

# Selby District Local Development Framework



## Developer Contributions Supplementary Planning Document

Adopted March 2007



## Selby District Local Development Framework

### Developer Contributions Supplementary Planning Document

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A **Consultation Statement** and a **Sustainability Appraisal** have been published to accompany this SPD. They can be viewed on or be downloaded from the Council's Web Site – [www.selby.gov.uk](http://www.selby.gov.uk) - and can be viewed and purchased in hard copy from the District Council's Principal Office.

If you require this document in a different format for example: large print, audio cassette/CD, Braille or in another language, please contact the Planning Policy Team using the contact details on the back cover.

## **Introduction**

### **1. What is an SPD and what are its functions?**

- 1.1 The Developer Contributions Supplementary Planning Document (referred to as “the DCSPD” or “this SPD” or “the SPD” for the rest of this document) is a statutory Local Development Document (LDD) and as such is one of the portfolio of documents that will make up the Selby District Local Development Framework (LDF). Selby District Council adopted it on 19 December 2006. The SPD is not part of the development plan, including for the purposes of Section 38(6) of the Town Planning and Compulsory Act 2004. However, it is an important material consideration in determining the planning applications to which it is relevant.
- 1.2 This SPD is based on the current development plan documents (the ‘saved’ Selby District Local Plan (SDLP), the ‘saved’ Structure Plan and the approved and emerging Regional Spatial Strategy (RSS). The SPD also takes account of up-to-date planning policy, in particular, new national Planning Policy Statements (PPSs).
- 1.3 The function of the SPD is to identify the Council’s requirements for mitigating the impacts of new development and delivering sustainable development through planning obligations. Consistent with this function, the primary purpose served by preparing, adopting and publishing this SPD is to amplify those policies of the SDLP, as supplemented or superseded by the RSS and national PPSs, relevant to securing contributions in money or in kind from developers in connection with proposals for new development. These contributions will normally be sought through negotiation between the Local Planning Authority and developers, but often involving other parties, prior to or during the consideration of planning applications for new development. The contributions will almost always be secured through conditions attached to planning permissions or through Section 106 planning obligations.
- 1.4 Appendix 1 of this SPD provides a fuller account of the format and policy background to this document.

### **2. The legal and policy basis and scope of the SPD**

- 2.1 This SPD has been prepared and adopted under relevant Acts and Regulations and takes account of national policy and guidance. A statement of conformity with the Statement of Community Involvement is published with it and a Sustainability Appraisal Report is also available. Appendix 2, attached to this SPD, outlines the SA process.



- 2.2 This SPD serves the purpose of amplifying and helping in the successful implementation of policies in the development plan. The primary source for the proposals set out in the SPD is the 'saved' Selby District Local Plan (SDLP).
- 2.3 This includes Policies CS6, (provision of infrastructure and community facility needs) and other policies that, in effect, will require developers to make contributions through actual provision of and/or financial arrangements for providing physical and social infrastructure and community facilities, in order to mitigate the consequences of the development they propose, if it were to be permitted and carried out.
- 2.4 These policies include Policy ENV1 (Control of Development), Policy ENV2 (Environmental Pollution and Contaminated Land), Policy ENV5 (Development in Flood Risk Areas), Policy H4 (Affordable Housing) Policy H11 (Rural Affordable Housing) and Policy RT2 (Open Space Requirements for New Residential Development).
- 2.5 The DCSPD could cover a very wide range of topics relating to the provision of physical and social infrastructure. However, the District Council considers that, during the transition from the 'old' development plan system of local and structure plans, to the 'new' system of Regional Spatial Strategies and Local Development Frameworks, the following, issues and policies most require urgent attention.
- Affordable Housing for local needs
  - Recreation Open Space
  - Waste and Recycling Facilities
  - Education Facilities
  - Primary Health Care Facilities
  - Community Facilities
  - Transport/Highways Infrastructure and Facilities
  - Drainage Infrastructure and Facilities
  - Local Employment Skills Training
  - Enhancement of the Public Realm.
- 2.6 Whilst this guidance deals with specified aspects of seeking developer contributions, this will not preclude the LPA seeking provision and contributions that may reasonably be required, in order for a development to accord with other policies of the SDLP, or to accord with policies and guidance in other development plan documents.

### **3. The function of the SPD**

- 3.1 The primary function of the DCSPD is to amplify those policies in the Selby District Local Plan, which constitute a basis for seeking the contributions towards the 'external' economic, social and environmental

costs of development and to mitigate 'the planning loss' it is considered would result from the carrying out of a new development. 'External' costs of development, are all the costs **additional** to those the developer must normally bear to construct the buildings and necessary physical infrastructure on a site to achieve their development objectives and/or those of their customers.

3.2 The aim in publishing this SPD is to provide information and advice to landowners, developers and other interested bodies and persons, on the following:

- The basis and justification for seeking developer contributions.
- The types of economic, social and environmental provision that may be the subject of 'developer contributions'.
- The categories of sites where developer contributions will be sought (land use, site size or other relevant characteristics).
- The methodologies or other criteria for assessing and/or calculating the nature and scale of developer contributions.
- The means by which developer contributions will be secured and/or any physical provision will be implemented.

3.3 The LPA takes the view that it is for landowners and developers to investigate all the potential infrastructure and planning requirements that could arise in developing a site for the intended use, including offsite costs and reasonable developer contributions **before entering contractual commitments and before making a planning application**. The onus will be on developers and their agents to negotiate reasonable site acquisition costs/option agreements with the landowner in order to offset these requirements. Planning permission will not be granted without meeting these requirements and, consequently, there should be no unreasonable expectations from landowners.

#### **4. The Format of the SPD**

4.1 This SPD is intended to provide information and guidance to landowners, developers and other interested bodies and persons, on how the District Council, as the Local Planning Authority for the area, will deal with the issue of developer contributions.

4.2 The land use categories and the sizes of site/development (thresholds) that will be 'eligible' for negotiating developer contributions are not the same for all subject areas. The subject areas covered in this SPD are subject to a variety of methodologies for assessing whether contributions will be sought and, if so, what scale of contribution may reasonably be expected of the developer.

- 4.3 **Part One** of this SPD provides a summary of subject areas, land uses, thresholds and requirements. **Part Two** provides detailed guidance for each of the subject areas. **Appendix 1** deals in more detail with the issues outlined in this introduction including the issues of prioritising of seeking contributions and pooling contributions. **Appendix 2** outlines the Sustainability Appraisal process. **Appendix 3** deals with implementation procedures through the use of conditions and s106 legal agreements.

<b>Affordable Housing for Local Needs</b>	
<b>Detailed Guidance</b>	Part 2 Section 1
<b>Land Use and Thresholds</b> Size Scale Significance  NB. Cumulative requirement. Cannot avoid by splitting sites. Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.	Residential and mixed use development with a domestic residential component  15 dwellings or more 0.5 hectares or more
<b>Methodology</b> In what form and at what scale?  On-site In kind Off-site Money	Amount - Target 40% target for H4 sites.  Tenure - Starting point 50:50 split social rented: intermediate (sub-market rent, shared ownership/equity, discounted for sale but NOT <i>low cost market housing</i> ) determined by evidence of local need and local circumstances.  100% for H11 sites with evidence from local needs survey to determine number, size, type and tenure.
<b>Other Requirements</b>	<ul style="list-style-type: none"> <li>• Submission of Affordable Housing Plan with planning application.</li> <li>• Usually s106 required to secure local needs affordable housing in long term.</li> <li>• Occupancy controls for local people in need on a cascade basis.</li> <li>• Provision of built units on site normally constructed by developer and transferred to an RSL.</li> <li>• Affordable Homes to be provided after agreed trigger of market units built.</li> <li>• In only exceptional circumstances will 40% be reduced and onus is on developer to provide evidence.</li> </ul>

<b>Recreation Open Space</b>	
<b>Detailed Guidance</b>	Part 2 Section 2
<p><b>Land Use and Thresholds</b>                      Size                      Scale                      Significance</p> <p>NB. Cumulative requirement. Cannot avoid by splitting sites. Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.</p>	<p>a) Residential and mixed use development with a domestic residential component of 5 dwellings or more.</p> <p>b) Exceptionally major retail and employment generating development. Assessed individually to identify impact it would have on the need for ROS in local area or a need generated on-site e.g. a play area and sitting out area at a supermarket/ retail park or business park.</p>
<p><b>Methodology</b>                      In what form and at what scale?</p> <p>In kind                      On-site                      Off-site                      Money</p>	<p>The preferred option to be determined by negotiation and agreed with LPA in the light of local need (e.g. ROS Strategy) and circumstances.</p> <p>a) <i>On-site</i>: 60 sq m per dwelling comprising Youth and Adult Facilities; Leisure/Amenity Space; Children's Casual Play; and Children's Equipped Play</p> <p>b) <i>Off-site New Provision</i>: £1 095 per dw*</p> <p>c) <i>Off-site Upgrading of existing</i> £991 per dw*</p> <p>d) A mixture of the above</p> <p>All options to include additional maintenance payments.</p> <p>*as at October 2006. Please check up-to-date figure with planning department.</p>
<b>Other Requirements</b>	<ul style="list-style-type: none"> <li>• ROS to be owned and managed by locally elected representatives of community (i.e. parish council) or nominated body.</li> <li>• Commuted sums to be paid at start of development.</li> <li>• Paid to SDC and distributed to Parish Councils in response to specific locally agreed proposals.</li> <li>• Repayment if not used after 5 years.</li> </ul>

<b>Waste and Recycling Facilities</b>	
<b>Detailed Guidance</b>	Part 2 Section 3
<p><b>Land Use and Thresholds</b>                      Size                      Scale                      Significance</p> <p>NB. Cumulative requirement.                      Cannot avoid by splitting sites.                      Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.</p>	<p>a) Residential (including conversions and changes of use)                      - ALL new dwellings are required to be designed to accommodate refuse bins and recycling boxes.                      - For residential developments of 4 dwellings or more developers to provide bins and boxes at their own cost.</p> <p>b) For large-scale commercial developments to make provision for sustainable waste and recycling facilities.</p>
<p><b>Methodology</b>                      In what form and at what scale?</p> <p>In kind                      On-site                      Off-site                      Money</p>	<p>a) ALL dwellings – ‘designed in’ to each new dwelling unit or to the side or rear. Where this is not possible then appropriately designed enclosures to be provided within the curtilage or close-by (see ‘other requirements’ below).</p> <p>b) For developments of 4 dwellings or more developers to provide at their own cost 2 no. 240 litre wheelie bins and 2 no. 55 litre recycling boxes per dwelling. For schemes, which cannot accommodate facilities at each dwelling e.g. large flatted developments – wheeled 660 litre or 1100 litre euro-bins plus 350 litre containers.</p> <p>c) On site provision.</p>
<b>Other Requirements</b>	<ul style="list-style-type: none"> <li>• Schemes must incorporate detailed design specifications set out in sections 4, 6 and 7 including Annexes, of the detailed guidance set out in Part 2 Section 3.</li> <li>• Contributions to be secured through conditions attached to planning permissions or through S106 Agreements or Unilateral Undertakings as appropriate.</li> </ul>

	<b>Primary Education</b>	<b>Secondary Education</b>
<b>Detailed Guidance</b>	Part 2 Section 4	Part 2 Section 4
<p><b>Land Use and Thresholds</b>                      Size                      Scale                      Significance</p> <p>NB. Cumulative requirement. Cannot avoid by splitting sites. Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.</p>	<p>a) Residential developments of 25 dwellings or more in Selby, Tadcaster and Sherburn in Elmet.</p> <p>b) Residential developments of 15 dwellings or more in the remaining rural areas.</p> <p>Both a) and b) regardless of site area.</p> <p>c) Large retail and employment generating uses where the Council consider there to be a direct impact on the need for the facilities or otherwise to mitigate the impact of major development on the local community in the area around the development can be clearly demonstrated.</p>	<p>a) Residential developments of 150 dwellings or more.</p> <p>and/or</p> <p>b) Residential Sites of 5 ha or more.</p> <p>c) Large retail and employment generating uses where the Council consider there to be a direct impact on the need for the facilities or otherwise to mitigate the impact of major development on the local community in the area around the development can be clearly demonstrated.</p>
<p><b>Methodology</b>                      In what form and at what scale?</p> <p>Money                      In kind                      On-site                      Off-site</p>	<p>Based on 0.25 primary places generated per relevant dwelling, as at April 2006: £11 450* per primary place (ages 5 - 11).</p> <p>See Sections 1.5 – 1.15 of Part 2 Section 4 for further details.</p>	<p>Based on 0.13 secondary school places generated per relevant dwelling, as at April 2006: £17 293* per secondary place (ages 11 – 16).</p> <p>See Sections 1.5 – 1.15 of Part 2 Section 4 for further details.</p>
<b>Other Requirements</b>	<ul style="list-style-type: none"> <li>• *Figures subject to annual review.</li> <li>• Contributions returned after 10 years if not spent.</li> <li>• Payments can be delayed or phased in some circumstances (e.g. large sites) by agreement with NYCC Children's Services Authority (CSA formerly LEA).</li> <li>• Payments normally required no later than first occupation of new dwellings.</li> </ul>	

<b>Primary Health Care Facilities</b>	
<b>Detailed Guidance</b>	Part 2 Section 4
<p><b>Land Use and Thresholds</b>                      Size                      Scale                      Significance</p> <p>NB. Cumulative requirement.                      Cannot avoid by splitting sites.                      Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.</p>	<p>a) Residential developments of 25 dwellings or more in Selby, Tadcaster and Sherburn in Elmet.</p> <p>b) Residential developments of 15 dwellings or more in the remaining rural areas.</p> <p>Both a) and b) regardless of site area.</p> <p>c) Large retail and employment generating uses where the Council consider there to be a direct impact on the need for the facilities or otherwise to mitigate the impact of major development on the local community in the area around the development can be clearly demonstrated.</p>
<p><b>Methodology</b>                      In what form and at what scale?</p> <p>Money                      In kind                      On-site                      Off-site</p>	<p>Details of the numbers of units proposed will be analysed along with the impact on the overall population in the locality and employment considerations.</p> <p>The overall population increase as a result of the proposed development will be used to assess the impact on primary health care provision in primary, community and out-reach requirements.</p> <p>An initial proposed design and estates solution (schedule of accommodation requirements and initial spatial assessment of the size of the facility required) would be determined using relevant NHS Guidance.</p> <p>From this, an assessment can be made of the location, condition and functional capability of existing practice premises in the locality in order to determine whether new-build within the proposed development or extension and refurbishment of existing premises in the locality is the preferred option.</p> <p>Depending on the preferred solution an estimate of capital costs will be made using NHS Guides.</p>
<b>Other Requirements</b>	<p>Monies to be paid to the District Council and transferred to PCT (or other appropriate nominated body) at identified trigger point within scheme.</p>



<b>Community Facilities</b>	
<b>Detailed Guidance</b>	Part 2 Section 4
<p><b>Land Use and Thresholds</b>                      Size                      Scale                      Significance</p> <p>NB. Cumulative requirement.                      Cannot avoid by splitting sites.                      Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.</p>	<p>a) Residential developments of 25 dwellings or more in Selby, Tadcaster and Sherburn in Elmet.</p> <p>b) Residential developments of 15 dwellings or more in the remaining rural areas.</p> <p>Both a) and b) regardless of site area.</p> <p>c) Large retail and employment generating uses where the Council consider there to be a direct impact on the need for the facilities or otherwise to mitigate the impact of major development on the local community in the area around the development can be clearly demonstrated.</p>
<p><b>Methodology</b>                      In what form and at what scale?</p> <p>Money                      In kind                      On-site                      Off-site</p>	<p>Assessment of the local need for Community Facilities will be made in consultation with local organisations and other stakeholders and where such a need can be directly related to the impacts of new development, negotiation will be undertaken to determine whether or not provision or contributions should be sought.</p> <p>For example (not exhaustive):</p> <ul style="list-style-type: none"> <li>• Community/village halls.</li> <li>• Meeting rooms/parish council offices.</li> <li>• Indoor recreational or sporting facilities.</li> <li>• Community information points/boards/systems.</li> </ul> <p>Preference for on-site but scope for off-site if this can be demonstrated to be clearly preferable.</p>
<b>Other Requirements</b>	<ul style="list-style-type: none"> <li>• The contributions could be used for new build/provision and improvements requiring capital expenditure but not repairs, maintenance and other revenue expenditure.</li> <li>• Consider co-location with other community-based facilities.</li> </ul>

<b>Transport/Highways Infrastructure and Facilities and Drainage Infrastructure</b>	
<b>Detailed Guidance</b>	Part 2 Section 5
<p><b>Land Use and Thresholds</b>                      Size                      Scale                      Significance</p> <p>NB. Cumulative requirement. Cannot avoid by splitting sites. Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.</p>	<ul style="list-style-type: none"> <li>• All types of development</li> <li>• Determined on a case-by-case basis.</li> <li>• No specific threshold,</li> </ul> <p>Transport Assessments and Drainage Studies will normally be required to be submitted with planning application for larger developments.</p> <p>Flood Risk Assessments will be required in accordance with criteria set out in Policy ENV5 of the Selby District Local Plan.</p>
<p><b>Methodology</b>                      In what form and at what scale?</p> <p>On-site                      Off-site                      In kind                      Money</p>	<p>Contributions for a wider range of matters may be sought, particularly for larger developments, which are in addition to statutory provision outside the planning system.</p> <p>For example (not exhaustive):</p> <ul style="list-style-type: none"> <li>• Bus stops/shelters.</li> <li>• Parking facilities at nearby railways stations.</li> <li>• Financing the establishment of new bus routes.</li> <li>• Travel Plans.</li> <li>• Facilities for pedestrians and cyclists.</li> </ul> <p>Based on technical studies undertaken by the developer and assessed by the LPA in association with the relevant authorities.</p> <p>The negotiations on what proportion of the costs of a particular infrastructure project should be the subject of a contribution, will be based on a specific and transparent methodology agreed between the parties involved (e.g. Highway/Drainage Authority, other infrastructure, facility or service provider, developer and the Local Planning Authority).</p>
<b>Other Requirements</b>	Dealt with through either Conditions or S106 Agreement or undertaking as necessary depending on the nature of contributions required.

<b>Local Employment Skills Training</b>	
<b>Detailed Guidance</b>	Part 2 Section 6
<p><b>Land Use and Thresholds</b>                      Size                      Scale                      Significance</p> <p>NB. Cumulative requirement.                      Cannot avoid by splitting sites.                      Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.</p>	<p>LPA will seek developer contributions in pursuance of economic development strategies and policies where it can be demonstrated as reasonable and justified to do so.</p> <p>Applies to any form of development as appropriate, in respect of large-scale schemes.</p> <p>Large scale for this purpose is defined as:</p> <p><i>a) Residential Development</i>                      Proposals for 50 dwellings or more or 2 hectares or more (net site area PPS3 definition).</p> <p><i>b) Retail or B1 Office</i>                      2500 square metres gross floor area (GFA) or 1 hectare or more (net site area).</p> <p><i>c) B8 Storage/Warehousing or B2 General Industry</i>                      5000 square metres gross floor area (GFA) or 2 hectares or more (net site area).</p>
<p><b>Methodology</b>                      In what form and at what scale?</p> <p>Money                      In kind                      On-site                      Off-site</p>	<p>Nature and scale of the impacts of the development on the local demand or needs for employment skills will be assessed. Particular attention will be given to the skills required in both the construction phase of the development and the development use.</p>
<b>Other Requirements</b>	<ul style="list-style-type: none"> <li>For the purpose of this guidance, Local Employment Skills Training relates to the training of residents in the local community to fulfil a number of objectives. See also Part 2 Section 6, Paragraphs 2.6.11 to 2.6.14 and 2.6.21.</li> </ul>

<b>Enhancement of the Public Realm</b>	
<b>Detailed Guidance</b>	Part 2 Section 6
<p><b>Land Use and Thresholds</b>                      Size                      Scale                      Significance</p> <p>NB. Cumulative requirement.                      Cannot avoid by splitting sites.                      Includes areas of land/development that are part of a larger site and/or made up of 2 or more phases and involving one or more planning applications.</p>	<p>LPA will seek developer contributions in pursuance of environmental enhancement strategies and policies where it can be demonstrated as reasonable and justified to do so.</p> <p>Generally applies to any form of development as appropriate, in respect of large-scale schemes.</p> <p>Large scale for this purpose is defined as:  <i>a) Residential Development</i>                      Proposals for 50 dwellings or more or 2 hectares or more (net site area PPS3 definition).  <i>b) Retail or B1 Office</i>                      2500 square meters gross floor area (GFA) or 1 hectare or more (net site area).  <i>c) B8 Storage/Warehousing or B2 General Industry</i>                      5000 square metres gross floor area (GFA) or 2 hectares or more (net site area).</p> <p>Exceptionally provision for Enhancement of the Public Realm may be required on smaller scale developments where for example such development could affect significantly sensitive or special parts of the public realm (such as areas of historic and/or architectural importance).</p>
<p><b>Methodology</b>                      In what form and at what scale?</p> <p>Money                      In kind                      On-site                      Off-site</p>	<p>The public realm for the purpose of this guidance comprises all those parts of the built and natural environment where the public have free access (e.g. streets, squares, rights of way, open spaces/parks and public/private spaces with unrestricted public access etc.).</p> <p>The nature and scale of impacts of the development on the quality of the public realm will be assessed in determining whether a contribution will be sought.</p> <p>Could also include improvements of the public realm at a distance from the development site.</p> <p>Examples are varied but could include: special landscape features, townscape features such as specific works of art, and cultural projects such as street performance.</p>
<b>Other Requirements</b>	See further detailed guidance at Part 2 Section 6, Paragraphs 2.6.10 to 2.6.11, and 2.6.15 to 2.6.21.

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## Part 2

### Planning Guidance

Part Two of this DC SPD provides information and guidance relating to the developer contributions that will be sought by the Local Planning Authority, in connection with the different subject areas and forms of development dealt with in the SPD.

The guidance comprises a separate Section for each of the subject areas:

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Each Section sets out in a consistent form for each subject area an explanation under the following headings: “Justification”, “Land Use”, “Thresholds”, and “Methodology”.

More detailed guidance and supporting information is also provided for the subject areas of Affordable Housing for Local Needs, Recreation Open Space, Waste and Recycling facilities, and Education and Primary Health Care facilities.

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## **Part 2 Section 1**

### **Affordable Housing for Local Needs**

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## Affordable Housing for Local Needs

### Justification

2.1.1 The detailed policy basis and justification for seeking developer provision or contributions in respect of Affordable Housing for local needs is set out in:

- National planning policy guidance (e.g. Planning Policy Statement, 'Housing' (PPS3));
- The current development plan (including Policy H3 and paragraphs 13.43 to 13.49 of the emerging Regional Spatial Strategy, RSS - entitled 'The Yorkshire and Humber Plan'); and
- Policies H4 and H11 of the saved Selby District Local Plan (SDLP).

### Land Use

2.1.2 Only developments involving residential units will normally be considered for developer provision or contributions. This includes sites for mixed-use developments with a domestic residential component. The provision will almost always be in the form of the construction by the developer of Affordable Housing for local needs for rent or sale.

### Thresholds

2.1.3 The types of site/development where the District Council will seek the provision of a proportion of the proposed total number of dwelling units to be Affordable Housing for local needs, fall into two categories:

- The major category will be, all those developments where 15 dwellings or more are proposed, or where a site or an area of land that is part of a larger site of 0.5 hectares or more (net – as defined in PPS3 – Housing) is proposed for development for housing.
- The second category will be the sites for small-scale Affordable Housing schemes, proposed for development in accordance with SDLP Policy H11 (Rural Affordable Housing for local needs as an exception to Policy H9, i.e. outside defined Development Limits).  
Note: All dwellings on such 'H11 sites' must be Affordable Housing.

