



# **Planning Obligations SPD**

**January 2022**



# Table of Contents

1 Introduction.....	1
2 Policy on Planning Obligations .....	2
2.1 National Policies and the 'CIL Tests' .....	2
2.2 The Development Plan for Harborough .....	2
2.3 Harborough Local Plan (2011-2031).....	2
2.4 County Council Section 106 Policy .....	3
2.5 Planning permissions.....	3
3 Managing Planning Obligations.....	4
3.1 Viability.....	4
3.2 Pre-application.....	5
3.3 Submitted Planning Applications.....	5
3.4 Determining planning applications.....	7
3.5 Cross Boundary Applications.....	8
3.6 Negotiating and Finalising the Section 106 Planning Agreement .....	8
3.7 Variations to planning obligations .....	8
3.8 Monitoring of planning obligations .....	8
3.9 Infrastructure Funding Statement .....	9
4 Factors Affecting Planning Obligations.....	10
4.1 Trigger Points for Planning Obligations.....	10
4.2 Indexation .....	10
4.3 Interest.....	10
4.4 Maintenance of assets secured through planning obligations .....	11
4.5 Legal and Monitoring Fees.....	11
4.6 Bonds and Enforcement Action.....	12
5 Affordable Housing .....	13
5.1 Local Plan Policies.....	13
5.2 Housing and Neighbourhood Plans .....	13
5.3 Changes to National Planning Policy and the introduction of First Homes.....	13
5.4 First Homes in Harborough.....	14
5.5 Definition of Affordable Housing.....	14
5.6 Exception Sites, New Housing in the Countryside and Evidence of Local Housing Need.....	15
5.7 Housing Mix .....	16
5.8 Affordable Housing Mix.....	16
5.9 Special Needs and Extra Care Housing .....	17
5.10 Specialist Housing and Viability .....	18
5.11 Delivery of Affordable Housing.....	19
5.12 Commuted Sums .....	20
6 Community Facilities .....	22
6.1 Local Plan Policies.....	22
6.2 Level of Contribution to Community Facilities.....	22
6.3 Allocation of funding for community facilities .....	23
7 Open Space, Sports and Recreation Provision .....	24
7.1 Local Plan Policies.....	24

7.2 The Harborough Open Space Strategy (HOSS) 2021 .....	24
7.3 Harborough Built Facilities Strategy 2020.....	25
7.4 Harborough District Playing Pitches Strategy 2018 .....	25
7.5 Allocation of Funding for Built Facilities .....	25
7.6 Cemeteries.....	25
<b>8 Healthcare .....</b>	<b>27</b>
8.1 Local Plan Policy.....	27
8.2 Level of Contribution .....	27
8.3 Spending of Contributions.....	27
<b>9 Community Safety .....</b>	<b>28</b>
9.1 Local Plan Policy.....	28
9.2 Level of Contributions .....	28
9.3 Spending of Contributions.....	28
<b>10 Household Waste and Recycling Receptacles .....</b>	<b>29</b>
10.1 Local Plan Policies.....	29
10.2 Level of Contributions .....	29
10.3 Spending of Contributions.....	29
<b>11 Biodiversity Net Gain .....</b>	<b>30</b>
11.1 The Local Plan and Biodiversity.....	30
11.2 The Environment Act 2021 .....	30
<b>12 Sustainable Drainage .....</b>	<b>32</b>
12.1 Local Plan Policies.....	32
12.2 Planning Obligations for Drainage .....	32
<b>13 Broadband Connectivity .....</b>	<b>33</b>
13.1 Local Plan Policies.....	33
<b>14 Leicestershire County Council Services .....</b>	<b>34</b>
14.1 Local Plan Policies.....	34
14.2 Leicestershire County Council Planning Obligations Policy.....	34
<b>15 Annex 1.....</b>	<b>36</b>
<b>Endnotes .....</b>	<b>39</b>

## List of Tables

5.1 Benchmark affordable housing mix on proposals above 10 units .....	16
6.1 Community Facilities costs per dwelling according to size.....	22

# 1 Introduction

1.1 The Planning Obligations Supplementary Planning Document (SPD) has been prepared to inform developers, landowners, infrastructure providers and local communities about the approach Harborough District Council (HDC) takes to secure a range of community infrastructure and affordable housing through the planning obligations process.

1.2 A planning obligation is legally enforceable and entered into under section 106 (S106) of the Town and Country Planning Act 1990 (as amended). Harborough District Council (together with Leicestershire County Council) can enter into S106 planning agreements with developers/landowners to ensure the provision of necessary infrastructure and local services, to mitigate the impacts of new development.

1.3 This SPD replaces the previous HDC Planning Obligations SPD 2017 and is informed by:

- The Harborough District Council Local Plan (2011-2031) Adopted 2019
- The Community Infrastructure Levy Regulations (2010) as Amended
- National Planning Policy Framework (latest version as of July 2021)
- National Planning Practice Guidance (2014 and continually updated)
- Leicestershire County Council Planning Obligations Policy (adopted 2019)

1.4 The requirements for a planning obligation will depend on whether the current capacity of the existing infrastructure or services can support a new development. If the capacity cannot support a new development, then planning obligations will be required to mitigate the impacts and provide the necessary infrastructure and services to support sustainable growth and development.

1.5 Planning policy sets out where contributions may be sought, and an assessment is undertaken during the planning application process to assess the capacity of existing infrastructure at the time of the application and identify which contribution(s) will be sought

## 2 Policy on Planning Obligations

### 2.1 National Policies and the 'CIL Tests'

2.1.1 National Planning Policy Framework states planning obligations must only be sought where they meet all of the following three tests:

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development

2.1.2 The above three tests are known as the 'CIL Tests' after the Community Infrastructure Levy Regulations (CIL) as defined in Regulation 122(2) of the CIL Regulations which make them a statutory requirement.

2.1.3 Harborough District Council ("the Council") will consider the request for each planning obligation in accordance and in compliance with the CIL Tests.

2.1.4 On 1<sup>st</sup> September 2019 revisions to the CIL regulations (2019) removed the limits on the pooling of no more than five obligations for a project or type of infrastructure.

### 2.2 The Development Plan for Harborough

2.2.5 The HDC Local Plan (2011-2031) adopted in 2019, along with the made Neighbourhood Plans (Our policies, plans and strategies - Neighbourhood Plans - 'made' plans | Harborough District Council) and adopted Minerals and Waste Plan (Minerals and Waste Local Plan : Local plan adoption | Leicestershire County Council), form the overall development plan for Harborough District. The Development Plan is the starting point for considering whether planning applications can be approved.

### 2.3 Harborough Local Plan (2011-2031)

2.3.1 Local Plan Policy IN1 *Infrastructure Provision* defines the levels of infrastructure necessary to mitigate the development proposals in the Plan. Local Plan Policy H1 *Provision of New Housing* and Local Plan Policy H2 *Affordable Housing* support the development of an appropriate mix of housing including provision of lower cost affordable homes to rent through social housing providers which are secured through planning obligations.

2.3.2 Policies in the Local Plan indicate areas which are likely to be the subject of planning obligations

- Affordable Housing

- Community Facilities
- Open Space, Sport and Recreation Provision
- Cemeteries
- Education
- Highways and Transportation
- Library Services and associated facilities
- Recycling and Waste
- Health Care
- Policing and Fire and Rescue
- Flood mitigation
- Sustainable Urban Drainage Systems

Further details of specific obligations required for each site are set out within the Local Plan policies and site allocations.

2.3.3 Obligations may also be sought towards other types of infrastructure or project which are necessary to make development applications acceptable in planning terms. The need for these will be determined on a case-by-case basis.

