be subject to a separate agreement with the applicant / developer. The Registered Provider will not normally be a signatory to the legal agreement.
- 5.2.69 Some forms of Affordable Housing do not need to be delivered by a Registered Provider. Where this is the case, we will consider whether it is appropriate to secure a bond or other form of guarantee in the legal agreement. Where the Council cannot secure nomination rights in accordance with the guidance below, we may request that the legal agreement restricts occupancy to households who cannot compete in the housing market.

### **Content of the legal agreement in relation to Affordable Housing**

5.2.70 The Council fully expects affordable housing to be secured via Section 106 agreements. Any divergence from this approach to use planning conditions would only be considered in rare and exceptional cases, for instance where the applicant is a Registered Provider. This is due to the inherent risk to the delivery of affordable housing in the context of Section 73 applications.

5.2.71 The key provisions relating to Affordable Housing will be secured through the S106 legal agreement and, to the extent that is appropriate, any associated Nomination Agreement. It is expected that the legal agreement will normally contain (but is not necessarily limited to) the following information:

- The overall amount of Affordable Housing to be provided;
- Details of the tenure and type of Affordable Housing to be provided;
- Details of any specific standards to be met by the Affordable Housing
- Details of any trigger points for the construction and / or transfer of the Affordable Housing;
- Any Mortgagee in possession (or other similar) clauses to safeguard the provision of Affordable Housing;
- Any specific requirements in relation to nomination rights, lettings and cascades including qualifying persons and local connection criteria (see below); and
- Details of any applicable staircasing restrictions.

5.2.72 Where development is anticipated to occur over a number of phases, the provision of Affordable Housing should not normally be backloaded into later phases, but should be equally distributed among the phased development. This will be addressed through the inclusion of appropriate trigger points in the legal agreement.

5.2.73 Where outline permission is sought on an “up to...” basis, we may seek to secure a guaranteed minimum number of Affordable Housing units within the legal agreement. This is to ensure that the anticipated provision of Affordable Housing is not subsequently undermined (for example by submission of a detailed application for an alternate use on part of the same site).

### **Nomination rights, lettings and cascades**

5.2.74 The Council will normally seek to secure 100% of initial nomination rights and at least 75% of nomination rights for subsequent re-lets. Nominations will be made in accordance with the Common Housing Allocations Scheme or any successor.

5.2.75 In the rural Designated Protection Areas, we normally operate the following cascade to prioritise the allocation of affordable housing:

- Applicants from within the Parish;
- Applicants from adjoining Parishes;
- Applicants from other rural parishes in North Hertfordshire;

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- Applicants from elsewhere in the District.

5.2.76 This approach will normally be continued on smaller rural sites. However, some rural parishes have significant development allocations in the new Local Plan – either because they physically adjoin larger towns or because they have been identified as locations capable of meeting a wider-than-local need. In the following parishes and for the following developments we will determine the most appropriate cascade mechanism on a case-by-case basis:

- Barkway – Site BK3
- Bygrave – Site BA1
- Clothall – Sites BA2 and BA3
- Graveley – Site NS1
- Ickleford – Site IC3
- Offley – Sites EL1, EL2 & EL3
- Weston – Site GA2
- Wymondley – Site WY1

### **Subsequent occupiers**

5.2.77 The measures above will normally secure the Affordable Housing provision on new development sites for subsequent occupiers. However, it is recognised that some units may eventually be lost from the Affordable Housing stock through Right to Buy, by achieving 100% ownership of intermediate products through ‘staircasing’ or through any additional or successor arrangements.

5.2.78 Presently, these rights and the recycling of monies received through these events are subject to their own regulation and will not normally need to be reflected in the legal agreement.

### **Deeds of variation**

5.2.79 We sometimes receive applications to vary the conditions of the legal agreement following completion of the scheme and / or its transfer to the Registered Provider. In the past, these have mainly related to shared ownership units and / or the cascade mechanism where it has not been possible to allocate the Affordable Housing within the terms of the original agreement. In turn, this is often linked to the (un)affordability of the products.

5.2.80 By following the requirements of our Local Plan policies and the guidance in this SPD and other relevant strategies, the need to vary the legal agreement should only arise in exceptional circumstances.

5.2.81 Any Deed of Variation applications should be accompanied by robust evidence, including upon viability where relevant and follow the principles set out Section 2 of this document.

### *East of Luton*

The East of Luton sites allocated in the Local Plan (Policy SP19) are identified, in large part, to meet unmet housing needs arising from Luton Borough. Affordable Housing is a particularly important element of this unmet need.

A proportion of the development (150 homes) is to meet North Hertfordshire's own housing needs. The District Council will secure appropriate access to Affordable Housing in line with the policies of the Local Plan and the advice in this SPD. This will be calculated as follows:

- Agreed allocation-wide Affordable Housing provision (%) x 150

For the balance of the secured Affordable Housing, the Council will have regard to the additional considerations below:

- The policies of the Luton Local Plan, monitoring information collected by Luton Borough Council and the findings of the Strategic Housing Market Assessment (SHMA) for the Borough will be considered as 'relevant' evidence under Policies HS2 and HS3 of the Local Plan.
- Any off-site provision or commuted sums in lieu of on-site provision should be directed to Luton Borough.
- Initial nomination rights will be reserved for applicants on Luton Borough Council's Housing Register or joint housing register as may be agreed. The approach to subsequent re-lets will be negotiated in advance of, or through, the site-specific S106 agreement(s) having regard (but not necessarily limited) to:
  - The fact that first occupiers will become residents of North Hertfordshire, with the District Council becoming responsible for their future housing needs;
  - The phasing schedule(s) for completion and occupation of the Affordable Housing that are anticipated in any relevant planning permission(s), including any post-permission amendment(s);
  - The current development plan policies in the Luton Local Plan 2011-2031 and the North Hertfordshire Local Plan 2011-2031, and specifically, North Hertfordshire's agreement to assist with Luton's unmet housing needs via its Local Plan policy and residential land allocations;
  - The stage of the planned reviews of the Luton and North Hertfordshire's Local Plans, and their associated evidence base(s) on housing supply, needs and requirements (including information on house types/ sizes);
  - Any findings or contents of statutory examinations, agreements or equivalent in relation to the above;
  - The geographical reach of the nominated Registered Provider(s) and the % of re-let nominations rights to which they will be entitled;
  - Agreeing a reciprocal approach that allows access to re-lets in the event that either authority is unable to nominate to any homes within a prescribed period.

### Review mechanisms (Policy HS2(c)(ii))

5.2.82 The general approach to review mechanisms for legal agreements is set out in Section 2 of this SPD. Where viability improves such as to trigger a review, we will take a fair and proportionate approach. Affordable Housing targets will be applied to the remaining phases or quanta of development at the point of review in line with the requirements of Policy HS2 and this SPD. We will not normally use review mechanisms to seek above target levels of Affordable Housing provision on future phases of development in order to make up for previous shortfalls.

## 5.3 Self-build

5.3.1 Our policies require that 1% of plots on Strategic Housing Sites are reserved for self-build. We will have regard to the self-build register and encourage the provision of self-build plots on other sites where there is proven evidence of demand. Neighbourhood Plans may set requirements for self-build. Councils may additionally need to have regard to statutory requirements relating to self-build in other, non-planning functions such as land disposal.

5.3.2 The delivery of self-build sites, or proportion of sites as self-build opportunities, brings complexities, as detailed below. Considering the depth of considerations for the appropriate delivery of self-build housing, it is highly likely that any approval of such housing will require planning obligations, rather than conditions, to secure the details of delivery. As a result, guidance in what is required to be considered in delivery of self-build housing is set out below to inform heads of terms and eventual agreed obligations.

5.3.3 For the purposes of planning policy, Custom and Self-build dwellings share the same definition and the terms can be used interchangeably. Custom Build is where a person appoints a specialist developer to help build their own home. Self-build is where a person is more directly involved in organising and constructing their own home.

5.3.4 Where self-build plots are to be delivered we will secure, by legal agreement or condition as appropriate in each instance:

- The number and location of plots to be delivered for self-build;
- The trigger point(s) for the provision and / or marketing of the serviced plots;
- The transfer of the plots where the developer does not wish to retain or market them for self-build;
- The means by which detailed permission(s) for the self-build plots shall be obtained;
- Reversion clauses or similar allowing for the return of the plot to the developer and / or the use of any unsold self-build plots for other forms of housing; and / or

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- Time limits for the commencement and / or completion of development on any self-build plots.
- 5.3.5 The Council maintains a Self-Build and Custom Housebuilding Register in accordance with relevant regulations. This contains details of persons interested in acquiring plots of land for self-build.
- 5.3.6 Where relevant developments come forward, the Council will notify those on the Self-Build and Custom Housebuilding Register of any upcoming opportunities.
- 5.3.7 Where the developer does not wish to market self-build plots themselves, the freehold of the area that will contain the serviced plots should be transferred to the Council for a nominal sum. This sum may include the recovery of a reasonable proportion of the S106 costs attached to the site as a whole and / or the costs of providing services to those plots where this occurs prior to, or as a condition of, the transfer. The Council will then undertake the marketing and sale of the plots.
- 5.3.8 Prior to the marketing of any self-build plots, the body responsible for their disposal shall secure an appropriate permission or planning framework for the whole of the self-build area detailing:
- The highway layout;
  - The provision of services;
  - Any incidental or communal landscaping, open space or similar;
  - The extent of the individual self-build plots;
  - The unit type of the individual self-build plots;
  - Vehicular access and parking provision;
  - Key design parameters including:
    - Fixed positions or zones for front and rear facades;
    - Maximum building heights;
    - Maximum internal floor areas; and
  - A palette of materials
- 5.3.9 This approach strikes a reasonable balance between individuality and ensuring the site as a whole remains coherent in design terms. The permission should be sufficiently flexible to allow for innovative design and methods of construction. It should also ensure sufficient scope remains for future plot owners to have a meaningful input into the final design of their home. The factors above may be identified and / or secured through a design code (or similar) attached to a hybrid application<sup>26</sup>.
- 5.3.10 The Council will consider whether it is expedient to introduce a Local Development Order, or other form of simplified planning framework, for self-build areas on a case-by-case basis.

