



Planning Obligations
Supplementary Planning Document
September 2011

Using Planning Obligations to achieve Sustainable Development



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General Information

This and other Local Development Framework documents are or will be made available on request in large copy print, audio cassette, Braille or languages other than English. If you require the document in one of these formats please contact:

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Arabic

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Bengali

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Chinese

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Gujarati

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જો તમને આમાંથી કોઈ સ્વરૂપમાં દસ્તાવેજ જોઈતો હોય, તો કૃપા કરીને આ સરનામે સંપર્ક કરો:

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Punjabi

અનુરોધ કરન કે. ઇગ ડાક્યુમેન્ટ (લિખત જાਣકારી દસઝાલેજ), અડે સથાનક વિકાસ યેજના (ફરેમવરક) સંબંધી હેર ડાક્યુમેન્ટસ વંડે પરિંટ, આડીઈ કસેંટ કે રીકારડ કીડે હેડે. થરેલ ફારમેટ, અડે અંગ્રેજી ઝાસા દે નાલ નાલ હેર ઝાસાવં વિંચ વી મિલ સકદે હન જાં મિલ સકટરો। જેકર ઝુસીં કોઈ ડાક્યુમેન્ટ ઇનુ વિંચે કિસે ફારમેટ (થટઝર) વિંચ લેટા ચાહુદે હે. ઝાં ફિપા કરકે હેઠ લિપે પડે કે સંપરક કરે: પલેનિંગ પોલિસી ટીમ, ડાયરેક્ટરેટ ઓફ ઇ અરથન ઇનવિરનમેન્ટ, ડડલી મેટરોપોલિટન થરે કાઉન્સિલ, 3 સેંટ જેમસ રોડ ડડલી Planning Policy Team, Directorate of the urban environment, Dudley Metropolitan Borough Council, 3 St. James's Road, Dudley DY1 1HZ - ટેલેફોન નંબર: 01384-816967 - ઈ-મેલ પઝા: ldf@dudley.gov.uk

Urdu

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Review of Planning Obligations SPD

Following the adoption of the initial Planning Obligation SPD in December 2007, a review was undertaken in March 2009 in line with good practice to ensure that the required planning obligations continued to be reasonable and realistic.

This second review of the SPD was undertaken for a number of reasons:

- Address the implications of the recently adopted Black Country Core Strategy and other policy documents
- Reflect changes to planning obligations as a result of the Community Infrastructure Levy Regulations (April 2010)
- Improve the structure, format and clarity and streamline the document in line with government guidance
- Update the evidence base for specific planning obligations and review formulas where appropriate
- Reflect good practice and recent case law on planning obligations
- Better address viability considerations

Public consultation took place between Friday 8th April and Friday 27th May 2011, in accordance with the statement of community involvement (2006). The representations received on the authority's responses to these representations can be found in the consultation statement, available to view on the council's website.

The structure of this SPD is aimed at clearly setting out what will be required from developers in terms of planning obligations, expanding on adopted Core Strategy Policy DEL1 'Infrastructure Provision':

Chapter 1 sets out the Principles, Policies and Background

Chapter 2 outlines the Procedures for Securing Planning Obligations

Chapter 3 deals with each type of Planning Obligation that may be required

Summary Table - Obligations Grid

Relevant Core Strategy Policy	Type of Obligation	Residential			Non-residential		
		5 - 9 dwellings	10 - 14 dwellings	15+ dwellings	Less than 100 sq. m.	Between 100 and 1000 sq. m.	More than 1000 sq. m.
DEL 1, HOU3	Affordable Housing	x	x	✓	x	x	x
DEL 1, HOU5	Education	x	Calculated on a site-by-site basis		x	x	x
DEL 1, HOU5	Libraries	✓	✓	✓	x	✓ But only if site lies within a Centre	
DEL 1, EMP5	Economic and Community Development Benefits	x	✓	✓	x	x	✓
DEL1, TRAN2	Highway Infrastructure Works	Calculated on a site-by-site basis					
DEL 1, TRAN2	Transport Infrastructure Improvements	✓ But only where there is a net increase in traffic-based trips					
DEL 1, ENV8	Air Quality Improvements	✓ But only where there is a net increase in traffic-based trips					
DEL 1	Site Specific Measures	Calculated on a site-by-site basis					
DEL 1, CSP3	Nature Conservation Enhancements	✓	✓	✓	x	✓	✓
		Including changes of use				Not including changes of use	
DEL 1, CSP3	Nature Conservation Other	Calculated on a site-by-site basis					
DEL 1, ENV6	Open Space, Sport and Recreation	✓	✓	✓	x	x	x
DEL 1	Environmental Protection	Calculated on a site-by-site basis					
DEL 1, ENV2	Historic Environment	Calculated on a site-by-site basis					

Relevant Core Strategy Policy	Type of Obligation	Residential			Non-residential		
		5 - 9 dwellings	10 - 14 dwellings	15+ dwellings	Less than 100 sq. m.	Between 100 and 1000 sq. m.	More than 1000 sq. m.
DEL 1, CSP4	Public Art	x	✓	✓	x	x	✓
DEL1, CSP4	Public Realm	✓	✓	✓	✓ But only if site lies within a Centre		
Not including changes of use							

Table 1 Obligations Grid

Minimum Threshold - Where the total financial contributions (not including any legal or administrative fees) equate to £500 or less than, for reasons of expediency and practicality, the Council will waive the obligations

1 Setting out Principles, Policies and Background

Introduction and Aim

- 1.0.1** This Supplementary Planning Document (SPD) sets out more detailed guidance on Dudley Council's requirements for planning obligations to supplement the Black Country Core Strategy, for all those involved in the submission and determination of those planning applications where planning obligations will be required.
- 1.0.2** The SPD will provide greater clarity and certainty to developers, landowners, the community and the Council regarding the basis for identifying and calculating Planning Obligations. The SPD also sets out how planning obligations will be used to promote sustainable development and ensure that the infrastructure necessary to support future residential and commercial growth is delivered.
- 1.0.3** The SPD is accompanied by an 'Obligations Grid' which sets out specific thresholds for new developments and calculations for the various infrastructure requirements. This SPD does not stand alone, rather it should be read in conjunction with the Council's policies and strategies for individual service areas covered in this SPD.
- 1.0.4** The purpose of this document is to set out in a transparent and consistent way the Council's approach to seeking planning obligations. It amplifies the policies in the adopted Black Country Core Strategy (2011) under the provision of the Planning and Compulsory Purchase Act 2004 and will be a material consideration in determining planning applications. It forms part of the Dudley Local Development Framework and supports the relevant policies in the adopted Core Strategy.

What are Planning Obligations?

- 1.0.5** As part of the planning process, a developer may be required to enter into a legal agreement to provide infrastructure and/or services on or off the development site where this is not possible to achieve through planning conditions. These agreements are known as Planning Obligations and are a delivery mechanism for the matters that are necessary to make the development acceptable in planning terms.
- 1.0.6** The legal basis for Planning Obligations is provided by Section 106 of the Town and Country Planning Act 1990 (as amended by the Compensation Act 1991), the Planning and Compulsory Purchase Act 2004 and most recently the Community Infrastructure Regulations (CIL) April 2010. Regulation 122 of CIL embeds into law the following three tests that a Planning Obligation must meet in order for it to be lawful:
- a. Necessary to make the development acceptable in planning terms;

- b. Directly related to the development; and
- c. Fairly and reasonably related in scale and kind to the development.

1.0.7 The fundamental principle underlying planning obligations is that they are 'intended to make acceptable development which would be otherwise unacceptable in planning terms' (Circular 05/2005, Paragraph B3).

1.0.8 Such obligations can cover almost any relevant issue, acting as a main instrument for placing restrictions on developers, often requiring them to minimise the impact on the local community and to carry out tasks which will provide community benefits, and can include the payment of sums of money. Planning Obligations are commonly used to bring developments in line with the objectives of sustainable development; the impact of new development will vary between development sites and any planning obligation should reflect the specific requirements of the locality.

1.0.9 The Coalition Government's Local Growth White Paper (Oct. 2010) emphasises local infrastructure as being a key enabler of growth; the provision of high quality services that support businesses' investment confidence and individuals' life chances as well as increasing the attractiveness of an area are key elements of ensuring growth.

1.0.10 The planning obligations sought by Dudley Council as set out within this SPD are considered to be in line with all national, regional, sub-regional and local policies including the requirements of the CIL Regulations introduced in April 2010.

Ways in which Planning Obligations may be used

1.0.11 As set out in Paragraph B3 of Circular 05/2005 Planning Obligations may be used in one of three ways:

1. To prescribe the nature of development (e.g. by requiring that a given proportion of housing on a site is affordable); or
2. To secure a contribution from a developer to compensate for loss or damage created by a development (e.g. loss of open space); or
3. To mitigate a development's impact (e.g. increased traffic generated by a new development)

Status of SPD in decision making process

1.0.12 The SPD expands on Core Strategy Policy DEL1 'Infrastructure Provision'. Compliance with the SPD is a material consideration in the making of planning decisions and therefore carries significant weight in the decision making process.

Policy Framework

National Policy

Circular 05/2005 'Planning Obligations'

1.0.13 Planning Obligations (as amended by the Planning Act 2008 and Community Infrastructure Levy Regulations 2010) outlines the guidance from Government on the implementation of the planning obligations policy.

Community Infrastructure Levy

1.0.14 The Community Infrastructure Levy (CIL) Regulations introduced in April 2010 enables Local Authorities to introduce a CIL, a standard levy to be applied to new development. The level of the CIL should be informed by an appropriate evidence base and be linked to the infrastructure planning for the local area, and would be a part of the Local Development Framework.

1.0.15 The Coalition Government has recently announced that it will retain and reform the existing Community Infrastructure Levy to improve its incentive effect and give more control over its use to local communities.

1.0.16 Should Dudley Council decide to adopt a CIL it will be necessary to review and amend or revoke this Planning Obligations SPD in accordance with the Regulations and guidance, in addition to adopting a Charging Schedule for CIL. It will be necessary to identify which types of infrastructure may be dealt with using a CIL approach and which may continue to be addressed through Planning Obligations.

1.0.17 CIL Regulation 122 (April 2010) contains three statutory 3 tests for the scope and appropriateness of seeking planning obligations:

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

Localism Bill

1.0.18 The Bill was published by the Coalition Government in December 2010 and proposes the devolution of more powers to councils and neighbourhoods and gives local communities greater control over local decisions like housing and planning. An essential guide (2010) to the Localism Bill states that it "will require local authorities to allocate a proportion of Community Infrastructure Levy revenues back to the neighbourhood from which it was raised. This will allow those most directly affected by development to benefit from it." The Localism Bill is currently making its way through Parliament and it is expected that further details will follow in the coming months.

- 1.0.19** The fundamental principle of the planning system is to achieve sustainable development through community led spatial plans. PPS1 highlights the need to practice positive and proactive planning to achieve objectives of sustainable development. It also recognises the need to ensure that infrastructure and services are provided to accommodate the impact of new development.
- 1.0.20** Planning Authorities are required to ensure that social inclusion, economic development, environmental protection and the prudent use of resources are at the forefront of policy making and implementation. Paragraph 4 confirms that these aims should be pursued in an integrated way through a sustainable, innovative and productive economy that delivers high levels of employment, and a just society that promotes social inclusion, sustainable communities and personal well-being, in ways that protect and enhance the physical environment and optimise resource and energy use. These considerations have formed an important element of producing this draft document.

Planning Policy Statement 12 (PPS12) – Local Spatial Planning

- 1.0.21** Paragraph 1.5 confirms that contributing to the achievement of sustainable development is a statutory objective of the spatial planning system, and that it exists to deliver positive social, economic and environmental outcomes; requiring planners to collaborate actively with the wide range of stakeholders and agencies that help to shape local areas and deliver local services.
- 1.0.22** Paragraph 2.4 identifies a key role for spatial planning in orchestrating the necessary social, physical and green infrastructure to ensure sustainable communities are delivered. In addition Paragraph 2.5 reiterates the important role of spatial planning in providing a robust basis for assessing the need for, and providing supporting infrastructure and natural resources for economic development.
- 1.0.23** Para. 4.9 of PPS12 states that ‘good infrastructure planning considers the infrastructure required to support development, costs, sources of funding, timescales for delivery and gaps in funding’.

Planning Obligations Practice Guidance (2006)

- 1.0.24** This Guidance provides LPA’s and anyone carrying out development with practical tools and methods to help improve the development, negotiation and implementation of planning obligations.

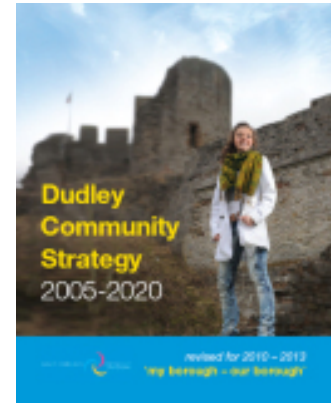
Local Policy

Dudley Community Strategy 2005-2020

1.0.25 The Dudley Borough Challenge vision for 2020 is of sustainable, inclusive and connected communities across Dudley that actively realise their own potential, effectively supported by local services.

1.0.26 The five principles of the Strategy are:

- Promoting equality – tackling inequality
- Safeguarding the future
- Reflecting priorities through physical change
- Delivery in partnership
- Involving people



1.0.27 Examples of links between the Dudley Community Strategy Outcomes and the implementation of the Planning Obligations SPD are set out in the table below.

Dudley Community Strategy Priorities 2010-2013	Relevant Dudley Community Strategy Outcomes	Relevant Planning Obligations
Jobs and Prosperity – Businesses thrive and invest, and people are skilled for now and the future	Provide employment opportunities for residents and ensure they possess the necessary range of skills	Economic and Community Development Benefits
	Create an attractive environment for people to live, work and invest in	Public Realm Public Art
Health and Well-Being – People are physically healthy and have good mental health	Tackle the problem of obesity	Open Space, Sport and Recreation
	Tackle inequality in physical health and mental well-being	Affordable Housing
Heritage, Culture and Leisure – People recognise and value culture as an intrinsic part of everyday life	Ensure that heritage and culture are preserved, developed and promoted for all; and celebrated and used by all	Historic Environment Open Space, Sport and Recreation
Environment and Housing – People care for a natural and built environment that is attractive, healthy and safe; and live in homes suitable to their needs and wishes	Improve and create neighbourhoods that enable people to live in appropriate homes, in safe and attractive environments with access to amenities, services and places of employment	Affordable Housing Open Space, Sport and Recreation Transport Infrastructure Improvements

Dudley Community Strategy Priorities 2010-2013	Relevant Dudley Community Strategy Outcomes	Relevant Planning Obligations
	Address the state of the Borough's environment, through the responsible actions of individual people, groups and organisations	Air Quality Improvements Nature Conservation Environmental Protection
Individual and Community Learning – People are inspired to reach their full potential	Widen participation in adult and family learning to improve personal and social development, knowledge and skills, job-readiness, health and well-being	Libraries Economic and Community Development Benefits Education
	Remove barriers to learning and support local people, particularly vulnerable groups, to raise personal aspirations and to realise their potential	
Community Safety – People are, and feel safe enjoying a sense of freedom from crime and antisocial behaviour	Strengthen trust and confidence by working to prevent and reduce crime and anti-social behaviour	Affordable Housing Economic and Community Development Benefits Education Public Realm

Table 2 Links between the Dudley Community Strategy Outcomes and the implementation of the Planning Obligations SPD

Black Country Core Strategy

1.0.28 The Vision for the Black Country consists of three major directions of change:

- Sustainable Communities – creation of networks of cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing, a range of quality community services and an integrated transport network which reduces the need to travel by car.
- Environmental Transformation – delivery of high quality, liveable and distinctive places which



respect and make the most of the existing diversity of the Black Country's natural and built environment.

- Economic Prosperity – Including the delivery of a network of strategic, town, district and local centres and the infrastructure and raw materials to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

1.0.29 The scale of growth proposed in the Black Country Core Strategy will have impacts upon the local environment and the capacity of a range of infrastructure and facilities within Dudley Borough. The provision of appropriate infrastructure underpins the whole transformational and regeneration strategy of the Core Strategy and without it future development will be neither sustainable nor acceptable.

1.0.30 New developments in Dudley as set out in the adopted Core Strategy and other emerging documents within the Local Development Framework have a cumulative impact resulting in increased pressure on existing local infrastructure; planning obligations are required to deliver the local infrastructure improvements necessary to mitigate the impact of the scale of the new development.

1.0.31 The Core Strategy sets out the policy framework for Planning Obligations. Policy DEL1 'Infrastructure Provision' as set out below states the Council's policy on planning obligations. This SPD provides further detail on the implementation of this policy.

DEL1 Infrastructure Provision

Strategic Objectives

The provision of appropriate infrastructure in a timely manner underpins the whole transformational and regeneration strategy and this policy is intended to ensure the delivery of Spatial Objectives 6, 7, 8 and 9.

Policy

All new developments should be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

Unless defined circumstances apply, development proposals will only be permitted if all necessary infrastructure improvements, mitigation measures and sustainable design requirements can be secured through planning obligations, the Community Infrastructure Levy, conditions or other relevant means, to an appropriate timetable, and supported by the necessary resources.

Local Development Documents for each authority will set out:

- The range of infrastructure to be provided or supported;
- The scale and form of obligation or levy to be applied to each type of infrastructure, including maintenance payments and charges for preparing agreements;
- The defined circumstances and procedure for negotiation regarding infrastructure provision, where viability is at issue.

- 1.0.32** The Core Strategy policies support the delivery of Dudley's Sustainable Community Strategy and other Council strategies and plans. Amongst others, these include:

Dudley Council Plan 2013
Local Investment Plan 2010-2014
Brierley Hill Area Action Plan
Brierley Hill Public Transport Strategy
Dudley Housing Strategy
Public Art Strategy
Air Quality Action Plan
Birmingham and Black Country Biodiversity/Geodiversity Action Plans

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Area Action Plans

- 1.0.33** Development within the emerging Area Action Plan (AAP) boundaries once adopted (and potentially elsewhere within the Committee Area) will help deliver the priority enhancement and enabling works as identified in the relevant AAP. AAP's may have particular infrastructure requirements over and above what is set out in this SPD; additional requirements will be clearly set out within individual AAP's.

2 Procedures for Securing Planning Obligations

Implementation of SPD

- 2.0.1** Planning Services takes a strategic lead on the overall monitoring and management of financial and on-site delivery of planning obligations, working with other parts of the Council and, through them, with external partner agencies where appropriate. In addition, the Council has an established Planning Obligations Working Group which includes representatives from across the Council, along with specific service area Delivery Working Groups.
- 2.0.2** The Development Team Approach is a tool used by the Council for large and/or complex development proposals to provide developers with a co-ordinated approach, from the initial development concept, pre-application stage through to the formal application and final decision; this approach can assist in the planning obligations process. The Development Team Approach aims to take proactive leadership in the development of the Borough shaping the Boroughs towns and communities.
- 2.0.3** The Planning Obligations process is subject to regular internal audits, the last one being in January 2010; additional scrutiny on particular aspects of implementation is provided through the Council's Scrutiny Committee on Regeneration, Culture and Adult Education.
- 2.0.4** The proposed changes to this Draft Revised SPD have been tested by Planning Officers to ensure that obligation requirements continue to be realistic and reasonable, enabling development and regeneration in the Borough.

Minimum Threshold for Financial Planning Obligations

- 2.0.5** Where the total financial contributions (not including any legal or administrative fees) equate to £500 or less then, for reasons of expediency and practicality, the Council will waive the obligations.

Pre-Application Discussions

- 2.0.6** Dudley encourages developers to enter into an early dialogue with the Planning Service to clarify the nature and scale of planning obligations likely to be sought, including the value of any financial contributions. For large or strategic developments the Council operates a Development Team Approach to discuss development concepts.
- 2.0.7** The Council is committed to offering pre-application advice. On proposed developments where planning obligations are likely to be required, developers are encouraged to discuss the requirements in pre-application discussions so that the details and level of obligations can be established prior to the submission of a planning application. Where appropriate this will include engagement with external partners and stakeholders.