## 2.4 County Council Section 106 Policy

2.4.1 Leicestershire has a two-tier system of local government. Services such as housing, community facilities, open space and waste collection are the responsibility of the seven District and Borough Councils in the County. The County Council is responsible for the provision/commissioning of a range services including education, highways, transport, libraries, social care, public health and waste disposal.

2.4.2 The County Council has its own policy on Section 106 obligations available here:

<https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2019/8/16/Planning-Obligations-Policy.pdf>

This may be subject to review, so please check on their website for the latest version

<https://www.leicestershire.gov.uk/environment-and-planning/planning/developer-contributions>.

## 2.5 Planning permissions

2.5.1 Planning permissions themselves may also include requirements that necessitate a Section 106 agreement being prepared. For example, mitigation measures negotiated as part of the outline permission may result in a Section 106 agreement to secure delivery of this at the reserved matters stage.



## 3 Managing Planning Obligations

3.1 This section sets out the guidance for applicants for planning permission, infrastructure providers and community groups about how Harborough District Council manages the Planning Obligation process. The process includes making policy, considering applications for planning permission, negotiating, and amending S106 obligations, and monitoring the delivery of planning such obligations.

3.2 Alongside the Harborough District Council *Planning Obligations SPD*, reference should be made to the adopted development plan, national planning policy and national planning practice guidance to assist in understanding what may make a new development acceptable in planning terms.

3.3 A Supplementary Planning Document (SPD) provides more detailed guidance about policies in the Local Plan. Whilst it is not part of the Local Plan itself and not subject to independent examination, it has been subject to public consultation and is a material consideration in determining planning applications.

3.4 The adopted Harborough Local Plan 2011 – 2031 and ‘made’ Neighbourhood Plans, are available at the following link: [Adopted Local Plan | Harborough Local Plan 2011-2031 | Harborough District Council](#).

3.5 Policy IN1 *Infrastructure Provision* seeks to secure appropriate infrastructure and the Local Plan includes an Infrastructure Delivery Plan (IDP); which sets out the framework for what types of infrastructure are needed to support development levels specified in the Local Plan.

3.6 Planning applications should be accompanied by sufficient details to allow the likely impacts to be identified and understood by stakeholders.

### 3.1 Viability

3.1.1 Government guidance on viability was updated in September 2019. The aim of the guidance was to ensure that viability is considered upfront, as part of the plan-making process. It also clarified that the costs of complying with planning policies should be reflected in the land value. Where a viability assessment is submitted to accompany a planning application, the PPG clearly states that this should be based upon and refer back to the viability assessment that informed the Local Plan, and the applicant needs to provide evidence of what has changed since then. Therefore, if there are any site-specific factors that mean the viability of a particular site differs significantly from that modelled in the whole plan viability testing, applicants can submit a viability appraisal setting out the reasons that necessitate a site-specific viability appraisal.

3.1.2 The Government is keen to increase the transparency of the viability process and the PPG clearly states that any site-specific viability appraisals should be prepared on the basis that they will be made publicly available other than in exceptional circumstances. The PPG continues that even in those exceptional circumstances an executive summary of the viability appraisal should be made publicly available. To aid understanding, the Council encourages summaries of site-specific viability appraisals to be prepared in all cases. The Council will therefore publish any viability appraisals submitted in support of planning applications on our website, except where the need for an executive summary only has been robustly evidenced and agreed.

3.1.3 As explained in para 5.3.10 of the adopted Local Plan, where site specific viability appraisals are submitted the Council will commission an independent review of the viability assessment and the applicant will be required to pay for the cost of this independent review. In line with the PPG on viability, where a lower amount of affordable housing is agreed, a review mechanism or clawback clause may be required in the S106 agreement to enable compliance to be achieved over the lifetime of project.

## **3.2 Pre-application**

3.2.1 At the pre-application stage officers of the Council will advise and consider the potential impacts on infrastructure and the need for planning obligations which would be necessary to make development acceptable. Officers of the Council will decide, based on the scale, size and nature of the proposal, if specific infrastructure providers should be invited to advise at the pre-application stage..

3.2.2 The Council also encourages developers of all potential major residential, employment and mixed-use schemes to conduct early public consultation and pre-application consultation with a broad range of service providers and to contact local organisations and identify what local infrastructure may be needed to support new development. The Community Facility Development Officer at the Council maintains a list of appropriate contacts at parish level and can assist further

## **3.3 Submitted Planning Applications**

3.3.1 Planning applications should be accompanied by details to identify the likely impacts of a new development proposal on local infrastructure/services. Developers should give consideration to the range of planning obligations which are necessary and provide them in the supporting details.

3.3.2 Where an application site lies partially within or having a substantial impact on services or the environment of a neighbouring local authority area. The Council would seek to co-ordinate proportionate responses in relation to planning obligations as far as possible. This includes engaging with the County and City Councils in their Highways role

and Highways England where appropriate. However, if agreement cannot be reached the Council will seek obligations relating to the part of the site which lies within its administrative boundary.

3.3.3 Once a planning application is received, the authority will consult infrastructure and service providers where there might be impacts on the service they provide. The infrastructure provider will be directed to information concerning the planning application on the Council's website and asked to make any comments or respond within 21 days from date notified.

3.3.4 Infrastructure providers /service areas may include:

Those relating to functions for which Harborough District Council is the responsible authority:

- Affordable Housing
- Community and Sports Facilities;
- Open Space and Recreation;
- Provision of waste and recycling receptacles; and
- Cemeteries

(The District Council is responsible for cemeteries in some parts of the District, elsewhere it rests with Parochial Church Councils, Burial Authorities or Town and Parish councils).

3.3.5 Those relating to functions for which Leicestershire County Council is the responsible authority:

- Adult Social Care and Health;
- Waste Management;
- Education;
- Economic Development;
- Highways and Transportation;
- Library Services; and
- Sports and Recreation Facilities.

3.3.6 Those relating to functions of other stakeholders:

- Utility Providers- water, sewerage, gas, electricity, broadband,
- Police and Fire Authorities
- Clinical Commissioning Groups and NHS England
- Highways England
- Town and Parish Councils (for example Community Facilities, Provision of Open Space)
- Management Companies (for example maintenance of Open Space)

- Neighbouring authorities- where impact of development is cross boundary

3.3.7 Infrastructure providers who identify that a planning obligation is required should set this out clearly in a formal response. The Council will then consider the requests and decide if the obligations requested meets the CIL Tests.

3.3.8 Town and Parish Councils are encouraged to include comments on the need for Section 106 contributions as part of their response to planning applications consultation, including up to date information on services and facilities if this has changed.

3.3.9 It is also important to note that the three statutory CIL tests mean S106 developer contributions can only be used to enable the provision of additional or renewed community infrastructure to create additional capacity in order to satisfy the demands arising from that development to make the development acceptable. It is also important to note that S106 developer contributions *cannot* be used to put right existing infrastructure deficits.

3.3.10 Large commercial and employment generating developments may increase demands on infrastructure. Therefore, if there is a demonstrated need directly related to the development, a contribution will be sought. The types of need may often be related to transportation, such as cycle ways and footpaths, but may extend to other types of contribution (e.g. economic growth/local employment/skills training) dependent on the nature of the development and what is required to make an application acceptable

## 3.4 Determining planning applications

3.4.1 In determining planning applications, Harborough District Council as the local planning authority has responsibility for deciding which planning obligations are necessary to ensure developments are acceptable. In executing this responsibility, the Council will take account of adopted guidance and responses from all service providers, together with any responses from Town and Parish Councils and the views of Ward Councillors

3.4.2 Planning applications which require a planning obligation will need a draft Heads of Terms for S106 Obligations which sets out:

- all specific types of infrastructure/projects to be delivered;
- the contribution to any infrastructure required (where this is agreed as a financial payment); and
- the timing of payment or delivery of the necessary infrastructure in relation to development.