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<sup>26</sup> In this instance, the final, detailed design of individual homes may be secured through a discharge of condition application (or similar) by the intended occupier upon, or prior to, acquisition of the plot.

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- 5.3.11 Any marketing period should be of sufficient length to give interested parties reasonable opportunity to investigate likely acquisition and build costs and draw together appropriate funding. This may include securing in principle agreements for finance and / or quotes or expressions of interest from builders or developers to deliver the scheme where they will seek assistance in building their home. Plots should be made available at a reasonable market value so as to encourage, rather than deter, their uptake.
- 5.3.12 Our expectation is that any reversion clause will allow for a minimum two-year marketing period for self-build. Shorter periods will only be entertained when the applicant expects the remainder of the site to be completed more quickly. On Strategic sites, or other schemes where development is to be phased, it may be appropriate to seek longer clauses to maximise the opportunity for self-build plots to be taken up.
- 5.3.13 In all instances, self-build plots should be delivered in a timeframe that is compatible with the delivery of the site as a whole. Equally it is necessary to ensure that the site can be fully built out in the absence of interest in (all of) the self-build plots; unbuilt or incomplete plots on an otherwise completed scheme would detract from the Government's aim to create high quality places.



## 6 DESIGN

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> <li>• SP9: Design and sustainability</li> <li>• D1: Sustainable Design</li> <li>• D3: Protecting living conditions</li> <li>• D4: Air quality</li> </ul>	<ul style="list-style-type: none"> <li>• Design SPD</li> <li>• Baldock Air Quality Paper</li> <li>• NHDC Note to Local Plan Inspector on Air Quality</li> <li>• Hertfordshire Waste Strategy 2002-2024</li> <li>• HCC Guide to Developer Infrastructure Contributions</li> <li>• Sustainability Principles 2022</li> <li>• Design Review Protocol 2022</li> </ul>

### 6.1 Policy context

6.1.1 National policy recognises that good design is a key aspect of sustainable development<sup>27</sup>. The Local Plan contains policies focused on ensuring that design responds positively to local context and that suitable mitigation measures can be delivered through the planning process.

### 6.2 Design

6.2.1 The general design requirements of the Plan will normally be met through consideration of planning applications and, where appropriate, the use of planning conditions. However, there may be some instances where contributions are sought towards schemes which delivery upon the design aspirations of the Plan (see, for example, Section 7.6 on public realm).

### 6.3 Sustainable construction methods

6.3.1 Local Plan Policy D1 Sustainable design outlines that development proposals are required to consider the potential to minimise the impact on the environment during both construction and throughout the lifetime of the development. The Council may require planning conditions and/or legal agreements, such as sustainable material sourcing, to achieve this.

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<sup>27</sup> NPPF Paragraph 126

## **6.4 Protecting living conditions**

- 6.4.1 Policy D3 seeks to secure protection against potential statutory nuisances and other impacts which may adversely impact upon living conditions.
- 6.4.2 There may be requirement for reciprocal measures to be secured from proposed development in adjoining authorities under the arrangements set out in Section 1.8. This may include, but is not necessarily limited to, any future schemes at London Luton Airport.

## **6.5 Air quality monitoring**

- 6.5.1 Legal agreements may be used to ensure that there are appropriate levels of monitoring and mitigation to minimise development impacts in line with Local Plan Policy D4 Air quality. This is particularly relevant where development proposals are likely to create additional road traffic.
- 6.5.2 Policy D4 sets out the circumstances in which an air quality impact assessment will be required. Strategic Housing Sites in particular will be expected to carry out or otherwise fund ongoing air quality monitoring before, during and after construction of their schemes. This may also be required of other significant or sensitive developments within the District or where the cumulative impacts of development may lead to an air quality issue.
- 6.5.3 The Council's own monitoring will be used to provide a baseline of data across the District against which applicant's data can be benchmarked and calibrated. The Council may require contributions towards equipment.
- 6.5.4 Methods to reduce emissions may include: design of development, encouraging the use of public transport and car sharing, promoting low emission vehicle use, road and traffic management schemes as well as appropriate parking standards. These methods may be secured at planning application stage via planning conditions and/ or legal agreement.
- 6.5.5 Where air quality impact assessments are required and where those assessments predict that an adverse impact on local air quality will occur there will be a requirement for the Defra 'air pollution damage costs' approach to be applied. This air pollution economic analysis damage costs approach is founded upon the application of Defra's Emissions Factors Toolkit and Central Government's Interdepartmental Group on Costs and Benefits (IGCB) guidance. Further information can be found in the NHDC Air Quality Planning Guidance Document.
- 6.5.6 The financial contributions calculated by the 'air pollution damage costs' approach will need to be targeted to air pollution mitigation measures that are relevant to the development in question and of specific benefit to the local areas that have been identified as being adversely impacted by that development.

6.5.7 Identified measures or contributions will be secured by condition or legal agreement as appropriate in each instance.

## **6.6 Waste collection and recycling**

6.6.1 A waste collection and recycling programme for North Hertfordshire is contained within the Hertfordshire Joint Municipal Waste Management Strategy 2007<sup>28</sup>. This has been modified since it was published and in September 2005 the Council agreed a programme that would ensure additional kerbside recycling facilities for all properties by September 2007.

6.6.2 Properties with no immediate access to the rear, together with flats may have no obvious means for storage of waste and recycling containers. This results in containers being permanently left in front gardens or by the roadside. Therefore, development schemes will be required to ensure appropriate arrangement for the storage of waste collection and recycling containers at the outset. This may be through communal shelters. This is to ensure conformity with Local Plan Policy D1 Sustainable design to reduce waste and consider the visual impacts of a development.

6.6.3 The revenue costs of waste collection are covered through Council Tax. However, in the case of large-scale residential development, implementation costs may be required to cover the purchase of additional vehicles and setting up new or extended rounds. Contributions towards the provision of recycling banks and land to accommodate these will also be required for large development schemes.

6.6.4 Under the Environmental Protection Act 1990, Hertfordshire County Council is required to perform the statutory functions of the Waste Disposal Authority (WDA) for Hertfordshire. The WDA is also required to provide facilities in its area where residents may deposit their own household waste free of charge. In Hertfordshire, these facilities are known as Recycling Centres (RCs).

6.6.5 As WDA, Hertfordshire County Council is responsible for the disposal of Local Authority Collected Waste (LACW) arising in the county. LACW consists of household waste and commercial waste collected by the ten Borough and District Councils in their role as the Waste Collection Authorities (WCA's) for Hertfordshire and waste collected at the county's RCs. Much of this waste is bulked in Waste Transfer Stations ready for onward transport to the point of disposal or treatment.

6.6.6 The WDA achieves this via a network of waste transfer stations and recycling centres. An increase in population within Hertfordshire as a result of new residential development is likely to require increased investment in waste disposal infrastructure.

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28 Hertfordshire Joint Municipal Waste Management Strategy 2007

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- 6.6.7 The impact of additional dwellings on waste management infrastructure will vary depending on the size of the development and its location. Therefore, it may be necessary to develop new infrastructure or improve existing infrastructure. For example, should an existing RC be identified as having insufficient capacity to accommodate increased usage due to additional dwellings, financial contributions will be identified towards increasing the capacity of the local service provision such as through improvements to existing facilities or the development of a new RC. The HCC Guide to Developer Infrastructure Contributions provides information on how contributions will be calculated.

## 7 HEALTHY COMMUNITIES

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> <li>• SP4: Town Centres, Local Centres and Community Shops</li> <li>• SP10: Healthy communities</li> <li>• ETC3: New retail, leisure and other main town centre development</li> <li>• ETC8: Tourism</li> <li>• CGB2b: Community facilities, services and affordable housing in the Rural Area beyond the Green Belt</li> <li>• HE1: Designated Heritage Assets</li> <li>• HE2: Heritage at Risk</li> <li>• HE3: Non-designated heritage assets</li> <li>• HE4: Archaeology</li> <li>• Site-specific policy criteria</li> </ul>	<ul style="list-style-type: none"> <li>• North Hertfordshire Indoor Sports Facilities Strategy and Action Plan</li> <li>• Community Halls Strategy for North Hertfordshire</li> <li>• Hertfordshire County Council Guide to Developer Infrastructure Contributions<sup>29</sup></li> </ul>

### 7.1 Policy context

7.1.1 The NPPF requires us to plan positively for the provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities and residential environments<sup>30</sup>.

7.1.2 The Local Plan recognises that the provision of adequate social infrastructure is essential to the successful delivery of the levels of growth over the plan period. Social infrastructure encompasses a range of facilities, including but not limited to: health services, educational facilities, libraries, arts and cultural facilities, community facilities, and indoor sports and leisure facilities.

7.1.3 Local Plan Policy SP10 Healthy Communities states that the Council will work with:

- Hertfordshire County Council as the Local Education Authority, as well as other education providers to ensure the planning system contributes to the provision of sufficient school places and facilitates the provision of new or expanded schools in appropriate and accessible locations.