2.0.8 Investing time and resources at the pre-application stage can help speed up the planning process and aid delivery of planning obligations.

More information on pre-application discussions can be found on the Council's website at:

www.dudley.gov.uk/environment--planning/planning/planning-services/advice-and-guidance/pre-application-advice

Submission of a Planning Application

2.0.9 Following receipt of a planning application other Council Services will be consulted (e.g. Highways, Economic Regeneration, Education, Regeneration and Housing Strategy) as well as other external service providers and statutory consultees as appropriate to the application. The Case Officer will rely on these other services, in addition to reference to this SPD, to identify where there is a need for Planning Obligations. The Case Officer will then inform the developer of the required planning obligations including details of on-site and off-site provision, and agreement is sought from the developer to provide the required obligations through a legal agreement. Failure by the developer to agree to the required obligations and/or sign the legal agreement within the required timescales may result in the planning application being refused by the Council.

2.0.10 Providing the developer agrees to the Planning Obligation requirements, and assuming that there are no other issues in relation to the application, then the planning application will be determined in one of three ways:

1. Delegated Decision

2.0.11 Minor Applications (see glossary for definition) which have signed, valid Unilateral Undertakings committing the developer to provide all of the required obligations can, under most circumstances, be determined under delegated powers by the Director of the Urban Environment.

2. Delegated Decision in consultation with the Chair of Development Control Committee

2.0.12 Minor Applications which have not given rise to significant interest and where the developer has agreed in writing to provide the required Planning Obligations but has not yet signed a valid legal agreement are delegated in consultation with the Chairman of Development Control Committee.

3. Decision by Development Control Committee

- 2.0.13** Major Applications (see glossary for definition) (or Minor Applications which have given rise to significant interest) where the developer has agreed in writing to provide the required Planning Obligations are reported to the Council's Development Control Committee for determination.

Legal Agreements - S106 Agreements and Unilateral Undertakings

- 2.0.14** Planning Obligations can be secured through one of two types of legal agreements, either a Section 106 Agreement or a Unilateral Undertaking. The main differences between Unilateral Undertakings and S106 Agreements are as follows:

- S106 Agreements are generally a more complex type of agreement, dealing with both financial and on-site obligations, thus the legal fees will be significantly higher than with a Unilateral Undertaking;
- An application which is subject to a S106 Agreement has to be reported to the Chairman of Development Control Committee for approval, or Committee if it is a major application and/or raises significant interest, thus the decision making process may be longer than for an application that has a Unilateral Undertaking where delegated powers are available;
- A Unilateral undertaking is entered into by all interested parties to the land, whereas a S106 Agreement has to be entered into by the Council in addition to all the other interested parties.

Unilateral Undertakings:

- 2.0.15** A Unilateral Undertaking is a simplified version of a planning agreement, which is relatively quick and straightforward to complete, and is entered into by the landowner and any other party with a legal interest in the development site. The Council does not enter into Unilateral Undertakings. Their use is encouraged by the Council where appropriate; guidance in Circular 05/2005 gives two examples of where Unilateral Undertakings can be used:

- Where there is difficulty in coming to a negotiated agreement; and
- Where the developer can determine the requirements in advance and wishes to speed up the process.

S106 Agreements:

- 2.0.16** Where a planning obligation will not be covered by a Unilateral Undertaking applicants will be required to enter into a S106 Agreement with the Council. This type of legal agreement has to be entered into by the applicant, the Council and anyone else who has an interest in the development site land. A S106 Agreement is usually a more complex type of planning agreement than a Unilateral Undertaking and normally takes longer and is more expensive to complete.

2.0.17 Further information on Unilateral Undertakings and S106 Agreements, including template agreements, can be found on the Council's website at:

www.dudley.gov.uk/environment--planning/planning/planning-services/section-106-agreements-and-undertakings

Drafting of Legal Agreements

2.0.18 For all planning applications that require Planning Obligations, the Legal Agreement that will secure those obligations is required to be signed and in place before any Decision Notice can be issued. If the applicant fails to enter into the Agreement within the necessary timescales then the application is likely to be refused by the Council.

Unilateral Undertakings

2.0.19 Where an applicant wishes the required Planning Obligations to be secured by a Unilateral Undertaking then this should be submitted with the Planning Application, along with up to date Office Copy Entries from the Land Registry confirming ownership of the application site land. Templates are available to download from the Council's website. The Council will then arrange for it to be checked and validated by the Council's Legal Section who will advise on whether any amendments are required and who will also request that the applicant makes any necessary changes. Any individual or organisation with an interest in the land will be required to sign the Undertaking.

A £50 Legal Fee in addition to the Management and Monitoring Fees is required to be paid by applicants who use Unilateral Undertakings and both the Legal and Management and Monitoring fees are required to be paid prior to the determination of the application. In the event that the application is withdrawn or refused then these monies will be refunded.

S106 Agreements

2.0.20 Where a Unilateral Undertaking is not submitted with the Planning Application the Council will secure the required Planning Obligations through a S106 Agreement.

2.0.21 Once the Planning Application has been registered by the Council the following process is undertaken:

1. The Planning Case Officer will write to the Applicant/Agent setting out all the required Planning Obligations, requesting written confirmation within 14 days that the applicant is willing to enter into a S106 Agreement for the identified Planning Obligations.
2. The Legal Officer will write to the Applicant/Agent enclosing a Draft S106 Agreement and requesting written confirmation that the S106 Agreement is acceptable. In addition, up to date Office Copy Entries from the Land

Registry confirming ownership of the application site land need to be provided to the Legal Section.

3. If the Planning Application is approved subject to a S106 Agreement, the Legal Section will send a final, S106 Agreement engrossment to the Applicant/Agent for signing and returning to the Council along with the necessary Legal and Monitoring and Management Fees; any individual or organisation with an interest in the land will be required to sign the Agreement.
4. Once the S106 Agreement has been signed and sealed by the Council and all parties with an interest in the land, the Legal Section will provide a copy of the signed S106 Agreement to the Applicant/Agent and the Planning Section
5. Once the Planning Case Officer is in receipt of the final signed S106 Agreement, the Decision Notice will be issued.

2.0.22 In addition to the Monitoring and Management Fee a Legal Fee is also required to be paid for the Council's work in drawing up the S106 Agreement, this fee varies depending on the work involved and the applicant/agent will be advised of the figure by the Legal Section. These fees are required to be paid prior to the determination of the application. In the event that the application is withdrawn or refused then these monies will be refunded.

On or Off Site Provision

2.0.23 The issue of whether the required facilities are to be provided on or off site will be considered by the Council on a case by case basis. On suitable sites the Council will encourage the on-site provision of certain planning obligations such as affordable housing, open space, sport and recreation, public art and nature conservation. However, in some cases, when considered on their planning merits, on-site provision may not be appropriate; in these instances off-site provision in the way of financial contributions will be required in lieu of on-site provision.

Index Linking

2.0.24 Formulas for calculating required contributions are based on an evidence base setting out the need within Dudley to support new development. This evidence base calculates the financial contributions required at the time of the evidence base, thus there is a need to index link these financial calculations annually to ensure that the contributions remain at a sufficient level to fund the required infrastructure. If planning obligations were not indexed linked then insufficient contributions would be secured resulting in a loss of benefit to the Borough as a whole.

2.0.25 The use of inflationary indices for planning obligations is an established principle and is supported by the DCLG publication 'Planning Obligations: Practice Guidance' (2006); in line with this advice the Council uplifts contributions annually from the 1st April. Appendix 1 of this SPD is updated

annually in line with the Consumer Price Index (CPI) as it is a well-established general indicator covering a wide range of services, and can be used to index wages, salaries, pensions and regulated or contracted prices. As planning obligations fund a broad range of both construction and maintenance elements of local infrastructure ranging from highway works to nature conservation and library improvements, it is considered more appropriate to use CPI rather than a more obscure, construction based indicator which may be wholly inappropriate for the funding of some aspects of local infrastructure.

Administrative and Legal Costs

Monitoring and Management Charge

- 2.0.26** All development requiring planning obligations are required to contribute towards the costs associated with monitoring of S106 Agreements and Unilateral Undertakings, in addition to the legal and other professional costs incurred in preparing the legal agreements.
- 2.0.27** The Monitoring and Management costs are additional to the financial obligations that may be set out in legal agreement towards specific infrastructure and services and are based on the reasonable time and costs required to monitor a particular agreement.

The Monitoring and Management Charges are set out in the table below:

Value of Financial Planning Obligations	Monitoring and Management Charge Required
Less than £5,000	£250
Between £5,000 and £10,000	£500
More than £10,000	£1,000 or 10% of the planning fee (whichever is the greater)

Table 3 Monitoring and Management Charges

- 2.0.28** Payment of Monitoring and Management Fees is required prior to the planning permission being issued.

Legal Fees

- 2.0.29** Legal Fees for the drafting of the legal agreement will also be required. This is on the basis of the time spent by the Council's Solicitors, though for a very simple straightforward obligation £400 may be sufficient.

Dealing with Viability Issues

Alerting applicants of likely planning obligations at an early stage in the planning process is a key objective of this SPD. This enables all possible planning obligation requirements to be factored into any land transactions and scheme designs in advance of a planning application being submitted to the Council and allow developers to plan development in a holistic manner.

2.0.30 However it is recognised that in dealing with development proposals, exceptional circumstances may arise on some sites which result in genuine financial viability concerns (for example where remediation costs are abnormal or are above what could reasonably have been foreseen).

2.0.31 If a developer believes there are exceptional circumstances (not including land purchase costs) which would render a scheme unviable if the full level of planning obligations were required in line with this SPD, the following process is to be followed:

1. The applicant approaches the Council's Planning Services, ideally at development concept stage so planning obligations can be established at pre-application stage, and submits a detailed financial appraisal, signed by a suitably qualified professional, to support their case. If an appraisal is submitted in confidence to the Council then a de-sensitised version will also need to be provided at formal application stage which will be made publicly accessible by the Council. The financial appraisal should follow an open-book approach and include the following information as a minimum with supporting evidence and justification where appropriate:
 - A breakdown of all cost variables and development value including level of developers profit;
 - Identification of any exceptional cost items;
 - Explanation of all assumptions made concerning the provision of planning obligations;
 - Identification in cash flow terms of the effect of deferred payments; and
 - Provision of both 'Grant' and 'No Grant' Scenarios in relation to Affordable Housing provision (this is only required on schemes which generate Affordable Housing requirements)
2. Once the financial appraisal has been received from the applicant, the Council's Planning Services arranges for it to be assessed by an independent, suitably qualified professional; this approach is advocated by Circular 5/2005. The applicant may be required to meet the costs of this independent assessment and any other expert advice that the Council considers it requires.
3. The independent financial appraisal assessment is usually carried out using industry standard software and normally follows a Residual Land Value approach. For larger schemes that are likely to be completed over a longer period of time a Cash Flow based approach may also be used.

Once completed, the results of the financial assessment are provided to the Council's Planning Services, and the applicant will be advised by the Planning Services of the conclusions of the financial assessment. If there is any disagreement of the assessment the Council will expect the applicant to agree to adjudication by an independent financial body and any costs of the adjudication shall be funded by the developer.

4. The Council's objective in viability negotiations is to secure the maximum value of planning obligations in order to deliver the required amount of supporting infrastructure, whilst working with developers to enable developments to come forward. To this end the Council may consider the use of one or more of a range of 'Value Engineering' mechanisms, depending on the results of the independent financial assessment, including, but not exclusively restricted to;

- **Deferred or Staged Payments**

2.0.32 Phasing payment of planning obligations deferred to later date(s) within the development.

- **Clawback**

2.0.33 The arrangement put into place when the Local Planning Authority, in granting permission, agrees to mitigate the planning obligation requirement for viability reasons. If, subsequently, the completed development (or phase) generates more profit than expected, the Local Authority would then claw back an appropriate provision of the additional profit for the planning obligation, up to the amount originally sought on the site.

- **Phased Viability Assessments**

2.0.34 Usually associated with large developments, several viability assessments are conducted over an extended period of time to provide a reliable forecast of what planning obligation requirements for each phase can be met by a developer.

- **Time Constrained Planning Permissions**

2.0.35 Where reduced planning obligation requirements are agreed by the Local Planning Authority for viability reasons but these reduced obligations are only valid for a limited period, and in the event that the developer does not implement the permission within that period then the obligations will revert back to the original requirements.

5. The Council will have due regard to the independent financial assessment results and the use of any appropriate 'value engineering' mechanisms, and in taking into account all other planning considerations will make appropriate recommendations to the Council's Development Control Committee for determination. Viability considerations are one factor to be

taken into account when determining a planning application; the Council has to take into account a range of other factors including the need for sustainable development within the Borough and the delivery of necessary supporting infrastructure. For these reasons the Council is under no obligation to agree reduced contributions, even if a developer is able to demonstrate that the scheme would not be viable.

6. If the Council approves any reduction in planning obligations on a particular development, any secured obligations may be prioritised in accordance with the Council's policy priorities. Alternatively financial payments may be apportioned on the ratio or percentage as if there was no reduction in planning obligations. The approach taken is at the discretion of the Council, depending on the individual circumstances of a particular development.

Timing and Payment of Financial Obligations

- 2.0.36** Financial obligations will normally be expected to be paid upon commencement of development. However, in exceptional circumstances and at the discretion of the Council, for larger phased developments the payments may be made at various stages during the development process. The trigger points for the payment of financial obligations will be included within the S106 Agreement.
- 2.0.37** Financial obligations are payable to Dudley MBC. Payments can be made by cheque, debit/credit card or BACs electronic transfer.
- 2.0.38** In the unlikely event that financial contributions are not spent by the Council within the timescales required within the legal agreement, the Council is obliged to refund the monies to the developer on request.

Monitoring and Enforcement

Monitoring

- 2.0.39** Monitoring of Planning Obligations will be undertaken by the Council's Principal Planning Obligations Officer to ensure that all obligations are complied with, both by the Developer and by the Council. The Council will track compliance with each provision contained within each Legal Agreement as developments proceed. This ensures that all developers are paying obligations and delivering on-site obligations in accordance with the Legal Agreement; similarly monitoring is undertaken to ensure that Council services are spending the financial obligations in accordance with the terms of the Agreement.
- 2.0.40** An annual Planning Obligations Report is presented to both Development Control Committee and Regeneration, Culture and Adult Education Scrutiny Committee following the end of a financial year. This Report sets out detail on a range of information on planning obligations relating to the preceding financial year, including as a minimum:
- Legal Agreements signed;

- Financial Planning Obligations approved;
- Financial Planning Obligations received;
- Financial Planning Obligations spent;
- Affordable Housing approved and delivered; and
- Economic and Community Development Statements approved.

2.0.41 A summary of the financial Planning Obligations information for each financial year is also incorporated into the [Council's Annual Monitoring Reports](#).

2.0.42 It is also important that information on the implementation of planning obligations is readily available to the Council, the applicant and members of the public on request.

Enforcement

2.0.43 Once planning obligations have been agreed it is important that they are implemented or enforced in an efficient and transparent way, in order to ensure that infrastructure is provided in accordance with the terms of the legal agreement, and to ensure that the associated development contributes to the sustainability of the area.

2.0.44 Planning Obligations are enforceable by the Council under Section 106(5), (6), (7) and (8) of the Planning and Compensation Act 1991.

2.0.45 If it is evident that the planning obligations requirements are not being complied with, the Council will instigate the relevant legal or enforcement action.

Pooling of Contributions

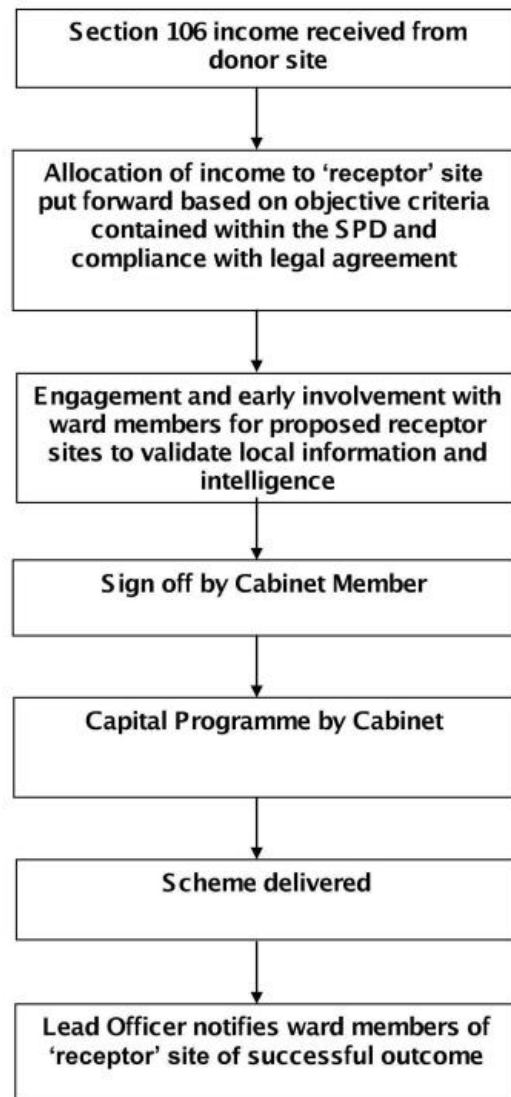
2.0.46 Whilst the cumulative impact of new developments creates the need for supporting infrastructure, for many developments across Dudley Borough the scale of financial contributions raised through planning obligations from an individual site may not be of a level that, on their own, could contribute significantly towards infrastructure improvements. Therefore contributions from different development sites are often pooled together to allow the Council to deliver improvements more efficiently and effectively; this approach to pooling contributions is supported by Circular 05/2005 (Para B21). It is important to note that all financial contributions are ring-fenced to ensure that they contribute towards delivery of the type of infrastructure that they were secured for. For example a financial contribution towards library improvements will not be spent on anything other than library improvements.

Spend

2.0.47 Financial obligations received from developers are required to be spent by the Council within the identified timescales.

2.0.48 Where a sum of monies is allocated against a specific need within the Legal Agreement, it is kept in a specific budget account for the purpose; for example in the case of contributions for Open Space, Sport and Recreation, contributions provided for this purpose can only be spent on schemes for the delivery of new and improved Open Space, Sport and Recreation facilities within the locality of the development, and for no other purpose. If the allocation requires maintenance, then these monies from the developer are ring-fenced for that purpose only.

2.0.49 In the allocation process, to ensure a strategic fit with existing approved plans, regard is had to any existing specific plans within the locality which have been subject to consultation with ward members and the community. This provides a strategic context, prioritisation and recommendation for the relevant ward members.



Member Engagement Process on Spend

A Member Engagement Process on the spend of planning obligations was approved by the Council in March 2009 to ensure that local information and intelligence is used to maximum effect; to meet both local and strategic infrastructure needs. This process requires engagement with Ward Members for receptor sites on all allocation and spend of monies, and subsequent approval by the relevant Cabinet Member through a Decision Memo/Core Data Proforma. The table above provides an overview of the process for consultation and engagement on spend with Ward Members.

3 Types of Planning Obligations that May be Sought

3.1 Creating Sustainable Communities

Creating Sustainable Communities

3.1.1 The Core Strategy aspires to create a network of cohesive, healthy and prosperous communities across the Black Country, with equal access to a mix of affordable and aspirational housing and a range of quality community services.

Affordable Housing

Policy Context and Framework

3.1.2 Sustainable Communities require a range of housing types, tenures, densities and affordability. Planning Policy Statement 3 'Housing' requires Local Planning Authorities to deliver a mix of housing, both market and affordable, to support a wide variety of households in all areas.

3.1.3 Core Strategy Policy HOU3 'Delivering Affordable Housing' seeks to secure 25% affordable housing on all sites of 15 dwellings or more.

3.1.4 Dudley's Local Investment Plan 2010-14 identifies a number of challenges which our local housing policies seek to address.