2.1.4 In assessing whether a proposed development or a site is eligible for seeking the provision of Affordable Housing for local needs, the number of dwellings and the site area specified in this guidance will apply to or take into account the cumulative number of dwellings to be constructed on a site or development or the cumulative area to be developed for housing. For example, where a development is made up of two or more phases, or is the subject of two or more separate planning applications, the total number of dwellings and/or the total area of land to be developed for housing will be the basis for determining whether provision will be sought. Developers should therefore be aware that the Local Needs Affordable Housing 'requirement' cannot be avoided by dealing with a site through more than one planning application.

## Methodology

- 2.1.5 The Council has a long-established policy of seeking Affordable Housing provision in connection with new housing schemes. This is set out in general terms in Policies H4 and H11 of the SDLP. However, in accordance with national planning policy guidance and the approved and emerging RSS, the Council has kept the housing needs information and policies relating to Affordable Housing for local needs for Selby District up-to-date.
- 2.1.6 A comprehensive review of housing needs information has been carried out and the findings are set out in the Housing Needs Study<sup>1</sup> (HNS05). Based on the analysis and assessment of housing need in Selby District in the HNS05 the Council has lowered the thresholds, in terms of numbers of dwellings and the size of site for determining whether Affordable Housing for local needs will be sought, and has increased the amount of Affordable Housing, as a proportion of the total number of dwellings proposed, to be provided (as set out in paragraph 6.3 above). The interim policy guidance on Affordable Housing for local needs, approved by the District Council in June 2005, on the basis of evidence of housing need in the HNS05, has been up-dated and expanded in this SPD. The new guidance is based not only on the results of the findings of the HNS05, but also upon up-to-date and emerging national and regional policies.
- 2.1.7 The basic objective of the Council's policy is for developers to provide a contribution through the construction of new dwellings ready for occupation on eligible sites (which are then transferred to an RSL). The level of contribution that will be sought is 40% of the total number of dwellings proposed for the site.
- 2.1.8 The details of such matters as:
- what type of Affordable Housing for local needs should be provided, e.g. size, tenure and mix,
  - when the Affordable Housing for local needs should be constructed relative to the timing of the development as a whole, and
  - what the cost or price of the Affordable Housing for local needs should be, whether that be relative to the prevailing price of open market housing or a rent level typical of social sector rented housing, will be established through a housing needs assessment carried out by the Council.

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<sup>1</sup>Selby District Council - June 2005. The Executive Summary is available free and the Main Report at a cost of £10.00 plus £2.00 first-class postage or £1.50 second-class postage. Please contact the Planning Policy Team on 01757 292063. The Executive Summary is also available for free download from the [www.selby.gov.uk](http://www.selby.gov.uk).

2.1.9 The precise number and type of Affordable Homes for local needs to be provided on each site, will be a matter for negotiation between the developer and the Council based on the latest information relating to factors such as:

- an assessment of local housing needs (including special needs),
- income data,
- the latest housing cost/market information,
- information from housing providers (usually a Registered Social Landlord),
- opportunities for providing the local housing need elsewhere,
- the overall housing mix proposed for the site, and
- the economics of provision.

2.1.10 In respect of the last factor taking account, if justified, of exceptional circumstances relating to a site or development the cost of abnormal costs, counting 'unknown' infrastructure and planning requirements (together with the type and level of other development contributions relating to the site) and other exceptional circumstances. The onus will be on the developer to clearly and convincingly demonstrate that exceptional circumstances exist and are material and significant.

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## **Planning Guidance for Affordable Housing for Local Needs**

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### **1. Introduction**

- 1.1 A key objective for the Government is to ensure that everyone has the opportunity of living in a decent home, which they can afford, in a community where they want to live (Planning Policy Statement 3, Housing, 2006, Para 9). To help meet this objective, the planning system is expected to deliver a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas (PPS3 Para 10).
- 1.2 Meeting the housing needs of local people and ensuring a sufficient variety of house types and sizes to achieve mixed and balanced communities is a priority objective of the Council. The commitment to facilitating the provision of Affordable Housing reflects the Council's corporate approach as embodied in its Housing and Community Strategies and planning policies.

#### **Purpose**

- 1.3 The Selby District Local Plan (SDLP) establishes the policy framework to ensure local needs Affordable Housing is provided through the planning system. The purpose of this SPD is to provide detailed guidance and practical advice to supplement the policies contained in the Local Plan to ensure that they are consistently and effectively implemented.
- 1.4 The Council's ability to negotiate local needs Affordable Housing provision on development sites is governed by:
- Government policy in PPGs, PPSs and Circulars;
  - The approved and emerging Regional Spatial Strategy; and
  - The statutory Policy H4 (and H11) in the adopted Selby District Local Plan.
- 1.5 A further purpose of this guidance is therefore to set out the contents of the above advice in detail and then explore the implications for dealing with residential applications. This planning guidance explains how the Council will implement policy by setting out the range of factors which can legitimately be taken into account when negotiating the precise amount, mix, type and tenure of local needs Affordable Housing as part of a market scheme.

## 2. National Statutory Basis

- 2.1 Planning Policy Statement 3 (Housing, 2006) and accompanying Policy Statement, “Delivering Affordable Housing” (November 2006) published by Central Government (DCLG<sup>2</sup>) provide the national policy context.

*Summary of national affordable housing guidance:*

- 2.2 The Government is committed to providing high quality housing for people who are unable to access or afford market housing. The government is seeking to widen opportunities for home ownership and ensure high quality housing for those who cannot afford market housing, in particular those who are vulnerable or in need. The Government defines Affordable Housing as including social rented and intermediate housing (see below).

- 2.3 PPS3 states that Local Planning Authorities should set an overall (i.e. plan-wide) target in Local Development Documents for the amount of affordable housing to be provided which should reflect an assessment of the likely economic viability of land for housing within the area. This should also reflect the new definition of Affordable Housing provided in Annex B to the PPS:

- 2.4 PPS3 says that Affordable housing is:

“Affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Affordable housing should:

- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.
- Include provision for the home to remain at an affordable price for future eligible households or. If these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.”

- 2.5 PPS3 states Social-rented housing is:

“Rented housing owned and managed by local authorities and Registered Social Landlords for which guideline target rents are determined through the national rent regime. The proposals set out in the ‘Three Year Review of Rent Restructuring (July 2004) were implemented as policy in April 2006. It may include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Housing Corporation, as a condition of grant.”

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<sup>2</sup> Department of Communities and Local Government. Documents are available on their website at [www.communities.gov.uk](http://www.communities.gov.uk)

2.6 PPS3 says Intermediate Housing is:

“Housing at prices and rents above those of social rent but below market prices or rents, and which meet the criteria set out above. These can include shared equity products (for example HomeBuy), other low cost homes for sale and intermediate rent.

The definition does not exclude homes provided by private sector bodies or provided without grant funding. Where such homes meet the definition above, they may be considered, for planning purposes, as affordable housing. Whereas, those homes that do not meet the definition, for example ‘low cost market’ housing, may not be considered, for planning purposes, as affordable housing.”

2.7 PPS3 states that Local Planning Authorities should aim to ensure that provision of affordable housing meets the needs of both current and future occupiers taking into account information from the Strategic Housing Market Assessment.

2.8 PPS3 requires that LPAs should:

- Set separate targets for social-rented and intermediate affordable housing where appropriate.
- Specify the size and types of affordable housing that in their judgement is likely to be needed in particular locations and where appropriate on specific sites.
- Set out the range of circumstances in which affordable housing will be required. The national indicative minimum site-size threshold is 15 dwellings. However, LPAs can set lower minimum thresholds, where viable and practicable, including in rural areas. This could include setting different proportions of affordable housing to be sought for a series of site-size thresholds over the plan area.
- Set out the approach to seeking developer contributions to facilitate the provision of affordable housing. The presumption is that affordable housing will be provided on the application site so that it contributes towards creating a mix of housing. However where it can be robustly justified off-site provision or financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area.

2.9 Where practical and viable, the PPS advises that LPAs should consider allocating and releasing sites solely for affordable housing for local people, including using a Rural Exceptions Site Policy. Rural exception sites should only be used for affordable housing in perpetuity.



### 3. Selby District Local Plan (SDLP, February 2005)

- 3.1 The adopted Local Plan contains Policy H4 in order to help achieve an identified target of about 700 local needs Affordable Dwellings over the Plan period. The Local Plan expects developers to include a proportion of Affordable Housing units on all allocated sites and windfall sites of 25 dwellings or more.
- 3.2. The adopted Policy is based on surveys of need carried out in 1994 and updated survey was completed in 1999, which confirmed that a significant affordability problem existed for many.
- 3.3 Based on the 1999 Survey and the results of the Public Inquiry (between 1999 and 2001) the Local Plan provides that the total contribution from allocated sites in the Local Plan, between October 2004 and December 2006, is expected to be about 100 (but see also below at 3.5 and 4.4). Appendix 10 of the Local Plan provides some background explanation to the District-wide and individual site targets. The remainder of the overall local needs Affordable Housing target is expected to be achieved through negotiation on windfall sites.
- 3.4 The target figures for individual allocated sites have been established by balancing identified local need (from the 1999 Survey) with individual site suitability and local market conditions including the availability of Affordable Properties in the locality.
- 3.5 **However, the adopted Local Plan also establishes that the precise number and type of local needs Affordable Homes to be provided on each site will be a matter for negotiation between the developer and the Council based on up-to-date assessment of needs, income and local house prices (if appropriate), and the economics of provision (taking account of the cost of other planning and infrastructure requirements which may affect the number of units that can realistically be provided).**
- 3.6 The Local Plan sets out that proposals for local needs Affordable Housing will only be acceptable where adequate arrangements are made to ensure that the dwellings will be made available to meet genuine need and that the dwellings will remain affordable both initially and in perpetuity, with priority given to people living or working locally, or with local connections. Proposals only offering a discounted initial purchase price will not generally be acceptable. It is envisaged that the majority of schemes will involve an element of housing for rent or shared equity in partnership with a Registered Social Landlord (RSL or Housing Association).
- 3.7 The Policy requires that initial and subsequent occupiers of subsidised dwellings live or work locally\*, or have local connections\*\*, unless after a reasonable period of time\*\*\*, the accommodation remains unallocated when properties may be made available, in turn, to households or persons: living or

working in the District; living in an adjoining local authority area; or living elsewhere.

- \* Living locally in this context means living within the Parish or Town, or adjoining Parish or Town, for a continuous period of two years up to the release of the accommodation. The term working locally applies to those in permanent employment in the Parish or Town, or adjoining Parish or Town, including those taking up employment, and those providing an important service requiring them to live locally.
- \*\* Local connections are defined as continuous residence for two years out of the last five, or immediate family having lived in the Parish or Town, or adjoining Parish or Town, for a minimum of five years.
- \*\*\* For the purpose of this policy a reasonable period of time means 12 weeks in the case of rental schemes and 6 months in the case of owner-occupier or shared ownership schemes.

#### **4. Housing Needs Study 2005 (HNS05)**

4.1 In view of the recent marked increase in house prices locally the Council commissioned a fresh survey in 2004 (in line with the Government's expectation that surveys are updated on a regular basis).

4.2 The postal and interview survey work was undertaken in 2004 and the analysis and Final Report published in April 2005. Policy and Resources Committee considered the report on 7 June 2005 and by Full Council on 21 June 2005.

4.3 *The main findings of the HNS05 (or "Housing Study") are:*

- (i) There is a shortage of Affordable Housing – 294 units per annum following the Basic Needs Assessment Model (BNAM) in the ODPM Guide and 415 units per annum based on the Balancing Housing Markets analysis.
- (ii) The requirement represents 47% of the projected build rate, and supports an affordable housing target consistent with current custom and practice (40% and rising) applied to site thresholds of 15+ dwellings/0.5 hectares.
- (iii) The Basic Needs Assessment Model shows large shortfalls of one and two bedroom Affordable Homes. The Council will however have to consider provision of a mixture of sizes to facilitate efficient operation of the social rented sector.
- (iv) The majority of the need can only be met by social rented housing.
- (v) Examining the potential for intermediate housing shows that a maximum of 47% of the identified gross need could afford some form of intermediate housing. However only a very small fraction can afford such housing at costs just below market housing, the cost intermediate housing is typically available at.

- (vi) There are particular groups of households that have implications for future policy decisions. Frail elderly households, who do not contribute significantly to the requirement for additional affordable housing but have clear implications for future support requirements. Elderly households, which are typically under-occupied, can release larger units for use by families by moving to more suitable accommodation.

4.4 In the light of the up-to-date evidence, Government Guidance (in PPG3 and Circular 6/98 current at that time) and taking account of the 2005 published draft changes to PPG3<sup>3</sup>, members of Policy and Resources Committee (7 June 2005, minute number 68) resolved to:

- a) reduce the site size threshold on which the Council will expect an element of affordable housing to 15 dwellings or more or on sites of 0.5 hectares or more regardless of the number of dwellings; and
- b) establish an across-the-board target proportion of affordable housing of 40%.

## **5. What falls within the definition of Local Needs Affordable Housing?**

5.1 The definition of Affordable Housing used by the Council, in the Local Plan includes both subsidised housing and 'low-cost market housing' (see also paragraph 5.10 below) available to people who cannot afford to rent or buy houses generally available on the open market. However, it should be noted that the 'low-cost market housing' referred to is that which is available for sale at a discounted price to those in need and not available on the open market. This definition aligns with Government own definition in PPS3 (2006) which clearly states "homes that do not meet the [affordable housing] definition, for example 'low cost market' housing, may not be considered, for planning purposes, as affordable housing." This SPD uses the Government's' definition of Affordable Housing which includes social-rented and intermediate housing. (Refer back to paragraphs 2.4 to 2.6 above for detailed definitions of these terms).

### **A. Affordability**

5.2 The assessment of affordability for households is carried out using a single test based on the cost of housing and the financial ability of each household to afford housing of a suitable size in the private sector housing market. More detailed information is available in the Selby District Council Housing Needs Study June 2005 (HNS05)<sup>4</sup>. The data and methodologies for assessing affordability will be up-dated and

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<sup>3</sup> (and now strengthened by published PPS3 in November 2006).

<sup>4</sup> A Housing Needs Survey was undertaken on behalf of the District Council by Fordham Research in October/November 2004 and published in June 2005. An Executive Summary is available on the Council's website ([www.selby.gov.uk](http://www.selby.gov.uk)) and a copy of the full Main Report can be viewed at and purchased from the Planning Department.

refined on a regular basis. The provision of Affordable Housing for local needs, on each eligible proposal for new housing, will be assessed and negotiated on the basis of the most up-to-date information.

- 5.3 A household is defined as being unable to afford market housing if it is unable to afford both the entry level cost of owner-occupation and the entry level cost of private renting in the District.
- 5.4 In line with the HNS05, a household is unable to afford market housing and is deemed to be in need of affordable housing if:
- a) Mortgage Affordability – A household cannot afford the price of a suitable home because it has a gross household income less than one-third (33%) its mortgage requirement.
  - b) Private Rental Affordability – A household is unable to afford private rented housing if the rent would take up more than one-quarter (25%) of its gross household income.

Note: The Government intends to use new measure of ‘affordability’ based on the ratio of lower quartile house prices to lower quartile earnings. It proposes to set long-term national and regional ‘affordability targets’. At present the data necessary to use this methodology is not readily available, when it is and the Government have issued advice the Council will consider whether it is appropriate or necessary to adopt this approach.

- 5.5 The survey results from the HNS05 indicate that average gross household income in Selby was estimated to be £29 453 per annum. The median income was however estimated to be noticeably lower than this at £24 700 per annum. In the Housing Study it is shown clearly that the figure for average household income is significantly skewed by the very high average income of ‘owner-occupied households without a mortgage’. Putting this finding alongside the Government policy direction on Affordable Housing (lower quartile ratios), it is clear that using average household incomes as the basic measure of affordability is inappropriate and gives a distorted representation of housing need. However, robust data on ‘Lower Quartile’ earnings is not yet available in a form suitable for use in assessments of local housing need in Selby District. Thus, in the interim, the Council will use the median household income figure in the HNS05. For the purpose of making the calculations and assessments required for individual schemes, the Council will use the latest information on household income that is robust enough to replace the latest local data contained in the Housing Study.

## **B. Local Needs Affordable Housing Tenure Options**

- 5.6 Set out below are definitions of the most common forms of Affordable Homes provided through the planning process (based on definitions in Annex B to PPS3: Housing, see above at Paragraphs 2.4 to 2.6). For

further information on the different form of tenures please contact the Housing Department at the District Council or visit the Housing Corporation website at [www.housingcorp.gov.uk](http://www.housingcorp.gov.uk).

**a) Affordable Homes for Rent (social-rented)**

5.7 Social-rented housing is:

Rented housing owned and managed by local authorities and registered social landlords for which guideline target rents are determined through the national rent regime. The proposals set out in the 'Three Year Review of Rent Restructuring (July 2004) were implemented as policy in April 2006. It may include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Housing Corporation, as a condition of grant.

5.8 A planning obligation in the form of a S106 Agreement will be sought to restrict the future rent levels and to ensure that the properties are let to local people in housing need.

**b) Intermediate Housing**

5.9 Intermediate Housing is:

Housing at prices and rents above those of social rent but below market prices or rents, and which meet the criteria for Affordable Homes set out in PPS3 and above at paragraph 2.4. These can include shared equity products (for example HomeBuy), other low cost homes for sale and intermediate rent (i.e. rents above social-rented level but below market rents).

The definition does not exclude homes provided by private sector bodies or provided without grant funding. Where such homes meet the definition above, they may be considered, for planning purposes, as affordable housing. Whereas, those homes that do not meet the definition, for example 'low cost market' housing, may not be considered, for planning purposes, as affordable housing."

5.10 It should be noted that the 'low-cost market housing' referred to in the Selby District Local Plan definition of Affordable Housing (in line with relevant Government guidance at that time but now superseded) means that which is available for sale at a discounted price, available to those in need (i.e. not available on the open market) and therefore falls within the definition of Intermediate Housing. As clarified by the Government in new PPS3, the Council considers that low cost open market housing (developers 'entry level' house types for 'first time buyers' or products designed to be 'more affordable') does not fall within the definition of Affordable Housing.

### **i) Affordable Homes for Shared Ownership**

- 5.11 Those schemes delivered in partnership with a Registered Social Landlord or similar (see also 7.1 below), which allow payments to be split between a mortgage and rent. The percentage share of ownership will vary depending on the individual circumstances of the person or household in housing need.
- 5.12 Under current legislation<sup>5</sup>, shared owners have the right to increase to 100% ownership except in settlements of less than 3,000 population where the maximum is 80%. Because the opportunities for additional provision of affordable housing are limited in smaller settlements, the Council will seek to limit the amount of ownership to 80% on all schemes via a s106 Agreement (taking account of any changes in legislation). All settlements in Selby District except Selby, Tadcaster, Sherburn in Elmet, Brayton and Barlby are under 3000 population (Census 2001, see also Statutory Instrument referred to in the footnote).
- 5.13 In all settlements, regardless of the percentage ownership achieved by occupants, the Council will seek to agree arrangements that the properties will remain as local needs Affordable Homes and, as such any subsequent occupiers must meet the original occupancy criteria set out in the planning permission and/or planning obligation. If these restrictions are lifted, the subsidy will “be recycled for alternative affordable housing provision” (PPS3, Annex B).

### **ii) Affordable Homes for Shared Equity**

- 5.14 The eligible occupier purchases a proportion of the property whilst the remaining equity is retained by another (usually an RSL) but no rent is payable on that part. The occupier will benefit from any general rise in property values on that part they own in any subsequent sale (to qualifying persons at the ‘discounted price’); this may provide them with the opportunity to ‘staircase’ to another suitable property, possibly within the open housing market.

### **iii) Discounted for Sale (DFS)**

- 5.15 These are sold at a discount on the open market value (OMV) to qualifying persons, including re-sales. They should be sold at a price that does not exceed three times the gross median household earnings for Selby District (see paragraph 5.5 above) to ensure that such homes are and remain generally affordable to the majority of people in need living in Selby District.

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<sup>5</sup> Small rural settlements have been designated for enfranchisement and right to acquire purposes (under Section 17 of the Housing Act 1996) by Statutory Instrument 1887/620 – 25 inclusive and 1999/1307.

- 5.16 The Council will negotiate with developers for discounts of about 50-60% (but may be less or more) depending on the local relationship between house prices and incomes.
- 5.17 A planning obligation in the form of a S106 Agreement will be sought to restrict the future price of the property (or discount to be applied) and ensure it is sold on to those in housing need. In addition, a Registered Social Landlord or similar organisation (see also 7.1 below) may retain the freehold interest in such properties. These measures will ensure that such homes will remain affordable to local people in perpetuity.

### **C. Qualifying Persons**

#### *Local Needs*

- 5.18 In line with Local Plan Policy H4 the initial and subsequent occupiers of local needs Affordable Housing will be those with local residency or connections in order to meet the identified local needs. The Council will seek s106 Agreements to control occupancy.

#### *Key Workers*

- 5.19 The HNS05 identifies (at Section 16) that the majority (96.3%) of key worker households can afford market housing in the District. However, of the 3.7% that cannot afford market housing, intermediate housing options are only affordable for 22.7%. In terms of the need for Affordable Housing the study suggests that around 17.3% of the net Affordable Housing requirement comes from key worker households.
- 5.20 The needs of key worker households are therefore a relatively insignificant issue for Selby District and if a key worker element is to form any part of the Affordable Housing provision required by the Council under Policy H4, it would have only a small role to play as the Council must address more acute needs.
- 5.21 Further, any intermediate housing proposed for key workers must be made available at costs much closer to social rents rather than just below market prices in order for key workers to afford to purchase and/or rent. The properties will also be restricted for qualifying subsequent occupiers.

### **6. How will the Council negotiate the Number, Types and Sizes of Local Needs Affordable Homes to be provided?**

- 6.1 In accordance with the Council resolution of 21 June 2005, in the light of up-to-date evidence of need and Government advice, the Council will seek to negotiate a target of 40% of the homes on residential schemes (or mixed schemes with a residential element) of 15 dwellings or more, or 0.5 hectares or more regardless of the number of dwellings as local needs Affordable Housing.

- 6.2 The Council will apply this policy to planning applications on sites falling below the threshold where the Council can demonstrate that the site is capable of delivering more housing than proposed and/or the site forms part of a more substantial development, which would in its totality, be above the threshold. For example, where a site has been split into phases, which individually fall below the threshold.
- 6.3 The exact number, type and size of local needs Affordable Homes negotiated with the potential developer on a site will be based on an assessment of need, which will include:
- Information from the most up-to-date District wide Housing Needs Survey or Local Needs Survey if an exception site;
  - Current information held on the Housing Register;
  - Existing provision (Census information or from survey);
  - Local housing market characteristics (Land Registry);
  - Information from any relevant Parish Surveys or Appraisals; and
  - The opportunities for meeting the identified housing needs on other sites.