<sup>29</sup> Hertfordshire County Council Guide to Developer Infrastructure Contributions, [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)

<sup>30</sup> NPPF Paragraph 93

- the NHS Trust and Clinical Commissioning Groups (CCGs) and other relevant providers to ensure that appropriate coverage of healthcare facilities across the District and
- Other providers to deliver appropriate levels of new community, cultural, leisure and built sport and recreational facilities.

7.1.4 Policy ETC8 Tourism sets out that planning permission will be granted where development increases attractiveness of the District as a tourist destination and delivers sustainable tourist and visitor attractions in appropriate locations.

7.1.5 Hertfordshire County Council is responsible for collecting contributions towards a number of the facilities identified in this section. The Council will be guided by their response(s) in determining measures required to mitigate impacts upon relevant social infrastructure. Hertfordshire County Council Guide to Developer Infrastructure Contributions<sup>31</sup> provides an indication of the scale of requests they are likely to make in response to planning application consultations, along with the associated justification.

7.1.6 Taken together, requests for social infrastructure are normally the largest single 'ask' of applicants on new development schemes. We will have regard to these requests in accordance with the general approach set out in Section 2 of this document. The Council will consider potential for other sources of funding, such as direct funding from Government departments or agencies, when planning new social infrastructure provision.

## 7.2 Education and early years

7.2.1 Planning applications, especially those relating to the largest developments will be expected to contribute to education provision serving the development. This may include serviced land as well as financial contributions. Discussions should be undertaken at an early stage with Hertfordshire County Council to ensure appropriate and well-located facilities<sup>32</sup> can be delivered in a timely way. This includes having regard to the Hertfordshire County Council Guide to Developer Infrastructure Contributions<sup>33</sup> to determine the demand for mainstream education, Special Educational Needs and Disabilities (SEND) and early years places based on forecasted child yield.

7.2.2 Where education mitigation is required, the financial contributions from the development will be based on the proposed education project. In some cases, this may require contributions from smaller-scale developments towards new school provision, which will be based on the costs of new school provision. Where a development site includes new education provision on-site, be it

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<sup>31</sup> Hertfordshire County Council Guide to Developer Infrastructure Contributions, [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)

<sup>32</sup> Hertfordshire County Council will require a full consideration of the land needed for any proposed school provision, taking into account a range of criteria including flood risk and the gradient of the development site.

<sup>33</sup> Hertfordshire County Council Guide to Developer Infrastructure Contributions, [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)

expansion to an existing school or a new school, then the provision of, and/or contributions towards, serviced land will also be required. Hertfordshire County Council have a land specification which should be adhered to wherever practicable.

- 7.2.3 A number of sites in the Local Plan contain policy requirements to provide land for education requirements arising from (planned developments in) the wider area. In these instances, requests for financial contributions towards the construction of built facilities on this land will be proportionate having regard to the likely pupil yield of the individual development(s). The balance of funding to deliver the facilities will be derived from other developments in the area or other sources.
- 7.2.4 Discussions should be undertaken at an early stage with Hertfordshire County Council to ensure that there is sufficient capacity of Early Years facilities to mitigate the implications of the proposed development. This includes having regard to the Hertfordshire County Council Guide to Developer Infrastructure Contributions to determine the level of contributions and/or facilities expected to be provided from the proposed development.

### 7.3 Youth Provision

- 7.3.1 Given that youth work provided by YC Hertfordshire is predominantly delivered from locally accessible buildings and tailored to youth projects, developments may be required to contribute to increasing the services and capacity to accommodate the needs of any additional young people brought about through housing development. This is most likely to create a need for additional buildings or enhancing / improving / developing an existing centre or space.
- 7.3.2 Discussions should be undertaken at an early stage with Hertfordshire County Council to ensure that there is sufficient capacity of youth facilities to mitigate the implications of the proposed development. This includes having regard to the Hertfordshire County Council Guide to Developer Infrastructure Contributions to determine the level of contributions expected to be provided from the proposed development.

### 7.4 Health

- 7.4.1 The largest development sites should make provision for new, on-site healthcare facilities and this will be secured through legal agreements.
- 7.4.2 Where land is transferred to the NHS this will be provided as freehold transfer or rent free.
- 7.4.3 The threshold for on-site provision is set out in the table below. The East and North Hertfordshire NHS Trust deliver hospital services and GP surgeries and other secondary facilities are primarily managed by the East and North Hertfordshire Clinical Commissioning Group.

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7.4.4 Requests for health contributions are normally based upon the following standard formula. Please note that the figures below are subject to change over time and may be index linked to reflect this.

<b>Acute healthcare</b>	£2,214.46 per residential unit
<b>Mental healthcare</b>	£194.46 per residential unit
<b>Community healthcare</b>	£182.03 per residential unit
<b>GP / GMS costs</b>	<ul style="list-style-type: none"> <li>• Multiply number of residential units by 2.4 to calculate number of new patients;</li> <li>• Divide number of patients by 2000 to determine number of GPs required;</li> <li>• Multiply number of GPs required by 199 to determine m<sup>2</sup> of additional space required</li> <li>• Require m<sup>2</sup> of additional space required by £2,964 to calculate build cost including fit out and fees</li> </ul>

7.4.5 Providers have identified that many practices still retain extensive paper records at their premises. This is space which could, subject to various considerations, be used to help provide additional patient capacity. Contributions may therefore be sought in future towards the digitising of records and / or offsite storage as a means of releasing additional capacity to meet demands generated by new development. It must however be demonstrated that the space saved can be meaningfully used as additional clinical space and how this new space can be secured through the digitisation project. If internal or external physical alterations are also required it would be more appropriate for S106 contributions to fund the building works rather than the digitisation project itself provided that in both cases the reasoning and costs are fully justified in the context of the CIL Regulations.

7.4.6 For health contributions of less than £250,000 the Council will not require the NHS to be signatories to planning obligations. For strategic sites and any contributions greater than £250,000 the Council will require the NHS to be direct recipients of any funds from developers at payment stage, either as signatories to associated legal agreements or recipients of funds from unilateral undertakings from developers.

## 7.5 Indoor sports facilities

7.5.1 In line with Local Plan policy SP10: Healthy communities the Council will support the retention of existing leisure facilities and require appropriate levels of leisure



and sport and recreation facilities to be provided in new development. Where replacement facilities are required by Policy HC1: Community facilities, these will be secured by legal agreement and / or Grampian condition upon the site which is to be redeveloped.

7.5.2 New developments will be expected to contribute proportionately towards the provision of additional facilities to meet future demands. The Council will use the Sport England Sport Facility calculator to inform calculations for the level of S106 to be sought for indoor sports and leisure facilities. It will identify relevant and appropriate projects to which contributions will be used in consultation with Sport England and by referring to the most up to date Indoor Sports Facilities Strategy and Action Plan.

## 7.6 Arts, culture and public realm

7.6.1 Arts and culture contributions may relate to museums, arts or heritage assets. Contributions may also be sought for public realm improvements that improve the attractiveness and character of the District.

7.6.2 It is recognised that a number of the proposed allocations in the Local Plan are extensive greenfield sites. These may yield a significant quantity of archaeological material when they are explored in compliance with Policy HE4 of the plan. This is particularly the case in areas of known historic importance such as the land around Baldock.

7.6.3 Contributions may be sought towards new public facilities that allow the preservation and display of archaeological remains; to enhance and/or expand existing facilities; or to deliver improvements to a heritage asset in situ.

7.6.4 Depending on the scale and nature of the scheme and to support the delivery of the Plan's heritage strategy the following contributions may be sought:

- Repair, restoration and maintenance of heritage asset(s) and their setting;
- Increased public access and improved signage to and from heritage assets;
- Interpretation panels / historical information and public open days;
- Production and implementation of up to date Conservation Area management plans and appraisals;
- Measures for investigation, preservation and display of archaeological remains and sites;
- Provision of local capacity for the storage of, and public access to, archives resulting from archaeological and/or historical investigation;
- Dissemination of historic environment information for public/school education and research, including museum displays for popularisation of archaeological discoveries;
- Sustainability improvements (such as loft insulation) for historic buildings;

- Public realm obligations, including enhancement of historic squares and spaces, registered parks and gardens, historic pavement materials, street furniture, removal of street clutter and installation of sympathetic lighting etc.

7.6.5 The Council will seek contributions towards other public realm and public facilities, including public conveniences, where necessary and reasonable. This is underpinned by policy D1 Sustainable Design that seeks to create or enhance public realm and design-out opportunities for crime and anti-social behaviour.

## 7.7 Libraries

7.7.1 Library provision can range from large central libraries within towns to community libraries, resource centres providing electronic access to services within multi-use buildings and mobile facilities.

7.7.2 Hertfordshire County Council has a statutory duty to provide a library service and applicants should have regard to Hertfordshire County Council Guide to Developer Infrastructure Contributions<sup>34</sup> to inform the contributions required.

## 7.8 Community facilities including Town and Village Halls

7.8.1 The Plan's policies require that appropriate community hall facilities are available and that new facilities are provided where needed as a result of development proposals.

7.8.2 The Council will encourage the development and use of such facilities as multi-functional community centres. These can act as 'hubs', offering a range of facilities to support the creation of sustainable communities.

7.8.3 The most up to date Community Halls Strategy for North Hertfordshire includes an Action Plan that can be used to inform required developer contributions. Further projects may be set out in Neighbourhood Plans, Parish Council strategies or similar. Engagement with the appropriate Parish, Town or Community Councils should be undertaken.

7.8.4 Where new community centres are to be provided within new development, the Council will expect, in most instances, the freehold of the new centre to be transferred to the Council, Town or Parish Councils for a nominal fee and for appropriate ongoing management arrangements to be demonstrated. It will be incumbent on the developer to evidence the proposed management arrangements and potential contributions towards on-going management to be proportionate and sustainable.