3.4.3 This SPD covers the principal areas where contributions may be sought, but it should not be regarded as exhaustive. The impact of planning proposals on all types of services or infrastructure will be examined on a case-by-case basis when applications are submitted and obligations considered in order to ensure development is acceptable.

## **3.5 Cross Boundary Applications**

3.5.1 Where a planning application site falls partially within or close to the administrative boundary with another neighbouring local planning authority area, the planning case officer will consult with all relevant parties, including neighbouring authorities (which may be county, district, borough or unitary authorities), as required, as part of the normal decision-making process. Any cross-boundary implications would be considered as part of managing the process. This includes engaging with the County and City Councils in their Highways role where appropriate.

## **3.6 Negotiating and Finalising the Section 106 Planning Agreement**

3.6.1 When a planning agreement/obligation is necessary, the applicant will need to pay the Council's legal costs to review the document/s.

3.6.2 The Council's Legal services team may draft the S106 agreement or provide comment on a draft S106 agreement submitted on behalf of or by an applicant.

3.6.3 The final signed version of the agreement will be placed on the Planning Register.

## **3.7 Variations to planning obligations**

3.7.1 An application can be made to vary or remove a planning obligation at any time on the basis of a material alteration or change in circumstances since the application was originally determined. Where this occurs, the applicant will need to pay the Council's legal costs. Where necessary, infrastructure providers will be notified and consulted. Ward Members and town and parish councils may be notified and consulted, where necessary.

3.7.2 If the application was originally determined by the Planning Committee rather than being delegated to officers, the Planning Committee will usually determine the application to vary the obligation.

## **3.8 Monitoring of planning obligations**

3.8.1 The Council's Planning Obligations Officer co-ordinates the monitoring of developments to ensure the planning obligations are met. Whether a planning obligation requires a developer to undertake some works on site (direct provision) or make a financial contribution to off-site infrastructure, it is important that there is confidence that each planning obligation is delivered.

3.8.2 Monitoring and subsequent reporting will enable the local community to know the infrastructure needed to make development acceptable has been delivered. It is also important to be able to assure developers that the planning obligation/s they made are spent in accordance with the purposes contained within the S106 agreement.

3.8.3 Invoices are issued by the Council at defined stages of development (known as trigger points) as stated in a S106 planning agreement. The Council will notify those services with responsibility for delivery of the relevant infrastructure, when a planning obligation payment is received and will record the date by when the planning obligation/s has to be spent.

3.8.4 Partner organisations for example, the Clinical Commissioning Group (C.C.G.) or Police, may be required to sign an indemnity agreement and ensure contributions are spent in accordance with the S106 Agreement. [15 Annex 1](#) includes a draft indemnity agreement.

## **3.9 Infrastructure Funding Statement**

3.9.1 A requirement of the CIL Regulations means Councils are required to produce an annual Infrastructure Funding Statement (IFS). This is a summary of financial contributions which the Council has secured through Section 106 obligations and any other infrastructure funding from new development. It is published annually by 31<sup>st</sup> December and put on the Council's website.

# 4 Factors Affecting Planning Obligations

## 4.1 Trigger Points for Planning Obligations

4.1.1 For larger development schemes payments can be staged with the payment of obligations required when specific stages of a development are reached. These stages, often referred to as trigger points, should be agreed in the S106 and linked to the time and/or delivery of particular milestones, for example, commencement of development, first occupation, or at 50% occupation of the number of dwellings

4.1.2 Trigger points will be negotiated with applicants but could include, for example, a requirement for the first tranche of contributions required on commencement of development, with the remaining tranche required at an agreed level of occupation, for example when 50% of the total number of dwellings are occupied. The Monitoring Fee Evidence Paper ([link](#)) includes a worked example of how monitoring fees will be calculated, and how these relate to the number of clauses and trigger points

## 4.2 Indexation

4.2.1 Financial contributions are based upon the costs of infrastructure. Financial contributions may therefore be indexed (i.e. index-linked to inflation) to ensure that they retain their original 'real value'. The base date and appropriate index for the planning obligation(s) to be applied will be set out in the legal agreement. Where a formula has been set for the calculation of contribution levels, any cost figures used will be updated regularly to take account of inflation (for example using BCIS, RPI or CPI). The cost figures are the sums required at the time of negotiation. The County Council may also request their payments are index linked.

## 4.3 Interest

4.3.1 Late payment of financial obligations significantly beyond the stipulated trigger points will attract interest at 4% above the Bank of England base lending rate in force at the time, from the date that the payment falls due to the date the actual payment is made. This rate of interest will be specified in the S106.

## 4.4 Maintenance of assets secured through planning obligations

4.4.1 It is important that obligations are delivered to the required standard and are subsequently maintained. A developer should ensure that there are adequate arrangements made to ensure appropriate maintenance and management of the asset to prevent it from becoming a future liability. In some instances the inclusion of a financial contribution for maintenance could be justified.

4.4.2 It should not be assumed assets will be taken on by the local authority. Each case will be considered on its own individual merits. Where the Council does not take on the maintenance of an asset, the maintenance may be provided by a Management Company (MANCO) or by a Parish or Town Council.

## 4.5 Legal and Monitoring Fees

4.5.1 The District Council as a party to the S106 agreement or unilateral undertaking will seek its full legal costs associated with the negotiating, preparing, drafting, amending, producing, and sealing of S106 agreements/unilateral undertakings. It will include, where required, the costs of obtaining independent or specialised advice to validate aspects of the contributions.

4.5.2 Part 10 of the Community Infrastructure Levy (Amendment) (England) Regulations 2019 permits a local authority to secure fees to monitor and report on planning obligations contained within a Section 106 agreement, especially where the scale of development is complex and needs long term monitoring.

4.5.3 The sum of the monitoring fee to be paid to the Council must not exceed the Authority's estimate of its cost of monitoring the development over the lifetime of the planning obligation(s). Monitoring fees will therefore be based on current costs and will be reviewed periodically as necessary in line with changing costs.

The formula for calculating the monitoring fee of a Section 106 agreement is as follows:

Part One: Desk-based costs

(Number of 'trigger events' x 'Fee per monitoring point')

plus

Part Two: Site visit costs

(Number of 'trigger events' x Site Visit Fee)



4.5.4 The most recent information and evidence on costs will be made available on the Council's website site. The current fees (as of March 2022) can be found in the Schedule of Costs 2021-22 (LINK NEEDED). Spending will be reported as specific item in the Council's Infrastructure Funding Statement.

## **4.6 Bonds and Enforcement Action**

4.6.1 The Council may request that a bond is obtained to mitigate the risk of defaults on the fulfilment of planning obligations (and payments in the case of commuted sums) based on the merits of each individual case.

4.6.2 Notwithstanding the opportunity that exists for obligations to be varied, the Council will seek to ensure that all obligations are fulfilled and may be prepared to accept staged payments if needed to ensure that the terms of the original agreement are met.

4.6.3 The Council will use its corporate debt recovery process where necessary and its enforcement powers to stop development where the necessary obligations have not been made or not been made on time or in accordance with agreed payment schedules or "trigger" points. For further information on the approach to planning obligations please contact: Planning Obligations Officer, Harborough District Council. .

## **5 Affordable Housing**

### **5.1 Local Plan Policies**

5.1.1 The Housing policies can be found in Chapter 5 of the Harborough Local Plan 2011-2031. Policy H2 requires 40% affordable housing provision on sites of more than 10 dwellings or with a combined gross floorspace of more than 1,000 square metres. Policy H2 sets a tenure split of the affordable housing of about 75% affordable or social rented and 25% low-cost home ownership, or a different mix if justified by the latest assessment of affordable housing need. Clause 5 of Policy H2 advises that proposals which do not meet the policy requirements will be acceptable where it is demonstrated to the Council's satisfaction that a different level or mix of affordable housing is required to make the development viable and the approach contributes towards creating mixed and balanced communities.