*Number*

- 6.4 Notwithstanding the indicative site specific targets within the Local Plan for allocated sites, the Council will negotiate for a target of 40% Affordable Housing units on these sites and other windfall sites at the 15dw/0.5 hectare threshold or above.
- 6.5 However, a greater proportion will be expected where the need exists. A lower amount may be negotiated in exceptional circumstances. The developer must justify such exceptional circumstances (see also paragraphs 6.10 – 6.20 below).
- 6.6 All local needs Affordable Housing developed will be subject to 100% local occupancy conditions.

*Types and Sizes*

- 6.7 The type and size of local needs Affordable Homes should reflect the identified housing need arising from the housing needs assessment and any other information available to the Council (including those set out at 6.3 above but this is not exhaustive).
- 6.8 As set out in the Key Points table below, based on housing needs evidence, the Council will seek 2 to 3 bedroom properties usually in the form of houses rather than flats in order to meet a range of needs in flexible housing solutions for the longer term. The Council will resist the provision of one-bedroom properties for these reasons and will seek suitably sized Affordable Dwellings.



- 6.9 Depending on the need identified through survey and the Housing Register, the local need Affordable Housing mix may also include a proportion of Lifetime Homes (i.e. housing which is designed to be readily adaptable to meet the changing needs of a household over the years) and special needs housing including those for the elderly. The size and type of any special needs housing that may be negotiated, will be determined in consultation with the relevant organisation including the local health authority and social services department.

*Section continues overleaf.....*

**Key Points - The Council's starting point for sites:**

Based on the methods outlined in 6.3 above, in all cases the Council will base negotiations on the following starting points:

**Amount:** 40% of dwellings on the site should be local needs Affordable Homes.

**Tenure:** 50% rented and 50% intermediate (discounted for sale, shared ownership, shared equity and sub-market rent).

**Types and Sizes:** This should reflect identified need from the HNS05\* or Local Needs Survey but taking into account management issues, the need to create successful housing schemes, long-term flexibility and local circumstances. The local needs Affordable Housing element must form an integral part of and therefore reflect the characteristics (mix of types and sizes) within the market scheme as a whole.

\*Although the HNS05 reported a need for 1 and 2-bedroom properties, the Council must consider provision of a mixture of sizes to facilitate efficient operation of the social sector through the creation of mixed and balanced communities so that in general the Council will not normally accept more than a nominal amount of 1-bedroom properties as part of the Affordable Dwellings provision. Central Government recognises that Local Planning Authorities should aim to ensure that the provision of Affordable Housing meets the needs of both current and future occupiers.

The majority of the local needs Affordable Housing provision should be 2 and 3-bedroom properties. Provision of houses as opposed to flats is likely to be the Council's preferred option in most cases in order to take account of local form and character and management issues, particularly in rural settlements.

**Special Needs:** Where a particular identified need should be addressed (e.g. for the elderly, vulnerable young people, or larger family homes) the Council will discuss requirements with the developer.

**Siting and Design:** The local needs Affordable Dwellings should be indistinguishable from the market dwellings and be spread through the market scheme (unless there are particular management issues e.g. Extra Care for the Elderly).

**Viability:** The Council will consider the economics of provision when negotiating the amount of local needs Affordable Dwellings required as well as the types and sizes required (see below at 6.10).

6.10 Any variation to the starting point will take account of:

- Factors set out in 6.3 above;
- Latest Government guidance; and
- The exceptional circumstances set out below (6.11 - 6.20).

*Land Acquisition Costs*

- 6.11 The Council recognises that requiring developers to allow part of their site to be used for non-market housing will result in a cost. In order to offset these costs, developers will be expected to take the requirement into account in negotiating realistic land values with site owners.
- 6.12 Negotiations will be carried out on the assumption that the development site has been acquired at a price that reflects all the known development costs, and only those costs that are proven to be unforeseeable at the time of site acquisition, will be taken into account for the purpose of negotiation (and any subsequent lowering of targets or alteration to house types and size and tenure).
- 6.13 Known site requirements and development constraints will include (not exclusively) costs of site demolition, preparation, retaining walls, piling, infrastructure provision and/ or diversion, highways works, servicing, flood mitigation measures, archaeological remediation, and decontamination (unless costs are so high as to make site development totally unviable with the provision of local needs Affordable Housing).

*Abnormal Costs*

- 6.14 The Council will take account of any abnormal costs associated with the development that may justify a reduction in the local needs Affordable Housing target. Where developers raise the viability of a scheme as an issue they will be requested to submit full financial details and valuations of the proposed development to enable the Council to assess and, if appropriate, review the target sought. This information should be provided as early as possible. No planning application will be determined until this information has been properly assessed.
- 6.15 Financial (and legal) statements will be treated in confidence by the Council but may be referred to legal, property and financial consultants where there is inadequate resources within the Council or if there is disagreement over appraisal conclusions. Where abnormal costs can be demonstrated to the satisfaction of the Council, a negotiated reduction may be agreed either to the overall scale of local needs Affordable Housing provision or to type, size and/or tenure.

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*Other Planning Requirements*

- 6.16 Planning related requirements such as provision of, or financial contributions towards children's play areas, education and community facilities, and other areas of public open space, public art, and local needs Affordable Housing will, likewise, be seen as known costs. The onus will be on developers and their agents to negotiate reasonable site acquisition costs/option agreements with the landowner in order to offset these requirements. Planning permission will not be granted without meeting these requirements and, consequently, there should be no unreasonable expectations from landowners. Developers will be expected to make land acquisition bids conditional upon gaining planning permission in order to reinforce this protocol.
- 6.17 Architectural details and expression, high quality finishes and more expensive materials needed to meet conservation or other requirements will be expected to be reflected and recouped in open market values.
- 6.18 In exceptional circumstances the provision of local needs Affordable Housing may prejudice the realisation of other planning objectives that need to be given priority in development of a site. This may include for example the provision of community benefits over and above the normal requirements set out in 6.15 above. Such exceptional circumstances may affect the level of local needs Affordable Housing, which can reasonably be negotiated but would have to be substantiated in accordance with paragraph 6.19 below.

*Exceptional Circumstances*

- 6.19 There may be exceptional circumstances where particular costs associated with the development of a site may need to be taken into account in order to agree a reduced amount of local needs Affordable Housing and/or amendments to the mix of types, size and tenure. These may include:
- a) Those circumstances where the evidence leads the Council to seek to negotiate particular house types and sizes, which are significantly more costly to a developer. For example, larger family housing (4-bedroom or more) or provision for the elderly (bungalows or Extra Care facilities) or vulnerable young people or other special needs housing.
  - b) Where negotiations on a site have been ongoing over a considerable period of time and the developer can provide evidence that legally binding contracts have been signed for land purchase (prior to the introduction on 7 June 2005 of the revised site size threshold to 15dw/0.5ha or increased provision to 40%) which would make the site unviable (not less profitable) under the revised policy. No planning application will be determined until this information has been properly assessed.

- c) Whether the provision of Affordable Housing would prejudice the realisation of other planning objectives that need to be given priority in development of a particular site. For example, if the provision of Affordable Housing on the site would conflict with the creation of mixed and balanced communities (see also 6.18 above).

6.20 Developers are advised to speak with the Council's designated Affordable Housing Officer at the earliest opportunity within the site development process. This should be prior to the land acquisition stage and prior to the submission of a planning application. Annex 1 to this section of the SPD on Affordable Housing for local needs sets out how the negotiation process should transpire.

## **7. Developers Options for Providing Local Needs Affordable Housing**

7.1 Developers have a range of options to meet the local needs Affordable Housing requirement. The option used to provide the local needs Affordable Housing will be influenced by the housing needs of a particular locality and will need to be agreed through negotiations between the Council, developer and, where appropriate, an RSL or similar organisation (that is, a housing provider that can meet the full requirements for Affordable Housing, as defined in this guidance; for example a charitable trust and possibly, in some circumstances, a specialist housing management company (this could be the developer company itself)).

Examples of the options that might be available are (in order of preference):

- a) The developer builds and transfers the completed units to an RSL or similar organisation (the Council's preferred option) at an 'agreed price'. The 'agreed price' is defined as "the payment to be made by the RSL for the dwellings to be constructed to satisfy the local needs Affordable Housing requirements sufficient to allow the RSL to let the properties at guideline target rents as determined through the national rent regime under proposals set out in the Three Year Review of Rent Restructuring (July 2004) implemented in April 2006 - or on a pro rata basis for shared ownership/shared equity/discounted for sale." (Note: The prices applicable to individual schemes may be set down by the Council where justified by the circumstances at the time.); or
- b) The developer transfers serviced plots or land to an agreed RSL or similar organisation, together with a financial contribution to enable the building of each local needs Affordable Unit. A serviced plot or land is defined as having all services provided up to the frontage of each plot and must include all those that are provided on the other

parts of the site such as utilities, telecommunications, roads and footpaths. The number of plots or the amount of land to be provided must be sufficient to enable the development of the agreed number and type of local needs Affordable Homes for the site; or

- c) The developer builds and retains responsibility for directly providing the units to those in housing need in accordance with a scheme approved by the Council (in practice it is expected that the arrangements to retain the local needs Affordable Housing units in this scenario in perpetuity without an RSL or similar will be too onerous and therefore it will not be reasonable for the Council to accept this option).

- 7.2 Whatever option is chosen, the Council will normally expect the affordable housing to be provided without the need for public subsidy. In certain circumstances however, where there is some 'additionality' to the housing scheme, grant may be available to the RSL from the Housing Corporation. Further discussion with the Council's designated Affordable Housing Officer and/or the Housing Corporation is advisable at an early stage.

#### *Siting and Design*

- 7.3 The siting and design of the local needs Affordable Dwellings will need to be agreed by the Council as part of the planning application.
- 7.4 Local needs Affordable Homes should be well integrated in a residential scheme by virtue of their design and siting. Units should be evenly spread throughout the development (pepper-potted) unless groupings aid management of a particular type of property e.g. homes for the elderly. It is important to ensure that there is no obvious visual distinction or social separation between the local needs Affordable and open market housing.
- 7.5 The local needs Affordable Housing should be subject to high standards of design and landscaping. Though it is expected that usually they will be based on the developer's standard house types, so as to integrate them into the overall development, where a developer builds the Affordable Homes for rent which will be managed by an RSL the design should be modified to the individual RSLs own standards and requirements.
- 7.6 The quality of materials and specification of any local needs Affordable Homes should ensure that future maintenance and running costs are low and should include energy efficient measures.

#### *Parking Provision*

- 7.7 Parking for local needs Affordable Homes should match pro-rata that of the private homes. Parking spaces must be allocated to the local needs Affordable Homes and provided at no charge.

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*Off Site Contributions*

- 7.8 If a site has been accepted as being suitable for the provision of local needs Affordable Housing it is expected that those units should be provided on-site. Consequently, financial contributions to fund the provision of local needs Affordable Housing on land elsewhere will only be acceptable in very exceptional circumstances.
- 7.9 A financial contribution will only be acceptable in lieu of on-site provision if both the developer and Council agree that this is the preferred approach to providing local needs Affordable Housing for a particular community. For example where the management of the affordable housing on site cannot be effectively secured or to provide the local needs Affordable Housing on site would be incompatible with the delivery of sustainable communities.
- 7.10 In such instances, any off-site provision of Affordable Housing or a financial contribution in lieu of on-site provision must contribute towards the objective of creating sustainable communities. This could be achieved by bringing existing housing back into active use for local needs Affordable Housing (empty homes), purchasing open market properties for local needs Affordable Housing or supporting the delivery of local needs Affordable Housing on another site.
- 7.11 Any financial contribution will be based on the total cost of local needs Affordable Housing that would have normally been required on the site. The financial contribution will be used to fund the provision of local needs Affordable Housing elsewhere. Payments should be made within an agreed timescale set out in a planning obligation.

**8. Local Needs Affordable Housing in Rural Areas**

- 8.1 In the absence of sufficient housing opportunities within Development Limits, the Local Plan contains Policy H11 to facilitate the provision of small-scale schemes for local needs Affordable Homes in rural areas. Local needs Affordable Housing schemes permitted in small and rural settlements must satisfy the range of criteria as set out in Policy H11. In summary:

*Establishing a Local Housing Need*

- 8.2 To justify local needs Affordable Dwellings provided through the exceptions approach or in a rural settlement, a local housing need must already exist within the community. Applicants promoting a group of local needs Affordable Homes must seek the advice of the Council's designated Affordable Housing Officer. Applicants will need to demonstrate that there is a genuine need for the local needs Affordable Housing within a community through an up-to-date survey usually involving the local Parish or Town Council and in association with the Rural Housing Trust (or similar). The onus will be on the applicants

promoting a scheme to demonstrate that their proposal will meet the housing needs identified for a particular community effectively in terms of the number, tenure and size of dwellings being proposed. In all cases, any properties developed will be the subject of 100% local occupancy conditions.

#### *The Location of Rural Exception Schemes*

- 8.3 Local needs Affordable Housing exception schemes must be sited adjoining the Development Limits of a settlement. The proposal must be well related in scale, location and design to the adjoining settlement. Its impact on the character of the settlement or the adjoining countryside must be minimised.
- 8.4 Proposals should normally be on sites of no more than 0.4 hectares and involving less than 10 dwellings, depending on the level of need and site characteristics.
- 8.5 The design, layout and landscaping of any proposal should reflect the sensitive character and nature of any exception site. All schemes must also comply with normal site planning requirements including highway, drainage, infrastructure and amenity considerations.

### **9. Managing and Monitoring Local Needs Affordable Homes**

- 9.1 On all local needs Affordable Housing developments negotiated through Policy H4, the Council will seek to agree 100% nomination rights for the local needs Affordable Homes. Nomination agreements will form part of S106 agreements.
- 9.2 Referrals for 'Discounted for Sale' and 'Shared Ownership' and 'Shared Equity Homes' will be made in accordance with the policy and procedures attached as Annex 2 to this Section of the SPD. In addition, the local need Affordable Homes should be marketed in accordance with the Council's policy attached as Annex 3 to this Section of the SPD.
- 9.3 Annex 4 to this Section of the SPD sets out Heads of Terms for S106 agreements, which the Council will seek in order to ensure the implementation of local needs Affordable Housing schemes and that the local needs Affordable Housing is retained in perpetuity.

#### *Affordable Housing Plan*

- 9.4 The Council will require that developers submit an 'Affordable Housing Plan' (AHP) with relevant planning applications (in accordance with the procedure set out at Annex 1 to this Section of the SPD). Officers will need to agree the AHP prior to any application going before Planning Committee in order that members are able to fully assess whether the Affordable Housing contribution and arrangements for its delivery are acceptable. The AHP will comprise the following information:



- a) The proportion of homes provided to be affordable (target of 40% unless exceptional circumstances can be proved by the applicant).
- b) The proportion of Affordable Homes to be provided as social-rent and 'Intermediate' housing ('Discounted for Sale' or 'Shared Ownership' or 'Shared equity'). Normally 50:50 unless agreed otherwise.
- c) Timing/trigger arrangements for the transfer of the Affordable Homes to an identified RSL in relation to the completed market units on the site (the Affordable Homes to be completed and transferred before 25% of the market dwellings have been first occupied unless site conditions/circumstances justify otherwise and have been agreed with the Council).
- d) Development programme indicating the approximate completion date of each Affordable Home.
- e) Arrangements for local occupancy controls.
- f) Details of the Registered Social Landlord(s) who will be partnering on the site.
- g) Floor Plans/layout plans showing Affordable Homes by tenure (Affordable Homes to be highlighted in two distinguishable colours to reflect differing tenures).
- h) Details of open market valuations of proposed Affordable Homes.
- i) Parking provisions to pro-rata match that of the private element and allocated spaces to be indicated on drawings. Parking spaces to be offered by the developer at no charge.
- j) Confirmation that the developer will comply with the Council's Marketing Policy for 'Discounted for Sale' and 'Shared Ownership/Equity' homes.
- k) Confirmation of the developer's proposed service charges (where applicable), which should be shown to be reasonable and affordable to occupiers of the Affordable Homes for sale and RSLs (multipliers of 25% and 33% are referred to in paragraph 5.4. The mortgage/rent payment *including* service charge needs to fall within this range).

### *Monitoring*

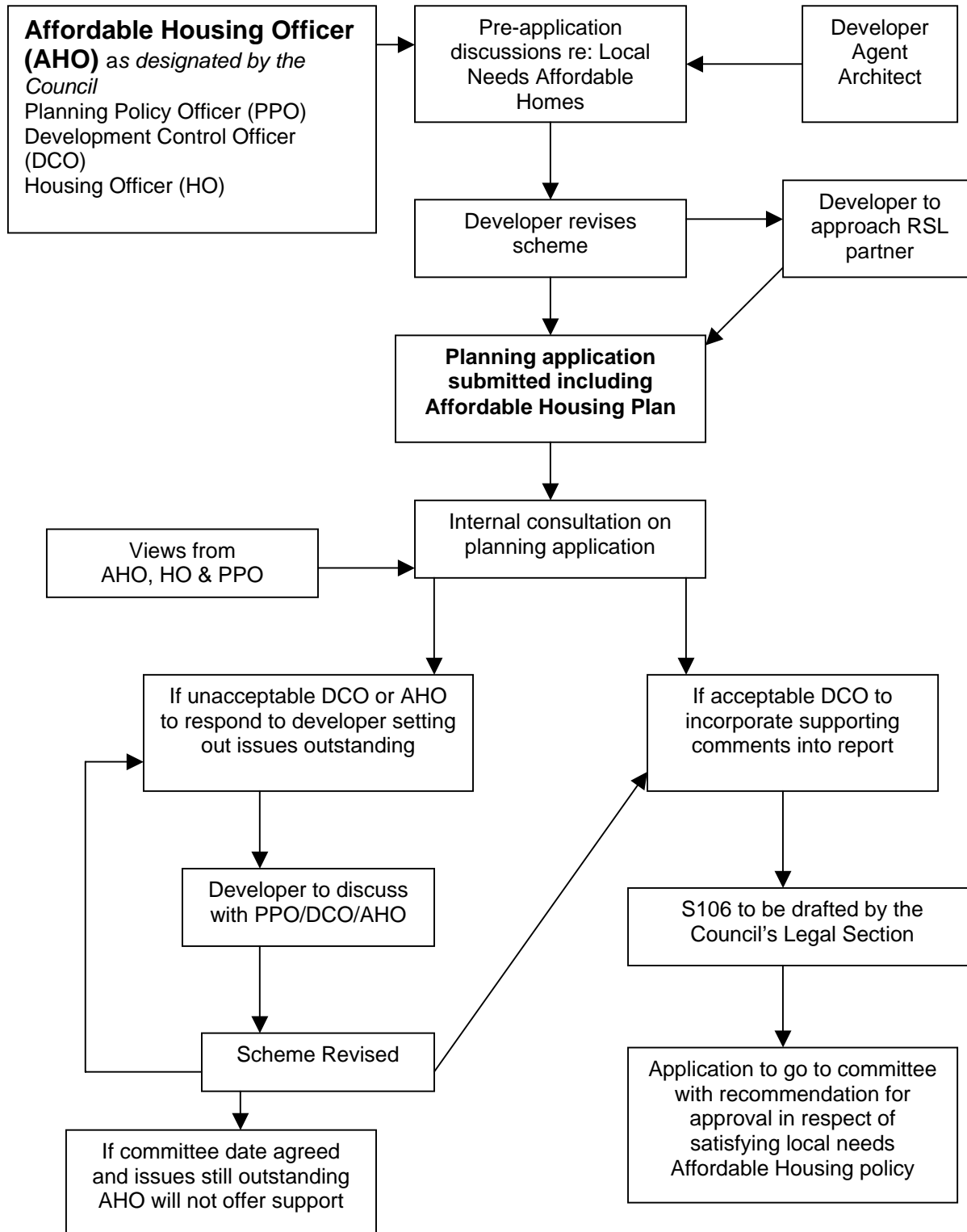
- 9.5 Developers and RSLs will be required to inform the Council's designated Affordable Housing Officer on completion or transfer of the Affordable Housing Units and any subsequent change in occupiers. This will be

necessary in order to facilitate proper and effective monitoring of compliance with SDLP Policy H4, planning permissions and Section 106 Planning Obligations.

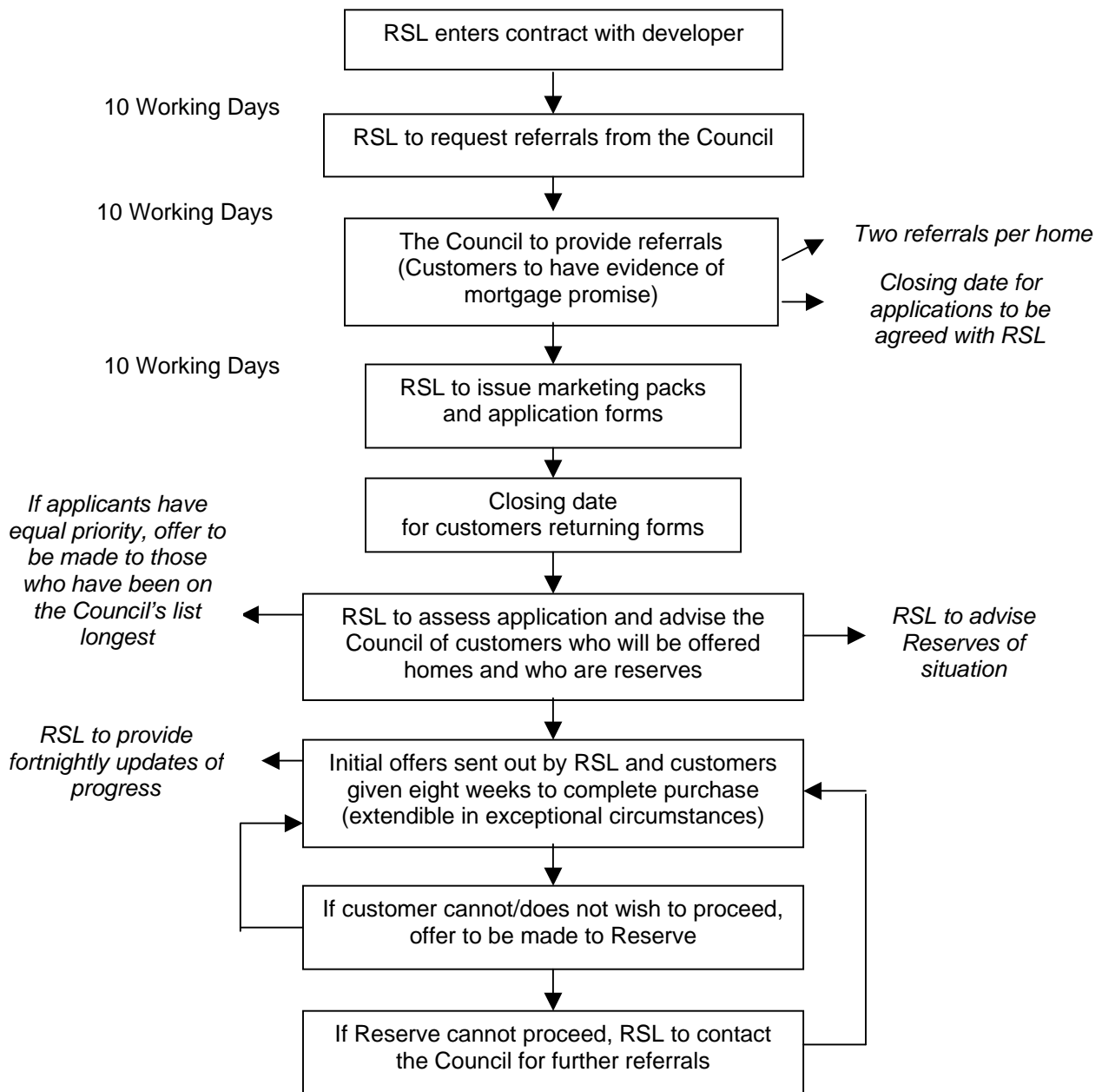
- 9.6 To ensure effective monitoring of Section 106 requirements in respect of local needs Affordable Housing there will be close working between the Council's Enforcement/Compliance, Legal, Planning and Housing Officers and the designated Affordable Housing Officer.
- 9.7 Council officers will therefore closely monitor the implementation of planning permissions/conditions and obligations relating to local needs Affordable Housing. The Council will also provide statistical monitoring through the Local Development Framework Annual Monitoring Report.