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<sup>34</sup> Hertfordshire County Council Guide to Developer Infrastructure Contributions, [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)

## **7.9 Fire and rescue services and community safety**

- 7.9.1 Hertfordshire County Council is the Fire Authority and has a statutory duty to ensure that all developments are provided with adequate water supplies for fire-fighting as well as provision is made for emergency response arrangements under the Fire and Rescue Services Act 2004<sup>35</sup>.
- 7.9.2 Conditions will be used to ensure that the developer provides fire hydrants based on one hydrant within 90 metres of each property. The Hertfordshire County Council Guide for Developer Contributions contains technical advice and recommended wording for planning conditions for fire hydrants.
- 7.9.3 The provision of adequate water supplies for firefighting purposes e.g. suitable and sufficient water mains and hydrants should be determined at the same time as the water services are planned in detail. This is usually following planning consent.
- 7.9.4 The ability for large-scale developments to be adequately served by fire and rescue services will be assessed on an individual basis. Any impacts will need to be addressed through planning conditions and/ or obligations. This may be through the provision a new fire station or an extension to an existing facility.
- 7.9.5 Hertfordshire Fire & Rescue Service on behalf of the Fire Authority would always recommend consideration for the placement of sprinkler systems in all buildings and new developments to form part of an integrated fire safety provision.
- 7.9.6 Contributions may be sought from development schemes which have the potential to increase the demand on the Hertfordshire Fire and Rescue Service (HFRS) as currently provided across the respective Council area. In those cases, HFRS may seek planning obligations towards fire and rescue services. Discussions should be undertaken at an early stage with Hertfordshire County Council to ensure that there is sufficient capacity of HFRS facilities to mitigate the implication of the proposed development. This includes having regard to the Hertfordshire County Council Guide to Developer Infrastructure Contributions to determine the level of contributions expected to be provided from the proposed development.
- 7.9.7 Police services are provided through the Office of The Police and Crime Commissioner for Hertfordshire and contribute to the overall well-being of local communities. Police infrastructure comprises fixed property and technology assets; and human resources, which includes Local Community Policing, victim support, and crime reduction initiatives such as use of CCTV. These can arise either locally, or as a result of cross – boundary considerations where scale and efficiency of operation require policing facilities to be located out with the boundaries of the local authority. The Council will therefore require development, where required and appropriate, to contribute towards the delivery of policing

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<sup>35</sup> Fire and Rescue Services Act 2004

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infrastructure to serve new developments and mitigate against their impact upon existing police resources.

- 7.9.8 In line with Local Plan Policy D1 Sustainable Design applicants, should demonstrate that opportunities for crime and anti-social behaviour have been designed-out. Hertfordshire Constabulary will be consulted on planning applications where it is considered that there may be an impact in terms of community safety.
- 7.9.9 Where it is expected that the proposed development will generate a need for extra policing, resources and extensions to or new police buildings, this will be sought through legal agreements.
- 7.9.10 Contributions towards CCTV will be sought on a case-by-case basis where needed to cover the cost of equipment, installation, maintenance and running costs.

### **7.10 Information Technology**

- 7.10.1 Internet and mobile coverage across the District are generally quite good, though there are pockets where this is not the case, particularly in more rural areas.
- 7.10.2 All new developments should be able to plan-in the provision of high quality (superfast) communication infrastructure in consultation with providers. Early engagement is recommended. This avoids the need to retrofit cabling or other required facilities in recently completed schemes. It also increases the saleability of new properties. Where appropriate, we will secure the provision of high-speed connectivity with new development, normally by condition.
- 7.10.3 This approach supports the rise in homeworking and the need to manage private vehicle use in accordance with local and county transport policy.

## 8 NATURAL ENVIRONMENT

Local Plan Policies	Other relevant Strategies & Guidance
<ul style="list-style-type: none"> <li>• SP11: Natural resources and sustainability</li> <li>• SP12: Green Infrastructure, landscape and biodiversity</li> <li>• D1: Sustainable design</li> <li>• NE1: Strategic green infrastructure</li> <li>• NE4: Biodiversity and geological sites</li> <li>• NE5: Protecting open space</li> <li>• NE6: New and improved open space</li> <li>• NE7: Reducing flood risk</li> <li>• NE8: Sustainable drainage systems</li> <li>• NE9: Water quality and environment</li> <li>• NE10: Water conservation and wastewater infrastructure</li> <li>• NE11: Contaminated land</li> <li>• NE12: Renewable and low carbon energy development</li> <li>• Site-specific policy criteria</li> </ul>	<ul style="list-style-type: none"> <li>• North Hertfordshire Council's Climate Change Strategy</li> <li>• North Hertfordshire Playing Pitch Strategy and Action Plan 2018</li> <li>• A Green Space Management Strategy for North Hertfordshire 2021</li> <li>• Open Space Review 2016</li> <li>• Hertfordshire Rights of Way Improvement Plan</li> <li>• NHDC Local Cycling and Walking Infrastructure Plan (LCWIP)*</li> <li>• Planning for biodiversity and the natural environment in Hertfordshire: guiding principles</li> <li>• Hertfordshire Biodiversity Action Plan</li> <li>• Biodiversity Strategic Action Plan (BSAP) from the Hertfordshire Climate Change and Sustainability Partnership (HCCSP)</li> <li>• Hertfordshire County Council Guide to Developer Infrastructure Contributions<sup>36</sup></li> <li>• Therfield Heath SSSI Mitigation Strategy</li> <li>• North Hertfordshire Green Infrastructure Strategy 2009</li> <li>• NHDC Green Space Action Plans (various)</li> <li>• Strategic Flood Risk Assessment Update (2016)</li> </ul>

<sup>36</sup> Hertfordshire County Council Guide to Developer Infrastructure Contributions, [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)

	<ul style="list-style-type: none"> <li>• Affinity Water Draft Drought Management Plan 2022</li> <li>• Hertfordshire Renewable and Low Carbon Energy Technical Study</li> <li>• Thames and Great Ouse River Basin Management Plan</li> </ul>
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## 8.1 Policy context

8.1.1 The NPPF identifies that access to a network of high-quality open spaces is important for the health and well-being of communities<sup>37</sup>. It also seeks to minimise impacts on, and provide net gains for, biodiversity and advocates a proactive approach to mitigating and adapting to climate change<sup>38</sup>.

8.1.2 Open spaces are a defining feature of North Hertfordshire and provide a valuable resource for recreation, sports and culture. The quality of the open spaces is critical to ensure that active lifestyles can be promoted.

8.1.3 The Local Plan contains a range of policy requirements relating to open space and the natural environment which, collectively, seek the provision and retention of a network of quality spaces.

8.1.4 These policy requirements are supported by a breadth of supporting strategies produced by the Council, County Council and other bodies.

## 8.2 Biodiversity

### Policy Background

8.2.1 Biodiversity net gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand.

8.2.2 The Environment Act 2021 sets out the following key components of mandatory biodiversity gain:

- Amends the Town and Country Planning Act
- Minimum 10% gain required calculated using the Biodiversity Metric and approval of a biodiversity gain plan
- Habitat secured for at least 30 years via planning obligations or conservation covenants
- Delivered on-site, off-site or via a new statutory biodiversity credits scheme; and
- National register for net gain delivery sites

<sup>37</sup> NPPF Paragraph 98

<sup>38</sup> NPPF Paragraphs 153 and 174

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- It does not change the existing legal protections for important habitats and wildlife species. It maintains the mitigation hierarchy of avoid impacts first, then mitigate and only compensate as a last resort.

8.2.3 Policy NE4 Biodiversity and Geological Sites states *that planning permission will only be granted for development proposals that appropriately protect, enhance and manage biodiversity in accordance with the hierarchy and status of designations and features listed in policy SP12. All development should deliver measurable net gains for biodiversity and geodiversity, contribute to ecological networks and the water environment and restore degraded or isolated habitats where possible.*

8.2.4 The policy also *requires the integration of appropriate buffers of complimentary habitat for designated sites and other connective features, wildlife habitats, priority habitats and species into the ecological mitigation and design. The appropriateness of any buffers will be considered having regard to the status of the relevant habitat. 12 metres of complimentary habitat should be provided around wildlife sites (locally designated sites and above), trees and hedgerows. It may be necessary to exceed this distance for fragile habitats such as ancient woodland or to provide appropriate root protection for mature trees. A long-term management and monitoring plan including mitigation measures as necessary is also required.*

8.2.5 In addition, the Local Plan promotes a master plan led approach to deliver a net gain for biodiversity as set out in Policy SP9 Design & Sustainability<sup>39</sup>. Strategic Masterplans where required should *'Create a multi-functional green infrastructure network that provides a high-quality integrated network to support ecological connectivity, biodiversity net gain, climate adaptation and mitigation linking into the wider Ecological Network'*.

8.2.6 The Environment Act 2021 introduces a mandatory requirement for new development to deliver a net gain for biodiversity of at least 10% calculated using the DEFRA Biodiversity Metric (latest version 3.1). Once the mandatory requirement for BNG is in place (expected to be Winter 2023), it will be a legislative requirement. The Government's response to the 2018 consultation on net gain set out that there would be a 2 year implementation period for mandatory BNG once the Environment Bill received Royal Assent and became the Act (which happened on 9 November 2021). The Act includes provision for secondary legislation to set a date for the requirement to come into force.

8.2.7 Whilst the Local Plan does not specify a target for BNG, the Council are taking a pro-active and masterplan led approach to strongly encouraging new developments to achieve a net gain for biodiversity of at least 10% in advance of the formal enactment of the statutory requirement.