5.1.2 It should be noted that the Local Plan Policy H2 seeks contributions on sites of more than 10 dwellings (i.e. 11 dwellings or more) or on sites for development with a combined gross floorspace of more than 1,000 sqm. It is noted that the NPPF 2021 policy states that Affordable Housing should only be sought on 'major developments', and as set out in the Glossary 'major developments' of housing are defined as 10 or more units. The Council will apply the adopted Local Plan policy when seeking contributions to affordable housing

### **5.2 Housing and Neighbourhood Plans**

5.2.1 Made Neighbourhood Plans form part of the Development Plan for their area. Neighbourhood Plans may include policies on housing and affordable housing, and new Neighbourhood Plans should consider the issue of First Homes.

### **5.3 Changes to National Planning Policy and the introduction of First Homes**

5.3.1 On 24<sup>th</sup> May 2021 the Government published its policy on First Homes. <https://www.gov.uk/guidance/first-homes>

5.3.2 This guidance includes the definition of First Homes and the eligibility and qualifying requirements for purchasers, and the limited circumstances in which the criteria could be applied. The guidance sets out how First Homes should be taken account of in plan-making and decision-taking and sets out the Government's policy for enabling First Homes exception sites. Neighbourhood Plans are also encouraged to support the delivery of First Homes.

## 5.4 First Homes in Harborough

5.4.1 Under the transitional requirements, plans which have reached an advanced stage of plan making do not need to be amended to reflect these new First Homes requirement. After 28 June 2021 all Local Plans and Neighbourhood Plans will be expected to take account of the new First Homes requirements. First Homes will therefore be an important part of the next Harborough Local Plan. The appropriate place to consider if there is evidence to justify a higher level of discount and/or local connection criteria for First Homes in Harborough is through the plan making process. Therefore, the current adopted Local Plan policies on affordable housing will continue to apply until the next Local Plan is adopted.

5.4.2 The Government's policy also sets out transitional arrangements for decision-making on applications which indicates that applications for full or outline planning permission which have been subject to significant pre-application engagement and determined before 28 March 2022 do not need to apply the First Homes policy. It is, however, also noted that Government policy requires Local Planning Authorities to be open to, and supportive of, proposals to deliver First Homes on existing sites.

5.4.3 The Council also notes the Government's support for First Homes exception sites, which are defined as sites that can come forward on unallocated land outside of a development plan. Whilst such sites, by definition, will not be allocated for housing in the Local Plan, they will still be expected to comply with other relevant Local Plan policies including good design and layout etc.

## 5.5 Definition of Affordable Housing

5.5.1 Affordable housing is defined in national policy as social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions for the development to remain at an affordable price in perpetuity for future eligible households or, where any affordable housing development is subsequently sold on the open market, for the value to be recycled for replacement affordable housing provision in the locality.

5.5.2 The definition of affordable housing included in the glossary in the adopted Local Plan (page 282) references only housing for social and affordable rent. The updated NPPF definition of affordable housing refers to a number of other affordable housing products and includes a wider range of rented and low-cost tenures and options

5.5.3 Social rented housing is rented housing owned and managed by local authorities and RPs (Registered Providers or Housing Associations), for which guideline target rents are

determined through the national rent regime. This type of housing may also be owned by other organisations and provided under equivalent rental arrangements if agreed with the local authority or with Homes England.

5.5.4 Affordable rented housing is let by Registered Providers (RPs) to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80 per cent of the local market rent (including service charges, where applicable).

5.5.5 Intermediate housing are homes for sale and rent provided at a cost above social rent, but below market levels. These can include Shared Equity, Shared Ownership and other low cost homes for sale (including Discounted Market Sale) and intermediate rent.

5.5.6 Therefore, the current national definition of Affordable Housing includes social rented housing, intermediate rented housing, shared ownership and shared equity products and, as of 24<sup>th</sup> May 2021, First Homes as well.

## **5.6 Exception Sites, New Housing in the Countryside and Evidence of Local Housing Need**

5.6.1 Policy H3 allows for rural exception sites, which as the policy states are for 'affordable housing on small sites that would not normally be permitted for housing'. There is a requirement for exception sites to meet a 'clearly evidenced local affordable housing need. Exception sites are usually supported by a Local Housing Needs Survey. The Council would expect such surveys to follow the best practice methodology of a parish level two-part survey which is independently undertaken and analysed. The pre-survey consultation with the Town or Parish Council to raise awareness of the survey is an integral part of the process and helps ensure as high a response rate as possible for this snapshot survey and gain local support. Survey findings are considered valid for three years. It should be noted that owing to the snapshot nature of the survey, results should not be extrapolated, and any resulting scheme would not be expected to meet all of the identified affordable housing need. In practice, parish level local housing need surveys are usually used to justify a scheme to meet around 50% of the affordable housing need identified. Where surveys find evidence of a demand for open-market housing within a parish it is useful that this is reported, but it must be noted that this provides evidence of demand, not local housing need.

5.6.2 Policy GD4 also allows for housing on small sites of no more than 4 dwellings which are within or physically and visually connected to settlements and which meet a local need for housing of a particular type, including small dwellings for the elderly and starter homes, provided this has been evidenced through a rural housing needs survey or a neighbourhood plan. Such sites are not exception sites as they are permissible under Policy H4. However, the advice on what constitutes a best practice rural housing needs survey would still apply to these sites.

### 5.6.3 “Starter Homes”

As explained in the Glossary of the adopted Local Plan (page 290) Starter Homes were a government initiative for low cost home ownership. Although a technical consultation was undertaken this initiative was not taken forward. Current Government policy is now supporting low cost housing for sale for first time buyers) through the First Homes (see First Homes Section).

## 5.7 Housing Mix

5.7.1 Harborough District has an above average number of larger type dwellings (5-7 bedrooms) and a smaller number of 2-3 bedroom house types. Smaller dwellings are under-represented in the range and mix of house types. It is evident that the number of smaller households is increasing. In light of this, the majority of our house type requirements will be based on smaller house types to meet demand. .

5.7.2 Development proposals should therefore always seek to provide a mix of size and type of dwellings (both open market and affordable dwellings). In particular, housing for smaller households will be supported in order to meet District wide identified need. Local Plan Policy H5 specifies that major housing developments should provide a mix of housing types that is informed by up to date evidence of housing need. In establishing the appropriate mix of housing types, account should be taken of the range of accommodation types required in the local area. This is derived from the understanding of the size and characteristics of future households over the plan period and an appreciation of how well suited the existing dwelling stock is to meet those demands

## 5.8 Affordable Housing Mix

5.8.1 The type of affordable housing sought will be negotiated on a case by case basis. The discussion will be informed by percentages set out in the Table 1 below, as a starting point.

### **Table 1 - Benchmark affordable housing mix on proposals above 10 units**

**Table 5.1 Benchmark affordable housing mix on proposals above 10 units**

<b>Dwelling Type</b>	<b>Percentage of Housing Mix</b>
1 bedroom dwelling	35-40%
2 bedroom dwelling	25-30%
3 bedroom dwelling	25-30%
4 + bedroom dwelling	5-10%

Source: Table 52 of the HEDNA, Estimated Size of Dwellings Needed 2011 to 2031 – Affordable Housing – HMA<sup>1</sup>

5.8.2 The HEDNA (Our policies, plans and strategies - HSG8 Housing and Economic Development Needs Assessment (HEDNA) | Harborough District Council) includes an estimate of the size of affordable housing dwellings needed across the Housing Market Area for the period to 2031. This evidence provides the indicative mix of affordable housing that will be sought on sites within the Harborough District. However, the characteristics of individual sites and more detailed evidence of local housing needs, for example from a parish level housing needs survey or evidence prepared to support a Neighbourhood Plan, may also influence housing mix sought on a particular development.