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**Annex 1**  
**Process to Be Followed For Schemes Involving**  
**Local Needs Affordable Housing**



**Annex 2  
 Intermediate Housing Nominations Referrals Model Procedure\***



\*Assumes SDC has implemented Intermediate Housing List as part of Housing Register.

## **Annex 3 Local Needs Affordable Housing Marketing Policy**

### **Summary of Marketing Obligations for Affordable Housing**

1. For so long as the owner/developer shall operate a sales and marketing suite on the land in relation to the sale of dwellings on the site the owner/developer shall ensure that:
  - a) The Affordable Housing Units are advertised through: the erection of signboards on site; and in the sales and marketing suite on site; and
  - b) That local people who enquire about the Affordable Housing Units are provided with appropriate contact details (whether being contact details for the developer's/owner's preferred RSL or otherwise) to enable them to apply for such property.
  
2. In relation to the marketing of any Affordable Housing Unit by an RSL that RSL must (as reasonably appropriate in the circumstances as agreed with the Council):
  - i) Advertise the relevant Affordable Housing Units in the local press on more than one occasion and as often as is necessary;
  - ii) Display posters at local public/council buildings; the Council's main office (the Civic Centre); local village stores including the post office within the Parish and surrounding Parishes;
  - iii) Arrange marketing through local estate agents;
  - iv) Request that any local parish magazines and notice boards within the Parish and surrounding Parishes advertise the relevant Affordable Housing Units; and
  - v) Include information of the availability of the Affordable Housing Units on the SDC website and the RSL's own website; and
  - vi) Provide potential customers and the developer's sales and marketing suite with an information pack comprising the following items:
    - an explanation of how RSL rented and RSL shared ownership schemes work
    - instructions on how to apply for an Affordable Housing Unit
    - the qualifying criteria for an Affordable Housing Unit
    - the restrictions on future re-sales (where appropriate)
    - a location plan
    - a layout plan identifying the relevant Affordable Housing Units
    - floor plans
    - price schedules
    - explanation of parking arrangements

3. Generally to take all reasonable steps to satisfy the Council that local people have had the opportunity to be informed of the developments and the chance to apply for a property.

### **Marketing for New Schemes**

Marketing will be undertaken by the RSL (as outlined above at 2). The type of marketing may differ depending on the price of properties and the circumstances of the people whose details are already held on the Council's database<sup>6</sup>. Priority for referrals will be given to customers already on the Council's database. However, to increase public awareness of schemes and to encourage other people to apply for Discounted Sale/Shared Ownership Homes the Affordable Housing Web Page<sup>7</sup> will be the main marketing tool. However, it is accepted that not everyone has access to the Internet. Therefore there will be a need to undertake marketing as set out in the above Summary.

### **Marketing Information for New Homes**

Marketing information for individual schemes should be provided by the RSL to potential customers in the form of a marketing pack (as set out above at vi). RSLs are to undertake all marketing of the local needs Affordable Homes and include the cost of such marketing when submitting their bid to the developer.

### **Marketing Periods for Discounted for Sale/Shared Ownership Homes**

Section 106 Agreements usually require all local needs Affordable Homes for sale to be marketed for a number of months to people living in the appropriate Parish or adjoining Parishes. The length of this initial marketing period may vary from scheme to scheme but is generally about six months. In respect of new homes this may include a number of months prior to completion. In accordance with the Section 106 requirements following expiry of the initial marketing period homes can be marketed to people in housing need living in the rest of the Selby District area, then adjoining LPAs, then finally elsewhere.

### **Marketing for Re-sales**

This issue will be covered within the S106 Obligations, whereby the vendor is required to inform the Council and or the RSL of their intention to sell their home. The Council then has the opportunity to make referrals for the home. In the event that there is no one suitable from the Council's list the vendor is permitted to sell the property to persons meeting the eligibility criteria. Such a sale can involve the employment of an estate agent.

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<sup>6</sup> This is the Housing Register and assumes the Council has information on requests for all tenures.

<sup>7</sup> This assumes that SDC has an affordable housing web page.

## **Annex 4 Heads of Terms for Section 106 Agreements**

### *General*

1. The number, type and tenure mix of local needs Affordable Housing.
2. Local needs Affordable Housing plots and associated car-parking bays to be clearly identified on an attached plan.
3. Schedule of local needs Affordable Homes to be attached confirming plot number, type, floor height (where appropriate) and floor area.
4. Requirement that developer informs SDC within 21 days of development site commencement.

### *Transfer to an RSL*

5. Requirement for local needs Affordable Homes to be transferred to an RSL (RSL to be named wherever possible).
6. Requirement for local needs Affordable Homes to be transferred to an RSL at the 'agreed price'. The 'agreed price' is defined as "the payment to be made by the RSL for the dwellings to be constructed to satisfy the local needs Affordable Housing requirements sufficient to allow the RSL to let the properties at guideline target rents as determined through the national rent regime under proposals set out in the Three Year Review of Rent Restructuring (July 2004) implemented in April 2006 - or on a pro rata basis for shared ownership/shared equity/discounted for sale."  
(Note: The prices applicable to individual schemes may be set down by the Council where justified by the circumstances at the time).
7. Requirement that developer informs the Council when contracts signed with RSL.
8. Inclusion of reasonable time limits for developers to enter into contract with the RSL and provisions requiring developer to market homes to other RSLs in the event this deadline cannot be met.
9. Requirement that RSL informs the Council when properties have been transferred.
10. Requirement for local needs Affordable Homes to be built to Site Development Standards (SDS) on schemes where Social Housing Grant (SHG) is being used.
11. Requirement that local needs Affordable Homes not built to SDS are to be handed over to RSLs in good condition and to be built to a standard of specification, which is acceptable to the RSL.



### *Marketing*

12. Requirement for marketing of social rented and intermediate homes to be undertaken by the developer and/or RSL partner and these marketing obligations to be set out (in accordance with Council's Marketing Policy see Annex 3).
13. Requirement for marketing period of intermediate homes to extend for a minimum of six months.
14. Flexibility to be incorporated to allow RSL to commence marketing prior to their completion/transfer.

### *Tenure Mix*

15. Clause permitting the RSL to purchase the Discounted for Sale homes in the event that the marketing period has expired and customers are still progressing mortgages.
16. Provision for Discount for Sale Homes to be occupied on a shared ownership basis.
17. That shared ownership arrangements in smaller settlements (those less than a population of 3000 at 2001 Census and referred to in Statutory Instrument 1887/620 – 25 inclusive and 1999/1307 be restricted to 80% ownership.

### *Triggers*

18. Insert triggers for when the local needs Affordable Homes will be provided according with developers construction programme but ensuring that usually no more than 25% of the open market housing is completed prior to transfer of all the Affordable Homes to an RSL. This may be phased.

### *Prices*

19. Prices or percentage discount for Discounted Sale Homes to be inserted. These to be index linked to the Halifax Property Price Index on sites where development delays expected due to remedial/infrastructure work.
20. Formula to be inserted illustrating how the percentage discount will be determined for the initial purchaser (i.e. the discount percentage at which they will be required to sell on at).
21. Prices for Discount Sale Homes to include marketing costs to be incurred by RSL (currently to a maximum of 3% of the discounted price or £1500 whichever is the greater).

### *Controlling Occupancy*

22. Set out the arrangements for controlling occupancy and include criteria of eligibility against which occupancy can be determined. These will relate to Development Plan policy with respect to local connections as well as affordability criteria involving the relationship between house prices (to purchase and rent) and incomes.
23. Requirement for those purchasing Discounted for Sale properties to enter into lease with RSL restricting condition of resale i.e. limiting the percentage of open market value at which the home can be sold.
24. Requirement that first and subsequent vendors of DFS properties inform the Council and /or RSL of their intention to sell their home in order to allow the Council to provide referrals and ensure compliance with occupancy controls.
25. Requirement that intermediate Affordable Homes are retained as such in perpetuity. This means that DFS homes and shared ownership/shared equity Affordable Homes remain available to only those eligible persons identified under the local occupancy criteria. This includes shared ownership homes regardless of any stair casing (even up to full 100% ownership).
26. Requirement for 100% nomination rights within the local occupancy criteria from Council's Housing Register for all local needs Affordable Housing.
27. Requirement for RSL/developer request from the Council nominations for shared ownership/equity and Discounted for Sale properties in the first instance.
28. Where referrals cannot be made for intermediate housing from the Council's Housing Register, the requirement that RSL keeps the Council informed of occupiers taken from their own Lists in order that the Council can monitor compliance with Local Plan policy, the planning permission and s106 requirements.

### *Miscellaneous*

29. Parking for local needs Affordable Homes to be provided at nil charge.
30. Mortgagee in Possession Clause to be inserted.
31. Set out a disputes resolution procedure.
32. Requirement that developer pays reasonable contribution towards the Council's costs for the production of s106 Agreement (currently £250).

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## Part 2 Section 2

### Recreation Open Space

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## Recreation Open Space

### Justification

2.2.1 The detailed policy basis and justification for seeking developer provision or contributions in respect of Recreation Open Space (ROS) is set out in national planning policy guidance (e.g. PPG17), the development plan (Regional Spatial Strategy and the saved SDLP – particularly Policy RT2) and is further detailed in this document below.

### Land Use

2.2.2 Normally, only developments involving residential units will be considered for developer provision or contributions, in the form of Recreation Open Space. Such sites would include those with schemes for mixed-use developments with a residential component.

2.2.3 Exceptionally, provision or a contribution in respect of Recreation Open Space may be sought in connection with major retail and employment generating developments. This would only be the case where a direct impact on the need for Recreation Open Space in the local area around the site, or a need generated on-site (e.g. a play area and sitting out area at a supermarket/retail park or business park) can be demonstrated to arise directly out of the development, or be justified in order to mitigate the impacts of the development on the local community or the public realm (there may be an overlap with those subject areas - see Part 2 Sections 4 and 6 below)

### Thresholds

2.2.4 In considering whether or not developer contributions relating to Recreation Open Space will be sought, all sites where residential development involving 5 dwellings or more is proposed are 'eligible'. For major retail and employment generating uses no threshold is specified, instead non-residential sites will be assessed individually to identify the impact it would have on the need for Recreation Open Space in the local area.

2.2.5 In assessing whether a proposed development or a site is eligible for seeking the provision of Recreation Open Space, the number of dwellings specified in this guidance will apply to or take into account the cumulative area to be developed for housing. For example, where a development is made up of two or more phases, or is the subject of two or more separate planning applications, the total number of dwellings will be the basis for determining whether provision will be sought. Thus developers should be aware that the Recreation Open Space requirement cannot be avoided by dealing with a site through more than one planning application.

## **Methodology**

- 2.2.6 In Policy RT2 of the Selby District Local Plan (SDLP) – “Open space requirements for residential development”, the general methodologies for determining the need for ROS contributions, in kind or money are set out. The guidance set out below amplifies that Policy and describes fully its implementation.
- 2.2.7 The Council has published a companion document ‘Selby District Recreation Open Space Strategy’. The Strategy contains information on the availability of certain types of Recreation Open Space across Selby District, contains assessments of the need for additional ROS and improvements to existing facilities and includes indications of locally defined priorities for Recreation Open Space provision.
- 2.2.8 The basic parameters set out in Policy RT2 will remain unchanged, but the calculation methods and other detailed aspects of assessing the expected scale of contributions will be up-dated from time-to-time, to keep the sums involved in line with inflation and may be subject to other changes should circumstances indicate that they are necessary and justified.
- 2.2.9 The first fundamental principle guiding the location of Recreation Open Space and facilities provided as a result of a planning permission, is that they should wherever possible be on or close to the development site, The exceptions to this principle are set out in Policy RT2 of the Selby District Local Plan (SDLP) and further details are set out below. The second main principle is that wherever possible the ROS should be owned and managed by the locally elected representatives of the local community, the Town or Parish Council in which the provision is made, or their nominated body or organisation.

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## Planning Guidance for Recreation Open Space

### Purpose of this Planning Guidance

*The purpose of this Planning Guidance, which forms part of the Developer Contributions Supplementary Planning Document, is to set out and explain the Council's requirements for the provision of Recreation Open Space established in Policy RT2 of the Selby District Local Plan. It provides detailed advice on levels of provision for open space and where it is to be provided. In addition it provides details of when a commuted sum is appropriate and how contributions are calculated including the long-term maintenance of the open space. The guidance should be read in conjunction with the Council's Open Space Strategy.*

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## 1.0 Background to Recreation Open Space Requirement

### National Planning Policy

- 1.1 The government is committed to the provision and enhancement of Recreation Open Space facilities. Planning Policy Statement 3 (PPS3 Housing, 2006) and Planning Policy Guidance Note 17 (PPG17 Sport, Open Space and Recreation, 2002) encourage the provision of or enable good access to community and green and open amenity and recreational space (including play space) as well as private outdoor space as part of achieving high quality housing in proposed developments.
- 1.2 PPS3 advises that particularly where family housing is proposed, it will be important to ensure that the needs of children are taken into account and that there is good provision of recreational areas, including private gardens, play areas and informal play space. There should be well-designed, safe, secure and stimulating areas with safe pedestrian access (Paragraph 17).
- 1.3 PPG17 advises that open space standards are best set locally and they should set locally derived standards for the provision of open space, sports and recreational facilities. Standards should be included in development plans (Paragraphs 6-9).

### Local Plan Policy

- 1.4 Open spaces are essential in any community, not only for active sports and children's play, but also for general outdoor relaxation. The Council attaches great importance to the creation of new and retention and improvement of existing open space and recreation facilities close to where people live. The Council's 2005 survey of Recreation Open



Space indicated that deficiencies in provision would be exacerbated in some of the larger settlements where, in line with strategic policies, additional housing growth is proposed. It is essential that adequate provision for Recreation Open Space related to the scale of development be incorporated in the early planning of new residential development. The Council's standards are derived from the standards recommended by the National Playing Field Association; they are set out on Policy RT2 of Selby District Local Plan (SDLP):

**“Proposals for new residential development comprising 5 or more dwellings will be required to provide Recreation Open Space at the rate of 60 square metres per dwelling on the following basis:**

- (a) For schemes of more than 4 dwellings up to and including 10 dwellings, through a commuted payment to enable the District Council to provide new or upgrade existing facilities in the locality**
- (b) For schemes of more than 10 dwellings but less than 50 dwellings, the following options would be available subject to negotiation and the existing level of provision in the locality;**
  - (i) Provide open space within the site;**
  - (ii) Provide the open space within the locality;**
  - (iii) Provide the open space elsewhere;**
  - (iv) Where it is not practical or not deemed desirable for Developers to make provision within the site the District Council may accept a financial contribution to enable provision to be made elsewhere;**
- (c) For schemes of 50 dwellings or more, provision within the site will normally be required unless deficiencies elsewhere in the settlement merit a combination of on-site and off-site provision.**

**Depending on the needs of residents and the total amount of space provided, a combination of different types of open space would be appropriate in accordance with NPFA standards.”**

The Council may reassess these standards and local standards set as advised in PPG17 in future reviews.

## **2.0 What types of Open Space should be provided?**

- 2.1 The National Playing Fields Association (NPFA) 2001 guidance recommends that the minimum standard of 2.4 hectares (ha) of open space per 1000 population be provided. Specific guidance is provided on areas for children's outdoor play, as follows:

### **Local Equipped Areas for Play (LEAP)**

- 2.2 A LEAP is a piece of open space that is designated and equipped for children between the ages of four to eight years old. It should be constructed to meet the minimum standards set out by the NPFA for Local Equipped Areas for Play (LEAP). Equipped play areas should be fenced off and contain at least five pieces of fixed outdoor play equipment which comply with the relevant British safety standards. The fenced off areas should measure at least 0.04ha (400 square metres (sqm)) and should be located at a minimum of 20 metres (m) from the boundary of the nearest residential property so as to protect the residential amenities of the adjacent residents. For safety reasons, however, they should be visible from nearby houses or from well used pedestrian routes.

### **Local Areas for Play (LAP)**

- 2.3 A LAP is a small area of open space specifically designated and laid out for young children to play close to where they live. These are normally located within 1 minute walking time from home. The LAP provides essential play opportunities for toddlers and young children in locations that are overseen by parents, carers and the local community. It caters for children up to six years in age. It should be constructed to meet the minimum standards set out by the NPFA for Local Areas for Play.

### **Neighbourhood Equipped Areas for Play (NEAPs)**

- 2.4 A NEAP is a site that is designated and equipped mainly for older children but with opportunities for play for younger children too. A NEAP can be subdivided into two distinct parts, the first comprising a range of playground equipment and the second, an area intended for formal recreation use for e.g. pitches, courts and greens. This type of open space embraces public and educational facilities and also those in private use. Wherever possible, such areas should be made available for informal use by children. The minimum size for a youth and adult play area is dependent upon the type of facility.
- 2.5 Sports pitches should measure at least 0.81ha (based on minimum dimensions of a football pitch of 120m x 67m) plus clearance zones (9m on length and 6m on width). Youth facilities could also include such things as youth shelters, skateboard ramps or BMX tracks and five a side pitches.

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- 2.6 It is important to note that only usable areas of Recreation Open Space count towards the ROS requirement. That is, verges, footpath links and other associated landscaping and planting are not include within the ROS calculation.
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### **3.0 When will Policy RT2 be applied?**

- 3.1 The policy will be applied to all applications for new residential development of 5 or more dwellings including outline applications in sites of 0.15ha of more and renewal applications. The policy will also cover conversions and change of use applications where the development relates to 5 or more dwellings. In the case of developments consisting exclusively of single bedroom units the children's equipment and casual play space requirements will be waived, although more general leisure/amenity space may be required, particularly on flatted developments.
- 3.2 In the case of accommodation specifically designed for the elderly, applications will be subject to separate negotiation to provide appropriately sized leisure/seating areas as an alternative to play space provision.

#### **Piecemeal Development**

- 3.3 Should planning consent be given for residential development for less than 5 and then another consent on an adjoining piece of land within the same ownership be given subsequently for less than 5 dwellings, then should the aggregate number of dwellings be greater than 5, Recreation Open Space shall be provided in line with the standards set out in Policy RT2 for the combined number of dwellings.
- 

### **4.0 How much open space provision should be provided?**

- 4.1 The standard referred to in Policy RT2 and PPG17 of 2.4 ha per 1000 population of open space is the minimum for all types of recreation facility. For the purpose of the calculation of the commuted sum and indeed for the negotiation of on-site provision of open space the standard shown in the second column of Table 1 will be used.
- 4.2 On a 'per dwelling' basis, worked out assuming an occupancy rate of 2.5 persons per dwelling, as for the 60m<sup>2</sup> figure in the RT2 Policy, the provision per dwelling for each type of facility will be as shown below at Table 1.

**Table 1**

<b>Type</b>	<b>Area in m<sup>2</sup> per dwelling</b>	<b>Area per 1000 Pop'n (ha)</b>
<b>Youth and Adult Facilities</b>	32.5	1.3
<b>Leisure/ Amenity Space</b>	10	0.4
<b>Children's Casual Play</b>	6.25	0.25
<b>Children's Equipped Play</b>	11.25	0.45
<b>Total</b>	60	2.4

## **5.0 Where should the open space be provided?**

- 5.1 The precise type and nature of open space to be provided will be subject to negotiation between the Council and the developer (and in some cases the representatives of the local community) on the basis of the Council's standards, local circumstances and the nature of the housing proposed. Various types of open space should be provided, at functional and maintainable sizes. Provision should generally be made on-site, although there may be circumstances where this is impractical because of site characteristics or other planning requirements or where off-site provision may help overcome deficiencies elsewhere.
- 5.2 In the case of equipped play areas, these will normally be required to be provided on-site, but in some circumstances a 5-minute walk or 400m distance from the development site may be acceptable. Casual play areas and Youth and Adult facilities should wherever possible be within reasonable walking distance of the new scheme (1.5km). If this is not possible the area should be within a reasonable cycling distance (5km). Where neither of these is possible, sites on a good public transport route can be considered.
- 5.3 In exceptional circumstances a site within 20 minutes drive may be considered.

- 
- 5.3 In addition to ensure that the provision of usable areas of open space are provided which can be easily and economically maintained, it is not considered appropriate to require open space provision on-site if the levels fall below the following minimum sizes:
- i) Youth and Adult facilities 0.81ha (size of a football pitch 120m by 67m).
  - ii) Children's Casual Play 0.15ha (reasonable size to provide kick-about space or basketball net).
  - iii) Children's Equipped Play Space 0.04ha.
- 

## **6.0 When is a 'commuted sum' appropriate?**

- 6.1 Occasions may arise where the provision of open space on-site is impractical for example owing to topography, the shape of the site, or because the scheme involves the conversion of existing buildings and provision cannot be achieved in the locality off-site. Alternatively the existing community may already be well served with open space. In such circumstances it may be appropriate to accept a commuted sum from the developer to enable the Council, working in conjunction with Town and Parish Council to make alternative provision elsewhere, or to enhance existing facilities, i.e. through the extension of an existing public Recreation Open Space, additional facilities on an existing public open space (including built facilities) or replacement of or improvements to existing facilities and/or fixed outdoor play equipment.
- 6.2 This arrangement will clearly require a pro-active approach on the part of the Council, perhaps working in conjunction with Groundwork Selby and/or Parish Councils/local voluntary groups, to identify and acquire land. In order to assist this process, the Council has prepared the 'Selby District Recreation Open Space Strategy' (adopted February 2006), which identifies deficiencies, and aims to set out future needs and to assist in establishing a mechanism for providing open space across different parts of the District or upgrading existing facilities.
- 6.3 The method that will be used in calculating contributions can be found in Annex A of this section.
- 6.4 The way in which commuted sums are administered is explained in greater detail in Annex B of this section.
- 

## **7.0 Who pays for the maintenance of the open space and how is the cost calculated?**

- 7.1 Where open space is provided on-site, or off-site by means of contribution of land, the developer will pay for maintenance for a period
-

of ten years. This works by developers paying a one off 'commuted sum' payment for maintenance.

- 7.2 The Council will calculate the amount payable by working out the cost of maintaining the particular piece of open space for one year. From this figure an amount is calculated for a period of ten years taking into account inflation as well as other factors including interest from the money.
- 7.3 The open space is then normally taken over and maintained by the Parish Council. However in some circumstances the District Council or a management company or trust may take responsibility for the open space and carry out the maintenance works. It is not appropriate to provide a standard formula for working out payments since no two pieces of open space are the same in terms of maintenance.

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## Annex A

### How is the Contribution towards the Provision of Open Space Calculated?

The following examples illustrate the **methods**, which will be used in calculating contributions towards the provision of open space (note the basis for such calculations may be up-dated from time-to-time to reflect inflation).

Two figures are calculated, one for upgrading existing open space and one for the acquisition of land and laying out/provision of facilities.