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<sup>39</sup> It is important that councils apply and test the application of BNG prior to the legislative requirements and that BNG is frontloaded into the planning process to ensure effective delivery

**Biodiversity Net Gain and the Biodiversity Metric**

- 8.2.8 The Biodiversity Metric 3.0 was launched by DEFRA in July 2021. An update 3.1 was published in April 2022. A consultation on the Biodiversity Metric 3.1 and the Small Sites Metric will conclude in September 2022.
- 8.2.9 The Council will expect applicants to assess BNG using the Biodiversity Metric 3.1 or the most up to date version. The biodiversity metric is a habitat-based approach used to assess an areas value to wildlife. The metric uses habitat features as a proxy to calculate a biodiversity value. The metric is used to assess the biodiversity unit value of an area of land, demonstrate biodiversity net gains or losses in a consistent way, measure and account for direct impacts on biodiversity and to compare proposals for a site, such as creating habitat on site or off site. It can help to design, plan and make land management decisions that take better account of biodiversity. It should be used by a professional qualified and experienced ecologist. To use the metric you need to know, the types of habitat on site, the size of each habitat parcel, the condition of each habitat parcel, whether the sites are in locations identified as local nature priorities.
- 8.2.10 The biodiversity metric calculation tool and user guide are published on Natural England’s Access to Evidence website.

**Mitigation Hierarchy**

- 8.2.11 Biodiversity Net Gain should be delivered in the context of the following Mitigation Hierarchy:

Avoid: where possible habitat damage should be avoided	Minimise: where possible habitat damage and loss should be minimised	Remediate: where possible any damaged or lost habitat should be restored	Compensate: As a last resort damaged or lost habitat should be compensated for
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- 8.2.12 Applicants will be required to demonstrate to the Council that all methods of avoidance have been fully explored and all new development should seek to deliver BNG on site within the red line application boundary. Where on-site provision is not possible off-site compensation will be required and this approach should be agreed with the LPA (Local Planning Authority). Development proposals must clearly demonstrate that a net gain in biodiversity can be achieved and secured for 30 years.



### Evidence and reporting requirements<sup>40</sup>

- 8.2.13 The Council already require a Preliminary Ecological Appraisal or Ecological Impact Assessment to be submitted with most types of planning applications. These will now be required to contain a specific section entitled 'Biodiversity Net Gain' which must clearly show how the site has been assessed using the Biodiversity Metric (latest version). This will demonstrate the baseline habitat value of the site (pre-development) and the post development habitat value.
- 8.2.14 Where it is apparent that the baseline habitat value of the site has been negatively affected prior to assessment, the Council will require an assessment of the site based on the habitat condition prior to any intervention (i.e. removal of vegetation). This could be based on previous aerial photography and environmental records. Any negative habitat modification after January 2020 will refer to the worst case scenario habitat baseline at that date – in accordance with the Environment Act.
- 8.2.15 A habitat baseline plan should be produced using the UK Habitat Classification<sup>41</sup>. This may be produced using information from the PEA Report or EclA Report. This should clearly show the habitat types and area and length of any habitat type or habitat parcel. A reference number for each habitat parcel should cross reference to the metric. Baseline maps showing linear features e.g., hedgerows, rivers and streams should be provided in spatially accurate digital drawings. All habitat types selected must be justified with survey evidence i.e. species lists, relative abundances, community descriptions and photographs. These must correlate with UK Habitat Community descriptions. For the avoidance of doubt, National Vegetation Communities MG1, MG6 and MG10 must be recorded as other neutral grassland, in accordance with UK Habitat Community descriptions. All condition assessments must be supported by condition assessment sheets for each habitat parcel and justified with survey evidence. Unrealistic condition scores in the time available, flagged by the submitted metric, will not be accepted. Habitat enhancement will only be permitted within the same habitat type, e.g. grassland to better quality grassland (improving low value habitats to medium value habitat and above should always be recorded as habitat creation).
- 8.2.16 Following the baseline habitat conditions the report should demonstrate how compliance with the BNG 10 good practice principles<sup>42</sup> has been applied as part of the net gain assessment.
- 8.2.17 A BNG plan (or proposed habitats plan) should be provided that clearly cross references to the individual lines of the metric habitat calculations. It can be based on the site layout plan, illustrative masterplan, strategic masterplan or

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<sup>40</sup> CIEEM have published Biodiversity Net Gain Report and Audit Templates that provide a framework for writing reports for projects aiming to achieve BNG. This should inform the report writing approach.

<sup>41</sup> The UK Habitat Classification avail from [www.ukhab.org](http://www.ukhab.org)

<sup>42</sup> BNG Good Practice Principles for Development 2016 CIEEM, IEMA and CIRIA

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green infrastructure parameter plan depending on the nature of the planning application.

- 8.2.18 Habitats should be mapped using the UK Habitat Classification (to allow comparison with the baseline situation). This plan should clearly show what habitats are to be retained and enhanced and what new habitat types will be created through clear colour coding. The area (ha) or length (km) of each habitat type should be quantified with spatially accurate digital drawings. Other proposed biodiversity enhancements should also be described in this section and shown on appropriately scaled plans e.g., bird and bat boxes, hedgehog highways and mitigation for protected/priority species.
- 8.2.19 The completed Excel spreadsheet, including the full calculations that lead to the final biodiversity unit scores must be submitted to the Council to allow the full analysis and scrutiny of the information. The information in the metric should be directly related to the Habitat Baseline Plan and Proposed Habitats Plan. Summary results or extracts of any metric calculation would not be sufficient alone. Where appropriate detailed justifications for the choice of habitat types, distinctiveness and condition should be added to the comments column and explained in the report. All assumptions made in the metric should be clearly identifiable. Different habitat parcels should be individually referenced and identifiable on the relevant drawings so that these can be cross referenced with the Biodiversity Metric.
- 8.2.20 The Council will be seeking to determine if in principle the application has the capacity to comply with relevant Local Plan policies. The BNG plan will be approved as part of the any outline permission.
- 8.2.21 The BNG section of the report should provide sufficient detail that biodiversity gains and anticipated 'condition' of the habitat can be realistically achieved within the site framework. It is important that other land uses and land use budget is considered at outline stage and that there is no double counting (i.e. with recreational, sport and other green space types).
- 8.2.22 The final section should include a Project Implementation and Construction Plan and Management or Monitoring Plan. This should include the required aftercare maintenance and long-term habitat management of habitat features, how management will be implemented for a minimum period of 30 years and what monitoring will be implemented during and after construction. This is to ensure that all on site and off site BNG is delivered to the required state and condition (where appropriate this will be required as a planning condition as part of the Landscape and Ecological Management Plan) for a 30-year lifespan of the project.
- 8.2.23 It is expected that the majority of strategic and phased development will require a re-submission of the BNG Report with each subsequent reserved matter. This would include an updated BNG calculation (balance sheet) and BNG Proposed Habitats Plan so phased implementation can be cross referenced to the BNG

strategy. This is required to co-ordinate the phased delivery of BNG in accordance with approved strategy at outline permission stage. Relevant planning conditions will be applied to secure this delivery, having regard to a site's overarching BNG strategy.

### Design and Landscape-led approach

8.2.24 BNG should be considered at the early stage of a project before the layout and design becomes too fixed. A design team approach should be undertaken with an appointed ecological consultant working closely with the urban designer, landscape architect and arboriculturist for the project to jointly consider which masterplan structure/layout delivers the optimal outcome for biodiversity net gain. A design and landscape-led approach and strategy should be informed by the following objectives:

- Creating a site wide connected and accessible multi-functional green space network that is connected to the strategic green infrastructure network
- Creating an ecological network that seeks to retain and enhance existing wildlife corridors and link up fragmented habitats both outside and within the site boundary. This is to enhance connectivity, functionality and to strengthen wildlife corridors and use this as a component of the landscape structure for the new development
- To ensure existing wildlife sites, priority habitats, hedgerows and trees are appropriately buffered to protect the health and function of the habitat
- To design for sustainable urban drainage through the designing around natural drainage patterns and maximise opportunities for wetland and marginal/aquatic planting in attenuation areas and swales etc
- To design site boundaries, streets, spaces, block and plot boundaries and gardens to incorporate nature-rich habitat, including trees, hedgerow, grassland, scrub and wildflower areas.
- Utilise domestic scale features to support wildlife, such as bat and bird boxes/bricks and invertebrate boxes<sup>43</sup>

### Delivery

8.2.25 The choice of habitat type will be informed by landscape character, what is existing on the site and surroundings, soils drainage and aspect. Examples of the most common habitat types are:

- Trees/woodland
- Hedgerows
- Scrub
- Grassland

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<sup>43</sup> The Biodiversity Metric is a habitat-based approach, using habitat as a proxy for biodiversity. Species-based features such as bird and bat boxes are not included within the metric, instead it focuses on the habitats such species need to forage and complete their life cycles. The provision of such species features within developments will still be encouraged

- Ponds

8.2.26 The consideration of recreational and visitor impact on habitat types proposed will be discussed as required in the consideration of the application of the Biodiversity Metric.

8.2.27 Where sufficient net gain cannot be delivered on site this will need to be evidenced through the illustration of design and layout options. Options for off-site provision are:

- (a) Off-site land in the control of the applicant provided it meets the requirements for off-site provision
- (b) Off-site land under the control of the local authority or a third party who in partnership with the Council agrees the land can be used for net gain provided it meets the requirement for off-site provision

### Requirements for off-site provision

8.2.28 The land should preferably be located adjacent to the site (including within any blue line land). If this is not feasible, then the site should be located within a reasonable distance of the site. If this is not feasible, then the site should be within North Hertfordshire. The off-site provision site will need to be agreed with the LPA using the cascade approach above. The main priority for any off-site provision should be the conservation and enhancement of priority habitats and the Ecological Network as mapped by Hertfordshire County Council and the forthcoming Nature Recovery Network.