3.1.5 A key challenge for the Borough is to provide a mixed housing 'offer' to new and existing residents to include:

- Delivering new housing to meet needs and existing shortfalls in accommodation of all tenures. This includes increasing the supply of particular housing types such as more two and four bedroom properties.
- Increasing the housing options for young people and people with a learning disability.
- Enhancing the character of existing housing areas and creating sustainable communities by transforming redundant employment land.



Affordable Housing in Stourbridge

- Increasing the quality and choice of jobs and housing, in order to attract and retain higher earning households within the Borough.
- Addressing the issues of affordability in the Borough through the delivery of new affordable housing including social rented and affordable home ownership. Dudley is one of the least affordable areas for people to buy housing in the West Midlands.

3.1.6 A second challenge for the Borough is to meet the housing, care and support needs of a growing elderly population. A full list of the challenges for the Borough and housing can be found in the Local Investment Plan 2011-14.

Threshold

3.1.7 25% Affordable Housing provision is required on all new developments of 15 or more dwellings. The Council's preferred option will be to secure on-site provision, however, there may be exceptional circumstances where this is not realistic and so off-site contribution, may, in rare circumstances, be appropriate.

Application

3.1.8 It is expected that developers make early contact with the Council's Planning and Housing Services, as well as Registered providers to discuss the affordable element of any proposed residential developments of 15+ dwellings. In providing affordable units on site the developer will be expected to transfer completed units to an approved registered provider, please see Table 4.

Accord Housing Association	http://www.accordha.org.uk/
Black Country Housing Group	http://www.bcha.co.uk/
Bromford Group	http://www.bromfordgroup.co.uk/main.cfm
Jephson Housing Association Group	http://www.jephson.org.uk/
Midland Heart	http://www.midlandheart.org.uk/
West Mercia Housing Group	http://www.wmhousing.co.uk/

Table 4 Council's Development Partner Registered Providers

3.1.9 The following will be sought when agreeing obligations in respect of affordable housing:

The tenure breakdown of affordable units

3.1.10 Planning Policy Statement 3 (PPS3): Housing states that affordable housing includes both social rented and intermediate housing. The required tenure mix will be negotiated on a site by site basis.

The standards to be applied to the construction of those units

3 Types of Planning Obligations that May be Sought

- 3.1.11** The Council expects developers to comply with the Council's latest minimum standards for affordable housing, which accord with the Homes and Communities Agency (HCA) scheme development standards. Please follow the link for further details:

www.homesandcommunities.co.uk/design_sustainability_standards

The location of the units within the site

- 3.1.12** In order to achieve mixed and balanced communities, the Council encourage affordable units to be dispersed evenly throughout the site. To achieve this it is expected that affordable provision be designed in at the start of the development process, as part of a comprehensive proposal.

The Registered Providers and other agencies to be involved

- 3.1.13** The Council expects developers to involve Dudley Housing Partnership (DHP) members in bringing forward new schemes in the Borough and recommends contacting one of the registered providers in the Table above.

Addressing Threshold Avoidance and Site Sub-Division

- 3.1.14** Where a site is divided into smaller parcels, the Council will require for the purposes a planning obligation, that the individual parcels are treated as a whole. Normally this means that one S106 Agreement will be negotiated for the entire site concerned. Where separate agreements are negotiated, the same planning obligations will be sought in aggregate as if only one agreement were involved and then divided to reflect the proportionate impact of development on each parcel.

Off site contributions

- 3.1.15** The Council wishes to make it clear that off site contributions will only be accepted in **exceptional circumstances**, where all other avenues have been explored and found insufficient. These exceptional circumstances would need to be demonstrated by a developer before the Council will consider an off site contribution.
- 3.1.16** The commuted sum calculation is based on a formula whereby the typical construction costs and land costs are added together and the RSL contribution is taken off, using the following formula:

Off-Site Financial Contribution =

Total Construction Cost (A x B) + Typical Land Cost per Unit (D x E) - RSL Contribution(G)

A	B	C	D	E	F	G	H
Construction costs (sq. m.)	Typical unit size (sq. m.)	Total construction cost (A x B)	Land costs (Ha)	Land take of unit (Ha)	Typical land cost per unit (D x E)	RSL contribution	Off site contribution (C + F - G)

Commuted Sum Payments

- 3.1.17** It is considered that this formula is the most robust method for calculating off site contributions for affordable housing as the figures utilised in the formula are locally derived. In appropriate circumstances, further information with regard to calculation of off site can be obtained from the Council.
- 3.1.18** Commuted sum payments will be ring fenced to fund affordable housing in the Borough, in line with the LIP and Housing Strategy.

Evidence Base

- 3.1.19** Dudley MBC Housing Needs Survey (August 1998) and (June 2006). An updated Housing Needs Survey, when complete, will be used to inform and guide future policy and guidance which may result in revisions in due course. Any revision to the needs analysis may result in a revision to this policy in the SPD.

Priorities for Delivery

- 3.1.20** The Council has identified a number of thematic priorities within its Local Investment Plan for developers / house builders to help deliver.
- 3.1.21** Our thematic priorities include:
- Housing growth to support the target outlined in the Black Country Core Strategy of delivering 16,127 new homes by 2026. It is anticipated that the majority of new development and investment will be focused within the Regeneration Corridors identified in the Core Strategy.
 - Delivering suitable housing for vulnerable groups including increased housing options for younger people and for people with learning disabilities.
- 3.1.22** Further information about our priorities and challenges is contained within Dudley's Local Investment Plan 2011-14

Further Information

- 3.1.23** Detailed information relating to Planning Obligations in respect of Affordable Housing can be obtained by contacting the Council's Housing Strategy Department on 01384 812508.

Education

Policy Context and Framework

- 3.1.24** The availability of a high-quality network of educational facilities is fundamental to the delivery of sustainable communities, promoting social cohesion and inclusion and creating equal opportunities for all. Planning Policy Statement 1 'Delivering Sustainable Development' requires planning authorities to ensure the accessibility of educational facilities when considering development proposals.
- 3.1.25** Low educational attainment is a key issue for Dudley and the Black Country; Improvements to the provision and accessibility of high-quality educational facilities will help to address these issues and also retain and attract A and B households into the Borough.
- 3.1.26** A key function of the Council is to ensure that every child has a school place in good quality provision, and is committed to transforming the lives of all children and young people in Dudley by providing a world class education, by ensuring that every child experiences the 5 key outcomes set by Government, namely:
- Being Healthy
 - Staying Safe
 - Enjoying and Achieving
 - Making a Positive Contribution
 - Economic Well-Being
- 3.1.27** Core Strategy Policy HOU5 'Education and Health Care Facilities' requires developers to provide planning obligations for educational facilities on sites where the development increases the need for education facilities to the extent that new or improved facilities are necessary.

Thresholds

- 3.1.28** All residential developments of 10 or more dwellings will be assessed to determine whether a planning obligation is required. An assessment will be carried out by the Council's education department based on the location of the development, and the number and type of each dwelling.

Application

- 3.1.29** Where a proposed development results in the generation of additional pupil numbers in excess of that which local schools can accommodate within the local area, then a financial contribution may be required. Without investment, schools' ability to accommodate extra pupils generated by new housing development can be compromised; therefore it is important to maintain sufficient

levels of school capacity for a growing population. The development industry has a key role to play in delivering this provision, on a scale and kind that is appropriate to the new development.

- 3.1.30** Obligations may be required for Primary (3-11 year olds) and Secondary (11-16) School Facilities, Sixth Form Provision and in exceptional circumstances for 0-5 year olds and Special Education facilities. If a contribution is required for Nursery provision then the necessary data will be collated.

Exceptions

- 3.1.31** The following types of residential accommodation will not be subject to Planning Obligations for education: sheltered housing, rest homes, nursing homes, hostels, student accommodation, one-bedroom dwellings and studio flats.

Basis of the Calculation

- 3.1.32** Basic Need (BN) cost multipliers are prepared in August/September each year as taken from the Department of Education for the following financial year. These provide a **cost per pupil** for building new educational accommodation. There is currently one cost multiplier figure for each phase of education (Primary, Secondary and Post 16) each using different area standards.
- 3.1.33** The BN cost multipliers are based on the weighted average of two separate multipliers, one for totally new schools and one for extensions to existing schools. Each of these multipliers has two main components — an area per place factor derived from BB98 or BB99, and a cost per m² factor, derived from actual tendered projects.
- 3.1.34** The area and cost factors are multiplied together to give the building cost per place. To this are added percentages to provide for the cost of site works, furniture and equipment and professional fees. VAT and land purchase costs are not covered by the multipliers. The two multipliers are then weighted to reflect the national balance of basic need places provided in new and extension projects and give the published multiplier values. Location factor adjustments are then applied to the cost multiplier.

Calculation:

- 3.1.35** The standard used to assess educational provision requirements for Primary, Secondary and Sixth Form/Post 16 pupils is based on the Housing Need Survey which was carried out by Dudley Metropolitan Borough Council in 2005. From this survey a Matrix was formulated and developed to obtain a pupil yield and costs for the different types of dwellings a development would generate.
- 3.1.36** The Matrix and pupil yield has a cost attributed to it as a cost per school place as taken from the Department of Education Cost Multiplier figures which are likely to be updated every two to three years. The figures listed below are for 2008-2009:

- £11,031 cost per Nursery and Primary School
- £16,622 cost per Secondary School
- £18,027 cost per Post 16

3.1.37 These figures are specific to Dudley as they include a location factor provided by Department of Education.

3.1.38 All Primary and Secondary schools within the local vicinity, within a safe acceptable walking route to school of 2 miles for primary pupil and 3 miles for secondary pupils of the proposed development, are tabled and their capacities are then scheduled to ascertain if the development can be absorbed into any surplus capacity of those schools.

3.1.39 In line with Government Safer Routes to Schools, the Council is working with schools to encourage and increase alternative ways of getting to school without driving. Providing safer routes will encourage and increase the proportion of pupils walking and cycling to school

3.1.40 Government recommendations for Children's Services are to generally maintain between 5 and 10% surplus capacity for schools to allow greater flexibility and opportunity to respond to parental choice, together with greater flexibility to accommodate unpredictable changes to demographic patterns, to allow capacity to provide accommodation for a sudden influx of children to particular areas. Schools within the statutory walking distance, described above, will be scheduled for each development, taking into account the nearest available route that a child may walk with reasonable safety.

3.1.41 Each development will be assessed on its locality to local schools, on an individual basis, and on any effect it may have on the capacity of school organisation within the Dudley Borough as a whole, to ensure sufficient capacity is retained. If the yield generated from the development causes an overall surplus capacity of Dudley Borough school estate to fall below 5% then an education contribution will be required in line with above calculation; this will be specific to the pupil yield that a development will generate to ensure sufficient capacity is maintained across the estate.

Priorities for Spend

3.1.42 The Council is required to ensure that every child's needs is met by making sure that they are able to achieve their potential, through a quality service in Children's Centres, Nursery, Primary, Secondary and Sixth Form provision. Some children have educational needs that cannot be effectively met in local schools and the Statement of Special Educational Needs for these children will set out that their needs will be met in Special Schools. In addition to local schools and specialist schools there will be a Short Stay School Service. The broader range of provision is required for increased flexibility in capacity to meet educational needs through out-reach professional support from special schools to local schools. Dudley Council's corporate parent responsibility for

children living in Childrens Homes and Foster Care within Dudley will receive the same quality of educational provision, together with Social Care Services which will help to maximise their chances of living a happy and fulfilled life.

- 3.1.43** Any financial contributions received for educational facilities will be spent on providing additional capacity within the local school(s) to the development in order to mitigate the impact of that development.

Further Information

- 3.1.44** Further information can be obtained from the Principal Planning Obligations Officer on 01384 816489.

Libraries

Policy Context and Framework

3.1.45 Public libraries are a statutory service, provided under the requirements of the Public Libraries and Museums Act 1964, whereby the Council has a requirement to provide a 'comprehensive and efficient' library service. This service is provided to all who live, work or study within the Borough.



3.1.46 Libraries form a focal point for the local community enabling access to a wealth of information and provide opportunities to enjoy a rich and varied cultural life through improving self-confidence, acquiring new skills and stimulating learning at all levels. By providing access to informational, educational, cultural and recreational materials, the service seeks to encourage independent learning and lifelong reading enjoyment for people of all ages and needs. New technologies allow citizens to use their local libraries as an interface with Government at all levels and library staff provide support and enable participation in the local and digital communities.

3.1.47 Core Strategy Policy HOU5 'Education and Health Care Facilities' emphasises the importance of these services in creating sustainable communities. The policy indicates that where a development would increase the need for education and health care facilities to the extent that new or improved facilities would be required, planning obligations will be secured.

3.1.48 Dudley Library Services have been undergoing a process of modernisation following approval of a strategy in September 2007. This has involved the remodelling of the service and the introduction of new methods of service delivery. As a result libraries in the Borough are open for longer than ever before (including Sunday opening in the locality libraries), adding more new books to stock, holding more events and attracting more users and issues for the same level of spend.

Thresholds

3.1.49 A planning obligation for Libraries is required on the following types of new developments.

Residential Developments:

3.1.50 Residential schemes resulting in a net increase of 5 or more dwellings are required to provide a contribution to library improvements

Non-Residential Development (A1 and B1 uses):

- 3.1.51** Non-residential developments resulting in a net increase in the gross floorspace of 100sq. metres or more are required to provide a contribution to Libraries if they fall within any of the Strategic or Town Centres as defined by Core Strategy Policy CEN2 'Hierarchy of Centres', as follows:

Centre Type	Centre Name	Boundary
Strategic	Brierley Hill	As defined by the Brierley Hill AAP
Town	Dudley Halesowen Stourbridge	UDP boundary applies until replaced by the Development Strategy DPD

Table 5 Hierarchy of Centres

Application

- 3.1.52** Any development, be it residential or commercial, which increases the potential number of library users, will impose an additional burden on the service and current capacity constraints.
- 3.1.53** The level of contribution required will be based on the estimated increase in library use that the development is expected to generate, and is sought on the basis of the calculation below.

Basis of Calculation:

- 3.1.54** The two main elements that make up the standard charge per person are:

Space Standards for Libraries:

- 3.1.55** The Museums, Libraries and Archives (MLA) policy guidance 'Public Libraries, Archives and New Development: A Standard Charge Approach' (May 2010) recommends a figure of 30 square metres library space per 1000 population. This equates to **0.03 square metres library space per person.**

Construction and Initial Fit-Out Cost:

- 3.1.56** Using averaged data obtained from the Building Construction Information Service (Jan. 2011) the figure deemed appropriate for Dudley Borough is **£2,750 per sq metre.**
- 3.1.57** The formula for calculating required contributions per person would be:

$0.03 \text{ (sq. m. per person)} \times \text{£}2,750 \text{ (cost per sq. m.)} = \text{£}82.50$

Residential Development:

3.1.58 Based on data from the 2001 Census for Dudley, the average occupancy rate for a flat is 1.39 and for a house 2.50. Therefore the financial contributions are as follows:

Type of Dwelling	Cost per person	Average Occupancy Rate	Libraries contribution per house type
House	£82.50	2.50	£206.25
Flat	£82.50	1.39	£114.68

Table 6 Library Provision

Commercial Development:

3.1.59 Contributions will be expected from developers of commercial (A1 and B1-Offices) development over 100 square metres on the basis that libraries have a statutory obligation to lend to those who work in the Borough. The level of contribution required has been set with reference to the number of library members living outside of Dudley Borough as a proportion of total library membership. This is based on the premise that a proportion of commuters into Dudley Borough make use of library services. It is considered that this is an appropriate way of assessing the likely number of additional non-resident library members that will be generated by additional commercial development.

Commercial Membership Rate:

3.1.60 14.9 % of library borrowers have postcodes outside of Dudley Borough. Thus this rate of 14.9% multiplied by the cost per person (£82.50) equals the contribution per person for commercial developments (£12.29).

$0.149 \times \text{£}82.50 \text{ (cost per person)} = \text{£}12.29 \text{ (Contribution per Person)}$

3.1.61 The following average occupancy rates are sourced from English Partnerships Employment Densities (2001)

Land Use Type	Square Metres of Floorspace required per person	Contribution required per square metre of new floorspace (cost per person divided by sq. m. required per person)
B1 - Offices	19	£0.65
A1 - Shops	20	£0.61

Table 7 Occupancy Rates

Priorities for Delivery

3.1.62 All contributions will be spent on underpinning the existing service provision and delivering future improvements and will ensure that the Council maintains compliance with its statutory duty over provision of library services. The Council's approved 'Library Offer' sets out in detail the key priorities for delivery, summarised below:



Kingswinford Library

- Library Services that engage and involve people
- Library Services that are value for money
- Information Services and Expertise made available to all
- Library Services with Reading at the Centre
- Opportunities to Learn and Discover
- Library Services that are Open and Accessible to all

3.1.63 Continual enhancements will enable Dudley Libraries to provide effective services for all of the communities in Dudley. The implementation of the 'Library Offer' will enable the Service to work more effectively to address the needs of all communities and take positive steps to encourage and enable reading and library use amongst them all.

Further Information

3.1.64 Further detailed information relating to planning obligations for Libraries can be obtained from the Council's Libraries Services on 01384 812680.

3.2 The Economy, Employment and Centres

3.2.1 The transformation of the Black Country's economy aims to create strong and prosperous communities. A key aspect of the Core Strategy vision is to attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

Economic and Community Benefits

Policy Context and Framework

3.2.2 Planning Policy Statement 4 'Planning for Sustainable Economic Growth' sets out the national planning policy for achieving sustainable economic growth; this includes objectives to reduce the gap in economic growth rates between regions through promoting regeneration and tackling deprivation, and reducing the need to travel by delivering more sustainable patterns of development.

3.2.3 At the sub-regional level, restructuring the Black Country's economy is one of the key principles of the Black Country Core Strategy; this transformation requires new skills and training to meet the challenges of changing work requirements. Policy EMP5 'Improving Access to the Labour Market' requires planning obligations on major new job creating developments in order to secure initiatives and/or contributions towards the recruitment and training of local people.

3.2.4 At a local level, Dudley Borough Economic Strategy 2010/11 brings together the key economic regeneration activities to improve the future prosperity of the Borough for the benefit of all its residents. A key strategic aim of the Strategy is to optimise the opportunities for local people – including the most vulnerable people and those from deprived areas – to develop and improve their skills and obtain jobs. Tackling 'worklessness', particularly in disadvantaged communities is also a key issue.



Construction employee recruited at Retirement Village Development at Middlepark Road, Dudley

3.2.5 Economic well being of the residents of Dudley will be achieved when:

- Unemployment levels in all areas of the Borough are lower than the England average (and continuing to improve)
- Borough residents have access to and/or are engaged in training that equips them with skills that are in demand by employers; and
- The employment offers made result in an average weekly earnings rate which is consistently at or above the average for England and our Gross Value Added (GVA) rate is keeping pace with the national average.

Thresholds

3.2.6 Planning Obligations are required on all residential developments of 10 or more dwellings and non-residential developments of 1000 sq metres (gross) or more. The obligation is to be delivered through the submission to and approval by the Council of a Local Employment Strategy.

Application

3.2.7 The Council is seeking to promote access for local people in training and jobs in all sectors to aid skilled employment opportunities for local residents, and address issues in relation to the long term skills shortage among priority target groups. Training and employment schemes should offer help particularly to disadvantaged groups, so that they may obtain and sustain the necessary skills to increase their access to employment.

3.2.8 Developers are encouraged to make early contact with the Planning and the Economic Regeneration Sections to discuss the development of proposals that can both support and facilitate the Local Employment Strategy.

3.2.9 The Council will look at the need to improve employment rates towards the England average. Developers will therefore be expected to agree a level of intervention, which will allow unemployed people, living in the Borough, the opportunity to apply for work both in the construction and end use phase of the development.

3.2.10 The Local Employment Strategy to be submitted by the developer should include as a minimum:

- A recruitment process that provides equality of opportunity for local priority groups;
- The registering of any vacancies that relates to work on or associated with the Development with agencies identified by the Planning Authority. This should be for a period prior to and after completion of the Development;
- Provision of a minimum of 3 working days between registering the vacancy and filling the vacancy;

- Provision to advertise vacancies in local Job Centres, agencies identified by the Planning Authority and in 3 local newspapers nominated by the Council;
- Commitment to work with agencies identified by the Planning Authority for the purpose of identifying and interviewing suitable local unemployed applicants.
- The production of a Method Statement setting out the implementation of the Local Employment Strategy.