#### (a) Upgrading Existing Open Space

<b>Sport (1.7ha)</b>	<b>£</b>
Levelling and seeding	4,041.45
Drainage	11,547.00
Fencing (based on 270 linear metre)	4,618.80
Goal Posts	923.76
Amount to provide multi-functional surface (NB Amount not sufficient for full 'astro' pitch but money gained could be match funded)	230,940.00
Seats x 2	461.88
Litter bins x 2	392.60
Signs x 2	346.41
Changing Accommodation (Price based on a temporary building type standard changing unit @ £26,000 plus £10,000 for services and base)	41,569.20
<b>TOTAL</b>	<b>294,841.10</b>

<b>Children's Casual Play (0.45ha)</b>	<b>£</b>
Levelling and seeding	1,339.45
Fencing (based on 145 linear metres)	2,309.40
Seat x 1	230.94
Litter bins x 1	196.30
Sign x 1	173.21
<b>TOTAL</b>	<b>4,249.30</b>

<b>Equipped Play Area (0.25ha)</b>	<b>£</b>
Levelling	923.76
Fencing	1,986.08
Seat x 1	230.94
Litter bin x 1	196.30



Sign x 1	173.21
Equipment and surfacing (5 pieces of equipment covering all play activities @ £6,000 each)	34,641.00
<b>TOTAL</b>	<b>38,151.29</b>

<b>Ancillary Facilities (0.25ha)</b>	<b>£</b>
Car Parking (based on 7 parking spaces, 2 of which are disabled spaces and access road @£70 per m <sup>2</sup> )	20,784.60
Cycle Stands (£70m <sup>2</sup> )	1,154.70
Footpaths (charged at £20m <sup>2</sup> to include lighting worked out on a basis of 30 linear metres)	1,385.64
<b>TOTAL</b>	<b>23,324.94</b>

<b>TOTAL</b>	<b>£</b>
Total cost of 2.4 ha of Recreation Open Space (excluding land purchase)	360,566.62
10% Contingencies	36,056.66
<b>TOTAL COST OF UPGRADING</b>	<b>396,623.28</b>

Cost per square metre £16.52

**Cost per dwelling for upgrading existing open space @ 60 m<sup>2</sup> = £991** (rounded up)

**(b) Provision of New Facilities**

The estimated cost of purchasing land for sport and recreation is based on an assumption that agricultural land will be purchased at around £7,000 per acre (about £17,290 per hectare). This is based on the assumption that land on the edge of settlements will have a degree of ‘hope value’ attached to the valuation of the land.

Cost of 2.4 ha of land.....£41,500k (rounded up)

Cost per sq m of land..... £30,000/24,000m = £1.73

Cost per dwelling for land acquisition.....60m<sup>2</sup> x £1.73 = £103.80

**Cost per dwelling for provision of new recreation facilities:**

£991 + £103.80 = **£1,095** (rounded up)

N.B. The costs relating to land acquisition will be reviewed annually and increased in line with the latest data on land prices in the District, whilst those costs relating to equipment and carrying out works will be increased in line with the appropriate price index.

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## Annex B

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### How Is The Provision Of Recreation Open Space Commuted Sums Administered?

1. The Council has a long established system of administering the provision of on-site open space and its maintenance and its main features are retained.
2. The Council will need to satisfy itself that the developer has made proper provision to ensure that the open space is completed; it will continue to calculate the costs of maintenance, supervise the laying out of the open space, and receive the land and a commuted payment to cover the ongoing costs of maintenance for a period of ten years.

#### Commuted Sums for Provision

3. In terms of contributions towards off-site provision or the upgrading of existing facilities, separate 'Parish Funds' have been set up. Open space contributions will be received into the relevant Parish Fund and, other than in exceptional circumstances, used in the locality in which the development takes place, in order to improve existing open space as identified within the Recreation Open Space Strategy, or in some instances provide additional open space where there is an identified shortage. In certain circumstances, if provision cannot be made in the Parish the development is in, funds may be used in other locations within the District (see paragraph 5) below.
4. **The way in which the District Council will operate the system** is as follows:
  - i) The Council will inform developers or purchasers of sites for housing development of the requirement for open space provision within the District either through pre-application discussions or when a planning application is received. This establishes the developer's responsibilities early on and aims to avoid subsequent problems of developers being unaware of the requirements or having wrongly valued the site.
  - ii) Whilst dealing with the planning application, the case officer will assess the open space requirement established and any deficiencies in provision will be noted if not done already, the amount of financial contribution required (if any) for the size of development in lieu of the provision is established and the developer informed.
  - iii) If planning permission is granted, payment is secured through the applicant entering into a Section 106 Agreement prepared by the

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District Council, using where possible a standard format to simplify procedures (Section 106 undertakings may be acceptable in some circumstances). Pre-application discussions can assist in speeding up this process. This will require the payment to be made to the District Council, prior to the commencement of the development (or at specific phases in a large scheme). The planning decision notice is issued to the applicant, only after the completion of the Section 106 agreement.

- iv) The appropriate contribution is received into the relevant Parish Fund held by the District Council in accordance with the terms of the Section 106 Agreement.
- v) When funds are received in the Parish Fund the District Council will write to the relevant Parish Council to inform them of the sum of money being held and details of how they can obtain the money.
- vi) In order to apply for the release of funds Parish Councils will need to apply with detailed information on the proposed scheme, including plans/brochures and costs and also how it is to be implemented. It maybe, in exceptional circumstances, the funds are vested in a body nominated by the Parish Council, e.g. a local Playing Fields Association, In such circumstances the District Council will have to be satisfied as to the following: that the body in whom the facility or funds may be vested meet stringent criteria in terms of their legal status; that the Parish Council remains the first point of contact for the District Council; that there are formal approved audit and financial management processes in place; and that the facility funded from the Parish Fund is open to all of the local community on a basis agreed formally with the Parish Council and the District Council.
- vii) The bids are assessed by the District Council, and detailed discussions take place with the appropriate Parish Council/Playing Field Association. If a proposed scheme is satisfactory, permission is given to commence work and half the total estimated cost (or half the cost of that part of the scheme required by new development) is transferred from the Parish Fund to the Parish Council or nominated body.
- viii) Once the scheme or an agreed phase of the scheme is completed, the open space facility is inspected by the Parish Council to ensure that it has been provided in accordance with the agreed specification. The remaining half of the cost of the scheme is then released to the Parish Council upon formal confirmation to the District Council. In larger schemes, it is possible that a facility may be completed in phases and the funds released in stages.

ix) The Parish Council takes on responsibility for operating and maintaining the open space.

5. **There will be a criteria based system for allocating the funds.** It will operate as follows:

- For the first three years the funding will be available exclusively to the Parish in which the development has taken place.
- If the money remains unspent at the end of year three, then adjacent Parishes are given the opportunity to put forward detailed bids.
- Finally, at the end of year four if the money remains unspent then the District Council can use the money within the District for the improvement of existing or the provision of new leisure/recreation facilities.
- If the monies deposited in the fund have not been spent within five years then they will be returned to the developer with interest.

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## **Part 2 Section 3**

### **Waste and Recycling Facilities**

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## Waste and Recycling Facilities

### Justification

- 2.3.1 The detailed policy basis and justification for seeking developer provision or contributions in respect of waste and recycling facilities is set out in national planning policy guidance (e.g. PPS1, PPG23 and PPS10: Planning and Waste Management), the current development plan (Regional Spatial Strategy and the saved SDLP, particularly Policies ENV1 and CS6) and is further detailed in the document below.

### Land Use

- 2.3.2 Developer contributions for Waste and Recycling Facilities will be sought in respect of residential development (including conversions/subdivision of existing dwellings to create flats, apartments, etc.).
- 2.3.3 The Council intends to supplement this guidance in due course to include advice on requirements for non-residential developments. In the meantime, where large-scale development for uses such as retail or B1 commercial developments are proposed, the LPA may seek provision or contributions by developers for a scheme to provide sustainable waste and recycling facilities.

### Thresholds

- 2.3.4 All new residential developments are to be designed to accommodate refuse bins and waste recycling facilities in a way that facilitates the collection of refuse and materials for recycling, without harming residential and visual amenity.
- 2.3.5 On all schemes that would result in four (4) or more new residential units, the Council will seek provision or a contribution from the developer to ensure that, prior to the occupation of any dwelling, storage bins and boxes are provided. These thresholds apply also to conversions from other uses to dwellings and conversions of existing dwellings into flats, etc. As far as developments where communal waste and recycling facilities are concerned, provision in kind or contributions of money will also be sought for developments of 4 dwellings or more.
- 2.3.6 In assessing whether a proposed development or a site is eligible for seeking the provision of Waste and Recycling facilities, the number of dwellings specified in this guidance will apply to or take into account the cumulative area to be developed for housing. For example, where a development is made up of two or more phases, or is the subject of two or more separate planning applications, the total number of dwellings will be the basis for determining whether provision will be sought. Thus developers should be aware that the Waste and Recycling requirement



cannot be avoided by dealing with a site through more than one planning application.

### **Methodology**

- 2.3.7 Detailed design guidance and standards for Waste and Recycling Facilities is provided below.
- 2.3.8 In summary, contributions will be sought towards the extension of the refuse collection and recycling programmes and provide kerb-side recycling to new residential and in some cases commercial units through the provision of bins and boxes.
- 2.3.9 Specific on-site requirements will relate to sufficient, convenient and well-designed facilities for waste segregation and storage within residential or commercial curtilages and/or communal facilities within a development site comprising many dwellings or commercial properties.
- 2.3.10 The guidance will also apply to seeking developer contributions, if appropriate, for additional capital expenditure required for waste and recycling facilities made necessary as a direct consequence of new development.
- 2.3.11 Planning conditions will be used and/or legal agreements or undertakings will be sought to ensure adequate and appropriate provision for refuse collection and recycling. It is also considered that in some cases it may be appropriate to accept 'Voluntary Contributions' from developers at the time of submitting the planning application (see further details below).

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## Planning Guidance for Waste and Recycling Facilities

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### 1.0 Introduction and Purpose

#### *General*

- 1.1 The Council expects high quality and inclusive design in all new developments and this document provides design guidance to be taken into account by developers to ensure that new development 'designs-in' storage for waste and recyclables containers.
- 1.2 The Council is required to meet targets for household waste recycling which require significant co-operation in waste separation by householders and part of achieving this involvement is the designing-in of appropriate storage in all new development as well as requiring that developers provide bins and containers when the new dwellings become occupied.

#### *What this Guidance seeks to achieve*

- 1.3 The Council is seeking to ensure that adequate provision is designed into all new dwellings and building conversions to housing units for waste storage, separation of recyclables and access for collection. Such facilities may also be achievable where significant refurbishment of existing dwellings is taking place.
- 1.4 Adopting such measures will make storage and separation of waste more acceptable to occupiers and the collection of waste and materials placed out for recycling safer and more efficient. The following issues are addressed:
- a) Types and sizes of containers to be provided for waste storage and segregation of recyclable materials at new and refurbished properties.
  - b) Storage points for waste and recycling containers appropriate to the type of property are designed into the development, with good access for removing such containers by occupiers to the point of collection.
  - c) Access for collection by contractors, not involving excessive carrying or wheeling distances or undue manoeuvring for collection vehicles.
- c) Provision of storage for both waste and recyclable materials at individual dwellings, wherever practicable, thus promoting

occupier acceptance and avoiding the problems of vandalism and misuse associated with communal storage areas.

- e) Differing waste storage and collection needs at individual and semi-detached dwellings, flats, terrace housing and refurbished dwellings or building conversions.
- f) Design of communal container storage, where this is the most practicable option to promote ownership by occupiers and thus maximum participation in waste separation, whilst retaining reasonable access for collection vehicles.

1.5 The LPA will be seeking a contribution from the developer of any schemes resulting in 4 or more new residential units towards the extension of the refuse collection and recycling programme and provide kerb-side recycling to those new units. The guidance will also apply seeking developer contributions for additional capital expenditure required as a direct consequence of new development. The threshold applies to conversions from other uses to dwellings and conversions of existing dwellings into flats). As far as developments where communal waste and recycling facilities are concerned, provision in kind or contributions of money will also be sought for developments of 4 dwellings or more.

1.6 The Guidance relates to the Council's current waste and recycling collection service. Developers and builders should contact the Council's Recycling Officer for further information and for updates on the Council's waste and recycling services in specific parts of the District.

1.7 In individual cases where large-scale development for uses such as retail or B1 office developments are proposed, the LPA may seek provision or contributions by developers for a scheme for the sustainable waste and recycling facilities.

## **2.0 Policy Context**

### *European Policy*

2.1 The Framework Directive on Waste (as amended 1991) seeks to achieve the objectives of the EU Waste Strategy which are: to protect human health and the environment; minimise the production of waste; waste recovery by recycling, re-use or reclamation; and establish an integrated system of waste facilities. The EU Landfill Directive's (1999) main objective is to ensure high standards for the disposal of waste within the EU, to stimulate recycling and recovery of waste and to reduce emissions of methane.

2.2 One of the main objectives of the Landfill Directive is to reduce the amount of biodegradable municipal waste to landfill to 35% of 1995 levels by 2020 in the UK. There are also intermediate targets of 75% by 2010 and 50% by 2013.

*National Policy*

2.3 "Waste Strategy 2000" was published in May 2000. This sets out a vision for waste management. At the centre of this vision is the need to reduce the amount of waste that is produced and to put that waste to good use through substantial increases in re-use, recycling and recovery of energy.

2.4 The Government has set a number of challenging targets for waste management and therefore for recycling and composting of household waste including:

- To recycle or compost at least 25% of household waste by 2005, 30% by 2010 and 33% by 2015.

2.5 The Waste Strategy 2000 is currently being reviewed and a new one is due to be published later in 2007. The revised Strategy will set more stringent targets and the consultation document recommended the following:

- To recycle and compost at least 40% of household waste by 2010, at least 45% by 2015 and at least 50% by 2020.

2.6 In addition, Government policy set out in Planning Policy Guidance notes (PPGs) and Planning Policy Statements (PPSs) may be material to decisions on individual planning applications. Relevant policy is contained in PPS1 Delivering Sustainable Development, PPS22 Renewable Energy, PPG23 Planning and Pollution Control and PPS10 Planning for Sustainable Waste Management (May 2006). There is also a Companion Guide to PPS10, which gives further advice.

2.7 In particular PPS1 (Delivering Sustainable Development, 2005) states that planning should facilitate and promote sustainable and inclusive patterns of development (paragraph 5). Planning policies should promote high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but also over the lifetime of the development (paragraph 13). Development plan policies should take account of environmental issues such as the management of waste in ways that protect the environment and human health; including producing less waste and using it as a resource wherever possible (paragraph 20).

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*Regional Policy*

- 2.8 The statutory Regional Spatial Strategy (RSS) for Yorkshire and the Humber to 2016 contains a suite of policies relating to Resource Management:
- Policy R6 Targets for municipal waste management in the Region  
Policy R7 Promotion of 'bring' recycling facilities  
Policy R8 Identification of sites for new waste related businesses  
Policy R9 Provision of additional waste management facilities
- Policy R10 Energy from waste  
Policy R11 Disposal by landfill of residual waste arising
- 2.9 RSS also highlights that new building design and layout can contribute to effective waste management. Sustainable waste management initiatives may require on-site infrastructure as part of new development. Businesses may require additional plant, or larger site area, in order to put waste minimisation plans into practice. Specific provision should be made for space to allow the separation and collection of waste, consistent with the type of development in question, whether housing, industrial, commercial, retail, leisure or mixed use development.
- 2.10 Consequently Policy S6 of RSS (sustainable use of physical resources) requires that Local Authorities should, amongst a range of objectives:
- “c) Facilitate sustainable waste management by including policies in their development plans which require that all developers make appropriate provision in their proposed developments to facilitate effective management of waste. This should include: facilities to separate and store different types of waste at source; kerb-side collection; and accessible centralised facilities for the public to deposit waste for recycling or recovery (bring systems);”
- 2.11 Although the RSS is currently being reviewed and expected to be published later in 2007, many of the waste policies in the statutory RSS are not subject to review.

*County Policy*

- 2.12 The North Yorkshire County Structure Plan (as amended by Alteration No. 3 1995) provides the overall strategic policies for the County to 2006 and contains a number of policies (W1-W3) which relate directly to waste disposal. The Policies have been saved for 3 years under transitional arrangements under the new planning system.
- 2.13 The County Council adopted the North Yorkshire Waste Local Plan (WLP) in May 2006. Aims of the WLP include:

- To seek a reduction in the amount of waste that requires treatment and disposal; and
- To encourage a move away from traditional waste disposal methods to alternative methods of re-use and recovery.

2.14 Section 5 deals with reduction, re-use and recovery. Policy 5/4 of the WLP states that:

“Proposals for major retail and community developments will be required to provide facilities for the public to recycle waste within the related car parking area.”

2.15 North Yorkshire County Council (NYCC) is preparing a new Minerals and Waste Development Framework (MWDF) to replace the existing Minerals Local Plan (Adopted 1997) and Waste Local Plan (Adopted 2006). When adopted, the MWDF will set out the main planning and development control policies for minerals and waste developments in North Yorkshire. The Waste Core Strategy will set out a vision for waste in North Yorkshire for the period to 2021. It will include broad, strategic policies that will direct the type of development required over this period alongside policies to protect local communities and the environment. Consultation on Preferred Options for the Minerals and Waste Core Strategies concluded in February 2007. Further information can be found on the County's website at [www.northyorks.gov.uk](http://www.northyorks.gov.uk).

#### *Selby District Policies and Strategies*

2.16 In July 2006 the York and North Yorkshire Waste Management Partnership (consisting of the County Council, City of York Council and the North Yorkshire District Councils) adopted a new joint Waste Management Strategy (Let's Talk Rubbish 2006-2026 – see [www.rethinkrubbish-northyorks.com](http://www.rethinkrubbish-northyorks.com)). The Strategy seeks to meet the targets indicated in the review of the National Waste Strategy. Examples of the targets are:

- Recycle or compost 40% of households waste by 2010, 45% by 2013 and 50% by 2020
- Selby District Council Statutory Recycling and Composting target for 2007/08 is 20% (it was 18% in 2005/06).

2.17 The District Council's Waste Minimisation, Management and Recycling Strategy 2006-2010 sets out more detail about the Council's waste and recycling service and also looks at future options which need to be considered to enable us to meet the challenging targets. The Strategy includes targets for:

- Recycling and Composting 30.5% in 2007/08, 31.5% in 2008/09 and 32.5% in 2009/10.

- 2.18 Improving our waste management and recycling services and improving our street scene is one of Selby District Council's key priorities for 2007.
- 2.19 The Council's Annual Delivery Plan 2006/07 identifies Strategic Themes including 'protecting the environment' and 'making better uses of resources'. There are also key priority projects, including 'Waste Minimisation and Management'.
- 2.20 The Council's Community Strategy 2005–2010 identifies one of the main actions under Environment Issues as to "encourage people to reduce the amount of waste they produce, and work with partners to develop more environmentally friendly ways of getting rid of waste".

*Statutory Selby District Local Plan*

- 2.21 The adopted Selby District Local Plan (February 2005) includes the following objectives as the guiding principles behind the Environment Policies:
- To safeguard the environment and the public from the effects of pollution and to minimise the risk from flooding and hazardous development.
  - To ensure that new development meets appropriate technical requirements and respects the character and amenity of the locality in which it is situated.
  - To encourage high standards of design and landscaping, and improvements in environmental quality.
- 2.22 Policy ENV1 provides that proposals for development will be permitted provided a good quality of development would be achieved. In considering proposals the District Council will take account of: the effect upon the character of the area or the amenity of adjoining occupiers; the relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site, and the arrangements to be made for car parking; the capacity of local services and infrastructure to serve the proposal, or the arrangements to be made for upgrading, or providing services and infrastructure; the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping; and any other material considerations.
- 2.23 Policy CS6 states that the District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development. Normally, these requirements will be imposed through conditions attached to the grant of planning permission. Where this is not appropriate, the District Council will seek to negotiate

Section 106 planning obligation agreements or undertakings with developers to secure direct provision and/or a financial contribution towards the provision of facilities or works, subject to the requirements of Circular 05/2005 (Planning Obligations) that such provision and/or contributions are:

- fairly and reasonably related in scale and kind to the proposed development; and
- necessary in planning terms to remedy any shortfalls or adverse impacts resulting from the proposed development; or
- necessary to make the proposal acceptable in land use planning terms.

2.24 In determining planning applications, the District Council will need to take into account all material considerations including design issues and the provision of 'infrastructure' necessary to support the development.

### **3.0 Status of this Guidance**

3.1 This Guidance is therefore provided to ensure the effective implementation of the range of policies and strategies outlined in Section 2 above.

3.2 This Planning Guidance relates only to requirements for new residential developments (including conversions). In individual cases where large-scale development for uses such as retail or B1 office developments are proposed, the LPA may seek provision or contributions by developers for a scheme for the sustainable waste and recycling facilities. The Council intends to supplement this guidance in due course to include advice on requirements for non-residential developments.

3.3 This Planning Guidance is part of a formal Local Development Document (LDD) in the form of the Developer Contributions Supplementary Planning Document (DCSPD) linked to the saved Local Plan policies. It has therefore been subject to statutory consultation and adoption procedures and as such has greater weight in development control decisions.

### **4.0 Design Criteria and Provision for Waste and Recycling**

4.1 The aim of this Guidance is to ensure that all new residential developments (or the change of use or conversion of buildings to dwellings) are designed to accommodate refuse bins and waste recycling facilities in a way that readily facilitates the collection of domestic refuse and materials for recycling without causing harm to residential and visual amenity.

4.2 Developments should, as appropriate, provide facilities to enable:



- Separation and storage of different types of waste at source;
  - Kerb-side collection; and
  - Access to centralised facilities for the public to deposit waste for recycling or recovery (bring systems).
- 4.3 In most cases the Council's preferred solution will be for developers to ensure that individual properties are designed to be able to accommodate storage of the required refuse and recyclable material containers. Where not practicable then communal storage for containers should be provided on-site which is appropriately designed (to protect residential amenity as well as ease of access to deposit and collect). It may be appropriate in some, larger residential development schemes that developers provide suitable 'bring facilities' in addition to kerb-side facilities.
- 4.4 Design guidance is provided below and further detailed design guidance and technical requirements are provided in the attached Annexes to this Section.
- 4.5 **For individual and semi-detached dwellings** (see also detailed guidance at Annex 1) a storage point for at least the specified containers should be provided as an integral part of the design of each dwelling. The provision of recycling and refuse enclosures should be included in the design of buildings or boundary walls where possible.
- 4.6 **For some flatted, maisonettes and terraced dwellings schemes** (for example where the scale of the overall development is relatively small) it may also be practicable to provide waste and recyclable materials storage at individual dwellings. It is however more likely that the most practicable option will be communal facilities (see also detailed guidance at Annex 2).
- 4.7 Where **communal facilities** are provided these should:
- i) Be provided (either within the building or externally) at suitable locations within the development to provide waste and recyclable material storage within a reasonable distance for each occupier;
  - ii) Be of a high quality and inclusive design taking into account visual amenity issues as well as community safety and Secured by Design principles;
  - iii) Be properly constructed, screened and signed to encourage proper use and ownership by occupiers; and
  - iv) Have adequate dedicated access for servicing vehicles, including a level surface for collection staff to wheel containers.
- 4.8 For all developments, where bins/containers cannot be practically stored to the rear or side of a property, well-designed recycling and refuse enclosures should be provided in the forecourt or front garden if there is

no alternative and should be well located in relation to each dwelling. These should be kept as low as possible for visual amenity and security purposes; constructed in materials to match the front elevation of the property; provided with a watertight roof and doors; and screened by planting with adequate provision of soil, if appropriate.