8.2.29 The land will be subject to a S106 agreement or similar unilateral undertaking to ensure delivery of the biodiversity management for a minimum period of 30 years. If required, the agreement will include a transfer of an agreed sum alongside a trigger point.

## 8.3 Therfield Heath SSSI Mitigation Strategy

8.3.1 Therfield Heath is a popular destination for recreational walkers at the west of Royston. This site is also a Site of Special Scientific Interest (SSSI) and is a significant archaeological site comprising prehistoric burial mounds, many of which are Scheduled Ancient Monuments. It is necessary to manage recreational disturbance to protect the notified features of the site, including through the collection of developer contributions.

8.3.2 The Therfield Heath Mitigation Strategy was approved as a material consideration by Cabinet in November 2022. This strategy was developed by the Council along with Natural England and the heath's Conservators and provides a planning mitigation strategy to inform new developments within the SSSI's identified Zone of Influence (ZOI). Sites within the ZOI may be required to make appropriate contributions towards projects or approaches identified in the Strategy, or any other management strategy (or equivalent) produced for this area.

8.3.3 This approach may require schemes to make provision for and / or contributions towards:

- Enhanced open space provision within the development scheme;
- Contributions towards provision or projects within the SSSI to be delivered in agreement with Natural England and / or the Conservators of Therfield Heath;
- Alternate recreation provision or projects within Royston and the surrounding area that provide alternate open space, leisure routes and / or recreational opportunities.

## 8.4 Open Spaces

### Current policy

8.4.1 The importance of good quality green space or 'green infrastructure' to where we live has significantly increased over recent years, and this is reflected in the planning system. The climate crisis, biodiversity crisis and health crisis (including Covid-19) mean we all need multi-functional and good quality green space now more than ever to address the challenges of the physical and natural environment we live in.

8.4.2 Residents of new housing developments will generate additional needs and demands for open space, sport and recreation facilities. It is therefore important such facilities are sufficient, accessible, connected and enhance nature and biodiversity. Also critical to this is water management as well as climate mitigation and adaptation. There should also be activities for all to enjoy such as play, food production, recreation and sport so as to encourage physical activity and support good health, social inclusion and well-being.

8.4.3 Policy NE6: New and Improved Open Space states that planning permission will be granted for development proposals that make provision for new and/or improved open space which,

- (a) Meets the needs arising from the development having regard to the Councils open space standards;
- (b) Contribute towards improving the provision, quality and accessibility of open space ; and
- (c) Incorporate any necessary open space buffer (s) for landscape, visual, ecological or air quality reasons

Any on-site provision must include a long-term maintenance and management plan and where required phasing plans to demonstrate delivery. Proposals for new open spaces which meet identified needs will be encouraged in suitable locations served by a choice of sustainable travel options. Financial contributions towards the provision of open space will be considered only where it can be demonstrated that the requirements of Policy NE6 part (b) ii are met. Where a development is phased or a site is either divided into separate parts or otherwise

regarded as part of a larger development, it will be considered as a whole for the purposes of open space provision.

8.4.4 In addition to Policy NE6 above Policy SP9 Design & Sustainability requires Strategic Masterplans to create an accessible multi-functional green infrastructure network that provides:

- A key structuring and functional place-making feature supporting healthy lifestyles, sport, play and recreation linking into the wider green infrastructure network
- A high-quality integrated network to support ecological connectivity, biodiversity net gain, climate adaptation and mitigation linking into the wider Ecological Network.

### Evidence Base

8.4.5 The NPPF advises that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for health and well-being as well as wider benefits for nature and supporting measures to address climate change.

8.4.6 Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate. The following documents should inform both on-site and any off-site green space provision.

- The Council is updating its Playing Pitch Strategy and Action Plan 2018 which sets out playing pitch needs across the district and will be used to inform new playing pitch provision.
- There are a number of neighbourhood plans across the district that should be referred to for more detailed information on existing open space provision (quantitatively and qualitatively), local open space needs and where new or enhanced open space provision are required in policies and supporting evidence.
- The Council has publicised a number of green space action plans for key green spaces across the district. These set out a series of physical and management requirements to enhance the sustainability of each green space.
- An open space audit was undertaken in 2022 to review the districts' provision against the FIT standards in order to provide a more up-to-date assessment and understanding of open space provision and needs to inform the individual needs of development. This work has not introduced new standards, but provides clarity on typologies, quantitative and spatial provision and where deficiencies are located. The settlement profiles are

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available on request and will inform decision-making on masterplanning and planning applications on the form and location of open space.

### Open Space Standards

8.4.7 The Council uses the Fields in Trust Guidance for Outdoor Sport and Play Beyond the Six Acre Standard November 2020 to set baseline requirements for open space in new development. This guidance sets national benchmark guidelines and guidance to ensure that the provision of open spaces is of a sufficient size to ensure its effective use and is located in an accessible location. The open spaces should be in close proximity to dwellings and be of a quality to maintain longevity to encourage its continued use.

8.4.8 These standards are shown below:

#### Open space standards for new development (hectares)

Type	Standard (per 1,000 people)	Walking guideline
Playing pitches	1.2	1,200 m
Other outdoor sports	0.4	1,200 m
Equipped / designated play	0.25	LAPs- 100m LEAPS- 400m NEAPS- 1000 m
MUGAs / skateboard etc	0.3	700m
Parks and Gardens	0.8	710m
Amenity Green Space	0.6	480m
Natural and semi-natural	1.8	720m
Allotments	0.3	800 m <sup>44</sup>

#### Requirements for equipped play

Open Space Typology	Minimum Size and Dimensions	Buffer Zones
LAP	0.01Ha 10x10 metres	5 metre separation distance between activity zone and

<sup>44</sup> This is a locally derived walking guideline

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		nearest property containing a dwelling
LEAP	0.04 ha 20x20 metres	20 metre separation distance between activity zone and nearest property containing a dwelling
NEAP	0.1 ha 31.6 x 31.6 metres	30 metre separation distance between activity zone and nearest property containing a dwelling

8.4.9 The table below sets out the application of equipped play standards to the scale of development.

Scale of Development (dwellings)	Local Area of Play (LAP)	Local Equipped Area of Play (LEAPS)	Neighbourhood Equipped Area of Play (NEAP)	Multi-Use Games Area (MUGA)
5-10	✓			
1-200	✓	✓		Contribution
201-500	✓	✓	Contribution	✓
501+	✓	✓	✓	✓

8.4.10 In the calculation of playing pitch/outdoor sports, Sport England's playing pitch calculator should also be used alongside Fields in Trust to estimate demands that will be generated from the new development.<sup>45</sup> This should be used in conjunction with the Councils Playing Pitch Strategy and Action Plan 2018 (or as superseded as this is currently being updated) to identify where the demands should be met in the locality. Consultation with Sport England, Town and Parish Councils and the relevant National Governing Bodies will be required where appropriate<sup>46</sup>.

8.4.11 All schemes should have regard to these standards as a guide when proposals are developed. The standards should not be treated as a cap for open space provision. We will encourage provision at above minimum standards wherever possible. Any discrepancies between the requirements arising from the Fields in

<sup>45</sup> As of May 2020 Sport England limited the use of their Playing Pitch Calculator on the Active Places Power website to local authorities and their consultants. Therefore, developers will need to contact the Council's planning team where required.

<sup>46</sup> Sports England is a non-statutory consultee on residential development of 300 dwellings or more



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Trust standards vs the Sport England calculator will be considered on a case-by-case basis having regard to local circumstances, provision and priorities.

- 8.4.12 Pre-application discussions are encouraged with the NHC Green Space Manager and planning officers to select what is appropriate for the site. The Council aim to provide larger play spaces where a LAP could be sensitively integrated into a LEAP (as play for toddlers can sometimes benefit from a buffer/separation area with play for older children). Stand-alone LAPS will in general only be considered on an exceptions basis where there is no appropriate accessible play provision.
- 8.4.13 Play areas should be designed using Play England's 10 principles for designing successful play space<sup>47</sup>. Play areas should be located where there is sufficient natural surveillance from the street and neighbouring houses. Successful play spaces are located carefully to where children would play naturally and away from heavily trafficked roads, noise and pollution.
- 8.4.14 Children benefit from access to natural environments, features and natural play. In the right location grassy mounds, planting, logs, sand, trees, trunks and boulders can all help make a more attractive and playable setting for equipment where children can play in different ways and nature can also be supported. Play areas located in green space on natural through routes and by well used public footpaths work particularly well. Play can become part of the wider active landscape. Nature play can be introduced into new play spaces or incorporated into established ones. Maintenance and management plans will require a tailored approach, but costs can often be less than traditional play equipment.
- 8.4.15 For the avoidance of doubt, open space must be useable and accessible to the public (in perpetuity). SLOAP ('space left over after planning') should not be present in a well-designed scheme. Every space should have a clear design function. SLOAP such as roadside verges and small areas of incidental land will not count towards public open space. Structural and peripheral landscaping footpaths and cycleways also will not be included, unless they form an integral part to a large area of open space.
- 8.4.16 In relation to sustainable urban drainage these need to be designed according to the latest CIRIA guidance, where possible they should also be a usable and accessible feature of public open space fully integrated into the site layout and green space network with a well-designed interface with the surrounding space. To be considered as such they should bring amenity, landscaping and biodiversity benefits as well as the technical elements required. This would include a naturalistic and landscape-led approach with carefully planted edges with appropriate habitat, shallow gradients and banks/beaches with perimeter pathways for any areas of permanent water. The area of SUDS to be counted as

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<sup>47</sup> Design for Play. A guide to creating successful play spaces Play England June 2008.