5.8.3 Therefore, applicants are advised to consult the Harborough District Council Strategic Housing and Enabling Officer at the earliest opportunity to discuss and agree site/locality specific requirements and details of the affordable housing contributions prior to the submission of a planning application. It should be noted that:

- All affordable housing must comply with Homes England Quality Development Standards particularly in relation to space and floor areas as a minimum requirement.
- Affordable housing for rent will be transferred to a partner Registered Provider (RP) at values to be agreed between the developer and the RP partner and approved by Harborough District Council.
- Developers are required to negotiate the price paid as a percentage value of shared ownership directly with the Registered Provider.
- Other/alternative forms of housing / development, including community led options, will be dealt with as part of the Council's Strategic and Enabling function and we will actively engage with providers to assess opportunities where these options may be appropriate

The range and type of affordable housing should be secured through, and specified in, the Section 106 agreement.

## **5.9 Special Needs and Extra Care Housing**

5.9.1 Special Needs housing may be affordable housing, where it meets the definition of affordable housing and/or where proposed by specialist providers. However, specialist housing that is not affordable would normally be expected to make affordable housing contributions. Examples of those who may be in 'special need' include the elderly, 16-24 year olds, people with mental health or learning difficulties, and people with special access requirements such as wheel chair users. The Council will also seek the provision of small 1-2 bed bungalows on appropriate sites to meet the need for this house type for our expanding elderly community.

5.9.2 Special Needs housing is strongly encouraged, and bespoke guidance and support will be provided to assist in implementation. The Council will work to meet wheelchair and Lifetime Homes Standards which are now covered through optional requirements in Building Regulations.

5.9.3 New forms of sheltered and retirement housing have been developed in Harborough District in recent years, to cater for older people who are becoming more frail and less able to do everything for themselves. The Council strongly supports such provision.

5.9.4 Extra Care Housing is housing designed with the needs of frailer older people in mind and with varying levels of care and support available on site. Most people who live in Extra Care Housing have their own self-contained homes, and a legal right to occupy the property. Extra Care Housing is also known as very sheltered housing, assisted living, or simply as 'housing with care'. It comes in many built forms, including blocks of flats, bungalow estates and retirement "villages". It is a popular choice among older people because it can sometimes provide an alternative to a care home. There are communal facilities with domestic support and personal care available.

## **5.10 Specialist Housing and Viability**

5.10.1 The Government issued revised Planning Practice Guidance on Housing for Older and Disabled people on June 26<sup>th</sup> 2019 (after the adoption of the Local Plan). This guidance includes a specific section on viability noting the front-loading of viability testing in plan-making and that the emphasis is on the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage

5.10.2 It is noted that the PPG gives housing for older people as an example of a type of development which may significantly vary from standard models of development for sale. This factor is also recognised in paragraph 5.3.10 of the Local Plan. As such we encourage specialist housing providers to engage in early dialogue with the Development Management planners and the Strategic Housing and Enabling Officer if viability is an issue for your proposal, and to submit any supporting evidence and site-specific viability assessment as soon as possible. It should be noted that, as set out in para 5.3.10 of the Local Plan, as with all submitted viability assessments the Council will commission an independent review at the expense of the applicant.

5.10.3 Further information about the self-build and custom housebuilding register can be found at Self-Build and Custom Housebuilding Register - Harborough District Council. The register provides evidence of the demand locally for self-build and custom housebuilding and is a key part of the Council's evidence base for this type of housing.

5.10.4 Local Plan Policy H5 *Housing density, mix and standards* criterion 4 supports the provision of self-build and custom-build housing plots in locations that would be suitable for housing. The mechanism for securing these plots will be through the S106 agreement.

5.10.5 Government policy also allows for self-build and custom build plots on exception sites. Developers wishing to deliver self-build and custom plots on exception sites should note that, as any such proposals are by definition in locations where housing would not normally be permitted, they will be assessed against Policy H3 *Exception Sites* (not Policy H5) which requires development to meet a clearly evidenced local affordable housing need. Furthermore, as set out in paragraph 5.5.2, exception site proposals would normally be subject to a local connection requirement in the Section 106 agreement (via a housing association). For self-build/custom build exception sites of a single house the applicant will need to demonstrate their local connection to the area. If a developer was proposing a small development of custom-build houses on an exception site, then both a local occupancy clause and a self-build/custom build clause are likely to be required in the Section 106 agreement.

## **5.11 Delivery of Affordable Housing**

5.11.1 The Council supports a range of Registered Providers (RPs or Housing Associations) to provide and manage affordable housing in the District. A list of current providers and contact details is available on our website ([LINK](#)).

5.11.2 The Strategic Housing and Enabling Officer will engage with developers and ask them to contact RPs at the earliest stage so that an affordable scheme can be discussed and agreed preferably prior to the submission of a formal planning application.

5.11.3 Planning applications should be accompanied by an Affordable Housing Statement to indicate commitment to affordable housing provision through on-site provision. The question of accepting a commuted sum payment is a matter for the Council to determine if it deems it appropriate to accept an off-site contribution in lieu of on-site provision. It is not a matter for the applicant to propose. The Council will then seek to secure this commitment through a planning obligation.

5.11.4 The Housing Enabling Officer will provide advice on the delivery of affordable homes through the planning process. The Officer will advise on the provision of affordable housing in eligible applications, whether off-site provision is appropriate and whether a commuted sum should be accepted. The views of the community via local Ward Councillors and relevant Town/Parish Councils will also help inform the position the Council takes on the matter

5.11.5 The Council will seek, in general terms, a mix which is split of about 75% affordable or socially rented and about 25% low-cost home ownership products. However, each site is assessed on its merits regarding how best it can meet local housing need and the Council will adopt a flexible approach in assessing need and provision. A variation of the housing mix may be acceptable if justified by reference to the latest assessment of affordable housing need.



5.11.6 The affordable housing secured will be transferred to a Registered Provider (RP), at values to be agreed between the developer and RP.

5.11.7 Applicants are advised to consult RPs to discuss these matters at an early stage in the preparation of a planning application including an element of affordable housing.

5.11.8 The cost associated with the necessary level of affordable provision on any site should be factored in by the developer in their acquisition of the site.

5.11.9 Development proposals involving 100% affordable housing will not normally be exempt from S106 obligations as any new development is likely to have an impact and an effect on local services and infrastructure.

## 5.12 Commuted Sums

5.12.1 In accordance with both National Planning Policy Framework (NPPF) and adopted Local Plan policies, there is a clear preference for affordable housing to be provided on-site, within the site subject to planning approval. Whilst on-site provision will always be the priority option for providing affordable housing, there may be some circumstances where the inclusion of affordable housing on-site may not be practical or appropriate. In such circumstances, a commuted sum is the acceptable alternative to the provision of units of affordable housing on a site. The following are circumstances where a commuted sum may be justified:

- Where a Registered Provider (RP) is unwilling to acquire affordable units. This may occur where the proposal involves conversion or redevelopment of existing buildings such as listed buildings or development in conservation areas. It may also occur because the affordable housing proposed may be in a location, or is of such a limited scale, that a Provider considers it unsuitable to manage efficiently.
- Where housing need priorities could be better met in an alternative location.
- Where there is a dominance of a particular type of affordable housing provision in the immediate area.
- Where the viability of the particular form of development might be compromised by the integration of affordable housing into that development, for reasons that can be clearly set out and justified. Submitted viability appraisals will be re-appraised by the Council (as referenced in paragraphs 3.7-3.9 above) before consideration can be given to acceptance of a commuted sum in lieu of on-site provision of any affordable housing obligation.