- 4.9 Where containers need to be sited at the front of dwellings, a specific screened storage area should be provided as part of the overall design. Stands, containers and enclosures should be located conveniently to the nearest access point for the collection vehicles. Enclosures for mobile containers should be located where they can be screened from the street and neighbours; either by structures, buildings or landscaping whilst taking into account crime reduction issues and minimising the opportunities for anti-social behaviour and littering.
- 4.10 Stands and enclosures must be located not more than 25 metres from the nearest access point for the collection vehicle; and wheeled containers not more than 10 metres away from the vehicle access point and must be on a level surface.
- 4.11 Access roads and approaches to buildings should be level or have a low gradient from the refuse storage area. Drop kerbs should be provided to permit safe transfer of wheeled containers to carriageway level.

## **5.0 Containers for storing waste and recyclable materials**

- 5.1 The Council will seek, from developers of sites of 4 or more residential units, a Section 106 agreement or unilateral undertaking to provide at their own cost containers to the number, size and specification as detailed in the Annex 3 to this Section.
- 5.2 For individual housing units this will be two 240 litre wheeled containers and two 55 litre recycling boxes per dwelling. This requirement may need to be varied for larger dwellings.
- 5.3 For developments of flats/apartments and other instances where the Council has agreed that containers cannot reasonably be provided to individual residential housing units, wheeled 660 litre and 1100 litre bins are to be provided (commonly referred to as Euro bins), together with wheeled 360 litre containers. Where used for recyclable materials these will have purpose designed lids.

## **6.0 Access for collection vehicles (See also technical requirements at Annex 3)**

- 6.1 Provision of waste separation at dwellings inevitably means that there will be several containers per dwelling placed at the presentation point by occupiers. Similarly, at communal storage points, material separation will increase the number of collection journeys per visit.

- 6.2 The need for adequate access for vehicles and space at the curtilage should be considered within overall design. The issue of residents parking blocking access to communal areas should be addressed.
- 6.3 In no circumstances should distances for wheeling/carrying distances for collection staff exceed those in Section 4 above and ought on average within developments, to be significantly less (see also Annexes 1 and 2).

## **7.0 Bring Systems**

- 7.1 For larger housing developments, it may be appropriate to provide mini collection areas for recyclables in addition to kerb-side facilities. There are cost implications to the Council of servicing this type of 'bring' facility and developers would be required to make a reasonable contribution towards these costs through a S106 agreement.
- 7.2 Mini collection areas should be sited and laid out to ensure that the amenities of existing and future residents are not unacceptably adversely affected. The collection banks should be sited to allow for proper and safe access and where necessary appropriate screening should be provided. Such areas should be properly managed to avoid problems of litter etc.
- 7.3 Annex 4 to this guidance provides more detailed advice on the location and design of mini collection areas.

## **8.0 Use of Planning Conditions and Legal Agreements**

- 8.1 Planning conditions will be used and/or legal agreements or undertakings will be sought to ensure adequate and appropriate provision for refuse collection and recycling. It is also considered that in some cases it may be appropriate to accept 'Voluntary Contributions' from developers at the time of submitting the planning application (see further details below).
- 8.2 National guidance in Circular 11/95 provides guidance on the use of planning conditions to deliver facilities necessitated by new development. Circular 05/2005 provides guidance on the use of 'planning obligations' to enhance the quality of development. Policy CS6 of the adopted Selby District Local Plan sets out that the District Council will seek developer contributions for appropriate infrastructure and community facilities required as a result of new development.
- 8.3 The developer contributions should ensure that new properties are added to the Council's overall kerb-side collection scheme when new residents move into the property. Contributions may also ensure provision of public 'bring' schemes for recyclables in larger schemes, as appropriate.

- 8.4 The developer should contact the Recycling Officer to make arrangements for the timing for payment for bins/containers prior to the occupation of dwellings either individually or in blocks.
- 8.5 The usual practice with regard to ensuring the provision of facilities and collecting development contributions will be by means of condition attached to planning permission or a Section 106 Agreement.
- 8.6 However, where the scale of provision and/or the monetary contributions required towards recycling are relatively small and where contributions are not triggered for other services or facilities, the costs of drafting a legal agreement solely for this contribution would outweigh the sums involved. In these cases it may be acceptable for a developer to make a 'Voluntary Contribution' whereby the amount of money that towards waste and recycling is given to the Council when the application is submitted. This will be under a simple contract/written agreement that the contribution will be spent providing curtilage recycling to the new/refurbished dwellings. If planning permission is granted the payment will be cashed. If it is not, it will be returned.

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## **Annex 1 Dwellings provided with individual containers**

### 1. Containers

Each dwelling will require provision of:

One 240 litre wheeled bin, grey-black  
One 240 litre wheeled bin, green  
One 55 litre recycling box, blue, black lid  
One 55 litre recycling box, green, black lid  
*(The recycling boxes are stackable)*

Wheeled bins should be to the appropriate British or Equivalent European Standard and can be supplied by the Council.

The design of recycling boxes may vary by manufacturer. Those supplied should be of a type approved by the Council's Recycling Officer. The Council can supply boxes to an approved pattern.

It is anticipated that wherever practicable in cases of property refurbishment, or conversion of buildings into housing units, the requirements of this guidance will apply wherever practicable, including funding by the developer/builder of the provision of containers at developments of sites with 4 dwellings and over.

**Developers of sites where 4 or more dwellings** are to be built should contact the Environmental Health Department Cleansing Section **Recycling Help Line on 01757 292225** regarding the cost for supplying two wheeled bins and two storage boxes, delivered as one order, to a dwelling, or in batches to a developer. The costs include the initial cost of publicising the service and is not intended to fund the ongoing cost of service provision.

### 2. Payment methods

The usual practice will be to ensure provision of facilities or collect development contributions by means of condition or a Section 106 Obligation agreement/undertaking). Where the scale of provision and/or the monetary contributions required towards recycling are relatively small and where contributions are not triggered for other services or facilities, the costs of drafting a legal agreement solely for this contribution would outweigh the sums involved, in these cases it may be acceptable for a developer/builder to make a 'Voluntary Contribution' wherein the required amount towards waste and recycling is given to the Council when the application is submitted. This will be under a simple contract/written agreement that the contribution will be spent providing curtilage recycling to the new/refurbished dwellings. If planning permission is granted the payment will be cashed. If it is not, it will be returned.

### 3. Access/Storage

Council policy is that refuse containers are presented on collection days at the curtilage of the property by the occupiers of individual dwellings. Adequate access from the container storage point should be provided to facilitate this.

Wheeled bins are easy to manoeuvre, providing that they are not overfilled, and short flights of steps (up to 3 steps) can be negotiated. Gradients of access paths should not exceed 1 in 10.

Visual impact can be minimised by considering container storage at the design stage. To discourage wheeled bins from being left visibly in front gardens to the detriment of visual amenity, wheeled bin stores or purpose designed screening should be provided to the front of all new properties and at refurbished properties where practicable, where there is no alternative such as: -

- Defined space within a garage where bins can be stored, or
- Rear access to allow storage of containers at the rear of the dwelling and removal to the property curtilage.

Where there is adequate access to the rear of the dwelling, a sufficient suitable paved area should be provided for stationing the wheeled containers and boxes.

### 4. Access for refuse and recycling vehicles

All access roads to be used by refuse and/or recycling vehicles, whether private or adopted shall; be designed in accordance with the requirements of North Yorkshire County Council relating to highways designed to take vehicles of not less than 28 tonnes gross vehicle weight.

Refuse and recycling vehicles must be able to gain access to within 25 metres of the designated presentation point for collection at any individual property curtilage.

The presentation point for dwellings served by shared driveways constructed of brick pavers or other surface considered liable to damage due by frequent access by collection vehicles will be designated as where such driveway abuts the adopted highway.

## **Annex 2 Dwellings provided with communal waste and recycling facilities**

### 1. Containers

It may be practicable for small new developments to have some individual waste and recyclables storage. In terraced development, preference might be for purpose designed screened individual storage areas.

It is also anticipated that wherever practicable in cases of property refurbishment, or conversion of buildings into housing units, the requirements of this guidance will apply wherever practicable, including funding by the developer/builder of the provision of containers at developments of sites with 4 dwellings and over.

Typically, groups of dwellings - flats, maisonettes and terraces will require communal storage areas with sufficient container capacity for each separate waste and recyclables stream for the estimated volume of waste likely to be generated. This will be based on the capacity specified for individual dwellings and taking into account:

- i) Any reduction in overall capacity that can be allowed due to a potential lower level of occupancy.
- ii) The likely required level of capacity for each of the waste and recyclables based on experience of recycling activity and anticipated demand for waste separation.

This should be discussed at an early design stage with the Council's Recycling Officer.

The Container mix for communal storage sites is likely to include 360, 660, and 1100 litre wheeled bins. These should be to the appropriate British or Equivalent European Standard and can be supplied by the Council.

**Developers of sites where 4 or more dwellings** are to be built should contact the Environmental Health Department Cleansing Section **Recycling Help Line on 01757 292225** regarding the cost for supplying communal containers (360 litre, 660 litre and 1100 litre containers), delivered as one order, or in batches to a developer. This includes the provision of containers with specific apertures for recyclables where appropriate. The costs include the initial cost of publicising the service and are not intended to fund the ongoing cost of service provision.

### 2. Payment methods

The usual practice will be to ensure provision of facilities or collect development contributions by means of condition or a Section 106



Obligation agreement/undertaking). Where the scale of provision and/or the monetary contributions required towards recycling are relatively small and where

contributions are not triggered for other services or facilities, the costs of drafting a legal agreement solely for this contribution would outweigh the sums involved, in these cases it may be acceptable for a developer/builder to make a 'Voluntary Contribution' wherein the required amount towards waste and recycling is given to the Council when the application is submitted. This will be under a simple contract/written agreement that the contribution will be spent providing curtilage recycling to the new/refurbished dwellings. If planning permission is granted the payment will be cashed. If it is not, it will be returned.

### 3. Storage sites and access for occupiers

Communal waste storage and recycling facilities are successful where they relate logically to specific dwellings, are included within the overall site design concept and where there is ready access for occupiers.

It is the Council's intention that there should be good balance between the need to provide vehicular access to such points, which inevitable restricts their number, and ensuring that occupiers are provided, with the same encouragement to segregate waste and to retain accountability for the sites as occupiers of dwellings provided with individual facilities.

It is the Council's intention to minimise visual impact by considering container storage at the design stage, so that these can be constructed as an integral part of the development in keeping with the style and design of surrounding property.

Communal storage areas should be:

- i) Logically positioned so as to relate to the dwellings they service;
- ii) Of adequate size to hold the number of containers required, allowing space for access by occupiers and removal by service staff;
- iii) Adequately lit, by both natural and artificial lighting;
- iv) Designed to have a smooth, easily cleanable floor, laid to a fall with suitable drainage;
- v) Suitably screened and enclosed to protect the visual amenities of the area, achieved for example through a combination of walls, fencing and landscaping or as part of a roofed structure;
- vi) Provided with a notice showing the properties entitled to deposit waste and recyclables; and

- vii) Provided with doors (where facilities are provided as a building) with a clear opening width of at least 1.5 metres and a facility to hold doors open during collection and bump strips at an appropriate height to avoid damage by containers.

The Council's Recycling Officer can provide advice on typical storage areas, based on the number and dimensions of containers provided.

#### 4. Access for refuse and recycling vehicles

All access roads to be used by refuse and/or recycling vehicles, whether private or adopted shall; be designed in accordance with the requirements of North Yorkshire County Council relating to standards of adopted highways designed to take vehicles of not less than 28 tonnes gross vehicle weight.

Refuse and recycling collection vehicles are, by their very nature not always the most manoeuvrable. Bin lifting hoists increase rear overhang and chassis design includes for traversing landfill sites. For turning circles of typical collection vehicles contact the Recycling Officer.

Refuse and recycling vehicles must be able to gain access to within 25 metres of any communal bin storage point.

Any paving between the vehicle access point and the container storage point shall be to a maximum gradient of 1 in 12, at least 1.5 metres wide and free of steps, including for the provision of ramped steps where the path meets the highway.

**Annex 3 Technical Specifications**

**Containers for storage of waste and recyclable materials**

Container capacity	55 litre box	240 litres wheeled	360 litres wheeled	660 litres wheeled	1100 litres wheeled
Height	380 mm including lid	1076 mm	1076 mm	1370 mm	1370 mm
Width	520 mm plus handles	730 mm	755 mm	1275 mm	1275 mm
Depth	365 mm	580 mm	690 mm	720 mm	980 mm
Wheel diameter	none	200 mm	200 mm	200 mm	200 mm

**Individual dwellings**

Containers provided for use by individual occupiers will normally be standard pattern 240 litre wheeled bins and recycling boxes. The Council however operates a policy of assisted collections for elderly and disabled occupiers where there is no able bodied person within the household. In such circumstances, the Council may seek to modify the number or type of containers provided by developers at individual dwellings replacing them in due course at a subsequent change of occupier.

**Communal Containers**

Communal waste and recyclables storage points will be normally be provided with:

- i) For the waste stream 1100 or 660 litre steel Euro pattern wheeled containers
- ii) For each recyclable stream that is required to be kept separate, steel Euro bins as (i) above, or plastic 360 litre wheeled bins, with lids modified to receive the materials identified.

**Materials Separation**

The Council's current waste and recycling collection service involves separation into the following waste streams:

240-litre grey/black bin	- residual waste
Blue box	- glass bottles, jars, cans, aerosols, foil
Green box	- newspaper and card
240 litre green bin*	- garden greens

\*currently to almost 21 000 properties and due to be expanded to cover the remainder of the District by 2007/8.

Communal sites will be provided with similar opportunities for materials separation.

## **Annex 4 Bring Systems – Mini Collection Areas**

### **Design Guidance**

1. The collection areas should be appropriately located within the site to balance ease of use with ease of collection as well as avoiding loss of amenity to local occupiers in terms of noise disturbance for example.
2. Each bin/skip usually requires one car parking space. The provision of 4 car parking spaces will normally provide the optimum area for all recycling uses.
3. The base of the area should be constructed of a hard surface material in keeping with the style and design of the surrounding area.
4. Access will need to be gained from one side of the recycling bins/skips to allow a refuse vehicle or similar to collect for emptying.
5. The bins/skips should be positioned to allow a vehicle to park alongside for a short period to off-load materials.
6. The area should be wherever possible screened from view to protect visual amenity. This may be achieved through a combination of walls, fencing and landscaping.
7. Although adequately screened, the collection area should be appropriately signed to allow full and proper use and be so designed to minimize the opportunities for concealment in order to reduce crime or the fear of crime or anti-social behaviour (in accordance with Secured by Design principles).

## **Part 2 Section 4**

### **Primary and Secondary Education Facilities, Primary Health Care Facilities and Community Facilities**

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## **Primary and Secondary Education Facilities, Primary Health Care Facilities and Community Facilities**

### **Justification**

2.4.1 The detailed policy and justification basis for seeking developer provision or contributions in respect of education, primary health care and community facilities is set out in national planning policy guidance (e.g. PPS1 and PPS7) and the development plan (Regional Spatial Strategy and the saved SDLP, particularly Policies ENV1 and CS6).

### **Land Use**

2.4.2 As far as Education, Primary Health Care and Community Facilities are concerned, developer contributions will normally be sought in respect of residential development. However, the Council will consider seeking contributions for large retail and employment generating uses, where a direct impact on the need for the facilities or otherwise to mitigate the impact of major development on the local community in the area around the development can be clearly demonstrated.

### **Thresholds**

2.4.3 The threshold for seeking provision or contributions in respect of primary education, primary health care and community facilities is sites of 25 dwellings or more in the three market towns: Selby, Tadcaster and Sherburn in Elmet and 15 or more dwellings in the rural areas. For secondary education, where the 'multiplier' (pupils in an age cohort resulting from the families moving into new housing developments) is lower, the minimum size of capital project identifiable with the needs arising out of a new development and the provision of schooling is less local, the threshold for seeking contributions will be developments of 150 dwellings or more.

2.4.4 In assessing whether a proposed development or a site is eligible for seeking the provision of or contributions towards Education and/or Primary Health Care facilities, the number of dwellings specified in this guidance will apply to or take into account the cumulative area to be developed for housing. For example, where a development is made up of two or more phases, or is the subject of two or more separate planning applications, the total number of dwellings will be the basis for determining whether provision will be sought. Thus developers should be aware that if it is considered that a contribution is justified, the requirement cannot be avoided by dealing with a site through more than one planning application.



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## Education Facilities

### 1. Methodology

- 1.1 With regard to contributions towards Primary school education facilities, North Yorkshire County Council has, since 1997, operated a policy and methodology that applies to all residential developments of over 25 dwellings, having regard to the impact they would have on local Primary education provision.
- 1.2 The established methodology (see detailed guidance below) for primary education facilities will be adapted to apply to contributions sought in accordance with the rural threshold of 15 dwellings. Similarly the existing methodology, using different formulae, will be applied to seeking contributions towards Secondary education facilities.

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## Planning Guidance for Education Facilities

### Education Facilities

#### 2. Calculating Developer Contributions to Education Facilities

- 2.1 There is a need to apply some rate, for example for the number of children per household, which is reasonable in the area, and apply cost formulae to that. Such formulae are not rigid as they reflect the impact of a particular development.
- 2.2 Contributions will not be sought for sheltered accommodation or genuine elderly person, student or holiday accommodation. Such accommodation will be that which clearly is incapable of occupation for general residential purposes by virtue of its internal layout, ownership or management or which has occupancy restricted by planning condition or legal agreement<sup>8</sup>.
- 2.3 Contributions will not be sought for temporary housing or bedsits and one-bedroom dwellings, if they are clearly incapable of being enlarged to two-bedroom units.
- 2.4 Any planning permission granted for the change of use from sheltered or elderly persons, student or holiday accommodation or from one-bedroom flats to general residential units or two-bedroom flats and so on, would be subject to a contribution if the number of units exceeds the threshold criteria set below. Contributions will not be sought for changes of use or

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<sup>8</sup> Note: if such an 'occupancy condition' (or planning obligation) is removed, education contributions may be sought.

conversion or redevelopment schemes where there is no net increase in the number of residential units to which contributions would apply.

- 2.5 The basis devised by the North Yorkshire County Council Children’s Services Authority (the “CSA” – previously the Local Education Authority or LEA) for calculating the contributions for Primary school places (age 5-11) as at April 2006<sup>9</sup> is as follows:

	£10372	(DfES’s cost multiplier)
x	0.97	(regional factor)
+	10%	(fees)
+	£383	(furniture/equipment)
=	<b>£11450</b>	per primary place

The equivalent calculation for Secondary education produces a figure of £17293 per Secondary place (11-16 year olds only).

- 2.6 The elements within this formula will be subject to annual review by the CSA in line with Central Government guidelines. The cost multiplier is the assessment made by the Government for the cost of a school place. The regional factor is an adjustment for local (County wide) costs of provision. The 10% addition represents an allowance for contingencies and fees.
- 2.7 The CSA will address accommodation needs at Secondary schools (as they apply to 11-16 year olds) caused by additional housing. The District Council will then, in conjunction with the CSA, where it is considered to be necessary and appropriate, seek Secondary school contributions in the light of changing circumstances and particularly in relation to large-scale developments.
- 2.8 Calculations are made on the basis that 0.25 Primary school places and 0.13 Secondary school places (11-16 year old pupils only) are generated per relevant house or residential unit. The number of children generated by residential development will vary depending on the type and size of dwelling and by the location of the development. In some cases a developer may argue that houses are built for a particular market, for example couples, starter homes or that a development is not within easy reach of a Primary school. The District Council and CSA will not normally reduce the basis for the calculations to account for variables such as these, because, over time, any dwelling (excluding sheltered, elderly person only, or one-bedroom units) in any location has the potential to accommodate children of Primary school age.

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<sup>9</sup> Note: these most up-to-date figures will be superseded so developers should always check with the District Council or CSA whether they still apply.

- 2.9 The Primary school contributions will normally apply to developments of 25 units or more in the three market towns of Selby, Tadcaster and Sherburn in Elmet and 15 or more dwellings in the rural areas regardless of site area. The Secondary school contributions will normally apply to developments of 150 dwellings or more and sites of 5 hectares or more. Care will be taken to ensure the total development site is not deliberately sub-divided and phased in an attempt to avoid this threshold.
- 2.10 Forecasts of future school capacity and national population growth are made by the CSA over a three-year period. If, following these calculations the local primary school is deemed to be at capacity in year 3, contributions will be sought at the full rate. If the school is “X” places short of capacity and the development generates “Y” places, contributions will be sought on the difference between “X” and “Y”. If “X” is greater than “Y” no contribution will be sought. Calculations will be based on the number of houses included in the detailed planning application. Any increase in the number of units approved through, for example, a revised application, will generate additional contributions. No account will be taken of the rate of house building on the site, as this is an uncertain variable.
- 2.11 The basis of the calculations set above will be subject to review, independent audit and change in the light of new demographic and other trends.
- 2.12 Contributions are only required where a local need is identified and, therefore, there is an obligation to show how funds received will be spent within a prescribed period, how they will deal with the identified impact, and in a manner which will be set out by the CSA. The CSA will incorporate provision for the return of contributions after 10 years if not spent. In the majority of cases funds will be spent on the local Primary or Secondary school. However, the CSA reserves the right to allocate the funds to other schools if overall education strategy or changes in catchments or parental choice so demand and the agreement of the District Council is secured.
- 2.13 In the event of increased costs of implementing additional school places, no additional contributions will be sought from developers. The contribution is a once-only payment linked to the planning permission. Contributions will be secured by direct payment or by way of a Section 106 Agreement.
- 2.14 An ‘in kind’ contribution to meeting identified need through the developer building classrooms for example to an agreed standard is a preferred alternative to a financial contribution. The provision of temporary or mobile classrooms is not an acceptable alternative.

2.15 Normally, contributions will be required no later than the first occupation of the new dwellings. In certain circumstances (for example on large sites) payment of contributions may be delayed or phased by agreement with the CSA.

### **3. Procedure**

3.1 Where development briefs are being prepared for large housing sites, the need for any commuted payment for education will be addressed through consultation with the CSA. Information on the likely position on the provision of school places over the next 5 years will be available from the County Council's School Organisation Plan. The CSA will also be able to respond to house-builders' queries for individual sites.

3.2 Upon receipt of a relevant planning application, the District Council will contact the CSA to establish whether contributions are necessary in the particular case. The applicant and the Council will be notified accordingly and negotiations will take place between the CSA and the applicant/developer. The decision on the application and therefore on the need for a Section 106 Agreement is a matter for the Council. As a general principle the Council will not issue a decision notice on the application until agreement has been reached between the two parties. Any contribution due will be made payable to the North Yorkshire County Council (as Children's Services Authority) and not the District Council as Local Planning Authority.

