



Central Lincolnshire Developer Contributions Supplementary Planning Document (SPD) (Officer Working Draft: April 2016)

Explanatory Note

This document is a draft *Developer Contributions Supplementary Planning Document* (SPD), prepared on behalf of the Central Lincolnshire Joint Strategic Planning Committee (CLJSPC). An earlier draft of the SPD was agreed by the CLJSPC in September 2015, and consulted upon in Oct-Nov 2015. This document includes minor changes which reflect consultation responses and considerations since that consultation.

Preparation of a developer contributions SPD is an important piece of supplementary policy to the Central Lincolnshire Local Plan. It is also relevant that the SPD takes into account the draft City of Lincoln, North Kesteven and West Lindsey Community Infrastructure Levy (CIL) schedules and associated documents such as the respective Regulation 123 lists. The SPD has been drafted with consideration of those draft CIL documents.

This April 2016 version of the SPD is for information only (not for formal consultation). It has been prepared by officers only and has not been the subject of a CLJSPC decision. However, the changes do not (to officers) appear substantial. A final version of this SPD, for adoption, is expected to be considered by CLJSPC late in 2016 or early 2017.

Please note

This document is for information only. As such, it is only available online via the Central Lincolnshire webpages.

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PART ONE

1.0 Introduction

- 1.1. Central Lincolnshire refers to the combined area covered by the City of Lincoln, North Kesteven and West Lindsey. These three Councils have come together in a formal partnership with Lincolnshire County Council to prepare a joint Local Plan for the area which will set out the planning policies for growth and regeneration up to 2036.
- 1.2. Preparation of a joint Local Plan is overseen by a Joint Committee established by Parliamentary Order in 2009. The Committee has representatives from each of the four partner Councils and has full decision-making powers on planning policy matters. The Joint Committee is supported by a team of planning staff called the Central Lincolnshire Local Plan Team. Further details are available at <http://www.lincolnshire.gov.uk/central-lincolnshire>
- 1.3. The responsibility for processing and decision-making on planning applications remains with the individual local authorities. Where 'LPA' is used in this document it refers to the relevant District Council for that area (North Kesteven, City of Lincoln or West Lindsey). Lincolnshire County Council will be referred to as such or LCC.
- 1.4. This SPD comprises two parts:
- 1.5. Part One sets out Central Lincolnshire's overall approach to planning obligations. It shows how the SPD complies with national and local policy, and deals with procedural matters relating to the drafting and enforcement of Section 106 Agreements.
- 1.6. Part Two sets out the types of obligation that the Council's may seek to secure from development. It identifies the relevant policy basis, types of development to which the obligation may apply, thresholds over which the obligation may be sought and, where possible the basis on which the level of obligation will be calculated.

Purpose of the SPD

- 1.7. Central Lincolnshire will be the focus for significant levels of development providing large numbers of new homes and businesses in the neighbourhoods across the plan area. It is therefore important that this growth is supported by new and improved infrastructure to meet the needs of the community.
- 1.8. The purpose of this Supplementary Planning Document (SPD) is to set out the Central Lincolnshire Authorities' approach to developer contributions. It is set within the context of the district authorities' (namely City of Lincoln, North Kesteven and West Lindsey District Council) anticipated adoption of Community Infrastructure Levy (CIL) early in 2017.

- 1.9. The SPD does not set policy. It provides a framework for implementation of the policies contained in the emerging Central Lincolnshire Local Plan <http://www.lincolnshire.gov.uk/central-lincolnshire/local-plan>, and Minerals and Waste Local Plan <http://www.lincolnshire.gov.uk/residents/environment-and-planning/planning-and-development/minerals-and-waste/> relating to the impacts of development. The main policy this SPD supports is Central Lincolnshire Local Plan Policy LP12. Should a new Local Plan be prepared it will confirm the ongoing status of this SPD.
- 1.10. This SPD:
- a. Explains how developer contributions which are not provided for through CIL may be sought through the use of planning obligations. This includes the types of contributions which may be sought and the basis for charges;
 - b. Clarifies the relationship between planning conditions, planning obligations and the Central Lincolnshire Community Infrastructure Levy (CIL);
 - c. Provides a mechanism to help ensure the timely provision of infrastructure to support growth;
 - d. Aids the smooth functioning of the planning application process by explaining the authorities' process and procedures for using planning obligations;
 - e. Assists in securing both local and national objectives in respect of the provision of sustainable development in Central Lincolnshire.

Status of the SPD

- 1.11. The Developer Contributions SPD will be adopted by the Central Lincolnshire Joint Strategic Planning Committee on or around the same date as the Local Plan and CIL Charging Schedule (anticipated in December 2016). At this time the following documents will be superseded:
- North Kesteven District Council – Affordable Housing SPD Adopted September 2008;
 - West Lindsey District Council – Interim Supplementary Planning Document Developer Contributions SPD (January 2010).