Priorities for Delivery

- 3.2.11** The focus of resources gained will be the Borough's defined priority areas and groups that are most at need. The aim will be to narrow the gap between the most advantaged and disadvantaged areas of the Borough and to reach a local working age employment rate of 80%.

Further Information

- 3.2.12** Further detailed information relating to planning obligations for Economic and Community Benefits can be obtained from the Economic Regeneration section on 01384 81 4662 or e-mail colin.hill@dudley.gov.uk

3.3 Transportation and Accessibility

- 3.3.1** A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites is a key objective of the Black Country Core Strategy.
- 3.3.2** Core Strategy Policy CSP5 'Transport Strategy' confirms that the large-scale land use changes as set out in the Core Strategy require an effective and integrated transport network which will serve existing and new developments and promote greater use of sustainable transport modes. Improved access to key destinations is vital to achieve the required step change in the quality and extent of the area's transport network to reverse the outward migration of population and to support economic and social aspirations.

Highway Infrastructure Works

Policy Context and Framework

- 3.3.3** The justification for requiring obligations in respect of highway and infrastructure works is set out in Circular 05/2005 'Planning Obligations' (Para. B15) and Core Strategy Policy TRAN2 'Managing Transport Impacts of New Developments'. This Policy states that planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

Thresholds

- 3.3.4** Highway Infrastructure Works will be required on planning applications which require either the construction of new road(s) or works to existing public roads.
- 3.3.5** A Traffic Regulation Order (TRO) will be required if the Highway Infrastructure Works result in the introduction of new, or amendments to an existing TRO.

Application

Section 278 or 38 Agreements under the Highway Act 1980

Section 278 Agreements

- 3.3.6** Agreement for the private sector funding of trunk road works are made under Section 278 of the Highways Act 1980. A developer may be required to enter into a Section 278 Agreement with the Council for improvement works to local roads. A Section 278 is essentially a financial mechanism, not a contract to carry out works.

Section 38 Agreements

- 3.3.7** In addition to the use of Section 278 Agreements as set out above, a common way of creating new highways is by way of a Section 38 Agreement between the developer and the Council, under Section 38 of the Highways Act 1980. Section 38 Agreements are often made with developers of large residential schemes, who agree to build up roads to standards laid down by the Highways Authority. In return, the Council will agree to adopt the roads and to maintain them thereafter as public highways. However, until a road has been adopted by the Council it remains private and under the responsibility of the developer/house owners.
- 3.3.8** If any payment due under any of the provisions of S278 and S38 Agreements is not made on or before the (“due date”) the Developer shall pay interest on the payment due of 2% above the base rate for HSBC Bank plc as at the due date on which the payment of the sum on which interest is payable is made. Furthermore, the Council will require third party insurance liability of £10m and indemnity against all liability claims, demands and expenses under the Land Compensation Act 1973 (Parts I and II) and regulations made under it or the equivalent statutory provisions for the time being in force arising from the Highway Works.

Traffic Regulation Orders (TROs)

- 3.3.9** A Traffic Regulation Order is a legal process implemented through the Road Traffic Regulation Act 1984, its purpose is to control, restrict or prevent the on-street waiting of vehicles. As part of the planning process a TRO may be required to be paid by the developer if it is considered by the Council that the development will generate on-street waiting to the detriment of through traffic

and/or public safety; the developer will be required to make a financial contribution which is calculated on a site by site basis depending upon the extent or works required, however a minimum of £5000 will be required.

3.3.10 Monies secured via TROs will be used to:

- Formulate the proposal;
- Write reports to obtain authority to progress with the proposed TRO;
- Consult by advertising on-street and in the local press the proposed TRO;
- Consider any objections to the proposed TRO and make any necessary amendments;
- Further report to address objections and gain authority to implement;
- Arrange and carry out the physical works to implement the TRO.

3.3.11 In the event that a proposed development requires Highway Infrastructure Works through a S278 or S38 Agreement and/ or a Traffic Regulation Order as set out above, a Planning Obligation or condition will normally be required to ensure that the planning permission will not be implemented until such time that the land owner or developer has entered into the necessary S278/S38 Agreements and/or made TRO payments.

Further Information

3.3.12 Further information with respect of Highway Infrastructure Works can be obtained from the Council's Traffic and Transportation Team on 01384 815457

Transport Infrastructure Improvements

Policy Context and Framework

- 3.3.13** The justification for requiring planning obligations in respect of Transport Infrastructure Improvements is set out in Circular 05/2005 (Para. B15). Accommodating growth in transportation infrastructure is a key aspect of the planning responsibilities of the Council in sustaining its communities and is set out in Planning Policy Statement 1 'Delivering Sustainable Development'. Core Strategy Policy TRAN2 'Managing Transport Impacts on New Development' requires developers to mitigate any transportation impacts of their development.

Thresholds

- 3.3.14** Planning Obligations towards Transport Infrastructure Improvements will be required on any new developments that generate a net increase in the number of trips to and from the site, as this will require elements of the Dudley Transport Strategy to be implemented in order to mitigate the impact.

Application

- 3.3.15** The following paragraphs set out in stages the methodology which the Council will use to determine what is expected from developers in terms of contributions towards new transport infrastructure and services within the Borough.

The basic formula for the calculation is:

$$\text{No. dwellings/Gross Floorspace} \times \text{Additional Trip Rate for Land Use} \\ \times \text{Cost per Trip}$$

- 3.3.16** In order to determine the additional number of trips that are generated by a development it is necessary to calculate the trip generation of both the existing and proposed uses. A planning obligation will only be required where there are additional trips generated as a result of the development.
- 3.3.17** For larger developments robust and detailed evidence on existing and proposed trip generation should be submitted as part of the Transport Assessment (TA) or Transport Statement (TS). The Parking Standards Supplementary Planning Document sets out the thresholds for when a TA or TS is required to be submitted, and is summarised in Table 1 overleaf.
- 3.3.18** For smaller developments which fall under the threshold of requiring either a TA or TS the information in Table 1 are used as a basis to estimate the trip rates for different types of developments. The trip rates for the land uses shown in this Table are derived from the nationally recognised TRICS Dataset. The TRICS database was interrogated to provide average trip rates for each of the

land use categories over the operational day of the development (7am to 7pm), up to the level where a TA is required. The trip rates are updated by the Council on a regular basis.

- 3.3.19** These average trip rates were then subject to a discount to take account of pass-by trips from vehicles which were already on the highway network and linked trips by vehicles visiting more than one destination. The discount factors were derived from research
- 3.3.20** undertaken by the TRICS Consortium and varied between 5% and 60% dependent on the land use and its individual travel patterns. These factors were applied to all non-residential trip land uses to give the net trip rate.
- 3.3.21** A developer may seek a reduction in additional trip rate generation arising from the development by providing robust and detailed evidence, subject to the satisfaction of the Council. For proposed developments where either the existing or proposed use does not fall within any of the categories within the following Table, applicants are encouraged to contact the Council's Traffic and Transportation Team on 01384 815457 to discuss the potential impact of the development.

Calculation of Cost per Trip

- 3.3.22** The Dudley Transport Strategy has been formally adopted by the Council and is based on national, regional and local transport policies and the West Midlands Local Transport Plan. The Strategy takes into consideration the existing and forecast transport demands and network performance, and a number of challenges facing transport in Dudley today and in the future.
- 3.3.23** The cost per trip was reached by calculating the average annual net increase in vehicle trips, from the approved planning applications between 2008 and 2010, which gave an average of 3858 two-way trips. Of these approved trips it is forecast that 40% are actually implemented, thus the average annual implemented two-way trips expected is 1543.
- 3.3.24** The formula-based approach for Transport Infrastructure Improvements contributions has been calculated on the basis of making a 10% contribution towards the annual costs of delivering the objectives of the Dudley Transport Strategy; this equates to an average of £170,000 per annum. This figure of £170,000 was then divided by the average annual implemented two-way trips for the study period 2008-10, which gives a total cost per trip of **£110.17**. Given the current economic climate it is considered that it is not reasonable at present for the Council to apply this figure as there is a risk that it would render many schemes unviable; the existing rate of **£63.90** is thus considered to be an appropriate level for developments within Dudley Borough at present. This figure is subject to review as and when the economic climate improves.

3 Types of Planning Obligations that May be Sought

Planning Use Class	Range	Net Trip Rate	Units	Transport Statement Required	Transport Assessment and Travel Plan Required
A1 food superstore (inc. discount retailers)	0 to 249 sq.m	0.902	per sq.m (Gfa)	250 to 799 sq.m	800 sq.m and above
A1 food convenience store	0 to 249 sq.m	0.799	per sq.m (Gfa)	250 to 799 sq.m	800 sq.m and above
A1 Non food non-bulky items (e.g. clothes, books)	0 to 799 sq.m	0.220	per sq.m (Gfa)	799 to 1499 sq.m	1500 sq.m and above
A1 Non food bulky items (e.g. white goods)	0 to 799 sq.m	0.515	per sq.m (Gfa)	799 to 1499 sq.m	1500 sq.m and above
A2 professional services	0 to 999 sq.m	0.057	per sq.m (Gfa)	1000 to 2499 sq.m	2500 sq.m and above
A3 Restaurant	0 to 299 sq.m	0.299	per sq.m (Gfa)	300 to 2499 sq.m	2500 sq.m and above
A4 Public House	0 to 299 sq.m	0.519	per sq.m (Gfa)	300 to 599 sq.m	600 sq.m and above
A5 Hot food Takeaway	0 to 249 sq.m	0.890	per sq.m (Gfa)	250 to 499 sq.m	500 sq.m and above
A5 Hot food Takeaway Drivethru with restaurant	0 to 249 sq.m	1.935	per sq.m (Gfa)	250 to 499 sq.m	500 sq.m and above

3 Types of Planning Obligations that May be Sought

B1 (a) Office	0 to 1499 sq.m	0.111	per sq.m (Gfa)	1500 to 2499 sq.m	2500 sq.m and above
B1 (b & c) Light Industrial	0 to 1499 sq.m	0.089	per sq.m (Gfa)	1500 to 2499 sq.m	2500 sq.m and above
B2 Industrial	0 to 2499 sq.m	0.040	per sq.m (Gfa)	2500 to 3999 sq.m	4000 sq.m and above
B8 Storage	0 to 2999 sq.m	0.018	per sq.m (Gfa)	3000 to 4999 sq.m	5000 sq.m and above
B8 Distribution Centre	0 to 2999 sq.m	0.152	per sq.m (Gfa)	3000 to 4999 sq.m	5000 sq.m and above
C1 Hotels	0 to 74 bedrooms	3.384	per bed	75 to 99 bedrooms	100 bedrooms and above
C1 Hotels with bar and restaurant	0 to 74 bedrooms	9.236	per bed	75 to 99 bedrooms	100 bedrooms and above
C2 Institutional Hostels	0 to 249 residents	0.915	per resident	250 to 399 residents	400 residents and above
C2 Nursing Home	0 to 29 beds	1.794	per resident	30 to 49 beds	50 beds and above
C3 Houses	0 to 49 units	7.632	per dwelling	50 to 79 units	80 units and above
C3 Flats	0 to 49 units	2.051	per dwelling	50 to 79 units	80 units and above
C3 Sheltered Housing	0 to 249 residents	2.147	per household	250 to 399 residents	400 residents and above
D1 General Hospital	0 to 499 sq.m	0.099	per sq.m (Gfa)	500 to 999 sq.m	1000 sq.m and above
D1 Clinic	0 to 499 sq.m	0.350	per sq.m (Gfa)	500 to 999 sq.m	1000 sq.m and above

3 Types of Planning Obligations that May be Sought

D1 Doctors	0 to 499 sq.m	60.300	per doctor	500 to 999 sq.m	1000 sq.m and above
D1 Dentist	0 to 499 sq.m	0.284	per sq.m (Gfa)	500 to 999 sq.m	1000 sq.m and above
D1 Primary School	0 to 499 sq.m	0.720	per pupil	500 to 999 sq.m	1000 sq.m and above
D1 Secondary School	0 to 499 sq.m	0.474	per pupil	500 to 999 sq.m	1000 sq.m and above
D1 Residential School	0 to 499 sq.m	0.800	per pupil	500 to 999 sq.m	1000 sq.m and above
D1 Nursery	0 to 499 sq.m	0.393	per sq.m (Gfa)	500 to 999 sq.m	1000 sq.m and above
D2 Cinema	0 to 499 sq.m	0.379	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above
D2 Bowling Alley	0 to 499 sq.m	0.215	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above
D2 Bingo Hall	0 to 499 sq.m	0.582	per seat	500 to 1499 sq.m	1500 sq.m and above
D2 ArtGallery/Museum Exhibitions	0 to 499 sq.m	0.028	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above
D2 Fitness Club/Leisure Centre	0 to 499 sq.m	0.255	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above
D2 5 a side pitches	0 to 1 pitch	50.569	per pitch	-	2 pitches and above
D2 Community Centre	0 to 499 sq.m	0.216	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above
D2 Casino	0 to 499 sq.m	0.110	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above
D2 Play Centres (Play Barns)	0 to 499 sq.m	0.171	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above
D2 Library	0 to 499 sq.m	0.266	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above
D2 Theatre	0 to 499 sq.m	0.333	per sq.m (Gfa)	500 to 1499 sq.m	1500 sq.m and above

D2 Driving Range	0 to 24 ranges	13.329	per range	25 ranges to 49 ranges	50 ranges and above
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Table 8 Estimation of Trip Rates for New Developments

Priorities for Spend

3.3.25 The purpose of planning obligations for Transport Infrastructure Improvements is to contribute towards delivery of the following objectives of the Dudley Transport Strategy (DTS):

Heading	Main Transport Strategy Objectives
Major Scheme Improvements	DTS 1, 2, 4
Minor Improvements	DTS 1, 2
Local Safety Schemes	DTS 1
Public Transport	DTS 3, 4, 5
Vulnerable Users	DTS 2, 3
Highways Efficiency	DTS 1, 11
Regeneration	DTS 1, 5, 7

Table 9 Transport Strategy

3.3.26 DTS 1 To support regeneration by maximising network capacity and the efficient use of existing infrastructure by developing and implementing improvements, including:

- A. Targeted physical improvements at congestion hotspots;
- B. Priority Investment Corridors with improved parking control and enforcement;
- C. Quick Wins directed at providing rapid, mainly small scale and cost effective highway initiatives to increase network capacity at congestion hotspots across the Borough.

3.3.27 DTS 2 To continue to improve safety of the Borough’s transport networks by:

- A. Continuing to investigate and analyse the causes of road traffic collisions;
- B. Continuing to implement programmes of Local Safety Schemes;
- C. Continuing to implement programmes of Safer Routes to School Initiatives;
- D. Education, training and road safety awareness programmes;
- E. Working with the West Midlands Road Safety Partnership to introduce traffic enforcement and West Midlands wide education, training and publicity

3.3.28 DTS 3 To increase the emphasis on promoting sustainable transport by:

- A. Investing more heavily in developing Smarter Choices Initiatives;

- B. Accessibility Planning activities;
- C. Continuing to implement improvements to walking and cycling networks, routes and facilities.

3.3.29 DTS 4 To continue to work closely with West Midlands partners, particularly Centro and Westfield, to promote and deliver Rapid Transit between Wednesbury and Brierley Hill, or the implementation of improvements to public transport of equal quality and attractiveness to the proposed metro extension.

3.3.30 DTS 5 To work more closely with Centro (and bus/train operators) on developing and delivering bus and rail infrastructure and service enhancements, including:

- Bus Showcase improvements, both route based and targeted investment;
- Development of Punctuality Improvement Partnerships;
- Improved Public Transport interchange facilities

3.3.31 DTS 7 To improve the transport evidence base and improve the assessment of transport investment choices through a programme of corridor transport studies/ area studies focusing on the Brierley Hill Strategic Centre and Key Priority Investment Corridors.

3.3.32 DTS 11 To work with West Midlands partners and across the Council to maximise opportunities offered by new technology in managing the highway network, delivering transport services and communicating with transport users.

Further Information

3.3.33 Further information relating to Planning Obligations for Transport Infrastructure Improvements can be obtained from the Council's Traffic and Transportation Team on 01384 815457.

Air Quality Improvements

Policy Context and Framework

3.3.34 Air Quality has been identified as a national priority because it impacts on whole populations and its trans-boundary nature means that local action contributes to national outcomes. (Rogers Review 2007)

3.3.35 The whole of Dudley Borough has been declared as an Air Quality Management Area for nitrogen dioxide based upon measured exceedances of the Government's national air quality objectives.

Promoting healthy living is a key element of a sustainable community and reducing exposure to poor air quality will improve the health and quality of life of the population of Dudley Borough.

3.3.36 Core Strategy Policy ENV8 'Air Quality' states that where a proposed development will result in exposure to pollutant concentrations that exceed national air quality objectives, adequate and satisfactory mitigation measures which are capable of implementation must be secured.

3.3.37 The Council's Air Quality Action Plan sets out how the Council will work towards improving air quality, particularly with regard to reducing levels of nitrogen dioxide. The Plan is currently in draft form and was subject to a 3 –month public consultation period during Autumn 2010; following consideration of the consultation comments and any necessary revisions, the final Plan is due to be adopted in July 2011. A copy of the latest Plan can be found on the Council's website at the following location:
www.dudley.gov.uk/airqualityconsultation

Thresholds

3.3.38 Planning Obligations towards Air Quality Improvements will be required by the Council on any new developments that generate a net increase in the number of trips to and from the development site. The Council's preference is for this to be provided through on-site provision, however in some instances it may be appropriate for an off-site financial contribution or a part on-site provision and part off-site financial obligation.

On-Site Contributions

3.3.39 The developer will be encouraged to provide air quality off-setting measures on-site as part of the development. This will negotiated on a site by site basis, depending on the nature and scale of the development.



Traffic congestion within the Dudley Borough

Off-Site Financial Contributions

3.3.40 On sites where it is not possible or appropriate to provide on-site provision of air-quality off-setting measures, a financial contribution will be required according to the formula set out below.

Application

3.3.41 All new developments which generate additional traffic to and from a site are likely to increase emissions of nitrogen dioxide. Such transport emissions will contribute to the aggregated impact of development schemes throughout the Borough, leading to an emissions creep likely to increase human exposure to transport related air pollutants.

3.3.42 The compliance date for the National Air Quality objective levels for nitrogen dioxide is January 2015 and measures contained in the Council's Air Quality Action Plan are designed to reduce emissions of nitrogen dioxide towards achieving the objective level.

Off-Site Financial Contributions

3.3.43 The following paragraphs set out in stages the methodology which the Council will use to determine what is expected from developers in terms of contributions towards air quality within the Borough.

The basic formula for the calculation is:

$$\text{No. dwellings / Gross Floorspace} \times \text{Additional Trip Rate for that Land Use} \\ \times \text{Cost per Trip}$$

Calculating Additional Trips Rates

3.3.44 In order to determine the additional number of trips that are generated by a development it is necessary to calculate the trip generation of both the existing and proposed uses. A planning obligation will only be required where there are additional trips generated as a result of the development. Please refer to the Table of Estimation of Trip Rates for New Developments on pages 35-36 for detailed information on how trip rates are calculated.

Calculating Cost per Trip

3.3.45 The cost of delivering all of the objectives within the Air Quality Action Plan cannot be accurately estimated and therefore the contribution is based upon helping to fund the development and promotion of low emission strategies outlined in the Action Plan as follows:

- Promoting an electric vehicle infrastructure;

- The investigation and provision of parking concessions for low emission vehicles;
- Promoting a no idling policy;
- Promoting low emission strategies.

3.3.46 The cost per trip was reached by calculating the average annual net increase in vehicle trips, from the approved planning applications between 2008 and 2010, which gave an average of 3858 two-way trips. Of these approved trips it is forecast that 40% are actually implemented, thus the average annual number of implemented two-way trips expected is 1543.