**Figure 1 Assessment Form used by the CSA to determine the need for developer contributions towards Primary school buildings**

**ADVICE ONLY - PLEASE CONSULT RELEVANT PLANNING AUTHORITY**

**Assessment of need for developer contributions towards Primary school buildings**

District/Borough Council	#N/A	Planning Application Number/Ref	0	Our Ref	Dev1
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Site Address	0
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Contact Name	0	Contact Telephone No.	0	Contact Fax No.	0
Proposed Developer	0	No. of properties	0	Details requested for	(date)

School	#N/A	DFES No.	0
Net Capacity of School (A)			#N/A
Number of pupils on roll as at May 2006			#N/A
Forecast pupils on roll 06/07 (B)			#N/A
Surplus/Deficit in academic year 06/07 (A-B)			#N/A
Estimated pupils from housing			0
Shortfall of places			#N/A
Anticipated need for new school places			#N/A
Amount per place			£11,450
Contribution sought			#N/A

Likely requirements	
---------------------	--

Officer providing information	Nicola Howells
Telephone Number	01609 532258
Date	

A similar form of assessment will be carried out to determine whether contributions will be sought for Secondary school buildings or other facilities.

## Primary Health Care Facilities

### 1. Methodology

1. The North Yorkshire and York Primary Care Trust (the PCT) has developed a methodology to assess developer contributions for primary health care facilities. This has been used in negotiations in respect of the large residential development at Staynor Hall, Selby and other large residential developments for sites allocated in the Selby District Local Plan. This methodology will be applied to smaller housing schemes and is described in more detail below.

### 2. Mechanism and Stages

- 2.1 The mechanism to inform negotiations with developers in respect of primary health care contributions are set out below in terms of the steps to be taken to determine the level of need and contribution when development schemes are in the planning stage.
- 2.2 Stage 1 – **Determination of health care need.** This requires an assessment of the scope and level of residential, commercial and related development proposed in the location. Details of the numbers of units proposed needs to be analysed along with the impact on the overall population in the locality and employment considerations. This stage will determine the envisaged overall population increase.
- 2.3 Stage 2 – **Determination of impact upon primary health care provision in primary, community and out reach requirements.** The total increase in population figures will be used to determine the impact primarily upon general practice and any increased need for additional family doctors. The general national guidance is that PCTs should aim to ensure that the maximum number of patients per list size (each doctor) is 1800. Taking this norm and comparing this against the additional population figures enables an estimate to be made of the increase in general practitioners (GPs) required. Given this assessment an analysis of attached PCT and/or hospital based services required to support the size of general practice will also be considered.
- 2.4 Stage 3 – **Determination of the design and estates solution.** Having determined the size of general practice required and identified a functional content for the facility development required, reference would be made to relevant NHS Design Guidance for Primary Care Facilities. This guidance includes “Primary and Social Care Premises Planning and Design Guidance”, “Statement of Fees and Allowances Schedule of Costs Limits and Building Location Factors” and “Health Building Note No. 36 Local Healthcare Facilities”. All these guidance documents are issued by NHS Estates. This process will determine the schedule of accommodation required and the initial spatial assessment of the size of the facility required.

- 2.5 The initial proposed solution as a result of this assessment would relate to the location, condition and functional suitability of existing practice premises in the locality, in order to determine if a new build within the proposed development boundaries is the preferred solution. Alternatively the PCT may advise that extension and refurbishment of existing premises in the locality is the preferred option.
- 2.6 Stage 4 – **Determination of an initial capital feasibility cost.** Depending on the preferred solution, an estimate of capital costs will be made using the “Departmental Cost Allowance Guide” as issued by NHS Estates. This provides a cost per metres squared (m<sup>2</sup>) for new developments based on the estates solution and has sections that can be applied to primary care. The guidance is based upon cost intelligence on tendered construction schemes within the NHS.
- 2.7 Where the preferred solution is provision off-site, the starting point for assessing the scale of the contribution will be the cost of provision on-site. If the off-site provision involves land purchase, the developer contribution will be limited to the value of the land that would be taken if the facility were to be provided on-site, or the actual cost of the off-site land, whichever would be the lowest. If the off-site provision is in the form of new building works or capital works to refurbish or otherwise improve, re-equip, etc., existing buildings on sites already owned by the body receiving/using the contribution, the land value element of on-site provision would not necessarily be included in the monetary value of the contribution.

## **Community Facilities**

### **1. Methodology**

- 1.1 A tried and tested and sound methodology has been devised and applied to the provision of Recreation Open Space (ROS). ROS is simply one form of community facility, which happens to have a long history of being dealt with through the planning system (for example through policy guidance in PPG17). It is sensible, therefore to deal with the provision of other Community Facilities in a similar manner.
- 1.2 As with contributions relating to ROS, an assessment of the local need for community facilities will be made, in consultation with local organisations and other stakeholders. Where such a need can be directly related to the impacts of new development, negotiations will be undertaken to determine whether or not provision or contributions should be sought.
- 1.3 The types of facility to be considered in terms of seeking developer provision or contributions will include community/village halls, meeting rooms/parish council offices, indoor recreational or sporting facilities and community information points/boards/systems; though it must be stressed that these are just examples of the types of scheme that may come forward.
- 1.4 In considering contributions to community facilities the importance of seeking the co-location of all types of social, educational, health and community services may be taken into account. This could include the co-location of education and community based health activities or community facilities on school sites, through initiatives such as Children's Centres and Extended Schools; but such facilities would normally need to be linked to local community based initiatives and provide for access by the wider community.
- 1.5 The contributions could be used for both new build/provision and improvements requiring capital expenditure, but not repairs, maintenance and other revenue expenditure.
- 1.6 It is envisaged that the management of the distribution of contributions would be similar to how ROS contributions are dealt with. Thus the preference will be for on-site provision but there will be scope for off-site provision if this can be demonstrated to be clearly preferable.
- 1.7 Consideration will be given to the carrying out of an assessment of need for community facilities throughout the District, possibly in the form taken by the 'Selby District Recreation Open Space Strategy' and also to the desirability of preparing further planning guidance for this subject area on the basis of a demonstration of need.



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## **Part 2 Section 5**

### **Transport/Highways Infrastructure and Facilities and Drainage Infrastructure**

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## **Transport/Highways Infrastructure and Facilities and Drainage Infrastructure**

### **Justification**

- 2.5.1 The detailed policy basis and justification for seeking developer provision or contributions in respect of Transport/Highways Infrastructure and Facilities and Drainage Infrastructure is set out in national planning policy guidance (e.g. PPS1, PPS3, PPG13, PPG23 and PPS25), and the current development plan (Regional Spatial Strategy (see Policy S6 c) and the saved SDLP, particularly Policies ENV1 and CS6).
- 2.5.2 Developers will often be required to make contributions in respect of highways and drainage infrastructure under statutory provisions outside the planning system; for example Section 278 of the Highways Act, for off-site highway works such as junction improvements. However, such infrastructure improvement works may also be secured through conditions attached to planning permissions and/or through Section 106 Planning Obligation Agreements or Undertakings (under the Town and Country Planning Act).
- 2.5.3 In addition to the basic physical infrastructure for highway and drainage provision and improvements, it is justified in connection with larger developments to seek contributions or provision relating to a wide range of matters, including public transport facilities, for example bus stops/shelters, parking and passenger facilities at nearby railway and bus stations, financing the establishment of new bus routes and Travel Plans.

### **Land Use**

- 2.5.4 In the cases where provision is sought through the planning process, new development for any type of land use could justify developer contributions to be sought towards transport/highways infrastructure and facilities and drainage infrastructure.

### **Thresholds**

- 2.5.5 No specific threshold is set here in respect of seeking developer contributions towards transport/highway or drainage infrastructure or facilities. In principle, any size of development could lead to negotiations to seek developer contributions for such infrastructure or facilities. In practice, it will usually be larger scale developments, or more complex 'brownfield' sites (previously developed land) that would involve negotiations being initiated by the District Council. The evaluation of when and at what scale developer contributions are to be sought will be carried out on a case-by-case basis.

2.5.6 Transport Assessments will normally be required to be submitted in connection with planning applications for larger developments and will often be the basis for identifying and justifying whether, what, where, how and when transport/highways infrastructure, facilities and measures should be provided by or contributed to by developers. In the case of drainage infrastructure various forms of technical study will help to assess and determine what developments require what provisions/contributions; for surface water drainage, in some circumstances it will be a Flood Risk Assessment that forms the basis for such evaluations and decisions.

## **Methodology**

2.5.7 With regard to physical improvements directly attributable to the identified impacts of a development, for example, improvements to an access road, or the need for a new surface water drain, almost any type or scale of development may require off-site works requiring developer contributions. Such provision and the securing of contributions may often be dealt with through planning conditions and agreements with Highway or Drainage Authorities under statutory provision other than the Planning Acts.

2.5.8 More complex arrangements and requirements resulting from larger developments are more likely to require the negotiation of developer contributions, secured through a Section 106 Agreement or Undertaking. Such contributions could be sought in respect of significant off-site highway or drainage improvements and/or, in terms of sustainable travel. Examples of the latter are provision for pedestrians and cyclists (including dedicated and designated routes), 'public transport' (e.g. funding towards new/extensions to bus services - together with necessary road improvements and furniture, parking at railway stations). Such provision would usually accord with Travel Plans submitted with planning applications or required by condition/Section 106. Contributions may be sought in connection with a development that would result in a significant increase in passenger numbers or where there would be reliance by many residents upon existing public transport facilities.

2.5.9 The methodologies for assessing whether developer contributions will be sought for the transport/highways infrastructure and facilities and drainage infrastructure, will be based on technical studies, such as: Transport Assessments (in accordance with PPG13 – Planning and Transport), Travel Plans and Flood Risk Assessments (in accordance with PPS25). Thus the assessment of whether developer contributions are necessary will be carried out on a case-by-case basis. The negotiations on what proportion of the costs of a particular infrastructure project should be the subject of a contribution, will be based on a specific and transparent methodology agreed between the parties involved (e.g. Highway/Drainage Authority, other infrastructure, facility or service provider, developer and the District Council).

## **Part 2 Section 6**

### **Local Employment Skills Training and Enhancement of the Public Realm**

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## **Local Employment Skills Training and Enhancement of the Public Realm**

### **Justification**

- 2.6.1 It is clear that Government planning guidance and the development plan provide a firm basis for Councils (as Local Planning Authorities) to consider the impacts of development on the environment, and the community and that their assessment and evaluation of such impacts can relate to anything that can be a consideration material to planning.
- 2.6.2 Planning Policy Guidance (for example PPS1, PPS7, PPS12 and PPG15) and the development plan, in the form of the approved and emerging Regional Spatial Strategy (RSS) and the 'saved' Selby District Local Plan (SDLP), contain a range of objectives and policies that are aimed at ensuring development of a high quality in terms of sustainability and design and in terms of economic and community development, such that all development, particularly large-scale schemes, should positively and directly contribute to the achievement of these aims. For example, in the approved RSS (December 2004) relevant Policies include:
- S1 (Applying the Sustainable Development Principles)
  - S3 (Urban and Rural Renaissance)
  - S4 (Urban and Rural Design)
  - E2 (Rural Employment Opportunities)
  - N2 (Historic and Cultural Resources).
- 2.6.3 In the emerging RSS (December 2005), relevant policies are Policies YH1 (Overall Approach), TH3 (Key Spatial Priorities), YH6 (Better Towns), YH7 (Vibrant Rural and Coastal Areas); and in the saved SDLP, relevant Policies are ENV1 (Control of Development) and CS6 (Developer Contributions).
- 2.6.4 The main theme of these policies is the renaissance and regeneration of communities and the enhancement of the basic conditions of a prosperous, diverse and civilised community; in order to ensure that new development benefits the physical and social qualities of the local area and does not cause it harm. Uncontrolled development, which serves only the narrow interests of the developer and new occupiers of the development, will, if unmitigated, harm the interests of the wider community.
- 2.6.5 In the light of this, it is considered by the Council that it is fully warranted in its intention to seek developer contributions in pursuance of economic development and environmental enhancement strategies and policies. Therefore, such contributions will be sought where it can be demonstrated as reasonable and justified to do so, for example, to



offset the harm or loss caused to the local community, or where there are needs and opportunities to provide Local Employment Skills Training and/or Enhancement of the Public Realm, which can be linked to the nature and scale of a development and its direct impact on local employment opportunities and on the cultural qualities and assets of the District and the communities resident in it.

## Land Use

2.6.6 The Council, in connection with any form of development, may seek contributions towards Local Employment Skills Training and Enhancement of the Public Realm.

## Thresholds

2.6.7 Provision or contributions for Local Employment Skills Training and Enhancement of the Public Realm have rarely been sought in the past and then only in the cases of very large developments, where a special justification was agreed between the Council and the developer. It is intended that contributions will be sought in more instances in future, but it likely that only large-scale developments would be eligible under these headings.

2.6.8 'Large-scale', for this purpose is defined as:

- Proposals for: 50 dwellings or more or 2 hectares or more (net dwelling density – PPS3 definition) of residential development;
- 2500 square metres (gross floor area), or 1 hectare or more (net dwelling density) of retail or B1/office development;
- 5000 square metres (gross floor area) or 2 hectares or more (net dwelling density) of B8 Storage/Warehousing or B2 General Industry.

2.6.9 The number of dwellings, floor areas and the site areas stated above apply to or take into account the cumulative floor or site area or total of number of dwellings to be constructed on a site or development where it is made up of two or more phases, or is the subject of two or more separate planning applications. Thus the requirement cannot be avoided by dealing with a site through more than one planning application.

2.6.10 Exceptionally, provision for Enhancement of the Public Realm, may be required where developments of a smaller scale than just indicated are proposed. For example, where such development could affect significantly sensitive or special parts of the public realm, such as areas of historic and/or architectural importance.

## Methodology

- 2.6.11 There is not a specific local formula or approach for seeking contributions with regard to the Local Employment Skills Training and Enhancement of the Public Realm. However, a key principle in considering and seeking developer contributions will be that there is a functional and/or geographical/spatial link between the development and the feature, measure, project or programme that the provision or contributions will support.
- 2.6.12 Local Employment Skills Training for the purposes of this guidance relates to the training of residents in the local community to:
- Fill vacancies in quality jobs in the local area, including where possible within the development itself.
  - Address priority skill gaps in the local labour pool needed to enable the start up and growth of local businesses.
  - Help in the development of and growth in the pool of local skilled labour and thus the local economy, into which the new development would be introduced.
- 2.6.13 In determining whether a contribution will be sought for a project or programme of local employment skills training, the nature and scale of the impacts of the development on the local demand or needs for employment skills will be assessed. In undertaking this assessment it would clearly be advantageous to consult local employment training bodies and where feasible local employers. Particular attention will be given to the skills required in both the construction phase of the development and the development in use.
- 2.6.14 So, for example, in relation to the construction phase of a large development, the focus could be on training to assist local people in securing jobs requiring skills relating to such employment sectors as the building trades, civil engineering and supervisory and management in the building industry skills. As the development comes on stream the focus might shift to skills training that can be related to the permitted uses, such as retail, office, industry and residential ;(in the case of residential developments, skills in sales, marketing or property improvements and repairs might be targeted).
- 2.6.15 The public realm for the purposes of this guidance comprises all those parts of the built and natural environment where the public have free access. It includes all the streets, squares and other rights of way; the open spaces and parks and other public/private spaces to which the public (of the very substantial part of a local community) has unrestricted access (at least during daylight hours) and includes the interfaces with key internal, external and private spaces to which the public have access.

- 2.6.16 The quality of the public realm should match or exceed the quality of new buildings and other development. This is an objective of planning policies at all spatial levels and the policy context for all forms of development provide a firm basis for mitigating the impact of new development upon the quality of the public realm both on the site and in the area around the site. It is not just the physical features in the public realm that could be the subject of developer contributions arising out of the impact of new development, it has been established in case law that it can be reasonable for developers and Local Planning Authorities to negotiate and agree upon contributions to improvements of the public realm at a distance from the development site and for provision other than physical objects in the townscape or landscape.
- 2.6.17 The spaces between and acting as a backcloth to built development, including spaces that form the routes and corridors through which people pass, are vital to the general visual and cultural value of the local townscape and the appreciation of the wider landscape. New development will often have direct or indirect impacts on these spaces. Typical direct effects will be through proximity of the development to a public space and through traffic impacts; indirect effects include the demands and needs generated by, or increased as a result of, additional residents, employees or visitors coming into an area or a community as a result of new development.
- 2.6.18 In determining whether a contribution will be sought for the enhancement of the public realm, the nature and scale of the impacts of the development on the quality of the public realm will be assessed. For example, one issue to be addressed will be the increased pressure for the use of public spaces; another will be how much the value of the development will benefit from improvements to the public spaces around it or in the centre of the settlement in which it is located. The types of enhancement will be very varied, including from physical features such as special landscapes, townscape features such as specific works of art, to cultural projects such as street performance. Clearly imagination and creativity will inform the choice of enhancement, as will the nature the development and the new land use created.
- 2.6.19 At present there is no overall District-wide strategy for enhancing the public realm nor, as a consequence, is there a specific mechanism for tying the Local Plan to such a strategy. The LDF process affords an opportunity to link land use planning policy explicitly to such a strategy and to other relevant strategies. For example there should be such a link through the Selby District Community Strategy, but also, as appropriate, through other strategies for enhancing the public realm, for example Selby Towns Renaissance, also through strategies that other bodies are promoting, such as the County Council (e.g. the Cultural Strategy) and the Art Council England.

- 2.6.20 The general provision of landscaping designed as an integral part of development both on and off site is not a subject dealt with in this SPD. However, preserving and enhancing landscape and townscape features and creating new ones can be important and sometimes crucial elements in the quality of the character and appearance of the public realm. Thus in some instances hard and/or soft landscaping may be a form of off-site enhancement of the public realm that would be sought as a developer contribution for a limited number of development schemes.
- 2.6.21 Because only large-scale developments will normally be involved, when contributions will be sought for local employment skills training and the enhancement of the public realm, the assessment exercise carried out to evaluate and decide upon the nature and scale of contribution would normally be carried out at pre-application stage. The Council's aspirations may also be established through development briefs (which for larger developments would be adopted as SPDs and, therefore subject to community involvement).

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## **Appendix 1      Framework for the DC SPD**

### **Introduction**

#### **1.      What is an SPD and what are its functions?**

- 1.1 The Developer Contributions Supplementary Planning Document (referred to as “the DCSPD” or “this SPD” or “the SPD”) is a statutory Local Development Document (LDD) and as such is one of the portfolio of documents that will make up the Selby District Local Development Framework (LDF). The SPD will not form part of the development plan, including for the purposes of Section 38(6) of the Town Planning and Compulsory Act 2004. However, it is an important material consideration in determining the planning applications to which it is relevant.
- 1.2 Because the LDF policies, which, when approved will underpin the seeking of developer contributions, are not in place, it is necessary for this SPD to be based on the current development plan documents. These are the ‘saved’ Selby District Local Plan (SDLP), the ‘saved’ Structure Plan and the approved and emerging Regional Spatial Strategy (RSS). The SPD also takes account of up-to-date planning policy, in particular, new national Planning Policy Statements (PPSs).
- 1.3 In the Local Development Scheme (LDS) profile for the SPD (Appendix 2 of the LDS April 2005) the function of the SPD is described as to: “... identify the Council’s requirements for mitigating the impacts of new development and delivering sustainable development through planning obligations.” Consistent with this function, the primary purpose served by preparing, adopting and publishing this SPD is to amplify those policies of the SDLP, as supplemented or superseded by the RSS and national PPSs, relevant to securing contributions in money or in kind from developers in connection with proposals for new development. These contributions will normally be sought through negotiation between the Council (as Local Planning Authority) (LPA) and developers, but often involving other parties, prior to or during the consideration of planning applications for new development. The contributions will almost always be secured through conditions attached to planning permissions or through Section 106 planning obligations.

### **Context**

#### **2.      The legal and policy basis and the function of the SPD**

- 2.1 The Legal or Statutory basis for preparing and adopting the Local Development Framework is the Planning and Compulsory Purchase Act 2004 (“the PCP Act 2004”) and the Town and Country Planning (Local Development) (England) Regulations 2004 (“the LD Regulations”).



- 2.2 The main Government policy statement and guidance on LDFs is Planning Policy Statement PPS12: Local Development Frameworks. A number of other policy documents have been issued by the Government to give detailed guidance on procedure and best practice in implementing the new LDF system. In addition there are many other Government policy guidance notes, advice notes and other documents, for example ODPM 'Circular 05/2005: Planning Obligations' and 'Planning-gain: a consultation', that are relevant to the matters to be covered in this SPD. (Many of these documents are referred to elsewhere in this SPD and more particularly in the SA; a comprehensive list is set out in Appendix 2 attached to the SA).
- 2.3 SPDs can cover a range of issues both thematic and site specific, but cannot be used to allocate land. SPDs must comply with the following principles (see PPS12, paragraph 2.43):
- i) The SPD must be consistent with the development plan and national and regional policies;
  - ii) The SPD must be clearly cross-referenced to the relevant Development Plan Document which it supplements (or, before a relevant DPD has been adopted, a saved policy);
  - iii) The SPD must be reviewed regularly alongside relevant DPD policies;
  - iv) The process 'by which the SPD has been prepared' must be made clear and a statement of conformity with the Statement of Community Involvement must be published with it; alternatively (as stated in paragraph 3.1 of PPS12) it must comply with the minimum requirements for community involvement set out in Regulation 17 of the LD Regulations.
- 2.4 In addition to the four requirements set out above, an SPD must be subject to a 'Sustainability Appraisal'. An SA is a systematic and iterative process by means of which, the social, economic and environmental effects of the proposals put forward in the SPD, are appraised from the outset of the preparation process. In Appendix 2, attached to this SPD, details of the SA process are set out, in terms of considering the sustainability of the SPD proposals, monitoring their likely impacts on the physical, economic and social environment and the use of SA in the review and revision of the SPD. The SA Report is published separately.
- 2.5 There is no requirement to prepare options in an SPD.
- 2.6 This SPD will serve the purpose of amplifying and helping in the successful implementation of policies in the development plan, it is a 'thematic' SPD, covering the subject areas and issues arising out of the policies it is intended to amplify. The primary source for the proposals set out in the SPD is the 'saved' Selby District Local Plan (SDLP).

2.7 Policy CS6 of the SDLP states as follows:

**“The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development.**

**Normally, these requirements will be imposed through conditions attached to the grant of planning permission.**

**Where this is not appropriate, the District Council will seek to negotiate planning obligations with developers to secure direct provision and/or financial contribution towards the provision of facilities or works:**

- 1) That are fairly and reasonably related in scale and kind to the proposed development; and**
- 2) Which are necessary to remedy any shortfalls or adverse impacts resulting from the proposed development; and**
- 3) Are necessary to make the proposal acceptable in land use planning terms.”**

2.8 In addition to Policy CS6 the SDLP contains policies that, in effect, will require developers to make contributions through actual provision of and/or financial arrangements for providing physical and social infrastructure and community facilities, in order to mitigate the consequences of the development they propose, if it were to be permitted and carried out.

2.9 These policies include Policy ENV1 (Control of Development), Policy ENV2 (Environmental Pollution and Contaminated Land), Policy ENV5 (Development in Flood Risk Areas), Policy H4 (Affordable Housing) Policy H11 (Rural Affordable Housing) and Policy RT2 (Open Space Requirements for New Residential Development).

2.10 Of these, the last three named contain specific requirements for defined subject areas and criteria that this SPD will reflect (subject to more recent national and local policy changes).