2.0 Securing Developer Contributions

- 2.1. When assessing a planning application, LPA's can take into account specific conditions, restrictions, activities or operations which would make the development proposal acceptable in planning terms, when the only other alternative would be to refuse it. These are referred to as 'developer contributions' and are contributions made by the developer in order to make a proposal acceptable in planning terms.

- 2.2. New development is expected to contribute to site related and other infrastructure needs through a combination of the following mechanisms:
- Planning **conditions** (site/development related);
 - Planning **obligations** to secure developer contributions or works in kind. These can be s106 Agreements or Unilateral Undertakings (site/development related);
 - Central Lincolnshire Community Infrastructure Levy (**CIL**);
 - **Section 278 agreements** under the Highways Act 1980

- 2.3. The distinctions between them are highlighted below.

Planning Conditions

- 2.4. Planning conditions are requirements made by the LPA, in the granting of permission, to ensure that certain actions or elements related to the development proposal are carried out. These are likely to cover things such as; submission of reserve matters; controls over materials used; and the requirement to carry out work in accordance with the submitted plans such as landscaping, tree planting and drainage works.
- 2.5. Paragraph 203 of the NPPF states that LPA's should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 206 of the NPPF states that planning conditions should only be met where they are:
- Necessary;
 - Relevant to planning;
 - Relevant to the development to be permitted;
 - Enforceable;
 - Precise; and,
 - Reasonable in all other respects.
- 2.6. The policy requirement is known as the six tests. Further explanation of these six tests is set out in the Planning Practice Guidance¹. The LPA will consider whether an issue can be satisfactorily addressed through a condition, which meets the tests, before negotiating a planning agreement.
- 2.7. Where there is a choice between imposing planning conditions and entering into a planning obligation to manage the impacts of a new development, the use of planning conditions is always preferable.

¹ NPPG - ID 21a-004-20140306 <http://planningguidance.planningportal.gov.uk/blog/guidance/use-of-planning-conditions/application-of-the-six-tests-in-nppf-policy/>

2.8. Importantly Planning Conditions:

- Cannot be used to secure financial contributions;
- Cannot be used in relation to land outside of the application site; and
- Can be appealed against by the applicant if they believe them to be unreasonable

2.9. In some cases (especially in the case of large scale development proposals), the LPA may wish to control the impact of development, but the desired restrictions go beyond those allowed for planning conditions. In such circumstances, consideration of the use of a planning obligation(s) will be an option.

Planning Obligations

2.10. As part of the planning process, a developer may be required to enter into a legal agreement to provide infrastructure and 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 an established delivery mechanism for the matters that are necessary to make the development acceptable in planning terms. These contributions can be delivered by way of physical works on or off site, land transfer or financial contributions.

2.11. The planning obligation relates to the land within the planning application, rather than the person or organisation that develops the land. It is, therefore, recorded as a land charge, and the obligations under it run with the land ownership until they are fully complied with.

2.12. Further basic questions and answers in relation to Section 106 Planning Obligations are set out in Appendix 2.

How are planning obligation contributions secured?

2.13. Section 106 of the Town and Country Planning Act 1990 states that planning contributions can be by way of “agreement or otherwise” and must be entered into by an instrument executed as a deed.

2.14. The Central Lincolnshire Authorities use two types of planning obligation:

S106 Legal Agreement

2.15. A S106 Agreement is the most common form and is made between the applicant, all other parties with an interest in the land and the LPA. The agreement commits each of the parties including the LPA to the document and to make a contribution. For example, an applicant may be committed to providing a certain number of affordable homes or a financial contribution which the LPA is committed to spend on a specific project.

S106 Unilateral Undertaking

- 2.16. This is an undertaking made by the applicant to the authority to cover any planning issues before the granting of planning permission and may be offered at any point in the application process – but normally where agreement has not been reached. As the word ‘unilateral’ conveys, the undertakings are the developer’s commitment, unlike the S106 agreement where the council is also committed to deliver on one or more of the specified contributions. A unilateral undertaking does not require any agreement by the LPA. The LPA may therefore have no legal input into the drafting of such agreements. However, local authorities do not have to accept unilateral undertakings offered by the developers if they do not feel they deal with all the issues in granting planning permission. An applicant may offer a unilateral undertaking at a planning appeal against refusal to overcome the local authority’s objections. It will then be for the Inspector to decide its suitability or otherwise.
- 2.17. Timing of implementation is an important factor for most development projects, and it is important that the structure of the planning obligation reflects this. This often means that planning obligations are linked to and specify:
- The different agreed phases of development;
 - Timescales within which a developer is required to undertake certain actions;
 - The time within which commuted sums are to be paid to the LPA, or on the occurrence of a certain event, such as the occupation of the nth dwelling or building;
 - The appropriate building cost indices to be referenced and linked for occasions when there is a delay between financial contributions being agreed (date of planning permission issue) and the date of payment; and
 - The time within which a commuted sum or financial obligation has to be spent or the developer could be reimbursed including any interest accrued.