5.12.2 If a commuted sum payment is accepted, the value will be based on the cost to the developer of meeting the affordable homes requirement. Using HDC's percentage requirement to guide negotiations, the off-site contribution or commuted sum will be based on the following approach:

- Agree the average Open Market Value (OMV) of each affordable house type (i.e. 2 bed terrace, small 3 bed semi etc.) that is to be included on the site.
- Calculate the affordable housing requirement using the formula 50% of the average OMV of an affordable house type x Harborough % of affordable provision requirement.
- e.g. OMV x 50% for each unit x the number of affordable units required (40% of site yield): If the open market value (OMV) of a two bedroom house was £150,000 and the policy requirements was for 40% affordable housing provision on a 15 dwelling site (equating to 6 units), the commuted sum received would be 6 units x 50 % of the OMV (£75,000) = £450,000

## 6 Community Facilities

### 6.1 Local Plan Policies

6.1 Community facilities can be in a wide range of venues and include for example, places of worship, town and village halls, purpose-built community centres, sports centres and clubs as well as adapted venues, including historic listed buildings, converted houses, flats, shops, scout huts and rooms or halls attached to faith buildings. Community infrastructure is not limited to buildings but can also include facilities such as MUGAs (Multi-Use Games Areas), outdoor gyms and skate parks.

6.2 Local Plan Policy IN1 *Infrastructure provision* seeks direct provision and/or financial contributions to infrastructure including social assets such as community halls and indoor sports facilities to support and meet the needs arising from the development. Whilst on site provision is sought on larger sites, much of the development in Harborough District is at a smaller scale but it will still be expected to contribute to community needs generated by additional development, by helping to expand or develop existing levels of provision. Policy IN1 seeks infrastructure contributions on major developments.

6.3 At the time of a planning application being received, the District Council in conjunction with Town/Parish Councils will assess the proposed development against the existing levels of provision in the community and submit evidence of need for additional community facilities in the area arising from the proposed development.

### 6.2 Level of Contribution to Community Facilities

6.2.1 The level of contributions required to provide additional community facilities are set out in '**Refresh of the Harborough District Community Infrastructure Assessment**' undertaken by Peter Brett 2017 (Our policies, plans and strategies - HCF1 Community Infrastructure Assessment 2017 | Harborough District Council). Chapter 4 of the report sets out the methodology and contributions required. Table 4.2 at para 4.3.3 sets out the costs per dwelling according to size.

**Table 6.1 Community Facilities costs per dwelling according to size.**

No of bedrooms	1	2	3	4	5+
Assumed no of residents per dwelling	1.5	2.0	2.3	3	4
Charge per dwelling (per person charge of £515) for an extension or new build facility	£773	£1030	£1185	£1545	£2060
Refurbishment costs assessed at 75% of extension / new build cost	£579	£773	£888	£1159	£1545

The report has also been used to inform the Community Facilities Strategy which identifies needs for community facilities. Further evidence for additional or enhanced community facilities is also included in the Built Sports Facilities Strategy adopted in December 2020.

## **6.3 Allocation of funding for community facilities**

6.3.1 The Council operates a community led approach to allocating funding for community projects and off-site recreation contributions to take account of community needs and priorities at the time when the development is being implemented.

6.3.2 Further information about the S106 community grant scheme can be found at the Council's website ([LINK](#)). For further details about community facilities please contact:

Community Partnerships Team, Harborough District Council Tel: 01858 828282.

# 7 Open Space, Sports and Recreation Provision

## 7.1 Local Plan Policies

7.1.1 Local Plan Policy GI2 Open space, sport and recreation seeks to safeguard and enhance open space, sport and recreational facilities and to require direct provision of new high quality open space, sport and recreation facilities on new residential sites and/or seek contributions from smaller sites, where appropriate.

## 7.2 The Harborough Open Space Strategy (HOSS) 2021

7.2.1 The Harborough Open Space Strategy (HOSS) 2021 (Planning policy background documents | Planning policy background documents | Harborough District Council) explains how the Council manages and secures the future of open spaces in its ownership and how it will work in partnership with others to enable new open space to come forward in the future. The HOSS seeks to enhance and protect existing open space and to enable new open space provision.

Paragraph 9.3.5 in the adopted Local Plan indicates that these standards may be reviewed in subsequent iterations of the Open Spaces Strategy itself.

7.2.2 As set out in Local Plan Policy GI2 (paragraph 9.3.5) the level of contributions will be periodically reviewed to ensure that they are accurate and will be calculated for each development from a detailed assessment of the range of existing open space in the area. Generally, contributions towards open space typologies would be required where there would be a capacity issue or an under-supply or quality issue.

7.2.3 A commuted sum will normally be requested to ensure arrangements for the maintenance of the facilities is secured in accordance with the Open Spaces Strategy should the Council decide to take ownership of a site. It should not be assumed that open space will be adopted by the local authority. Each case will be considered individually. They may be managed by a management company (MANCO) or a Parish Council.

Where provision is not appropriate on site, a contribution based on the cost of provision elsewhere will be made.

7.2.5 Provision of outdoor open space, sport and recreation facilities will be considered in all applications for new homes where there is a net increase of 11 residential units or more, in accordance Local Plan Policy GI2.

## 7.3 Harborough Built Facilities Strategy 2020

7.3.1 Contributions required for swimming pools, leisure centres and sports halls and other built sports facilities, will be calculated in accordance with the Harborough Built Sports Facilities Strategy 2020 with reference to Sport England calculator (<https://www.activeplacespower.com/> ).

## 7.4 Harborough District Playing Pitches Strategy 2018

7.4.1 Contributions required for playing pitches and artificial grass pitches will be calculated in accordance with the adopted Harborough District Playing Pitches Strategy 2018 (HPPS) (Built Sports Facility Strategy | Built Sports Facility Strategy | Harborough District Council). The HPPS determines the supply and demand for playing pitches and ancillary buildings such as changing rooms. The HPPS includes the sports of cricket, football, rugby union, rounders, tennis and outdoor bowls and meets Sport England's requirements for a strategy of this kind. The aims, objectives and delivery plan of the HPPS, including any subsequent iterations, form the basis of policy for assessing the requirement for sports pitch provision.

## 7.5 Allocation of Funding for Built Facilities

7.5.1 The Council operates a community led approach to allocating funding for built sport facilities contributions to take account of community needs and priorities at the time when the development is being implemented.

7.5.2 Further information about the S106 community grant scheme can be found at the District Council website. For further details about built sport facilities please contact:

Community Partnerships Team, Harborough District Council

Tel: 01858 828282

## 7.6 Cemeteries

7.6.1 Local Plan Policy GI3 – *Cemeteries* will ensure sufficient burial provision continues to be provided in the District. The Harborough Cemeteries and Burial Strategy 2016 (HCBS) identifies the existing capacity for burials/cremation ashes, along with future requirements. The study was completed on a site-by-site basis to establish where there is a shortfall in capacity and where there is sufficient capacity. The HCBS informs the Local Plan with regard to the impact of new development on future cemetery and burial provision. It supports the case for requesting planning obligations towards burial provision.



For further information on planning obligations for open space, sport and recreation, and cemeteries please contact:

Neighbourhood Planning and Open Space Officer, Harborough District Council Tel: 01858 828282.