2.11 Policy ENV1 contains the general requirement that “Proposals ... will be permitted provided a good quality of development would be achieved. ...” and a comprehensive set of development criteria relating to specific aspects of the nature and quality of development, to be taken into account in determining all planning applications for new development; it should be noted that matters not specified in the policy but that could be material to providing a good quality of development is covered in part 8) of the Policy. The policy plainly takes a form, such that it constitutes,

through the requirement for 'a good quality of development', a general but clear basis for requiring the mitigation of the effects of development on the environment and the community. This mitigation may require the provision of new or improved infrastructure and/or community facilities and protection and, in some instances the enhancement of the environment affected by the proposals, these requirements may have to be met through developer contributions.

- 2.12 Similarly in order to satisfy Policies ENV2 and ENV5, requirements arising directly out of new development, over and above normal infrastructure requirements, may lead to developer contributions being sought, for example off-site works to control surface water run-off and mitigate the risk of flooding.
- 2.13 Whilst this guidance deals with specified aspects of seeking developer contributions, this will not preclude the Council seeking provision and contributions that may reasonably be required, in order for a development to accord with other policies of the SDLP, such as those relating to archaeological remains (ENV28) and strategic landscaping (ENV20), or to accord with policies and guidance in other development plan documents.
- 2.14 The policies in the SDLP, though they are the primary source for the proposals in this SPD and provide the basic underpinning and justification for the carrying the SPD proposals into effect, cannot be considered in isolation in this respect. Other plans and policies provide support for the framework of SDLP policies and proposals, or, in circumstances where SDLP policies are out of date, may supersede them. Key documents in this regard are the adopted and emerging RSS and national planning policy guidance. These other plans and policies can also provide additional justification for the nature, form and scope of some of the detailed guidance in this SPD.
- 2.15 For example, in the approved Regional Spatial Strategy (RSS) (December 2004) relevant Policies include:
- S1 (Applying the Sustainable Development Principles)
  - S3 (Urban and Rural Renaissance)
  - S4 (Urban and Rural Design)
  - E1 (Town and City Centres)
  - E2 (Rural employment opportunities)
  - T3 (Personal Transport)
  - H4 (Housing Size, Type and Affordability)
  - T7 (Transport in rural areas and market ...towns)
  - SOC1 (Health)
  - SOC2 (Education)
  - SOC4 (Open Space, Sport and Recreation)
  - N2 (Historic and Cultural Resources)
  - R3 (Water Resources and Drainage)

- R5 (Waste Management ...)

2.16 In the emerging RSS (December 2005), relevant policies include:

- YH1 (Overall Approach)
- YH2 (Climate Change and resource use)
- YH6 (Better Towns)
- YH7 (Vibrant rural ... areas)
- H3 (The provision of Affordable Housing)
- TH3 (Key Spatial Priorities)
- E1 (Creating a successful and competitive regional economy)
- ENV11 (Health and Recreation)
- ENV14 (...Waste Management Facilities)
- T2 (Parking Policies)
- T9 (Transport investment and management priorities).

2.17 Many policies, plans and programmes, other than those specifically mentioned in this text, have influenced the preparation of the SPD and its contents. These are referred to in some detail in sections 2 and 3 of the Sustainability Appraisal (SA). A comprehensive list of documents is set out in Appendix 2 attached to the SA.

## Implementation

### 3. The function and form of the SPD

3.1 The primary function of the DCSPD is to amplify those policies in the Selby District Local Plan (Adopted in February 2005), which constitute a basis for seeking the contributions (in money or in kind) developers and/or landowners can be expected to make, towards the 'external' economic, social and environmental costs of development and to mitigate 'the planning loss' it is considered would result from the carrying out of a new development.

3.2 What is meant, in this context, by the 'external' costs of development, are all the costs **additional** to those the developer must normally bear to construct the buildings and necessary physical infrastructure on a site to achieve their development objectives and/or those of their customers. The 'normal' costs include costs of works necessary to meet/provide: customer demands; the design and layout requirements of the Council; statutorily required services on-site and the required connections to essential services off-site (for example electricity, highways and drainage), to achieve an economically or financially viable outcome for the developer. The statutory and legal basis for determining what 'external' economic, social and environmental costs developers and/or landowners can be expected to, or be required to bear arising out of a development, in order to make a development acceptable in planning terms, is set out above in Part 2 (Planning Guidance).

3.3 The aim in publishing this SPD is to provide information and advice to landowners, developers and other interested bodies and persons, on the following:

- The basis and justification for seeking developer contributions.
- The types of economic, social and environmental provision that may be the subject of 'developer contributions'.
- The categories of sites where developer contributions will be sought (land use, site size or other relevant characteristics).
- The methodologies or other criteria for assessing and/or calculating the nature and scale of developer contributions.
- The means by which developer contributions will be secured and/or any physical provision will be implemented.

#### **4. Scope of the DCSPD - The types of physical and social provision covered in the SPD**

4.1 The DCSPD could cover a very wide range of topics relating to the provision of physical and social infrastructure.

4.2 However, the Council considers that, during the transition from the 'old' development plan system of local and structure plans, to the 'new' system of Regional Spatial Strategies and Local Development Frameworks, the following, issues and policies most require urgent attention.

- Affordable Housing for local needs
- Recreation Open Space
- Waste and Recycling Facilities
- Education Facilities
- Primary Health Care Facilities
- Community Facilities
- Transport/Highways Infrastructure and Facilities
- Drainage Infrastructure and Facilities
- Local Employment Skills Training
- Enhancement of the Public Realm.

4.3 The Council considers that the subject areas dealt with in this SPD are of critical importance in achieving key strategic objectives set out in the development plan and particularly the 'saved' SDLP. They are also essential in securing the provision of services and facilities that will enable much needed development to go ahead, so that the pace of planned change can be maintained and so that new development is of a high quality and its impacts on the environment and community are, at worst, benign, but if possible are such as to enhance the local area.

- 4.4 Subject areas or issues omitted from this SPD are not left out because they are of less importance in a wider planning policy context. Rather, it is considered that: basic evidence collection or policy development is required, that was not available in time for inclusion in the adopted SPD; or, at present, they have insufficient justification in enabling policy; and/or they can be negotiated straightforwardly under more general policies, in accordance with well established custom and practice.
- 4.5 Whilst this SPD deals with seeking developer contributions for specific subject areas, this will not preclude the Council seeking provision and contributions that may be reasonably required in order for a development to accord with other policies of the SDLP, or to accord with policies and guidance in other development plan documents.
- 4.6 The area that will be covered by the SPD proposals will generally be the whole of Selby District. However, for some proposals the criteria for seeking developer contributions, for example site location and thresholds, will apply only to specified areas within the District.

**5. Developer contributions for specific purposes – justification, land uses, thresholds and methodologies.**

- 5.1 This SPD is intended to provide information and guidance to landowners, developers and other interested bodies and persons, on how the District Council, as the Local Planning Authority for the area, will deal with the issue of developer contributions; details are set out above in Part 2 of the SPD.
- 5.2 The categories of site that are identified as appropriate for seeking developer contributions fall into two main classes. First is the intended land use for which planning permission is to be sought and, second is the size of the site or proposed development.
- 5.3 The land use categories and the sizes of site/development (thresholds) that will be 'eligible' for negotiating developer contributions are not the same for all subject areas.
- 5.4 The subject areas covered in this SPD will be subject to a variety of methodologies for assessing whether contributions will be sought and, if so, what scale of contribution may reasonably be expected of the developer. For some subject areas a methodology is well established and clear, for some a methodology is less well developed and for some there is no established methodology.
- 5.5 A factor that will need to be taken into account in determining, for a particular development, the scale and form of contributions, is the cumulative impact of a number of different contributions considered appropriate in connection with the proposals. This matter is dealt with in more detail in paragraphs 5.11 to 5.16 below.

- 5.6 In Part Two of this SPD, entitled 'Planning Guidance', the subject areas covered by the SPD are dealt with in detail. Guidance and information is set out under each subject heading in a consistent structured form addressed under each heading: Justification; Land Use; Thresholds and Methodology. An introduction to the issues covered under these headings is provided below. In addition, further information is provided on Priorities in seeking contributions as well as the practice of Pooling contributions.

### **Justification**

- 5.7 The justification or basis for seeking contributions in connection with a specific subject area or a particular type of impact of a development is set out at the beginning of the detailed guidance on each subject area at Part 2 of this SPD. The justification for seeking contributions is also detailed in the Sustainability Appraisal of this SPD (published separately).

### **Land Use**

- 5.8 Under this heading, in respect of each subject area the categories of land use that would be created by a planning permission for a proposed development site, which will be eligible for negotiation to secure developer contributions, are specified and/or defined.

### **Thresholds**

- 5.9 The sites considered suitable for developer contributions in respect of land use are categorised in such terms as size, scale and significance. This category is generally referred to as the 'threshold' for starting the developer contribution assessment process. In this part of the detailed guidance, for each of the subject areas, the threshold(s) is (are), specified, defined, described or explained, according to how straightforward and/or clear-cut they are considered to be. Thresholds are, if possible, expressed as a specific minimum figure, for example, '15 dwellings or more', or '0.5 hectares or more', but in some instances they are expressed in more general terms, for example, the significance of the site/development, in terms of the likely impacts on the local environment or community.

### **Methodology**

- 5.10 For each subject area, the methodology to be used in assessing whether eligible sites, in terms of land use and thresholds, should be the subject of negotiations to secure developer contributions (and if so in what form and, if appropriate, on what scale) is set out. The form in which a methodology is expressed depends on factors such as: the nature of the land use; the form of contribution, for example, whether it is to be in

money or in kind; and the scale of the contribution. For some subjects the methodology and some aspects of the contribution, with regard to quantities or proportions, are defined in the source policy.

### **Priorities in seeking contributions**

- 5.11 The possibility of several contributions being sought for different purposes, for an individual site, raises the issue of the *relative importance* of the different contributions that may be sought and thus the *order of priorities* between the contributions for the different of subject areas or mitigating impacts of development.
- 5.12 It is difficult, indeed probably not possible, to prescribe a simple order of priorities that will be applicable in all cases or potential situations. This is because each case will be different, often in several respects, for example, in relation to:
- The needs of the local community for different types of provision.
  - The number, range and scale of provision that could realistically or justifiably sought in planning terms.
  - The characteristics of a particular site or development.
  - What a particular development could support financially.
  - The importance of the development in delivering planning objectives/policies (for example, would the achievement of the five year housing land supply require the urgent release of the site?).
  - Whether a reduction in one or more requirements, in order to achieve a wider range of contributions by subject area, would be better than the development not going ahead in a timely manner, having regard to an overriding need to try and ensure that much needed housing or other development can proceed to meet wider social, economic, or defined planning policy objectives (overlaps the immediately preceding point).
  - Whether the need for one or more items of provision or contribution is/are considered so important, that development should be refused if it/they were not to be forthcoming.
  - Whether the proposed scheme could be altered or scaled-down to avoid or reduce the need for contributions.
- 5.13 Notwithstanding the difficulties in devising general policies and principles concerning priorities, where choices will have to be made, it is possible to state the following:
- In most circumstances provision relating to Affordable Housing for local needs, essential highway/drainage infrastructure and Recreation Open Space objectives will be of a high priority.
  - Education, Health and community facilities, in no particular order, will normally be the next highest priority.
- 5.14 However, for the avoidance of doubt, though this order of priorities will normally be applied, in exceptional cases it may be necessary to vary it.



It will usually be the case that such variation would be negotiated with a developer at an early stage, in the case of large developments before an application is finalised. For large development proposals other stakeholders and the community at large will be involved in such decisions for example, during the preparation of a planning/development brief these will usually be SPDs and subject to wide-ranging consultation.

- 5.15 In cases where developers claim that the scale and/or range of items for which provision and/or contributions are being sought, would be too burdensome, inappropriate, not justified or otherwise unreasonable, the onus will be on the developer to make a convincing case for any reduction in the scale and/or scope of the contributions. In considering the developer's case, the Council will, where appropriate, involve other stakeholders, for example, the local community and service providers, in assessing priorities. Again it is important to note that in the case of large-scale developments a planning/development Brief will be prepared, usually in partnership by the Council and the developer and involving other key stakeholders and that as they will usually be SPDs they will be subject to extensive public participation.
- 5.16 In considering this issue, the Council will take the view that it is for landowners and developers to investigate all the potential infrastructure and planning requirements that could arise in developing a site for the intended use, including off-site costs and reasonable developer contributions **before entering contractual commitments and before making a planning application**. The onus will be on developers and their agents to negotiate reasonable site acquisition costs/option agreements with the landowner in order to offset these requirements. Planning permission will not be granted without meeting these requirements and, consequently, there should be no unreasonable expectations from landowners. It will be assumed by the Council, in order to reinforce this protocol that developers will deal with land acquisition normally through option agreements conditional upon gaining planning permission.

### **Pooling contributions**

- 5.17 Where the combined impact of a number of sites/developments can be shown to create the need for the provision of specified infrastructure works or community facilities, a pooling of contributions can be sought (see Circular 05/2005, paragraphs B21 to B24). This is already happening in Selby District, with the pooling of 'off-site' contributions in respect of Recreation Open Space.
- 5.18 Although no specific proposals for extending the practice of pooling are defined in the SPD, if considered appropriate, the practice may be pursued within the ambit of the general approach set out here. It could apply to particular parts of the District or to some subject areas, or exceptionally for a particular need or project, e.g. an identified

enhancement of the public realm or a recreational /community facility in a particular town or village. If this approach is adopted, then a clear 'audit trail' between the contributions made and the infrastructure or facility provided will be defined.

- 5.19 The Council does not consider that the formal general extension of a 'pooling' approach is justified, without a more detailed consideration of the circumstances in which it would be appropriate and effective. Circular 05/2005 states that a local planning authority's generic policies on payment types, including pooling and maintenance payments, should be contained in Development Plan Documents (DPDs). These matters will be considered in the preparation of the more strategic components of the LDF (i.e. in DPDs) when full account will be taken of emerging Government policy on the proposed 'Planning Gain Supplement'.

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## Appendix 2 The Sustainability Appraisal of the DC SPD

1. In accordance with international and national commitments relating to the achievement of sustainable development objectives, the Planning and Compulsory Purchase Act 2004 (S39) requires a Sustainability Appraisal (SA) to be undertaken for all Local Development Documents.
2. The SA is fully integrated into the SPD preparation process, and is taken account of at each stage when decisions are taken on the content of the SPD. Thereafter, the SA will be used in developing the arrangements for monitoring the physical, economic and social impacts of the proposals in the SPD and for its future review and revision.
3. In addition to an SA, European Legislation ('the SEA Directive') requires a Strategic Environmental Assessment (SEA) of the environmental effects of certain plans and programmes to be undertaken, wherever it is considered that these effects would be 'significant'. The SEA Directive is incorporated into English Statute through the Environmental Assessment of Plans and Programmes Regulations 2004 ("EA Regulations 2004"). An SEA of this SPD has not been carried out. The reasoning for this decision is set out in Section 1 of the SA Report (published separately).
4. The key points are that: firstly, the SPD does not stand alone as a policy document, rather it derives from and amplifies policies higher in the hierarchy of development plan documents, in this case the SDLP (as modified by more recent planning guidance and policies). In itself, therefore, the SPD creates no new policies or proposals. Secondly, the environmental effects that will result from the detailed mechanisms in the SPD, that derive from policies set out elsewhere, are not likely to be 'significant' in the terms set out in the SEA Directive and the enabling Regulations.
5. The SA must be prepared in accordance with a prescribed set of procedures that are detailed in the LD Regulations<sup>10</sup> and PPS12. In summary, these include:
  - The preparation of a **Scoping Report (SR)**, which should be consulted on, during the evidence gathering stage of SPD preparation.
  - The preparation and publishing of a **Sustainability Appraisal of the Draft SPD**.
  - The **consideration of representations** on the SR and the SA together with the SPD.
  - The **amendment of the SA** consequent upon any changes made to the Draft SPD before adoption or resulting from comments on the SA of the Draft SPD itself.

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<sup>10</sup> Town and Country Planning (Local Development) (England) Regulations 2004.

- The preparation and publishing of **an SA Report of the SPD**.
6. The Sustainability Appraisal Report of this SPD contains information, evidence and justification that summarise the basis on which the SPD guidance and proposals are predicated (Section 3 - The Baseline – Current Circumstances Relevant to Developer Contributions Topics).
  7. This information, evidence and justification, is not repeated in this SPD, though elements of it are summarised below. Further details of the policy basis for Affordable Housing for local needs, Recreation Open Space and Waste and Recycling, Education and Primary Health Care Facilities are set out Part 2 of this SPD.
  8. The Sustainability Appraisal of the SPD guidance and proposals has been prepared using the Scoping Report as the main framework, but also taking account of the comments and advice of the respondents at all stages of the preparation of the SPD and the most up-to-date policy guidance and other relevant material.
  9. In the SA Report the concept of Sustainable Development is defined and the SA and SEA processes explained. The reasons for not carrying out an SEA in parallel with the SA are set out. The purpose of the SA Report and a summary of the appraisal process are then outlined. The next few sections of the SA (Sections 2, 3 and 4) contain information, evidence and justification that underpin the SPD guidance, proposals, criteria, methodologies, etc.. They refer particularly to the current national and development plan policy context, the specific evidence and justification for present and proposed developer contribution criteria, thresholds, etc. and sustainability issues (social, environmental and economic) that can be and are addressed through the implementation of the SPD. The remaining sections of the SA Report contain the 'framework' for the appraisal process and the actual appraisal of relevant SDLP policies and the SPD proposals subject by subject.

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## **Appendix 3      Implementing the guidance in the DC SPD.**

1. Planning Conditions and Planning Obligation agreements or undertakings, will be the normal mechanisms for securing adequate and appropriate provision for the economic, social and environmental services, facilities and infrastructure through developer contributions and to ensure that the effects of a development on the environment, the community and existing services and facilities are mitigated.
2. National guidance on the relevant legislation (e.g. sections 70-72 of the Town and Country Planning Act 1990) relating to conditional planning permission is contained in DoE Circular 11/95. ODPM Circular 05/2005 contains the Government's guidance on the use of planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended).
3. Conditions may be imposed on the grant of planning permission for regulating the development of any land under the control of the applicant or for requiring the carrying out of works on such land or for the use of that land. For the purposes of Section 72 of the 1990 Act, "control" does not require that the applicant own the land that is the subject of a condition (this is covered by the concept of "Grampian" conditions").
4. Section 106 Planning Obligations are undertakings or agreements, entered into by developers, unilaterally in the case of undertakings and severally by the Council (as local planning authority) and developers (and, sometimes third parties), in the case of agreements. They are (like conditions) intended to make acceptable development that would otherwise be unacceptable in planning terms. They can be used to prescribe the nature of the development (e.g. through provision of Affordable Housing for local needs); secure a developer contribution to compensate for a loss or damage to the environment or community, created by a development (e.g. loss of open space); or to mitigate the impacts of a development (e.g. through off-site highway improvements or improved public transport facilities).
5. The outcome of using conditions or planning obligations should be that the proposed development would accord with the development plan and other relevant planning guidance and policies. Normally, where a condition can be appropriately attached to a planning permission for new development to ensure that it would be acceptable, this is to be preferred to the use of Section 106 Planning Obligation Agreements/Undertakings.
6. Through this SPD, the Council's policy for the use of Conditions and Planning Obligations to secure provision/contributions of infrastructure, facilities and services by developers, in connection with new development, is amplified and formalised in respect of the subjects it covers.

7. All guidance in this SPD, relating to requirements for developer contributions and all the mechanisms and methodologies designed to govern their implementation, has regard to and will be applied at all times with reference to and in accordance with Circular 11/95 – The Use of Conditions in planning Permissions and/or Circular 05/05 – Planning Obligations.
8. These Circulars are central to the implementation of this SPD, because they form the fundamental policy basis for negotiations between the Council and the developer to secure sustainable and high quality, yet efficient and economically beneficial development, sensitive to its effects on the environment and the needs of the community. Also the Conditions and Obligations that can be attached to a planning permission, by virtue of the legislation that is interpreted in these Circulars, are crucially important to the determination the planning applications for such development, to ensure that it is in accordance with the development plan, having regard for other material considerations and, in particular to secure the mitigation and benefits of the development necessary in order for it to be allowed to take place.
9. Ideally, desirable planning objectives and the requirements of adopted policies will be met with the minimum of controls. However, it will normally be the case, in order to ensure approved schemes are delivered as planned, that planning conditions will need to be attached to permissions by the Council (where appropriate, particularly where more unusual or onerous requirements are involved, with the prior agreement of the developer) and, in some cases, planning obligations (by unilateral undertaking or agreement) will need to be entered into. Where there is a choice between the two, conditions will be preferable.
10. The key point about conditions and obligations, is that they are designed to make acceptable proposals that otherwise would be refused; due to the likely adverse effects such proposals would be likely to have on the environment or community. It is this point that also underpins and justifies the requirements set out in planning guidance, development plan policies and proposals and, specifically the proposals set out in this SPD.
11. In deciding the appropriateness of the basis for applying criteria set out in this SPD and, when applications are being considered in the light of this SPD, for imposing conditions and requiring planning obligations to be entered into, it will be necessary to apply the Secretary of State's 'six tests' of reasonableness detailed in the Circulars cited above. Also, it is clear that in seeking developer contributions in connection with individual developments, these six tests and the relevant case law will be adhered to. The 'six tests' state that a condition or obligation must be:
  - necessary to make the proposed development acceptable in planning terms;
  - relevant to planning;

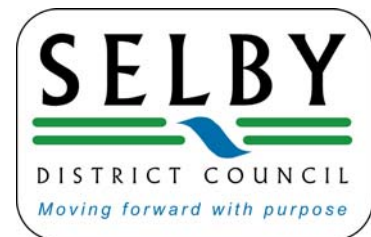
- relevant to the development to be permitted and fairly and reasonably related in scale and kind to the proposed development;
  - enforceable;
  - precise;
  - reasonable in all other respects.
12. In applying the six tests, it is for the decision maker, sometimes in agreement with the developer, to determine whether the six tests are met, subject only to relevant case law and review by the Courts, concerning the lawfulness of any particular decision. As stated in Circular 05/2005 (paragraph B7), a fundamental principle governing planning obligations and, hence in seeking developer provision or contributions, is that “planning permissions cannot be bought or sold”. Thus, unacceptable development must not be permitted “because of benefits or inducements offered by a developer, which are not necessary to make the development acceptable in planning terms.” Further (paragraph B8), “... planning obligations should never be used purely as a means of securing for the local community a share in the profits of development.”
13. It should be borne in mind that the Government is currently reviewing the concept of a general ‘Planning Contribution’. The legislative basis for Planning Contributions is set out in Sections 46 and 47 of the P&CP Act 2004. Since then, the Government has issued a document entitled – ‘Planning-gain Supplement – a consultation’ (December 2005). In this document it is proposed that the Planning-gain Supplement (PGS) would operate alongside a ‘scaled-back’ planning obligation system’. However, if the PGS is introduced it will not come into effect nationally before 2008. It is stated in the document that the Government will encourage LPAs to implement the use of formulaic and standard charge approaches to planning obligations. Already some authorities are proposing to adopt ‘tariff’ based schemes (Milton Keynes for example); though where they are doing so, this is being done through the formal LDF route. Thus, it is quite likely that such an approach will be considered during the preparation of relevant documents in the LDF for Selby District. The District Council is clear that it would not be appropriate to adopt such a system other than through the full DPD process.

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For further information please contact:  
Planning Policy Team  
Civic Centre  
Portholme Road  
Selby YO8 4SB

Email: [LDF@selby.gov.uk](mailto:LDF@selby.gov.uk)  
Website: [www.selby.gov.uk](http://www.selby.gov.uk)  
Tel: 01757 292063  
Fax: 01757 292090