‘recreational’ open space should be dry and usable for a significant majority of the time.

### Qualitative provision of open space

8.4.17 Each application (using the relevant evidence base documents) will be considered on its individual merits taking account of the:

- Future demands for open space arising from the development
- Current quantity deficiencies in the area
- The quality of existing open spaces in the area
- Accessibility (distance) to existing open space provision

8.4.18 The table below provides definitions of the open space types.

Open Space Type	Description
Parks and Gardens	Managed and accessible, high public value opportunities for informal recreation and community events (should be designed around community hubs where co-location of facilities is encouraged in accordance with Sport England’s Active Design Guidance). Include Country Parks, urban parks, local recreation grounds, formal gardens and local/neighbourhood pocket parks
Natural and Semi-Natural Green Space	Sites that provide wildlife conservation, biodiversity and a natural capital function (e.g. water management, soil quality, carbon sequestration). This type of greenspace includes local nature reserves, local wildlife sites, woodland, grassland, scrubland, wetlands etc. It also includes agricultural land or grazing land where there are public rights of way.
Amenity Greenspace	Informal recreational ‘doorstep’ spaces located close to people’s homes providing a landscape and visual amenity role and supporting social interaction.
Allotments	Land where vegetables and fruit can be cultivated.
Equipped Play	LAP <ul style="list-style-type: none"> <li>• Small area close to home</li> <li>• Primarily for under-6s</li> <li>• Manufactured or natural play features</li> <li>• Positioned by a pedestrian route that is well used</li> <li>• Well-drained, reasonably flat site surface with grass or a hard surface</li> <li>• Recommended minimum activity zone: 100 sq/m</li> <li>• Buffer zone of 5m minimum depth separates activity zone and nearest dwelling</li> </ul>

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Open Space Type	Description
	<ul style="list-style-type: none"> <li>• May have a 600mm guard rail to indicate the perimeter</li> <li>• Requires a sign indicating the area is for children’s play and dogs are not welcome</li> </ul> <p><b>LEAP</b></p> <ul style="list-style-type: none"> <li>• For children who are beginning to go out and play independently</li> <li>• Within five minutes’ walking time</li> <li>• Positioned by pedestrian route that is well used</li> <li>• Well-drained, reasonably flat site surfaced with grass or a hard surface, along with appropriate surfacing for play equipment or structures</li> <li>• Recommended minimum activity zone is 400 sq m</li> <li>• Play equipment is an integral part of the LEAP</li> <li>• Buffer zone of 20m minimum separates activity zone and habitable room facade of nearest dwelling</li> <li>• Stimulating, challenging play experience with provision for a minimum number of six play experiences is recommended</li> <li>• Adequate space for active play</li> <li>• Boundaries should be recognisable by landscaping,</li> <li>• Seating and litter bins provided</li> <li>• Requires a sign indicating the area is for children’s play and dogs are not welcome</li> </ul> <p><b>NEAP</b></p> <ul style="list-style-type: none"> <li>• Mainly for older children but with play opportunities for younger children too</li> <li>• Within 15 minutes’ walk from home</li> <li>• Positioned by a pedestrian route that is well used</li> <li>• Well-drained, reasonably flat site surfaced with grass or a hard surface, along with appropriate surfacing for play equipment or structures</li> <li>• Recommended minimum activity zone is 1000 sq m, comprising an area for play equipment and a hard-surfaced area of at least 465 sq m</li> <li>• Buffer zone of 30m minimum depth separates activity zone and the boundary of the nearest property</li> <li>• Stimulating, challenging play experience with provision for a minimum number of nine play experiences is recommended</li> <li>• Adequate space for active play</li> <li>• Boundaries should be recognisable by landscaping</li> <li>• Seating and litter bins provided</li> </ul>

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Open Space Type	Description
	<ul style="list-style-type: none"> <li>Requires a sign indicating the area is for children's play and dogs are not welcome</li> </ul>
MUGA	Minimum activity zone of 1000 sq m comprising structures and hard surfaced court for sports (court minimum dimensions 40x20 metres) with 30 m separation zone between the activity zone and the boundary of the nearest property containing a dwelling
Outdoor Sports	Natural or artificial playing pitches including for football, rugby, cricket, hockey, tennis, bowling and athletics tracks and other outdoor sport activities.

8.4.19 The Council will encourage new housing developments to follow the 10 principles below aimed at achieving well-designed green space.

- 1) The retention and enhancement of existing green infrastructure (natural features) through the site
- 2) The provision of sufficient landscape, visual, noise, air quality and ecological buffers
- 3) A connected (edge to edge) seamless and accessible network of open spaces linked with pathways and routes within the site and to the surrounding area (including direct utility routes to key destinations and recreational routes to the wider green infrastructure network)
- 4) Centrally located, overlooked and enclosed open spaces and where appropriate on larger sites co-located with other uses such as schools and shops to encourage active design and social interaction
- 5) Create attractive and well landscaped gateway and 'focal point' open spaces to support legibility, wayfinding and social interaction
- 6) Create a habitat and ecological network/spaces that allow people to interact with nature every day and habitats and species to flourish with generous tree planting<sup>48</sup> and hedgerows to provide multiple-functional benefits including cooling and shading, noise and visual buffers, perimeter boundary treatments and wildlife benefits
- 7) Use green corridors with footways and cycleways through the site to support active travel, include these as linear parks on larger scale sites
- 8) Sustainable urban drainage should be fully integrated into the site masterplan/layout and open space network and use above ground features to mimic natural drainage patterns, manage flood risk and maintain the natural water cycle, improve water quality and include

<sup>48</sup> The Trees and Design Action Group (TDAG) publication *Tree Selection for Green Infrastructure: A Guide for Specifiers* 2018 provides guidance on selecting appropriate species for a range of planning scenarios based on comprehensive research

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measure to enhance habitat creation through aquatic and marginal planting.

- 9) Provide outdoor sports provision and MUGAs in co-ordinated and strategic locations to ensure access to sport and recreation
- 10) On larger sites plan and design for dog-walking and running routes of 2.7 km with the site and/or with links to surrounding public rights of way and the means to support physical activity and social interaction.

8.4.20 For sites that require a Strategic Masterplan a Green Infrastructure Framework Plan will be required. This should clearly colour code the open space types that the application seeks to deliver in accordance with Fields in Trust standards as well as areas for sustainable urban drainage to inform the LPA of the proposed green space provision and design intent. The proposed site area (in hectares) should be provided for each open space and clearly referenced to the plan. Plans and supporting commentary should identify the character and function of new open spaces through specific names rather than a generic POS reference.

### **Financial contributions in lieu towards off-site provision of open space types**

8.4.21 Where the Council considers it appropriate a financial contribution to be paid in lieu of on-site provision, towards new or enhanced provision off site within the vicinity of the development will be considered where the need arises directly from the development. Such financial contributions in lieu may be considered where the full amount of required open space cannot be realistically delivered on-site (e.g. the site is too small to provide a space of a functional size or improvements to a site in the local vicinity could adequately meet the open space needs generated by the development).

8.4.22 This decision-making will be informed by the relevant evidence base e.g. the Green Space Action Plans, relevant Neighbourhood Plans, the Council's Playing Pitch Strategy and Action Plan 2018 and the Council's Open Space Assessment 2022, or any subsequent equivalent documents. This will be considered on a case-by-case basis by North Hertfordshire Council's Greenspace and Planning teams, in consultation with relevant organisations such as Sport England, Town and Parish councils and National Governing Bodies as appropriate.

### **Maintenance and management of green space**

8.4.23 The North Hertfordshire Council Green Space Management Strategy 2022-2027 sets out all sections of the community should have access to green space and experience its multiple benefits. Green space should be freely accessible to all the public and not be reserved for the private use of residents.

8.4.24 The council will consider the adoption and management of new strategic green space in the following circumstances:

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- It is located within the four main towns of Baldock, Letchworth, Hitchin and Royston (and Great Ashby) and complements existing service maintenance operations.
- The green space is meeting a current deficiency and new provision would meet the needs of existing and new residents.
- The green space is meeting a strategic gap in the green space network and improving the quantity, quality and connectivity of the district's green space network.
- Where longer term revenue streams such as council tax can be effectively recycled back into the locality as part of place investment.
- Where other corporate objectives can be met such as climate change, biodiversity and health and wellbeing.

8.4.25 For smaller green spaces and new green space in other settlements, other options should be considered and agreed on a site-by-site basis, such as parish councils and private management companies.

8.4.26 Allotments are often managed by Town or Parish Councils (or Allotment Associations), and it is recommended that they are consulted before submitting a planning application to discuss provision, local demands and design preferences (i.e. full or half plots).

8.4.27 Should new provision be adopted by North Hertfordshire Council or by a Town or Parish Council then a commuted management sum would be payable for a period of not less than 20 years with the contributions being given to the relevant body.

8.4.28 Please refer to Appendix B for current maintenance contract prices relating to open space. The Council will consider other management approaches such as private management companies. Such arrangements would require open space management in perpetuity.

## 8.5 Flood risk and management

8.5.1 Policy SP11 Natural resources and sustainability expects that development is directed at areas of lowest risk of flooding and that Sustainable Drainage Systems (SuDS) and other appropriate measures are in place. Applicants are required to work with the Lead Local Flood Authority (Hertfordshire County Council), the Environment Agency and Internal Drainage Boards at the earliest opportunity.