## 8 Healthcare

### 8.1 Local Plan Policy

8.1.1 Local Plan Policy IN1 *Infrastructure provision* seeks contributions for infrastructure including social assets for example health centres and doctors surgeries. One of the principal demands on a growing community is the need to provide new high quality healthcare facilities. Alternatively, existing provision may require additional facilities, extensions or alterations. Where a development would produce extra demand on the local healthcare provision beyond the capacity of existing provision, planning obligations may be sought to meet the needs arising and make the development acceptable

8.1.2 The Council supports the need to ensure that local health care provision meets the needs of household growth in the District. The Council will consult NHS England and Clinical Commissioning Groups on future development plans to help assess long term health planning. The Council will consult these agencies on planning applications submitted which involve developments of 10 dwellings or over to determine if a contribution to health provision is justified based on the existing capacity of healthcare infrastructure in the specific area within which a development is proposed. In larger development projects, the opportunity for on-site provision of medical facilities may be required.

### 8.2 Level of Contribution

8.2.1 Details of advice on Health Care provision and any need for additional facilities can be obtained by contacting NHS England / Clinical Commissioning Groups. NHS England/ CCG will need to ensure all requests for direct provision and/or financial contributions for healthcare are sufficiently evidence based and in compliance with the Community Infrastructure Levy (CIL) Regulation tests in CIL Regulation 122.

### 8.3 Spending of Contributions

8.3.1 Contributions will be paid to NHS England / Clinical Commissioning Groups who will provide a report on request to the District Council to determine how funding has been allocated, to enable the Council to monitor how contributions have been utilised.

Further enquiries can be made initially to [primarycare@leicestercityccg.nhs.uk](mailto:primarycare@leicestercityccg.nhs.uk) and [llrstrategy&planningteam@leicestercityccg.nhs.uk](mailto:llrstrategy&planningteam@leicestercityccg.nhs.uk)



## 9 Community Safety

### 9.1 Local Plan Policy

9.1.1 As set out in Local Plan Policy IN1 *Infrastructure provision*, direct provision and/or financial contributions towards meeting all the eligible costs of infrastructure directly related or required by a major development will be sought from the scheme promoter whenever this is necessary.

### 9.2 Level of Contributions

9.2.1 Leicestershire Constabulary and Leicestershire Fire and Rescue Service may request planning obligations to meet the additional costs of emergency service provision resulting from additional development. Leicestershire Constabulary and Leicestershire Fire and Rescue Service will need to ensure all requests for direct provision and/or financial contributions are sufficiently evidence based and in compliance with the Community Infrastructure Levy (CIL) Regulation tests in CIL Regulation 122.

9.2.2 Enquiries about the Police planning obligations can be initially directed to Leicestershire Police.

9.2.3 Enquires about Fire and Rescue contributions can be initially directed to the Fire and Rescue Services.

### 9.3 Spending of Contributions

9.3.1 Contributions will be paid to Leicestershire Constabulary and/or Leicestershire Fire and Rescue Service who will provide a report on request to the Council to determine how funding has been allocated, to enable the Council to monitor how contributions have been utilised.

# 10 Household Waste and Recycling Receptacles

## 10.1 Local Plan Policies

10.1.1 Local Plan Policy SC1 *Scraptoft North Strategic Development Area* and Local Plan Policy L1 *East of Lutterworth Strategic Development Area* set out a requirement for facilities for recycling and waste collection including concealed bin storage.

10.1.2 Effective household waste management is important in developing sustainable communities to ensure that waste production is reduced and recycling is increased.

10.1.3 As a waste collection authority, Harborough District Council is responsible for the collection of household waste. Residential waste is currently collected in two wheeled bins. One for dry recycling (glass, paper, cardboard newspaper etc.) and the other for residual waste. The Council also offers a paid for garden waste collection.

10.1.4 Local Plan Policy IN1 *Infrastructure provision* seeks contributions for infrastructure including social and physical infrastructure. One of the demands on a growing community is the need to be able to deal with household waste management and in major developments of 10 or more dwellings, the Council will seek and encourage, developers to provide contributions appropriate to provide suitable facilities for recycling and waste collection, for example wheelie bins. Where a development would produce extra demand on local waste management beyond the capacity of existing provision, planning obligations may be sought to meet the needs arising to make the development acceptable

## 10.2 Level of Contributions

10.2.1 The level of contribution sought for Household Waste and Recycling receptacles will reflect the actual costs of incurred. A Schedule of Costs which will include the most recent information and evidence on costs will be made available on the Council's website site. The current fees (as of March 2022) can be found in the Schedule of Costs 2021-22 (LINK NEEDED).

## 10.3 Spending of Contributions

10.3.1 Contributions for Household Waste and Recycling receptacles will be spent on the purchase of receptacles for new homes. Spending will be reported as a specific item in the Infrastructure Funding Statement.

# 11 Biodiversity Net Gain

## 11.1 The Local Plan and Biodiversity

11.1.1 One of the adopted Local Plan's objectives is to protect, maintain, restore and enhance biodiversity. The Plan also recognises the importance of Green Infrastructure for biodiversity. Local Plan Policy GI1 *Green Infrastructure Networks* seeks to support, safeguard and where possible enhance Green Infrastructure. Policy GI5 *Biodiversity and geodiversity* safeguards nationally and locally designated biodiversity sites and requires development to contribute towards protecting and improving biodiversity. Paragraph 10.7.6 of the Local Plan acknowledges the role that Sustainable urban Drainage Systems (SuDS) can play in delivering benefits for biodiversity. Several site allocation policies include requirements for biodiversity enhancements.

## 11.2 The Environment Act 2021

11.2.1 The Environment Act 2021 sets out Government plans to mandate net gains for biodiversity. The Environment Act amends the Town & Country Planning Act (TCPA) to make biodiversity net gain (BNG) mandatory. There is currently a transitional period with the mandate for BNG expected to become operationalised in 2023. Once this occurs applications will need to comply with the National BNG requirements. In the interim, schemes which wish to deliver BNG in advance of the mandatory requirements are positively encouraged.

11.2.2 Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gain can be achieved on-site, off-site or through a combination of on-site and off-site measures.

11.2.3 The NPPF already sets out the national policy that planning should provide biodiversity net gains where possible. Further explanation on how this should be done is set out in the Natural Environment Planning Practice Guidance (PPG). Biodiversity net gain is also referred to in the National Infrastructure Commission's Design Principles, National Policy Statements and the National design guide, demonstrating it is an important area of emerging government policy. The Government's 25 Year Environment Plan sets out the aspiration to mainstream biodiversity net gain in the planning system and move towards approaches that integrate natural capital benefits.

11.2.4 The key components of mandatory BNG are set out in the Environment Act, including the requirement for applications to deliver a minimum 10% BNG. This is expected to be calculated using Biodiversity Metric and approval of net gain plan. Habitat (s) will be secured for at least 30 years via planning obligation(s) and/or conservation covenant(s) and can be delivered on-site, off-site or via statutory biodiversity credits.

However, the mitigation hierarchy still applies, meaning avoidance of harm must be considered first, then mitigation, and only where this is not possible can financial compensation for biodiversity loss be considered.

11.2.5 It should also be noted that BNG is in addition to existing legal environmental protection of wildlife and habitats which have not changed

## 12 Sustainable Drainage

### 12.1 Local Plan Policies

12.1.1 Local Plan Policy CC4 *Sustainable drainage* seeks contributions from all major developments to incorporate Sustainable urban Drainage Systems (SuDS).

12.1.2 The principle of SuDS is to slow the flow of water from a site retaining rainfall in the various SuDS facilities across a site. A SuDS should be designed with the hydrology of the site. Minor developments should address the opportunity for SuDS in the design and access statement accompanying a planning application.