3.3.47 The Air Quality Improvements contribution has been calculated on the basis of generating £50,000 per annum towards contributing to delivery of the objectives set out in para. 3.3.45 above. The figure of £50,000 was then divided by the average annual implemented two-way trips for the study period 2008-10, which gives a total cost per trip of £32.40.

On-Site Contributions

3.3.48 Examples of on-site provision of obligations are:

- Provision of Electric Charging Points. Provision would be required to be proportionate to the nature and scale of the development and the specification will be negotiated on a site-by-site basis, for example:
 - In large non-residential developments which generate 60+ car parking spaces the provision of 1 electric vehicle charging point per 60 spaces is to be provided by the developer and maintained throughout the lifetime of the development.;
 - On smaller residential schemes, the incorporation of 'Plug-In Charging Points Sockets' into the garages or frontages of all new dwellings;
- Use of alternative fuels for fleet vehicles/ delivery vehicles;

Priorities for Spend

3.3.49 The purpose of planning obligations for Air Quality Improvements is to contribute towards delivery of a number of objectives of the Dudley Air Quality Action Plan, for example through delivery and promotion of low emission technologies, roll out of charging points for electric vehicles, awareness raising initiatives etc.

3.3.50 Electric vehicles are known as Zero Emission Vehicles because there are no tail pipe emissions; their role in improving local air quality can therefore be significant. In January 2011 the Government issued a statement urging Council's to be at the forefront of an electric car revolution making it easier for drivers to make green choices by encouraging the promotion of electric vehicle charging points in new developments.

3.3.51 Further Information

3.3.52 Further information relating to planning obligations for Air Quality Improvements can be obtained from the Council's Environmental Protection team 01384 814685 or the Sustainability Team on 01384 813163

3.4 Environmental Infrastructure

3.4.1 The Planning Act 2008 places all Planning Authorities under an explicit obligation to promote good design and sustainability.

3.4.2 Environmental transformation is one of the key themes of the Core Strategy vision and requires a co-ordinated approach. This requires the delivery of high quality, livable and distinctive places which respect and make the most of the existing diversity, particularly its canals, open spaces, and industrial, architectural and geological heritage.

3.4.3 Policy CSP3 'Environmental Infrastructure' requires a co-ordinated approach to the enhancement and protection of the built and natural environment and community access to quality assets. In particular development proposals are required to improve the quality and quantity of the area's environmental infrastructure and resist any development that compromises its integrity and quality.

Nature Conservation

Policy Context and Framework

3.4.4 The justification for requiring obligations with respect of Nature Conservation is set out in Circular 05/2005 (Paras B15 and B16), PPS9, along with policies CSP1, CSP2, CSP3, CSP4 and DEL1 of the Black Country Core Strategy. Furthermore, the Nature Conservation Supplementary Planning Document contains a number of references to circumstances whereby planning obligations may address the impacts of new development. Locally specific planning documents, such as Area Action Plans and Development Plan Documents, should also be referred, as relevant to the locality.

3.4.5 Safeguarding and improving the environment is one of six priorities within Dudley's Community Strategy. Within this are the following areas of additional work:

- "To reverse the loss of some of our familiar wildlife by contributing to the objectives and targets of the UK and Birmingham and Black Country Biodiversity Action Plans and the proposed Black Country Geodiversity Action Plan.
- Increasing our area of local nature reserves to meet and exceed national targets."

- 3.4.6** This is further developed in the Dudley Council Plan (2010) which has “Environment and Housing” as one of its seven thematic priorities. Within this it has an objective to “preserve and improve the quality and biodiversity of the natural and built environment”. This has an action (EH1.4b) “to preserve and improve the environment through the formulation of policy and its delivery, and the application of enforcement actions”. This planning policy is in conformity to these strategic community and corporate priorities and objectives.
- 3.4.7** As a Council we are creating a Nature Conservation Delivery Plan. This is assessing the natural character and assets of the borough. It is also looking at present resources, commitments (such as the actions within both the Birmingham and Black Country Biodiversity Action Plan and the Black Country Geodiversity Action Plan) and looking to create a strategic prioritisation for nature conservation delivery throughout the borough.
- 3.4.8** As part of local nature conservation planning natural areas (Character Zones) have been described. These are helpful in selecting which natural habitats and features are best suited to a particular area within the borough. For each Character Zone priority projects have been identified. These are presented in Appendix 2.
- 3.4.9** Nature Conservation planning obligations can usually be placed into four categories, these are: avoidance, mitigation, compensation and enhancement. These are defined by the Office for the Deputy Prime Minister (ODPM) in Biodiversity and Geological Conservation – A Guide to Good Practice as:
- **Avoidance:** measures taken to avoid adverse impacts of change, such as locating a development away from areas of ecological interest.
 - **Mitigation:** measures undertaken to limit or reduce adverse effects resulting from development or other change taking place including modifications, deletions or additions to the design of the development, adaption of methods or timing or adjustments in the nature, scale or location of the project.
 - **Compensation:** measures to offset or make up for losses caused as a result of development or other change, including residual adverse effects which cannot or may not be entirely mitigated.
 - **Enhancement:** measures to increase the quality, quantity, net value or importance of biodiversity or geological interest.
- 3.4.10** Both avoidance and mitigation are usually very site and development specific and are considered on this basis. It is not possible to provide general guidelines on these two aspects. The Nature Conservation Officer should be consulted for further information.

3.4.11 Harm to the Nature Conservation value of a site will be resisted by planning policy. Avoidance and mitigation measures should be used to neutralise the negative impacts of a development. However in exceptional circumstances, where damage is permitted, and full avoidance and mitigation would not be possible, compensation will be required to balance the resultant loss.

Nature Conservation Compensation

3.4.12 Compensation will normally involve onsite works, however in some circumstances offsite contributions may be considered. The character and scope of these works and/ or contributions will be based on the specific negative impacts created by the development. The Nature Conservation Officer should be consulted for further information.

Thresholds

3.4.13 In accordance with adopted Local Development Documents (including, as relevant, their Implementation/Delivery Plans) where sites of value for nature conservation are harmed (and both avoidance and mitigation measures will not fully neutralise the impacts), the calculation set out below will be used to determine the level of compensation required.

Application

3.4.14 The level of this planning obligation will be based on the following general rules, however the actual amount will depend on the level of impact the development creates. These should be carried out either on the development site or in a location strategic for nature conservation. The following methods of compensation are listed in order of preference:

3.4.15 Creation and establishment (min. 15 years) of an equivalent size of new habitat, to an appropriate quality or

3.4.16 Provision and establishment (min. 15 years) of significant restoration works, twice the area of that lost.

Priorities for Delivery

1. Improving and/or buffering designated nature conservation sites.
2. Creating/ strengthening strategic wildlife corridors.
3. Creation of site/ features to progress the borough's current priority nature conservation projects (see Appendix 2).

Nature Conservation Enhancement

3.4.17 In accordance with adopted Local Development Documents (including, as relevant, their Implementation/Delivery Plans) enhancement is required to improve the overall natural environment of Dudley Borough. It is in addition to any mitigation or compensatory actions which need to be undertaken as part

of a planning permission. Enhancements should normally be provided on-site, particularly in key areas (e.g. Linear Open Space, adjacent to designated nature conservation sites or in Biodiversity Action Plan or Geodiversity Action Plan priority nature conservation areas). However in circumstances where on-site provision is not possible, a financial contribution will be required to provide off-site enhancements in strategic areas. Whether on-site or off-site, nature conservation enhancements should be considered as part of the initial design of the proposal, and in discussion with the Nature Conservation Officer. The aim of these enhancements should be to maximise benefits for the nature conservation value of the site.

- 3.4.18** The contribution should be used to cover the creation of the habitats/features and not be expected to cover ongoing establishment or maintenance. The enhancements should be maintained for the life of the development.

Thresholds

- 3.4.19** All non-change of use developments of 5 dwelling and above or non-residential schemes over 100m², will be required to provide nature conservation enhancements to improve the borough's environment.

Application

- 3.4.20** To ensure the contribution is proportionate to the development, the enhancement contribution is based on the size of the development:

Contribution = £0.52p x (Total area of development in sq. m – Area of existing semi-natural vegetation remaining on site in sq. m following development)

Priorities for Delivery

1. Improving and/or buffering designated nature conservation sites.
2. Creating/ strengthening strategic wildlife corridors.
3. Creation of site/ features to progress the borough's current priority nature conservation projects (see Appendix 2).

Further Information

- 3.4.21** Further detailed information relating to Planning Obligations with respect of Nature Conservation can be found from the following Dudley MBC sources:

- Appendix 2 Nature Conservation within this document
- Nature Conservation Planning Policy Web Pages
- Nature Conservation Supplementary Planning Document
- Nature Conservation Officer within the Planning Policy team
- Emerging Nature Conservation Delivery Plan

Open Space, Sport and Recreation

Policy Context and Framework

3.4.22 The value of the wider environment to the future growth and prosperity of the Black Country and its importance in retaining and attracting people and investment has long been recognised. Environmental transformation is key to successful regeneration of the Black Country, and will also help to address the causes and effects of climate change, improve environmental quality and help improve the quality of life and well-being. Publicly accessible open space, sport and recreation facilities all have a vital role to play in helping to promote more healthy lifestyles.



Coseley Youth Centre Multi Use Games Area

3.4.23 The justification for requiring obligations in respect of open space, sport and recreation, which is taken to include Public Open Space, (including municipal Parks), Children's Play and Playing Fields, Natural and Semi-Natural Green Space is set out in Circular 05/2005 (Paras B15,B18 and B20), paragraphs 23 and 33 of PPG17 'Planning for Open Space, Sport and Recreation' (2002) and Policies CSP3, ENV2 and ENV6 of the Black Country Core Strategy.

3.4.24 Core Strategy Policy ENV2 'Urban Design' encourages good design and the requirement for developers to show that their development proposals have sought to provide buildings and spaces that are attractive, functional, safe, accessible, sustainable and inclusive for all. The layout and the proposals integration into the local environment and its contribution to open space, sport and recreation is therefore a critical part of this.

3.4.25 Core Strategy Policy ENV6 'Open Space, Sport and Recreation' encourages development that would increase the overall value of the open space, sport and recreation network. The provision of high quality open space to serve new residential developments and the improvement of existing open spaces is critical to the overall aims of urban renaissance and environmental transformation across the Black Country.

3.4.26 The Council's Open Space, Sport and Recreation Provision SPD (June 2007) provides supporting guidance to assist developers in understanding the Council's requirements, particularly in relation to standards and consideration to be given in relation to on-site provision. Some elements of the SPD have, however, now been superseded by the Black Country Core Strategy and this Planning Obligations SPD. For further advice please contact the council's planning policy team.

Thresholds

- 3.4.27** All new developments which results in a net increase of 5 or more dwellings will require an Open Space, Sport and Recreation obligation, either via on off-site financial contribution or on-site amenity public open space provision. In some instances it may be appropriate for a part on-site provision and part off-site financial obligation to be provided by the developer.

On-Site Provision

- 3.4.28** Residential schemes of 80 dwellings or more should normally provide open space, sport and recreation facilities on-site in circumstances where the development site is isolated from and poorly served to existing nearby off-site public open space provision. On such sites the expected provision is at least 0.81 ha per 1,000 population of Amenity Green Space provision in line with standards set out in the Council's Parks and Green Space Strategy and guidance in the Core Strategy Policy ENV6 and as a practical, realistic and deliverable level of provision. The Council will explore the requirement within each residential scheme on a case-by case assessment basis to achieve the optimal layout and positioning using the principles of good landscape and urban design and on its individual planning merits.

Off-Site Financial Contributions

- 3.4.29** Residential schemes resulting in a net increase of between 5 and 79 dwellings are required to make financial contributions for off-site open space, sport and recreation provision as an alternative to on-site Amenity Green Space provision unless the developer can demonstrate that on-site provision is more appropriate than a financial payment.

Playing Fields Contributions

- 3.4.30** Contributions will be determined based on the overriding priorities in the local area and will be costed on a site by site basis. This costing will have regard to the particular circumstances that will apply to each site and as a result will encompass a range of construction activities that will differ from site to site. In appropriate circumstances the provision of changing accommodation and parking provision may be required.

Application

On-Site Provision

- 3.4.31** When on-site provision is being provided by the developer, qualitative standards and guidance are set out in the Council's Open Space, Sport and Recreation Provision SPD (2007); in addition Appendix 4 of this SPD provides some key guidelines for the provision of on-site open space.

- 3.4.32** The quantity of on-site provision should be at least **0.81 ha per 1,000 population** of Amenity Green Space provision in line with the figures set out in Core Strategy Policy ENV6 and the standards identified in the Council's adopted Parks and Green Space Strategy (2009).
- 3.4.33** Developers will be expected to provide detail of on-site provision via a 'Landscape Design Method Statement', the Council's requirements for such a Statement should include consideration of planning guidance for nature conservation, the historic environment and site specific guidance and are set out in further detail in the Open Space, Sport and Recreation SPD and Appendix 4 of this SPD.
- 3.4.34** When on-site provision is being provided by a developer, it is generally acceptable for it to be maintained either by the developer themselves or via a private management company, providing it is to a suitable standard, meeting all necessary regulatory requirements. In some instances it may be appropriate for the open space to be transferred to the Council for maintenance; on these schemes the developer will be required to make a financial contribution for 15 years maintenance.

Off-Site Financial Contributions

- 3.4.35** The formula-based approach for Open Space, Sport and Recreation Planning Obligations is based on the following approach:
 - A combined contribution for Open Space and Children's Play split into construction and maintenance elements (15 year maintenance element);
 - A contribution which is based on the estimated population of the proposed development, calculated on data of household occupancy gathered in Dudley Borough from the 2001 Census Data;
 - A cost per sq. m. for the construction and maintenance of open space and children's play, based on the true implementation costs of a number of Liveability Masterplans for a range of parks and open space sites which have secured significant community support, and have been robustly tested at feasibility stage and are thus realistic and capable of being implemented.
- 3.4.36** The approach used for calculating open space, sport and recreation financial contributions is based on the following formula:

$\text{Cost per person} =$ $\text{Average Cost of Works (£) X Open Space Requirement per person (sq. m.)}$
--

3.4.37 Policy ENV 6 of the Core Strategy sets out a target figure of 5.08 hectares of open space per 1000 population; this equates to 5.08 sq. m. per person.

3.4.38 A cost per sq. m. for the construction and maintenance of open space and children’s play has been calculated, based on the costs of a number of Liveability Masterplans for a range of parks and open space sites which have secured significant community support; this equates to £8.90 for construction works and £7.05 for maintenance works (£0.47 x 15), this gives a total of £15.95.

3.4.39 Using the above formula and figures the costs per person for open space, sport and recreation are calculated as follows:

£15.95 (average cost of works) X 50.8 sq. m. (open space requirement per person)

This gives a sum of £810.26 per person (made up of £452.12 construction and £358.14 maintenance)

3.4.40 Based on data from the 2001 Census for Dudley, the average occupancy rate for a flat is 1.39 and for a house 2.50. Therefore the financial contributions are as follows:

Type of Dwelling	Cost per Person	Average Occupancy Rate	Libraries contribution per house type
House	1.39	£1,126.26	£2025.65
Flat	2.40	£1,944.62	£1,126.26

Table 10

3.4.41 Where appropriate, in addition to providing a financial contribution, the developer may be required to provide on-site green landscaping narrow buffers (e.g. non-recreational amenity public open space) within the site layout. Very low maintenance landscaping solutions such as natural green space buffers containing locally-occurring indigenous shrub and suitable tree species (such as Silver Birch, Hawthorn, Holly, Hazel and Elder) will be encouraged.

Priorities for Spend

3.4.42 In general, across the Dudley Borough there is a **need to enhance and improve the quality of all types of publicly accessible green space** currently found in the Dudley Borough (e.g. amenity green space, parks and gardens, natural and semi-natural green space, outdoor sports pitches (playing fields), etc). Particular priorities include:



Children's and Young Peoples Green Space provision

Cotwall End

3.4.43 There is a need for more publicly accessible Children's and Young People's green space provision, including equipped children's play areas.

Parks and Gardens and Natural and Semi-Natural Green Space Provision

3.4.44 There is a need to enhance green space biodiversity levels across the borough in accordance with Biodiversity Action Plan targets. In addition regular sensitive maintenance is needed across the Borough to address frequent wear and tear issues.

Allotments

3.4.45 Where practical and possible creation of new allotment space as part of major new development proposals to address current shortages in provision, address increasing levels of community demand and encourage healthy lifestyles. Additionally improvements to the quality of existing allotments space are required.

Green Space Landscaping/Buffering

3.4.46 Provision of high quality and attractive on-site green space landscaping has an integral role to play in creating high quality residential communities, particularly low maintenance solutions with locally occurring deciduous tree planting (wildlife friendly landscaping). This type of provision can help to promote more sustainable development by

3.4.47 making development schemes more responsive to future climate change pressures such as urban cooling, reduced flood risk and biodiversity movement. The visual amenity benefits are also important which can help encourage inward investment into the Borough.

Adaptations for more elderly population

- 3.4.48** We need to start to think how we can make our green space environments more user friendly and adaptable for a **increasingly more elderly borough population in future years**. The Demographics Chapter of the adopted Parks and Green Space Strategy suggests that the number of people in the Dudley Borough aged 60 years and over are likely to increase by 27.5% by the year 2026, whilst there is likely to be a 71.9% rise in the number of people **aged 80 years and over**. The impact this is likely to have on future demands and needs for green space will be important to consider. For example, conveniently located benches, toilet facilities, disabled friendly access, signage for visually impaired, green space safety and security issues, good quality pathways for improved access, high quality green space environments to encourage use by elderly residents, areas to study nature conservation close to home, etc.

Climate Change

- 3.4.49** Responding to the challenges presented by future climate change is an important issue which needs to be considered now, as well as requiring on-going consideration and action in future years. Maximising the role of green space should help to contribute to urban cooling, reducing flood risk, reducing air pollution, nature conservation and biodiversity enhancement and protection. through drought resistant locally occurring plant species, sustainable watering systems particularly within formal park settings to minimise water use, etc.

Further Information

- 3.4.50** Further information with respect of Open Space, Sport and Recreation can be obtained from the Council's Planning Policy Team on 01384 816810 and the Landscape section on 01384 815581.

Environmental Protection

Policy Context and Framework

- 3.4.51** The justification for seeking planning obligations with respect to Environmental Protection lies in Planning Policy Statement 23 (PPS 23) 'Planning and Pollution Control' which requires Council's to take account of the risks of and from pollution and land contamination when considering development proposals, and how these can be managed or reduced in order to remove any unacceptable risks.
- 3.4.52** Planning Policy Guidance 24 (PPG 24) 'Planning and Noise'. Paragraph 19 confirms that it may be appropriate for developers to provide planning obligations in instances where the Council's planning objectives cannot be achieved by imposing a planning condition; for example where there is a requirement to make a financial contribution, or they relate to development, roads or buildings other than those covered by the planning application.
- 3.4.53** Planning Obligations relating to Environmental Protection are only required where matters relating to noise and contaminated land cannot be dealt with through the use of conditions.
- 3.4.54** For Planning Obligations with regards to Air Quality please see the Air Quality section under Transportation and Accessibility within this SPD.

Noise Emissions

Thresholds

- 3.4.55** A planning obligation for noise is normally required where the Council considers that there is noise from a source outside of the development site boundary which is likely to be detrimental to the amenity of future residents/occupiers. It is good practice in circumstances where noise of an industrial nature is involved for the applicant to provide a report to the LPA on noise affecting the development site using British Standard 4142 'Method for rating Industrial Noise affecting Mixed Residential and Industrial Areas' where applicable. The report should detail the action proposed by the developer to mitigate the noise issues.

Application

- 3.4.56** In exceptional circumstances it may be necessary for a developer to enter into a planning obligation for noise, particularly in circumstances where the proposed development is for a sensitive development, i.e. residential, hospital, school etc and there is an existing industrial use/ railway/ busy road etc located nearby.