8.5.2 It is expected that any necessary flood mitigation measures are to be provided by the developer through on or off-site provisions to make the proposed development acceptable and this will be secured by planning conditions and/or legal agreement.

8.5.3 Where SuDS are required, on-going management and maintenance arrangements will need to be demonstrated.

## **8.6 Waterways**

- 8.6.1 Policy NE9 Water quality and environment requires river restoration and resilience improvements where proposals are situated close to a river or considered to affect nearby watercourses. In some instances, contributions will be required towards these measures. These may also form part of a programme to deliver biodiversity net gain associated with new development.
- 8.6.2 In particular, there are a number of rare chalk streams in Hertfordshire. There are only around 200 such streams in the world of which 85% are found in the UK. The Environment Agency has been working with water companies and key partners to improve and restore chalk streams in the area. Contributions may be sought towards appropriate projects.
- 8.6.3 Developments may also need to incorporate improvements in the efficiency of water use, surface drainage systems and pollution prevention measures and such measures will be secured via planning conditions or legal agreement.
- 8.6.4 Applicants should work with the Council, the Internal Drainage Board and the Environment Agency where proposals affect water resources.

## **8.7 Other forms of Green Infrastructure**

- 8.7.1 The subsections above refer to various forms of green infrastructure. However, these are not exhaustive. The provision of open space (in the context of Section 8.4), for example, relates to more formal, and mainly publicly accessible, opportunities within settlements or proposed developments.
- 8.7.2 The definition of Green Infrastructure is much broader than this. It includes green spaces outside of settlement boundaries such as areas of woodland, other key habitats or species-rich areas. These may or may not be publicly accessible. It also encompasses access links such as the rights of way network, long-distance paths and cycle routes and the broader setting of all of these assets in the landscape.
- 8.7.3 The Council may seek contributions towards projects identified in strategies and guidance. Where it is reasonable to do so, in this or any equivalent successor document.

## **8.8 Water supply and waste-water infrastructure**

- 8.8.1 Local Plan Policy SP11 Natural resources and sustainability requires that the water environment is protected, enhanced and managed. The Water Cycle Studies for both the Rye Meads catchment area and Royston identify technical solutions that will be secured via planning conditions and/or legal agreement.
- 8.8.2 The Environment Agency's Catchment Data Explorer should be used to identify contributions that may be required by development proposals towards improvements to water resources.

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- 8.8.3 Residential schemes are required by Policy D1 Sustainable design to meet or exceed the optional water efficiency standards. This will be secured by planning conditions and/or legal agreement.
- 8.8.4 Mechanisms for delivering any necessary new or improved water and/ or wastewater infrastructure, including foul water treatment and drainage disposal, may be required via planning conditions and/or legal agreement in accordance with Local Plan Policy NE10 Water Conservation and wastewater infrastructure.

### **8.9 Development on contaminated land**

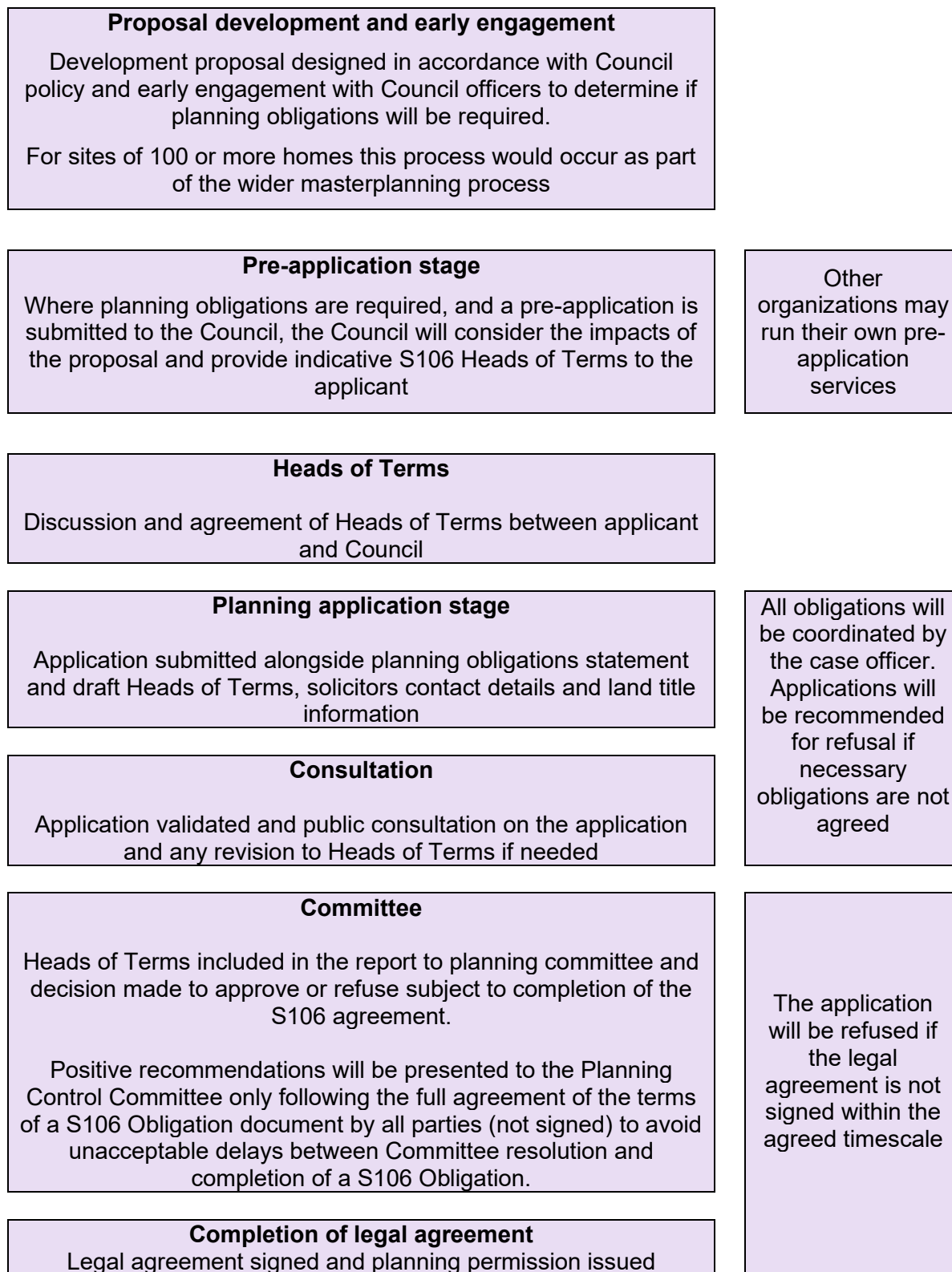
- 8.9.1 The Council will support proposals that involve the remediation of contaminated land in line with Local Plan Policy SP11 Natural resources and sustainability.
- 8.9.2 Where a contaminated land study/contaminated land risk assessment identifies required remediation works in accordance with Local Plan Policy NE11 Contaminated land, these will be secured through planning conditions and/or legal agreement. Remediation works may include measures to safely manage land contamination before, during and after development.

### **8.10 Climate change and renewable and decentralised energy**

- 8.10.1 Local Plan policy SP11 Natural resources and sustainability supports proposals for low carbon energy and Policy D1 Sustainable design requires development proposals to reduce energy consumption and future proof for changes in technology and lifestyle. In securing such measures relating to design (including materials used) and the use of technology, the Council will use planning conditions and/or legal agreements.
- 8.10.2 Policy NE12 Renewable and low carbon energy development refers to renewable and low carbon energy development comprising wind, wave, tidal, hydro or solar power and biomass fuels. On larger schemes, there may be opportunities for decentralised energy. In line with the National Planning Policy Framework, any impacts of this type of development should be addressed. This may include the use of planning conditions and/or legal agreement to secure any mitigation measures.
- 8.10.3 The Hertfordshire Renewable and Low Carbon Energy Technical Study (or an updated study if superseded during the lifetime of this document) should be used when considering energy opportunity areas in the District.



## Appendix A: S106 process flow-chart



## Appendix B: Maintenance Contract Prices for Open Space (February 2022)

Feature	Unit	Annual Cost £
Existing Woodland	1 HA	18,914.65
New Woodland	1 HA	23,757.29
Existing Hedgerow	1 Linear metre	2,682.14
New Hedgerow (Natural)	1 Linear metre	9,147.14
New Hedgerow (Formal)	1 Linear metre	11,204.97
New Hedgerow (Prestigious)	1 Linear metre	13,235.05
Newly Planted Formal Tree (E.g. Avenues, roadside and specimen etc)	1 Tree	12,472.80
Newly Planted Informal Tree (E.g. within a park)	1 Tree	14,979.50
Existing Mature Tree	1 Tree	150
LAPS (Equipped)	Activity zone and buffer	788.53
LAPS (Not Equipped)	Activity zone and buffer	788.53
LEAPS (6 pieces of equipment)	Activity zone and buffer	788.53
NEAPS (8-10 pieces of equipment)	Activity zone and buffer	788.53
Pavilion *	1 m <sup>2</sup>	*
Football Pitch (grass) *	Including buffer	10,876.90
Amenity Grassland (parks & greens spaces)	1 m <sup>2</sup>	0.00
Fine Turf *	1 m <sup>2</sup>	0.00
Conservation	1 m <sup>2</sup>	0.00
Ornamental Shrub Borders (Including herbaceous and Rose borders)	1 m <sup>2</sup>	0.00
Seasonal Bedding *	1 m <sup>2</sup>	0.00

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Open Space Hard surfaces (Footpaths that are not adopted by the County Council)*	1 linear metre	0.00
Litter Bin*	1	34.40
Dog Bin*	1	128.52