12.1.3 Leicestershire County Council is the Lead Local Flood Authority (LLFA) and will be consulted on planning applications as the statutory consultee for SuDS schemes in Harborough District.

### 12.2 Planning Obligations for Drainage

12.2.1 The County Council will provide advice to the District Council as Local Planning Authority (LPA). The County Council will prepare appropriate planning conditions in its role as Lead Local Flood Authority for the LPA to attach to planning permissions. Planning obligations will be necessary to ensure delivery of the drainage systems if delivered off-site.

12.2.2 The Council will ensure planning conditions are in place and can be legally upheld for ongoing maintenance, inspection, implementation and enforcement of sustainable urban drainage systems, where appropriate.

12.2.3 Current industry best practice standard 'SuDS (C753 The SuDS Manual CIRIA)' makes it clear that SuDS should manage water quantity (slow the flow), water quality (remove contaminants), biodiversity (create opportunities for plants and animals to thrive) and amenity (create areas that can be utilised by people for enjoyment).

# 13 Broadband Connectivity

## 13.1 Local Plan Policies

13.1.1 Local Plan Policy IN3 Electronic Connectivity requires major developments only to be permitted where adequate broadband infrastructure is to be made available to all residents and/or users of the development. The policy states that major developments should incorporate a bespoke duct network designed and implemented in association with a recognised network provider and where viable a fibre to the premises (FTTP) solution

13.1.2 Therefore developers should take active steps to incorporate superfast broadband, ideally an FTTP solution, wherever possible. In all cases developers should engage with telecoms providers as early as possible (at the pre-planning phase) to ensure that broadband connectivity will be available to residents as soon as the homes are occupied.

# 14 Leicestershire County Council Services

## 14.1 Local Plan Policies

14.1.1 Local Plan Policy IN1 *Infrastructure provision* seeks direct provision and/or financial contributions for infrastructure. Local Plan allocations, for example Policy L1 *East of Lutterworth Strategic Development Area (SDA)* and Policy SC1 *Scraptoft North Strategic Development Area*, include specific requirements to provide sites or contributions for education. Policy IN2 *Sustainable Transport* requires development proposals to have regard to the transport policies of the Local Transport Authority. These are County Council functions and therefore as a local planning authority in its own right the County Council is legally able to enter into and enforce S106 obligations. The County Council will assess its infrastructure needs and make CIL Regulation tests compliant requests for S106 developer contributions in relation to the following services:

- Adult social care and health;
- Civic amenity/waste management;
- Education;
- Economic growth;
- Highways and transportation;
- Library service;
- Sports and recreation;
- Community safety; and
- Public health

## 14.2 Leicestershire County Council Planning Obligations Policy

14.2.1 The Leicestershire Planning Obligations Policy was adopted by the County Council in July 2019. It sets out the County Council's approach to planning obligations. The document explains the level and type of infrastructure which would be expected to address the impacts of development in order to make it acceptable in planning terms and sets out the standard requirements the County Council may seek in order to mitigate the impacts of new development. The Policy will be kept under review..

14.2.2 Enquiries about the County Council planning obligations can be directed to their planning obligations team by email [planningcontrol@leics.gov.uk](mailto:planningcontrol@leics.gov.uk)

14.2.3 The collection and spend of County Council Section 106 Contribution will be reported in their Infrastructure Funding Statement(s) available here:

<https://www.leicestershire.gov.uk/environment-and-planning/planning/developer-contributions>



# 15 Annex 1

## ANNEX 1 : DRAFT PROPOSED INDEMNITY AGREEMENT

Dated 2021

HARBOROUGH DISTRICT COUNCIL

AND

[ ]

RECEIPT FOR MONIES ARISING UNDER PLANNING AGREEMENT

Pursuant to Section 106 of the Town and County Planning Act 1990

Relating to [Development Site]

Harborough District Council

**THIS AGREEMENT** is made on the [ *insert date as number* ] day of [ *insert month* ] Two Thousand and Twenty

### **BETWEEN:**

1. **HARBOROUGH DISTRICT COUNCIL** of The Symington Building, Adam and Eve Street Market Harborough Leicestershire LE16 7AG (“the District Council”)

1. [ *insert name and address of the Recipient .* ] (“*the Recipient*”)

### **RECITALS**

1. Planning permission was sought from the District Council to carry out the development of [ *insert the description of the development* ] and [ *insert the address of the site/land* ]
2. The District Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 (As Amended) for the District of Harborough within which the Application Land/Site is situated
3. On [ *insert date* ] the District Council resolved to grant planning permission in accordance with the planning application ref no. and subject to planning conditions and a Section 106 Planning Agreement/Unilateral Undertaking dated [ *insert date* ] (“the Deed”)

1. The Recipient [*insert name & address*] is in receipt of the [*name the contribution e.g. Health Contribution or police contribution*] which amounts to [*£ insert figure and also describe in words and state if inclusive of indexation*] and is for [*insert the purpose/use of the contribution e.g. for the provision of and improvement of health facilities at Bushby Surgery*]
2. The parties have agreed to enter this indemnity agreement with the intention that the obligations/covenants contained herein may be enforced by the District Council against the Recipient and their respective successors in title, where necessary.

### **THE DISTRICT COUNCIL COVENANTS**

In accordance with [*insert the relevant clause nos.*] of the [Section 106 planning agreement dated ]

The District Council will serve written notice to [*insert name and address of the recipient*] . which :-

1. Advises the [Recipient] that the Deed has been entered into and that it contains an obligation on the Owner to pay the [*type of contribution*]
2. Advises the [*recipient*] of the purpose of the [*type of contribution*] as set out in the Deed
3. Advises the [*recipient*] of the amount of the [*type of contribution*] and each tranche there-of together with details of the trigger dates for payment and
4. Requests confirmation from the [*recipient*] as to which of them the Council should pay the contribution to in accordance with the Deed
5. The District Council covenants with the Owner to pay the *Contribution* to the [*relevant recipient*]

### **THE RECIPIENT COVENANTS**

The Recipient to provide a written undertaking for the benefit of the District Council and the Owner that it will:-

- a) apply the [*Contribution*] in accordance with the purposes set out in the Deed
- b) provide full details of the expenditure of the [*Contribution*] on demand to the District Council or the Owner PROVIDED that no such demand shall be made before the expiry of three years from the date of receipt of the [*Contribution*] by the District Council and such demands shall not be made more frequently than once a quarter thereafter and
- c) return any unspent or uncommitted part of the [*Contribution*] (*with any required interest at the Bank of England Base rate from time to time that has accrued thereon in the period from the date of receipt by the District Council to the date of repayment*) to the District Council after expiry of five years from the date of receipt of the Health Contribution by the District Council regardless of when the same was paid to the relevant Health Body.

d) to co-operate fully and to provide such information as is reasonably requested by the District Council in the event that repayment of the [ *Contribution*] is sought by the Owner under the terms of the Deed and

e) to notify the District Council immediately in writing of any instances of fraud or misappropriation of the [ *Contribution*] and

f) to indemnify the District Council in respect of all claims made against the District Council for repayment of the [ *Contribution*] including (but not limited to) legal costs and interest awarded against the District Council arising from the repayment of the [ *Contribution*].

IN WITNESS WHEREOF this Agreement is executed as a DEED in the manner hereinafter appearing the day and year first before written

The COMMON SEAL of

**MARKET HARBOROUGH DISTRICT COUNCIL**

was hereunto affixed in the presence of:-

Authorised Signatory

**Signed as a deed by in the presence of**

**The COMMON SEAL of The RECIPIENT e.g.**

**Signed as a deed by in the presence of**

## Endnotes

- 1 Table 52 of the HEDNA, Estimated Size of Dwellings Needed 2011 to 2031 – Affordable Housing – HMA