- 3.4.57** The planning obligation will be required to enable the developer to undertake works outside of the development site boundary in order to reduce noise at source or provide an off-site barrier. The purpose of this action will be to effect a reduction in noise at the development site which is sufficient to enable the proposed development to go ahead without adversely affecting the operation of the existing use whilst providing an acceptable noise climate at the location of the proposed development.

Land Contamination

Thresholds

- 3.4.58** The Council will seek a planning obligation for land contamination on developments in or adjacent to areas where objectives for land affected by contamination cannot be secured through a planning condition (i.e. where there is still a residual impact).

Application

- 3.4.59** Planning Obligations for land contamination could be directed towards measures designed to deal with the contamination, including during construction works, in order to make the site suitable for its intended use. Similarly contamination testing and remedial requirements may also be required in relation to any off-site green space infrastructure, such as amenity open spaces and allotments, to ensure that the site is suitable for use.
- 3.4.60** In light of the above, in instances where the council considers a planning obligation for land contamination is required, the Council will seek to secure measures or contributions towards risk assessments and/or remediation works on land affected by contamination; this will be identified on a site-by-site basis. In particular this could include the following:
- Review / Verification of such works carried out at the development site under condition, where necessary;
 - Risk assessments and remediation works for other affected land related to the development. For example actions to address migration of contamination from adjoining land onto the development site;
 - Monitoring works following the completion of the development. Examples include measuring gas and/or water contamination in boreholes and/or installing permanent monitoring equipment;
 - The management of contaminated land, including a requirement for certain operations and activities to be carried out, such as the maintenance of remedial works. Examples include landscaping improvements and maintenance, gas protection and/or leachate treatment facilities (e.g. water treatment barriers)
 - Restrictions on the development or use of the land;

- Any other measures deemed appropriate, for example independent monitoring/ investigation during remediation works to ensure there are no off-site effects as a result of contamination;
- Supervision Fees – The developer may be expected to pay fees to cover the cost of council officer time associated with dealing with contamination. Such instances might include inspecting compliance with requirements of planning conditions and agreed works (e.g. risk assessments and remediation strategies) or routine monitoring of boreholes or installations. Any such fees will be calculated in accordance with the hourly rate for officer time set in the Council's fees and charges structure.
- Performance Bonds (surety) to ensure the implementation of obligations.

Further Information

- 3.4.61** Further information relating to Planning Obligations with respect of the provision of Environmental Protection can be obtained from the Council's Environmental Protection Team.

Historic Environment

Policy Context and Framework

- 3.4.62** Dudley has a rich and diverse historic environment which is evident in the survival of individual heritage assets, both designated and undesignated and in the local character and distinctiveness of the broader townscapes and landscapes of the borough. To ensure that heritage assets make a positive contribution towards wider economic, social and environmental regeneration, it is accordingly important that they are not considered in isolation but are conserved and enhanced within their wider context.
- 3.4.63** Planning Policy Statement 5 'Planning for the Historic Environment' encourages Local Planning Authorities to take into account the positive contribution that conservation of historic assets and the historic environment can make to the establishment and maintenance of sustainable communities and economic vitality.
- 3.4.64** Core Strategy Policy ENV2 'Historic Character and Local Distinctiveness' requires new developments to preserve and, where appropriate, enhance historic character and local distinctiveness. Further local detail and guidance is provided within the Historic Environment Supplementary Planning Document (SPD). The overarching aim of Historic Environment policies and the SPD are to identify, protect, conserve and enhance the Borough's diverse historic environment and local distinctiveness as a whole. Within this wider context there are buildings, areas, landscapes and features that make an important contribution to local character which must also be conserved and enhanced. In order to assist the local authority in achieving this objective, planning obligations will be sought to deliver specific "Heritage Objectives" (see glossary of terms for definition of 'heritage objective') on a site by site basis.

Thresholds

- 3.4.65** Planning Obligations will be required on new developments which fall into either of the following categories:
- Developments impacting upon individual archaeological/ historical/ architectural assets or their settings, e.g. Statutorily or locally listed buildings, scheduled ancient monuments or other sites of national importance, canals and canal infrastructure and the wide range of significant but un designated heritage assets recorded in the council's Historic Environment Record (HER) (see glossary of terms for definition of HER).
 - Developments impacting upon areas of heritage interest or their settings e.g. Areas of high historic landscape or townscape value, Archaeological priority areas, Conservation Areas, Designed landscapes such as Historic parks and Gardens. Where a development is identified as impacting upon

heritage assets this will trigger a requirement for the developer to actively consider a range of measures to address any potentially negative impact through:

- 3.4.66 Avoidance:** measures taken to avoid adverse impacts of change, such as locating a development away from historically sensitive sites or areas. **Mitigation:** measures undertaken to limit or reduce adverse effects resulting from development or other change, including modifications, deletions or additions to the scale and design of the development, for instance by locating the built form of the development away from areas of archaeological interest or amending the detailed design of the development so as to lessen the impact upon historically sensitive areas or individual heritage assets and their settings.
- 3.4.67 Compensation:** measures to offset or make up for losses to the overall significance of heritage assets caused as a result of development or other change, including residual adverse effects which cannot or may not be entirely mitigated. Such measures could be wide ranging but an example may be the unavoidable destruction of buried archaeological remains through construction works that might to some degree be compensated through archaeological excavation and recording and subsequent analysis and publication of the results, funded by the developer. This might equally apply to archaeological buildings recording undertaken prior to the alteration or loss of standing structures that are heritage assets.
- 3.4.68** Such “preservation by record” is, however, inherently destructive and always a last resort as a documentary record is not as valuable (to society) as retaining the heritage asset itself. Therefore, the ability to record evidence would not be a factor in deciding whether a proposal should be granted consent. In this context and on a case by case basis in relation to the actual degree of loss of historic significance further compensation may also be sought through, for example, a developer making wider than simply academic contributions to furthering public knowledge and understanding of the local historic environment through supporting popular publication/environmental education.
- 3.4.69** In certain circumstances the loss of individual components of a heritage asset (eg in relation to a complex of buildings) might be compensated for by the repair/restoration of retained elements and/or improvements made to the setting of an asset as a result of the development.
- 3.4.70 Enhancement:** measures to increase the physical quality and value of heritage assets and/or improve their settings or to foster a greater recognition and appreciation of their significance and importance to local communities.

3.4.71 In instances such as those outlined above, where the relevant heritage objective cannot be achieved by condition, a planning obligation, which may include a financial contribution, will be required to address the impact. Each case is unique and any obligations will be identified and calculated by the Council on a site by site basis.

Application

3.4.72 Heritage Assets represent a finite and non-renewable resource and any damage affecting an assets overall significance must be viewed as a net loss to the historic environment that should be compensated. If a new development is likely to have an impact on the historic environment as set out above, the developer is, therefore, encouraged to make early contact with the Historic Environment Section to discuss the most effective approaches to mitigation and if necessary compensation and the possibilities for enhancement in order to achieve the relevant heritage objective. This could include:-

- The development of sustainable proposals that can both support/ facilitate environmental enhancements to relevant heritage assets/areas and secure the relevant 'heritage objective'.
- The potential contributions (financial) which will be expected from Developers through the Planning Obligations process to support a range of activities that will identify, protect, promote, conserve and/or enhance the historic environment, where the relevant heritage objective cannot be secured by condition..

The role for Planning Obligations

3.4.73 In order to secure the relevant 'heritage objective' the types of planning obligations that may be used by the local authority in respect of the historic environment fall into three broad categories: -

- To require the carrying out of specific operations or activities to a heritage asset;
- To require a sum or sums of money to be paid towards the cost of the carrying out specific operations or activities to an heritage asset; and
- To restrict the development or use of the land until the identified 'heritage objective' has been met.

3.4.74 Planning applications which are close to certain types of heritage asset (e.g. Canals, publicly owned Listed or Locally Listed Buildings etc), or that directly impact upon or fall within a heritage asset may result in a developer being required to either carry out specific improvement works or to set aside a commuted sum of money.

Priorities for Spend

3.4.75 The type of contributions or specific operations or activities likely to be required for the Borough's heritage are as follows (this list is not exhaustive but provides an indication of how planning obligations may be used) :

- Contribution towards the repair, restoration, management or maintenance of a heritage asset.
- Contribution towards improved signage to and from an historic asset
- Contribution towards the provision of interpretation panels or other publicly accessible material illustrating the history and significance of a heritage asset. *(Please note that where proposed development directly involves sites of historic or local interest (e.g. canal side development, or sites that contain listed or locally listed buildings) developers will be expected to make full use of this heritage asset as an information resource and as such, new development will be expected to be accompanied by relevant interpretation material of the historical and archaeological background of the heritage asset).*
- Contribution towards environmental improvements of a heritage asset e.g. public realm improvements in a conservation area or Area of High Historic Townscape value.
- Contribution to research and education and towards the better understanding of an archaeological site or resources having not only wider community benefits but an identifiable relationship/ connection with the development concerned e.g. contribution towards post-excavation costs for Dudley Castle.



Interpretation panel, Lye Chapel

Further Information

3.4.76 For detailed information relating to Planning Obligations for the Historic Environment, or to discuss the implications for your proposed development please contact 01384 814190.

Public Art

Policy Context and Framework

3.4.77 Public Art can play an important role in the regeneration of our urban and rural areas; it can enhance buildings, civic spaces, or even major transport schemes. The integration of Public Art features can add quality and distinctiveness to areas, captivating the imagination of those who see the work and instilling in them a sense of civic pride.

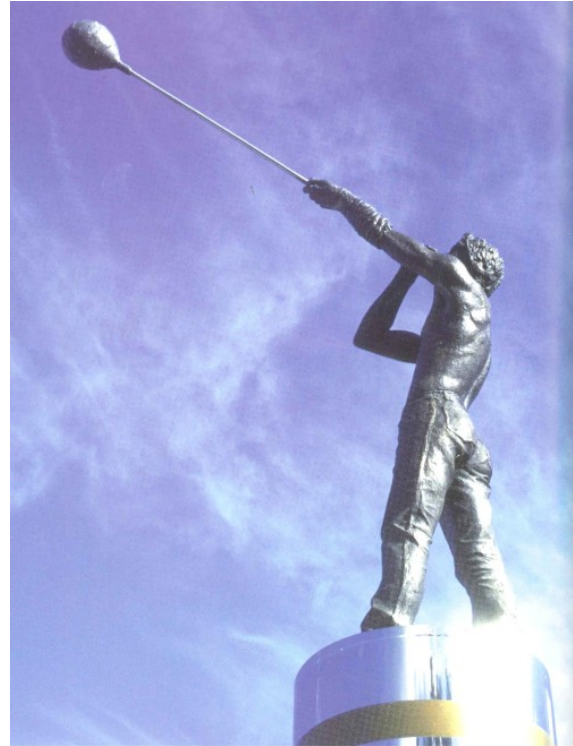
3.4.78 Planning Policy Statement 1 'Delivering Sustainable Development' requires planning authorities to positively plan for the achievement of high quality and inclusive design in new developments, as a key element in achieving sustainable development.

3.4.79 Core Strategy Policy CSP4 'Place Making' requires the provision of Public Art on new developments, where appropriate, in order to support and enhance the cultural and social development and identity of the Black Country.

3.4.80 Dudley Council has long recognised the potential of Public Art to enhance the design of new development and have sought provision on new developments for many years. Within Dudley Borough it has the potential to:

- Raise the profile of the Borough;
- Enhance gateways and regeneration corridors;
- Assist in the regeneration of the Borough;
- Have recreational value in its own right;
- Raise the profile of / enhance a particular site;
- Generate pride in the Borough

3.4.81 The Council's Public Art Strategy provides a definition for public art, outlines how public art relates to the Council's corporate agenda and sets out the various commissioning and delivery mechanisms used by the Council to pursue and develop its approach to public art.



Life-sized glassblower in bronze at Stourbridge Town Bus and Train Stations

Thresholds

3.4.82 In line with the Council's Public Art Strategy, the Council requires the provision of Public Art obligations to a value of at least 1% of Design and Development Costs on the following types of developments:

Residential Developments:

3.4.83 Planning Obligations for Public Art are required on all residential developments of 10 or more dwellings or, where this is unknown, a site area of 0.5 hectares or more.

Non-Residential Developments:

3.4.84 Planning Obligations for Public Art are required on all non-residential developments where there is an additional floorspace of 1000 sq. m (gross).

Application

Definition of Public Art

3.4.85 The National Public Art think tank, IXIA, describes Public Art as:

“The process of artists responding to the public realm”, and, “art commissioned as a response to the notion of place, art commissioned as part of the designed environment and process based artistic practice that does not rely on the production of an art object”. <http://ixia-info.com/>

On-Site and Off-Site Provision

3.4.86 The Council's preference is for developers to incorporate Public Art provision on-site into the architectural and environmental aspects of new developments; thus assisting in the integration of new developments into existing townscapes. This is negotiated on a site-by-site basis to ensure that what is being provided is appropriate, in scale with the proposed development, whilst delivering a significant Public Art product.

3.4.87 Public Art can be provided on-site through the provision of a range of features, and is dependent on what is most appropriate for a particular development. Examples include:

- Freestanding installations;
- Decorative Brickwork or glasswork;
- Mosaics;
- Wall treatments, cladding, chimneys, ventilators, wall;
- Sundials, clocks and other time-based works;
- Timberwork
- Sculptural building entrances;
- Light fittings, exterior and interior;
- Decorative pathways and doors;
- Interpretation of a specific site or place;

- Arches, Seating, Bridges or furniture;
- Windows (glasswork and surrounds).

3.4.88 The Millennium Sculpture Trail along the Dudley Southern By-Pass provides some examples of large scale Public Art works that have been delivered in recent years; A 'tour' of the trail can be viewed on the following website:

www.bbc.co.uk/blackcountry/culture/2003/02/sculpture_tour/index.shtml

3.4.89 Public Art should be designed to be located in a particular place, which could be either inside or outside of a public place; its location should be accessible and be able to be viewed from the public realm.

3.4.90 In exceptional circumstances, where it is not possible or appropriate for Public Art to be provided on-site, the Council will accept a financial contribution in lieu of on-site provision; in these instances the sum of money will be calculated on a case by case basis using the 1% of Design and Development Costs approach.

Priorities for Spend

3.4.91 Any financial planning obligations received for Public Art will be spent on improving Public Art provision within the locality of the development making the contribution, in line with the Council's Public Art Strategy and the objectives of the Core Strategy.

Further Information

3.4.92 Detailed information relating to Planning Obligations in respect of Public Art can be obtained by contacting the Council's Borough Artist on 01902 894958.

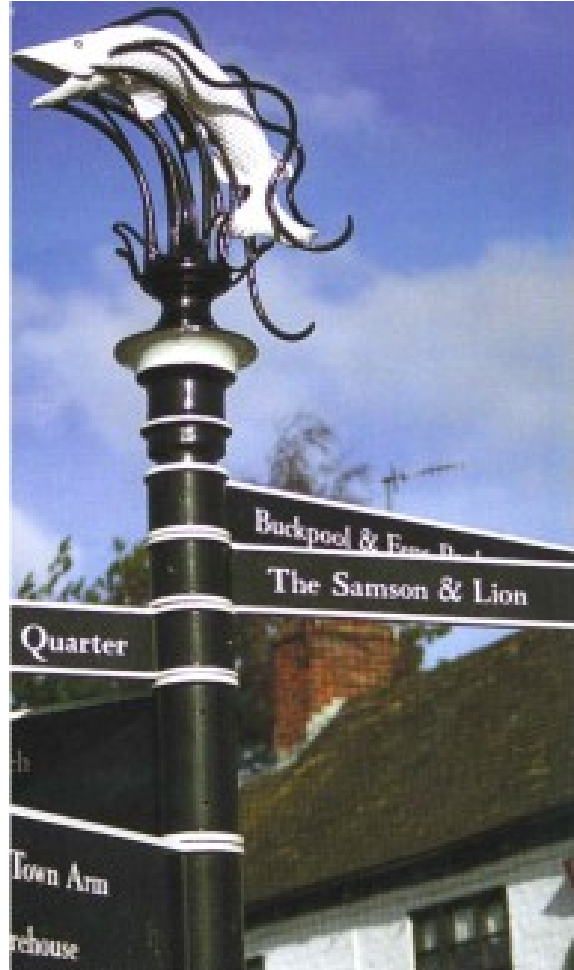
Public Realm Improvements

Policy Context and Framework

3.4.93 The importance of high quality design in creating places where people want to live, work and invest is a fundamental plank of national policy; Planning Policy Statement 1 'Delivering Sustainable Development' requires planning authorities to maintain and improve the local environment and help to mitigate the effects of declining environmental quality through positive policies on issues such as design and the provision of public space.

3.4.94 World Class Places is the national strategy on creating and improving the quality of places, laying out an approach to make improvements to the public realm. A well-designed built environment can have a positive influence on crime, health, education, community cohesion and well-being, and can help attract investment and job opportunities.

3.4.95 Core Strategy Policy CSP4 'Place Making' requires all development to make a positive contribution to place-making and environmental improvement, and Policy ENV3 'Design Quality' sets out a number of standards for place-making and reflecting the distinctive character of the area.



Fingerpost alongside Stourbridge Canal

Thresholds

3.4.96 A planning obligation for Public Realm Improvements is required on the following types of new developments. Obligations are not required on any change of use developments.

Residential Developments:

3.4.97 Residential schemes resulting in a net increase of 5 or more dwellings are required to provide a contribution to public realm improvements

Non-Residential Development:

3.4.98 Non-residential developments resulting in a net increase in the gross floorspace are required to provide a contribution to public realm improvements if they fall within any of the Strategic, Town, District or Local Centres as defined by Core Strategy Policy CEN2 ‘Hierarchy of Centres’, as follows:

Centre Type	Centre Name	Boundary
Strategic	Brierley Hill	As defined by Brierley Hill AAP – See Appendix 3
Town	Dudley Halesowen Stourbridge	UDP Boundary applies until replaced by Development Strategy DPD
District and Local (Existing)	Kingswinford Lye Sedgley Amblecote Cradley / Windmill Hill Gornal Wood Netherton Pensnett Quarry Bank Roseville Shell Corner The Stag Upper Gornal Wall Heath Wollaston Wordsley	UDP Boundary applies until replaced by Development Strategy DPD
Local (New)	Hawne Oldswinford	As defined in the Draft Development Strategy DPD

Table 11

Application

3.4.99 Planning Obligations for Public Realm Improvements can be provided through either a financial contribution or, in appropriate circumstances, by the developer undertaking direct works on-site.

Off-Site Financial Contributions

3.4.100 There are 22 Centres within Dudley as identified within Core Strategy Policy CEN2 ‘Hierarchy of Centres’, comprising a mixture of Strategic, Town, District and Local Centres.

3.4.101 Based on survey work undertaken by the Council’s Economic Regeneration Section, the total area of public realm in the 22 centres is 358,750 sq. m. On suitable sites, new development within these centres will be expected to contribute towards improvements to the public realm.

- 3.4.102** Within the town centres identified within the Black Country Core Strategy the split between new residential and non-residential development is expected to be in the region of 60% residential and 40% non-residential. Therefore, for the 136,000 sq. m. of public realm identified within the Strategic and Town Centres there would be a split of 81,600 sq m for the residential split and 54,400 sq. m. for non-residential.
- 3.4.103** Based on the the Lye District Centre Action Plan, where the boundaries are more tightly drawn around the retail core than in the main centres, a 50/50 split between new non-residential and residential development is considered more appropriate. Therefore the 222,750 sq. m. of public realm identified for district and local centres is split down into 111,375 sq. m. for the residential development and 111,375 sq. m. for the non-residential development.
- 3.4.104** Based on the above calculations the total area of public realm improvements that will be funded from residential development will be 192,975 sq. m. (81,600 + 111,375), the remaining 165,775 sq. m. (54,400 + 111,375) funded will be from non-residential developments.

Non-Residential Developments

- 3.4.105** Based on survey work undertaken by the Council's Economic Regeneration Section there is an estimated 1,354,590 sq m of floorspace within the 22 centres. Analysis of past trends demonstrates that there is an annual completion rate of 18,585 sq m of floorspace within the 22 centres. The time period sought for future maintenance of public realm is 15 years and this timescale will be used for the provision of new public realm.
- 3.4.106** Using the 15 year timescale 90,306 sq m of existing floor space (1,354,590 / 15) will contribute annually towards the establishment and maintenance of public realm. Taking into account the average completion rate of 18,585 sq m this figure is raised to 108,891 sq. m. Therefore the annual non-residential public realm contribution is required from 108,891 sq. m.
- 3.4.107** Using recent figures from private contractors tendering for public realm improvement works the implementation costs are £333.46 per sq. m. The annual maintenance costs are £4.71 per sq. m. which equates to a total of £70.65 for a 15 year maintenance period, giving a total of £404.11 (£333.46 + £70.65).

Calculation of Contributions:

- 3.4.108** Using the 15 year time frame, it is the aim that in each year 11,052 sq. m. of public realm will be improved from non-residential funding (i.e. 165,775/15). The cost will be £4,466,223.72 (11,052 X £404.11). Each sq. m. of non-residential floorspace, both existing and proposed (108,891 sq. m.) will fund public realm improvements, at a cost of £41.01 per sq. m. floorspace (£4,466,223.72 / 108,891 sq. m.)

3.4.109 It is anticipated that 75% of Public Realm Improvements will be provided for through alternative sources of funding, thus leaving 25% to be provided through Planning Obligations. 25% of the £41.01 cost per sq. m. equates to £10.25 per sq. metre.

3.4.110 Therefore on non-residential developments within the Centres of the Borough an off-site financial contribution of **£10.25 per sq. metre** is required, unless adequate and appropriate on-site provision is being provided.

Residential Developments

3.4.111 The existing residents of Dudley contribute towards public realm improvements through Council Tax on their dwelling. To mitigate the effects of new residents on the existing public realm it is necessary for each new additional dwelling that is built within the Borough to pay a financial contribution based upon the creation, maintenance and improvement of public realm.

3.4.112 There were 132,860 dwellings in Dudley as of 31st March 2010. The 2010 Annual Monitoring Report has an average projected net completion rate of 950 new dwellings per annum up to 2014. The time period sought for future maintenance of public realm is 15 years and this timescale will be used for the provision of the new public realm.

3.4.113 Using this 15 year timescale 8,857 existing dwellings (132,860 /15) will contribute annually towards the establishment and maintenance of public realm. Taking into account the projected net completion rate of 950 new dwellings per annum this figure is raised to 9,807 dwellings. Therefore an annual residential public realm contribution is required from 9,807 dwellings.

3.4.114 Using recent figures from private contractors tendering for public realm improvement works the implementation costs are £333.46 per sq. m. The annual maintenance costs are £4.71 per sq. m. which equates to a total of £70.65 for a 15 year maintenance period, giving a total of £404.11 (£333.46 + £70.65).

Calculation of Contributions:

3.4.115 Using the 15 year time frame, it is the aim that each year 12,865 sq. m. of public realm will be improved from residential funding (192,975/15). The cost will be £5,198,875.15 (12,865 X £404.11). Each dwelling, both existing and proposed (9,807) will fund public realm improvements, at a cost of £530.12 (£5,198,875.15/9,807).

3.4.116 Therefore on residential developments within the Borough an off-site financial contribution of **£530.12 per dwelling** is required, unless adequate and appropriate on-site provision is being provided.

On-Site Contributions

3.4.117 There may be occasions, particularly on developments within Centres or on very large schemes, where it is more appropriate for developers to provide Public Realm Improvements on-site. These improvements will be negotiated on a site by site basis where the Council will explore the requirement within the development to achieve the optimal improvements, based on its individual planning merits.

3.4.118 Public Realm improvements can be provided on-site through the provision of a range of features, and is dependent on what is most appropriate for a particular development. Examples include:

- New or improved public footways and/or hard or soft landscaping improvements
- Replacing paving or landscape material on existing public realm including carriageway and footways
- Improvements of pedestrian links to local facilities and public transport
- Street Lighting
- Paving details, floors
- Community Safety Initiatives
- Appropriate new street furniture and signage
- Enhanced boundary treatments such as decorative railings and gates
- Enhancements to the historic street environment and public realm within conservation areas
- Removal of street clutter

Differences Between Public Art and Public Realm

3.4.119 Public Art, even where incorporated into fencing, lighting or surfacing materials, will be treated as a separate obligation to public realm, and where incorporated into such items, the uplift in value by the inclusion of Public Art above what would otherwise be provided will be taken as the basis of provision

Priorities for Spend

3.4.120 People who live, work and visit Dudley Borough are encouraged to use its Centres as they provide a focus for retail, leisure, commercial and civic uses; a key aspect of the Core Strategy is to maintain and enhance these centres in order to underpin economic growth and sustainability and deliver a vital and viable network of centres.

3.4.121 The Council has a number of adopted Area Development Frameworks and Local Centres Regeneration Strategies in addition to emerging Area Action Plans which set out the need for and proposals to deliver high quality public realm within the Borough's Centres.

3.4.122 Financial contributions for Public Realm Improvements will be used to improve the quality of the public realm in centres local to the development site where the monies were secured in order to encourage their greatest possible use,

hence minimising unsustainable journeys to centres further afield. Monies will be spent in line with the above Plans and Strategies, including the refurbishment or new provision of civic space and other projects aimed at improving the quality of the public realm, such as improved signage, street furniture, paving, surfacing, interpretation features and planting.

- 3.4.123** Where a centre is also designated as a Conservation Area particular priority will be afforded to Public Realm Improvements in line with the relevant adopted Conservation Area Character Appraisal and Management Proposals document.

Further Information

- 3.4.124** Detailed information relating to Planning Obligations in respect of Public Realm can be obtained by contacting the Council's Regeneration Section on 01384 815538

Site Specific Measures

Policy Context and Framework

3.4.125 The justification for requiring planning obligations in respect of Site Specific Measures is set out in Circular 05/2005 (Paras B12-B16).

Thresholds

3.4.126 Planning Obligations for Site Specific Measures are identified and calculated on a site by site basis, depending upon the impact of the development on the surrounding community and the cost of any required infrastructure/services; as such there is no specific threshold. Any obligations required by the Council must satisfy the policy tests which include the requirement for obligations to “fairly and reasonably relate in scale and kind to the proposed development”. Consequently a relatively small development may be required to contribute a proportion of the cost of delivering the obligation rather than being required to fully fund it.



Air Quality Monitoring Station at Burnt Tree Island, Dudley

Application

3.4.127 Site Specific Measures are those planning obligations required from a particular development which relate specifically to matters not covered through formulae based financial contributions or on-site provision. Examples could include:

- **Brierley Hill Strategic Centre**

3.4.128 Black Country Core Strategy Policy CEN3 ‘Growth in the Strategic Centres’ requires that new comparison retail development within Merry Hill will be carefully controlled so that no additional comparison retail floorspace is bought into operation until a number of conditions are met, including:

“the implementation of improvements to public transport, including completion of initiatives of equivalent quality and attractiveness to the proposed Metro extension from Wednesbury to Brierley Hill, and improvements to bus services connecting the centre with other locations in the Black Country and beyond, and other measures to improve accessibility to and circulation within the centre by non-car modes.”

3.4.129 The Brierley Hill Area Action Plan defines the area to which the Policy CEN3 conditions apply, within which 56,500m² of new comparison retail is allocated for development. That development is therefore directly responsible for delivering public transport improvements to meet the requirements of Policy

CEN3. A planning application for all or part of that 56,500m² allocation will need to be accompanied by a Transport Assessment that tests and demonstrates compliance with Policy CEN3, the Brierley Hill Area Action Plan and this SPD, with the public transport interventions to be delivered through a Section 278 Agreement.

• Renewable Energy

3.4.130 The adopted Core Strategy places great emphasis on sustainable development and facing up to climate change with the inclusion of Renewable Energy policy ENV7. This policy applies thresholds to both residential and non residential development where renewable energy generation is required to offset 10% of the estimated residual energy demand of that development. The Council is currently producing a Sustainable Buildings SPD which will provide further information on the incorporating renewable energy measures in new development. In the meantime the Council renewable energy requirements will be determined on a site by site proportionate basis, particularly on major planning applications where appropriate.

• Planning and Health

3.4.131 In line with the planning and health agenda, the Core Strategy highlights under Policy HOU5 that where development would increase the need for health care facilities, to the extent where new or improved facilities would be required, planning obligations will be secured. Under the current SPD, those developments that would trigger a requirement for a health care facility contribution will be determined on a site by site basis. Further guidance is being produced by the Council within forthcoming Development Plan Documents.

3.4.132 Funding of a pedestrian crossing where a residential development is proposed on the opposite side of a heavily trafficked road to the local shops and play facilities;

3.4.133 Funding of improved public transport facilities where a development generating significant levels of trips is proposed on or near a bus route/ railway station. The improvements could include improvements to the bus stop/ railway station, walking/ cycling routes, the street environment within which the bus stop/ railway station is located, or hardware/ software to enable real-time information to be provided on Showcase Public Transport Routes;

3.4.134 Funding or provision of other assistance, analysis or support to enable the Council to implement any necessary monitoring or other actions in pursuit of an Air Quality Action Plan. The air quality impacts of a development will be assessed by officers in accordance with national Best Practice Guidance. Issues to be considered will include potential for breaches of the national air

3 Types of Planning Obligations that May be Sought

quality objectives and EU Limit Values, the impact on air quality action plan or strategy implementation, overall degradation in local air quality and the increase or introduction of public exposure.

- 3.4.135** Funding towards the costs incurred in setting up a Car Club, where a residential development that proposed little or no off street parking is located in an area where there is limited on-street availability.
- 3.4.136** Funding towards the cost of long stay coach parking provision from developments such as hotels/ stadia/ concert halls that attract significant levels of coach borne visitors.
- 3.4.137** Further information can be obtained from the Principal Planning Obligations Officer on 01384 816489.

Appendix 1 Current Costings and Planning Obligations

Type of Obligation	Current Costings* applicable to planning applications submitted between 1 st April 2011 and 31 st March 2012
Affordable Housing	25% on-site obligation
Education	Calculated on a site by site basis: £11,031 Per nursery and primary school place, £16,622 Per secondary school place and £18,027 Per Post 16
Libraries	Residential: £114.68 per flat and £206.25 per house Non-Res: £0.61 per sq. m A1, £0.65 per sq. m B1
Economic and Community Development	Non-financial obligation
Highway Infrastructure Works	Calculated on a site by site basis – usually non-financial
Transport Infrastructure Improvements	£63.90 per additional traffic-based trip
Air Quality Improvements	£32.40 per additional traffic-based trip
Site Specific Measures	Calculated on a site by site basis – usually non-financial
Nature Conservation Enhancements	£0.52 X (Total area of development in sq. m – area of existing semi-natural vegetation remaining in site in sq. m following development)
Nature Conservation Other	Calculated on a site by site basis usually non-financial
Open Space, Sport and Recreation	£1,126.26 per flat and £2,025.65 per house
Environmental Protection	Calculated on a site by site basis
Historic Environment	Calculated on a site by site basis
Public Art	1% of Design and Development Costs - usually a non-financial obligation
Public Realm	£530.12 per dwelling and £10.25 per sq. m. for non-residential developments

Table 12

* Current Costings Table to be updated annually on 1st April in line with CPI, subject to Council approval.

Appendix 2 Nature Conservation

Guidelines for the provision of nature conservation enhancements

- 2.1** The use of the nature conservation enhancement planning obligations must provide physical improvements in addition to the normal cost of the development. If used onsite the sum will not be expected to cover standard costs, such as landscaping, rather it should be used to cover any increased costs resulting from the provision of onsite habitat or features where these are more expensive than traditional landscaping.
- 2.2** It must provide appropriate and direct benefits for biodiversity and/or geodiversity therefore should not be spent on educational or community features such as information boards or amenity wildlife gardens.
- 2.3** The enhancements must be secure. Therefore it is very unlikely they will be appropriate in private gardens, where their physical presence and/or management cannot be guaranteed.
- 2.4** Your scheme may be capable of providing more enhancements than those already being provided by your Nature Conservation Enhancement Planning Obligation. In these circumstances, should you agree to carry out additional improvements, it may be possible to obtain monies from the Council for doing so. The monies referred to comprise Planning Obligation monies which have been received by the Council from other developers for the purpose of nature conservation enhancement. The Council will have sole discretion as to whether or not to provide such monies and upon what terms. It should be noted that larger projects in strategic areas are likely to be prioritised.

Onsite works or offsite contributions?

- 2.5** The Birmingham and Black Country Biodiversity Action Plan (BAP) and Black Country Geodiversity Action Plan (GAP) partnerships have created the Biodiversity Enhancement Zones and Wildlife Corridor Map and the Priority Geological Heritage Consideration Zones Map which show priority areas for both of these core elements of nature conservation. The most current versions of these will be made available in the Nature Conservation Planning Policy section of the Dudley MBC website.
- 2.6** It is preferred that all contributions will be used onsite wherever possible. This is especially so in key areas, such as where the site is covered by the one or more of the following (using the maps mentioned above):
- Maintain zone (coloured red)
 - Restore zone (coloured orange)
 - Wildlife Corridor (along with the green zone this also includes those marked as flood risk zones, rivers, canals and/or culverts)
 - Priority Geological Heritage Consideration Zone

- 2.7** However where the site is within one of these zones and it is considered that the proposed development cannot accommodate all of the enhancements required onsite, discussions should take place with the Planning Authority at an early stage in the design and planning process to try to agree a suitable resolution. If this is permitted it will involve the remaining contribution being given to the Council as an offsite contribution.
- 2.8** Where a development is outside any of these zones, the Council will be less insistent on the provision of onsite works and offsite contributions will be considered.
- 2.9** Offsite contributions, given to the Council, will not be used to replace existing expenditure. They will be used to provide additional nature conservation enhancements across the borough using the prioritisation method shown below.
- 2.10** On occasions the Council may provide some of these contributions to partner organisations for the delivery of nature conservation enhancements.

Prioritisation of enhancements

- 2.11** The enhancements provided should be chosen by their appropriateness for the site in question and its context. The same rationale will be used by the Council in allocating any offsite contributions.
- 2.12** The following methods of enhancement are given in order of priority:
 1. Improving and/or buffering designated nature conservation sites.
 2. Creating/ strengthening strategic wildlife corridors.
 3. Creation of site/ features to progress the borough’s current priority nature conservation projects.
- 2.13** The borough’s current priority nature conservation projects are:

Character Zone	Project Title
Limestone Hills & Surrounds	Bat migration corridor
	Limestone grasslands and exposures
Northern Rural Fringe	Cotwall End LNR
	Alder Coppice woodland
	Sedgely HallFarmPark
	Turners Hill SSSI
Central Zone	Pondscape

	Canalside project
	Dudley Southern Hub
Southern Zone	River Stour & tributaries
	Worcestershire boundary farmland
	Dingle woodlands
	LNR declarations

Table 13

2.14 The Birmingham and Black Country Biodiversity Action Plan and the Black Country Biodiversity Action Plan are both evolving documents which are regularly reviewed and amended to meet national, regional and local priorities. The Dudley Nature Conservation Delivery Plan is currently in production which is drawing together these two strategies and clarifying local priorities for the borough. Information on all these will be made available in the Nature Conservation Planning Policy section of the Dudley MBC website.

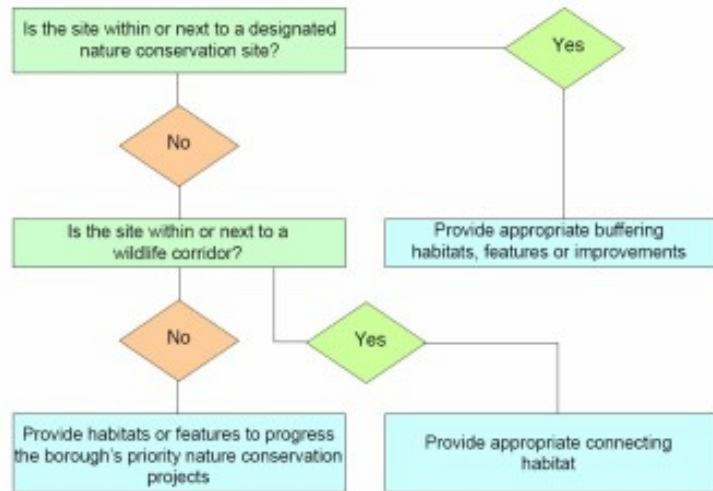


Figure 1 Nature Conservation enhancements decision tree

What types of enhancement are suitable?

2.15 The exact type of enhancement should be decided based on the site in question and its context. The section above will aid in understanding the environmental context and what approach to take. Generally larger areas of locally suitable, connected wildlife habitat and/or quality geological features will always be preferred over isolated fragments which do not relate to the surroundings.

2.16 Where elements such as woodland areas or meadows are not possible smaller scale enhancements such as communal trees and bat boxes may be more suitable. The following guidelines are not meant to be exhaustive, either in terms of features or scope, but may aid the design process.

Major habitat types (in alphabetical order)

Grassland

- 2.17** The soil and ground conditions will influence the choice of wildflowers and grasses however they should always be locally native to the area. The ongoing management of grassland will be essential for its suitability and success. Higher levels of soil nutrients will reduce the diversity of the habitat, therefore topsoil should not be imported and no fertilisers must be added.

Wetland

- 2.18** The use of non natural liners will only be considered in exceptional circumstances.

Woodland

- 2.19** This should use a mixture of locally native species (see Nature Conservation SPD Appendix 4).

Smaller habitats and features (in alphabetical order):

Artificial bat roosts

- 2.20** Where artificial bat roosts are provided these must be maintenance free and built into the fabric of the buildings unless there are exceptional circumstances. These are only suitable for sites within 50m of bat foraging habitat. As a rule of thumb, in a residential development, the total number of bat brick and tiles must not exceed the total number of dwellings (e.g. a maximum of one bat brick and one bat tile for each dwelling). These must be placed in areas close foraging habitat (such as ponds, trees and hedgerows) and away from artificial lighting.

Bird boxes

- 2.21** Bird boxes require cleaning out each winter, unless this management can be guaranteed these features will not be considered appropriate enhancements.

Communal trees

- 2.22** These must be locally native species (see Nature Conservation SPD Appendix 4).

Green/Brown roofs and walls

- 2.23** These must be designed to maximise local wildlife by the choice of substrate, species to be established and location. It is unlikely that sedum roofs will be appropriate.

Hedgerows

- 2.24** Where hedgerows are chosen these must be planted in double staggered rows using mixed locally native species (see Nature Conservation SPD Appendix 4). The management of these should be primarily for wildlife benefit.

Wildlife sustainable drainage schemes

- 2.25** These must provide significant wildlife habitat rather than just amenity features.

Guide to costs for common Nature Conservation Enhancements

- 2.26** Wherever possible the following costs are based on average amounts as determined by independent national public bodies, such as Natural England and the Forestry Commission. The costs cover both materials and labour. This list will be updated as required.

Enhancement	Specification	Unit/Rate	Cost	Source of cost (see below)
Habitats				
Species-rich, semi-improved grassland creation	Using a high quality, soil specific, wildflower grassland seed mixture	m ²	£0.253	1
Small pond creation	Normally maximum depth of 60cm and less than 25m ²	m ²	£3.00	2
Woodland planting	Planting of native trees (at 2m spacings) with 1.2m tubes, treated softwood stakes and 1 x chemical weed control	m ²	£0.775	3
Smaller habitats and features				
Bat tube	Woodcrete bat tube for inclusion into new buildings	per tube	£70.74	4
Tree supply and planting costs	Native tree, 1.2m tube, treated softwood stake, labour and 1 x chemical weed control	per tree	£3.10	5
Hedgerow creation	Mixed native woody species in double staggered row at 45cm spacing (along each row). Includes cost of planting, tree whips, 1x chemical treatment, spiral guard & cane.	per linear metre	£7.80	6
Equipment and labour for non-specific tasks, such as geological feature creation				
JCB hire & mini excavator	Machine & operator	hour	£30.00	7

Table 14

Key to data sources

1. Species-rich, Semi-improved grassland creation

Cost of operations to establish a species-rich grassland using seed mixture.

Estimated cost (excluding seed mixture) = £108/ha in 2003

(Source Defra: Para 45.4 <http://collections.europarchive.org/tna/20090210104125/http://www.defra.gov.uk/erd/pdfs/programme/national/annex13/appendices-23-54.pdf>)

Rectification to 2009 prices (using Bank of England conversion tool <http://www.bankofengland.co.uk/education/inflation/calculator/flash/index.htm>):
£127.29/ha in 2009. This equates to a 2009 cost of £0.013m²

Cost of wildlife flower grassland seed mixture

Wildflower grassland seed mixture (flowers and grasses) = max £6.00/100g inc delivery

(Source: <http://wildseed.co.uk/mixtures/category/meadow-and-grassland> accessed on 13.12.10)

Sowing rate = 4g/m²

Seed mixture (maximum cost) = £0.240m²

Total estimated cost

£0.253m²

2. Small pond creation

Source: Forestry Commission Operations Note 9: Standard Costs,

[www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/\\$FILE/ewgs-on009-standard-costs.pdf](http://www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/$FILE/ewgs-on009-standard-costs.pdf)

Accessed on 13.12.10

Element B1

3. Woodland planting

Source: Forestry Commission Operations Note 9: Standard Costs,

[www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/\\$FILE/ewgs-on009-standard-costs.pdf](http://www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/$FILE/ewgs-on009-standard-costs.pdf)

Accessed on 30.12.10

The standard planting of trees at 2m spacings equates to 1 tree per 4m² or 2,500 trees per ha

Element E4 (supply and planting of tree, 1.2m tube, treated softwood stake & labour weed control) plus Element V6 (1 x chemical weed control)

Therefore: £3.00 + £0.10 = £3.10

and $£3.10 / 4 = £0.775m2$

**Total estimated cost
£0.775m2**

4. Bat tube

Source: Bat Conservation Trust, http://www.batbazaar.co.uk/acatalog/Schwegler_1FR_Bat_Tube.html Accessed on 30.12.10

Woodcrete, maintenance-free, bat tube measuring 47.5cm h x 20cm w x 12.5cm d with an entrance 15cm w x 2cm d.

£63.79 exc VAT. Delivery or 1 or more tube = £6.95

To be installed during construction therefore at no additional cost to construction.

**Total estimated cost
£70.74 per tube**

5. Tree supply and planting costs

Source: Forestry Commission Operations Note 9: Standard Costs,

[www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/\\$FILE/ewgs-on009-standard-costs.pdf](http://www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/$FILE/ewgs-on009-standard-costs.pdf)

Accessed on 30.12.10

Element E4 (supply and planting of tree, 1.2m tube, treated softwood stake & labour weed control) plus Element V6 (1 x chemical weed control)

Therefore: £3.00 + £0.10 = £3.10

**Total estimated cost
£3.10 per tree**

6. Hedgerow creation

Source: Forestry Commission Operations Note 9: Standard Costs,

[www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/\\$FILE/ewgs-on009-standard-costs.pdf](http://www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/$FILE/ewgs-on009-standard-costs.pdf)

Accessed on 30.12.10

Double staggered row, with whips at 45cm along each row, requires 5.5 whips per linear m

Element E7 estimates the cost of supply and planting a tree with 0.6m spiral guard and cane at £1.40 each.

Therefore: $5.5 \times £1.40 = £7.70\text{m}^{-1}$

In addition to the above, Element V6 estimates the cost of Chemical weed control at £0.10m⁻¹

**Total estimated cost
£7.80m⁻¹**

7. JCB and operator

Source: Forestry Commission Operations Note 9: Standard Costs,

[www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/
\\$FILE/ewgs-on009-standard-costs.pdf](http://www.forestry.gov.uk/pdf/ewgs-on009-standard-costs.pdf/$FILE/ewgs-on009-standard-costs.pdf)

Accessed on 30.12.10

Element L5 JCB hire and mini excavator, machine & operator

Appendix 3 Open Space, Sport and Recreation - On-site Considerations

- 3.1** Any provision of open space, sport and recreation facilities within a development site should take into account a range of factors, and these will vary depending on the individual circumstances of a site. This qualitative analysis forms an essential part of pre-application discussions and a key part of the overall site and layout design rationale. This analysis should be set out within the Design and Access Statement thus informing the urban design principles for good site design. Key factors to consider, which are set out in more detail in the Council's Open space, Sport & Recreation SPD, include:

Existing Landscape Character:

- 3.2** A Landscape Site Survey to include local contextual landscape character and elements and features such as topography, paths, boundary structures, treescape, other planning and wildlife habitats; wherever possible these features need to be retained.

Local Context:

- 3.3** In terms of safe, walkable and access for all to existing open space, sport and recreation facilities within a 1,500m radius and its relevancy along with the potential capacity for increased use.

Areas of Under-Provision:

- 3.4** The Council's Parks and Green Space Strategy identified that certain areas of the Borough are under provided for in terms of access to open space, sport and recreation, whereas other areas have been identified in the Black Country Bio-Diversity Action Plan as needing provision of open space to ensure connectivity of multifunctional greenspace, providing for both people and wildlife; as such these areas will be treated as a high priority within any assessment of on-site provision.

Landscape Maintenance Access:

- 3.5** Careful balance, offer and provision of appropriate maintenance and emergency vehicular access to the potential Open Space land under consideration, without the need for major additional road connections for vehicles and any other retaining or drainage infrastructure works outside of the application site or at a future date. Such necessary vehicular accesses will need to be provided by the developer as part of the approved Highways layout within the overall application site, and give free and unencumbered legal access for maintenance and other vehicles to the area of Open Space as approved by the Council within consideration of the development site application or at a later future date.

Former Buildings, Previous Roads, Cellarage and other Construction

- 3.6** On land that is agreed to become the location for future Open Space, Sport and Recreation will be remediated by the Developer to the extent required by the Council, leaving a clean and decontaminated site to levels and soil quality as required by the Council ready for the new future use at the developers cost; this should not be considered as part of the Open Space or Playing Field sum formula for on site provision by a developer or for the Council then to provide via the developers financial contribution.

Previous Site Uses and Constraints

- 3.7** The potential Open Space land will need to be free from encumbrances above or below ground by way of mineshafts, whether treated or untreated, culverts and sewer, mains services and tunnel/mining sub-structures Highways and other existing or newly provided infrastructure such as drainage (below or above ground) will not exert an unacceptable risk or cost to the future landscape management of the new open space. Geotechnical and contamination remediation evidence will need to be provided as part of the site suitability assessment and consideration process at pre application stage, and be concluded before an application is approved. Desk surveys may be adequate initially within the early stages of pre application scoping, however depending on the sites previous site history, detailed surveys may be required to prove the acceptability for the open space. The need and type of technical information will vary on a site by site basis as required to confirm that the land quality and viable remediation can be achieved. Further information can be found within Appendix 1 in the Councils Open Space, Sport and Recreation Provision SPD June 2007.

Other Infrastructure not included in Open Space, Sport and Recreation Contribution

- 3.8** Provision of new and the enhancement of existing strategic footpaths, cycleways and other links required as part of the areas Highways network which may cross or adjoin the potential open space land within the development site, would be provided by way of the developers Highway costs and contribution and processes via the planning application. Provision for such paths and links together with the infrastructure, retaining walls and drainage, excavations for and disposals, signing, guard railing and bollards etc are therefore outside of the Open Space contribution., including its construction, supervision and maintenance costs. Likewise, the question of adoption by the Highways Authority and future operational issues is a separate matter from the open space maintenance and management.

Appendix 4 Development Example

Development Examples

1. Residential Development of 50 dwellings (30 houses and 20 flats) on former Public House Site.(200 sq. metres). Site Area of 0.5ha

Affordable Housing:

13 dwellings to be affordable, to be dispersed throughout the site. Tenure and House Types to be agreed but generally to include a mixture of social rented and intermediate housing.

Education:

Application will be assessed by the Council's Education Division to determine whether the development increases the need for education facilities to the extent that new or improved facilities are required.

Libraries:

£114.68 X 20 (flats) = £2,293.60

£206.25 X 30 (houses) = £6,187.50

TOTAL LIBRARIES CONTRIBUTION = £8,481.10

Economic and Community Benefits:

Local Employment Strategy to be submitted by the Developer to the Council for approval, to include as a minimum:

- A recruitment process that provides equality of opportunity for local priority groups;
- The registering of any vacancies that relates to work on or associated with the Development with agencies identified by the Planning Authority. This should be for a period prior to and after completion of the Development;
- Provision of a minimum of 3 working days between registering the vacancy and filling the vacancy;
- Provision to advertise vacancies in local Job Centres, agencies identified by the Planning Authority and in 3 local newspapers nominated by the Council;
- Commitment to work with agencies identified by the Planning Authority for the purpose of identifying and interviewing suitable local unemployed applicants.
- The production of a Method Statement setting out the implementation of the Local Employment Strategy.

Box 1

Example:

Local Employment Strategy for Residential Development at Middlepark Road, Dudley

Working with Future Skills Dudley, the Developer agreed to use best endeavours to recruit up to 8 full time employees for both the contract and recruitment phases from identified priority groups including:

- Persons resident in close proximity to the Development.
- Those registered unemployed or in receipt of a working age benefit
- Apprentices from local schools and colleges [via access schemes to support under-achieving young people].
- Unwaged work experience applicants [adults]
- Underrepresented groups [BME / women]

Highway Infrastructure Works

Calculated on a site by site basis

Transport Infrastructure Improvements

Proposed Use:

20 (flats) X 2.051 (Trip Rate) = 41.02 Trips

30 (houses) X 7.632 (Trip Rate) = 228.96 Trips

TOTAL PROPOSED TRIPS = 269.98 TRIPS

Existing Use

200 (sq. m floorspace) X 0.519 = 103.8 Trips

TOTAL EXISTING TRIPS = 103.8

Therefore net increase of trips = 269.98 (Proposed Trips) – 103.8 (Existing Trips) = 166.18

166.18 (net increase of trips) X £63.90 (Cost per Trip) = £10,618.90

TOTAL TRANSPORT INFRASTRUCTURE IMPROVEMENTS CONTRIBUTION = £10,618.90

Air Quality Improvements

Electric Charging Points installed on the exterior of each of the 50 dwellings. Thus no financial contribution required.

Site Specific Measures

Calculated on a site by site basis

Nature Conservation Enhancement

5,000 sq. m (site area) X £0.52 = £2,600

The Council's preference is for the enhancements to be provided on-site rather than a financial contribution.

Open Space, Sport and Recreation

20 (Flats) X £1,126.26 = £22,525.20

30 (Houses) X £2,025.65 = £60,769.50

TOTAL OPEN SPACE, SPORT AND RECREATION CONTRIBUTION = £83,294.70

The developer created a geological exposure as part of its onsite open space which cost £2,000. The remaining £7,000 was given as an offsite contribution which created new wildlife habitat next to a wildlife corridor.

Environmental Protection

Calculated on a site by site basis

Historic Environment

Calculated on a site by site basis

Public Art

Council's preference is for on-site provision – to an equivalent value of 1% Design and Development Costs

Public Realm

£530.12 X 50 (dwellings) = £26,506

TOTAL PUBLIC REALM CONTRIBUTION = £26,506

2. Non - Residential Development : 500 sq. m new A3 Restaurant on vacant land within a Town Centre

Highway Infrastructure Works

Calculated on a site by site basis

Transport Infrastructure Improvements

Existing Use - None

Proposed Use:

$500 \times 0.299 \text{ (Trip Rate)} \times \text{£}63.90 \text{ (Cost Per Trip)} = \text{£}9,553.05$

TOTAL TRANSPORT INFRASTRUCTURE IMPROVEMENTS CONTRIBUTION =
£9,553.05

Air Quality Improvements

Existing Use - None

Proposed Use:

$500 \times 0.299 \text{ (Trip Rate)} \times \text{£}32.40 \text{ (Cost Per Trip)} = \text{£}4,843.80$

TOTAL AIR QUALITY IMPROVEMENTS CONTRIBUTION = £4,843.80

Site Specific Measures

Calculated on a site by site basis

Nature Conservation Enhancement

$500 \text{ sq. m (site area)} \times \text{£}0.52 = \text{£}260$

The Council's preference is for the enhancements to be provided on-site rather than a financial contribution.

Environmental Protection

Calculated on a site by site basis

Historic Environment

Calculated on a site by site basis

Public Realm

$\text{£}10.25 \times 500 \text{ (sq. m)} = \text{£}5,125$

TOTAL PUBLIC REALM CONTRIBUTION = £5,125

Appendix 5 Glossary

Affordable Housing	Affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market.
Amenity Green Space	Small grassed areas typically within housing estates. Amenity green space provides opportunities for informal recreational activities close to home such as well-observed informal children's play, exercising dogs, and an area for walking and to relax. Amenity green space also enhances the visual appearance of residential areas and other parts of the urban environment. It consists of a publicly accessible, well maintained, closely mown natural turf area with reasonably level site land gradients within a part of the development site which is well overlooked with good levels of natural surveillance to improve personal safety. The new on-site amenity green space would need to be laid out and designed in accordance with the Council's Landscape Department guidelines.
Area Action Plan (AAP)	A type of Development Plan Document focused upon a specific location or an area subject to conservation or significant change.
Area Development Framework	A document which presents a vision, development strategy and illustrative development framework plan for a defined area, in order to guide the future shaping of that area.
Biodiversity	The variety of life on earth or in a specified region or area
Biodiversity Action Plan (BAP)	A national, regional or local document which is compiled and reviewed by the relevant area's Biodiversity Partnership
Children's Play Area	An area of land which encompasses children's play equipment
Community Infrastructure Levy (CIL)	The community infrastructure levy is a new local levy that authorities can choose to introduce to help fund infrastructure in their area.
Conditions	Attached to planning approval Decision Notices which restrict the development or require additional details.

Conservation Area	An area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance
Core Strategy	The over-arching strategic planning policy document which sets out the key elements of the planning framework for the Borough. Once adopted all other Local Development Documents must be in conformity with it.
Environmental Infrastructure	The Environmental Infrastructure Network comprises open space, sport and recreation facilities, areas of biodiversity and geodiversity importance, wildlife corridors, the canal network, watercourses and drainage systems, air quality and renewable energy generation, pedestrian and cycle routes, areas and buildings of high quality design, and the special character and historic aspects of locally distinctive elements of the Black Country.
Geodiversity	The variety of rocks, fossils, minerals, landforms and soils along with the natural processes that shape the landscape
Geodiversity Action Plan (GAP)	A document which is compiled and reviewed by the relevant area's Geodiversity Partnership. It sets out the geological context of an area, the priorities for conservation and targeted actions to facilitate this.
Heads of Terms	The types of planning obligations that a developer agrees to provide. These do not need to be overly detailed, although they may include and trigger points identified. They can also be presented in a draft legal agreement.
Heritage Asset	(as defined by PPS5 (2010)) A building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions. Heritage assets are the valued components of the historic environment. They include designated heritage assets (as defined in PPS5) and assets identified by the local planning authority during the process of decision making or through the plan-making process (including local listing).
Heritage Objective	An objective to achieve a beneficial end result for a particular 'Historic Asset'. E.g. the heritage objective could be the repair and restoration of a historic building

	and to ensure this objective is achieved the owner of a development site could be required to enter into an obligation restricting the construction or use of any new build houses until certain specified works to the historic building have been carried out.
Homes and Communities Agency (HCA)	The national housing and regeneration agency whose role is to create opportunities for people to live in high quality, sustainable places.
Intermediate affordable housing	Housing at prices and rents above those of social rent, but below market price or rents, and which meet the affordable housing definition set out in PPS3. These can include shared equity products (eg HomeBuy), other low cost homes for sale and intermediate rent.
Listed Building	A building or structure of special architectural or historic interest which is registered on a national list, and cannot be demolished or altered without government permission.
Scheduled Ancient Monument (SAM)	A Scheduled Monument is a 'nationally important' archaeological site or historic building, given protection against unauthorised change.
Local Development Framework	A term used to describe a folder of documents, which includes all the Local Planning Authority's Local Development Documents.
Local Development Scheme	The Local Planning Authority's time-scaled programme for the preparation of Local Development Documents that is reviewed annually
Locally Listed Building	Locally important building valued for contribution to local scene or for local historical situations but not meriting listed building status.
Localism Bill	The Bill devolves more powers to councils and neighbourhoods and gives local communities greater control over local decisions like housing and planning.
Local Planning Authority	The Local Authority or Council that is empowered by law to exercise planning functions.
Local Transport Plan	A five-year integrated transport strategy, prepared by Local Authorities in partnership with the community, seeking funding to help provide local transport projects.

Major Planning Application	Major planning applications are those for 10 or more dwellings or where the site area for residential development is 0.5ha or more, or for non-residential development of 1000 sq m or more or where the site area is 1 ha or more
Minor Planning Application	Minor planning applications are those for less than 10 dwellings or where the site area for residential development is less than 0.5ha, or for non-residential developments which are less than 1000 sq m or where the site area is less than 1 hectare
Nature Conservation	The protection, preservation, management or enhancement and the improvement of understanding and appreciation of flora, fauna and geological and geomorphological features.
Open Book Financial Appraisal	This is necessary when a developer is stating that the viability of the proposal would be detrimentally affected by the required planning obligations. It involves independent verification of the development's likely costs and profits. It is commercially sensitive and is therefore not part of the public consultation for the proposal.
Planning Obligation	A legal instrument under Section 106 of the 1990 Town and Country Planning Act which restricts or regulates the use of the development of the land. It may also ensure the delivery of infrastructure associated with a development.
Planning Policy Statements / Planning Policy Guidance	Planning Policy Guidance notes, and their replacements Planning Policy Statements, are prepared by the Government after public consultation to explain statutory provisions and provide guidance to local authorities and others on planning policy and the operation of the planning system.
Playing Field	An area of land which encompasses at least one playing pitch.
Pooling	This occurs when individual financial contributions are collated together to pay for infrastructure, facilities or services which have been identified but could not be funded by an individual contribution.
Public Open Space (POS)	Any land laid out as public garden or used for the purposes of public recreation.

Public Realm	Urban Spaces to which the public predominantly have access
Section 106 Agreement	A legal agreement under section 106 of the 1990 Town and Country Planning Act. Section 106 Agreements are legal agreements between a planning authority and a developer
Section 38 Agreement	A Section 38 Agreement (under the 1980 Highways Act) is the mechanism between the Council and a developer requiring the construction of new roads to the Council's standards for subsequent adoption.
Section 278 Agreement	A financial mechanism under the 1980 Highways Act through which a developer pays for the highways improvements work and their future maintenance
Social Rented Housing	Rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime. It may also 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.
Staged Payments	These are set out within the legal agreement and allow a developer to spread the cost of obligations for the development.
Strategic Centre	A strategic centre is the main focus of 'higher order' retail, office, leisure and civic functions.
Supplementary Planning Document	A Local Development Document that may cover a range of issues, thematic or site specific, and provide further detail of policies and proposals in a 'parent' Development Plan Document
Thresholds	All planning obligations have an identified threshold, at and above which contributions will be applicable to the development. These thresholds are specified within each of the sections within Part 3 of this SPD
Traffic Regulation Order	This is a legal order under the Road Traffic Regulation Act 1984 which allows the Council to regulate the speed, movement and parking of vehicles and regulate pedestrian movement.

Transport Capital Programme	Transport Spending Programme on a wide range of transport related projects
TRICS	The Trip Rate Information Computer System which provides national standards for trip generation analysis
Unilateral Undertaking	A legal agreement under section 106 of the 1990 Town and Country Planning Act. The Agreement is only signed by the developer and anyone else with an interest in the land, but not the Council.
Unitary Development Plan (UDP)	An old-style development plan prepared by District, Borough and Unitary Authorities. The policies within UDPs are gradually being replaced by those within Local Development Frameworks