Community Infrastructure Levy (CIL)

- 2.18. CIL is a charge which local authorities can place on developers to help fund infrastructure needed to support new development in their areas. The Central Lincolnshire District Authorities (namely City of Lincoln, North Kesteven and West Lindsey District Council) are in the process of preparing CIL Charging Schedules and this will be subject to relevant consultation and an independent examination prior to anticipated adoption at the end of 2016 / early 2017.
- 2.19. CIL will partially replace the existing Section 106 planning obligations process by reducing the range of infrastructure types or projects that it will be appropriate to secure obligations for. Section 106 Planning Obligations, will specify, at the time planning consent, how funds are to be spent. CIL receipts revenue can be spent with an extra degree of flexibility, although the intentions for spending should be set out in a Regulation 123 List² which is open to public scrutiny. CIL monies can be pooled into one

² www

fund which the Central Lincolnshire authorities must use to provide, improve, replace, operate or maintain infrastructure to support the development of its area. Importantly, the CIL charge once introduced is non-negotiable, although in certain circumstances relief from payment may be sought. Further information about this can be found within the CIL element of the Planning Policy Guidance³.

- 2.20. Funds raised through the CIL can be used to pay for a wide range of community infrastructure that is required to support the needs of sustainable development. The Central Lincolnshire CIL Regulation 123 list (R 123 list) will set out the infrastructure that will be funded by CIL. Planning obligations cannot be used to secure infrastructure that has already been identified for delivery and investment from CIL funds through the R.123 list. In addition where the list includes a generic item (such as 'transport infrastructure'), then S106 contributions should not normally be sought on any specific projects in that category.
- 2.21. The R.123 list can evolve over time to reflect changing priorities for the provision of infrastructure. If local authorities wish to revise it they are required to ensure that these changes are clearly explained and subject to appropriate local consultation. Should a type of infrastructure get removed from the R.123 list then the LPA may seek to negotiate planning obligations for that type of infrastructure.

Section 278 Agreements

- 2.22. Section 278 agreements under the Highways Act 1980 (as amended by S23 of the New Roads and Street Works Act 1991) are legally binding agreements between the Local Highway Authority and the developer to ensure delivery of necessary highway works to the existing highway network. They identify the responsibilities (financial or otherwise) of parties involved in constructing works on the public highway.
- 2.23. Where, as part of the assessment of a planning application, it is identified that it will be necessary to make modifications to the existing highway to facilitate or service a proposed development (typically these will be off-site works required to mitigate the impact of the proposed development) a S278 agreement will be used.
- 2.24. As part of the CIL (Amendment) Regulations 2014 it exempts highway agreements relating to the trunk road network drawn up by the Highways Agency from proposals to restrict the use of highway agreements by reference to the R.123 list (as outlined above).

³ <http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/relief/>

3.0 Policy and Legal Context

National Policy Context

- 3.1. The legislative framework for planning obligations is set out in Section 106 of the Town & Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act, and the Localism Act 2011. Further legislation and guidance is set out in paragraphs 203-206 of the National Planning Policy Framework (NPPF), Regulations 122 and 123 of the CIL Regulations 2010 (as amended) and the Planning Policy Guidance (PPG).
- 3.2. Paragraph 204 of the NPPF and CIL Regulation 122 set out the following legal tests that decision makers must consider in relation to obligations:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development
- 3.3. The CIL Regulations 2010 (as amended) state that after 6 April 2015 local authorities can only pool planning obligations from up to 5 obligations towards any particular infrastructure project or type (Regulation 123). The LPA's will continue to monitor agreements which are signed to ensure that they accord with these regulations. Further information about monitoring is set out elsewhere within this document.

Central Lincolnshire Local Plan

- 3.4. The Local Plan has identified a minimum of 36,960 additional homes and allocated nearly 100 Ha of employment land between 2012 and 2036. This growth will result in increased pressure on local infrastructure, services and facilities, creating demand for new provision. The Central Lincolnshire authorities and developers have a responsibility, through the planning process, to manage the impact of this growth and ensure that any harm caused by development is mitigated and that the necessary infrastructure is provided. The authorities expect new development to contribute to both on-site and strategic off-site infrastructure needs; this is established in Local Plan policy LP12 which provides policy framework for the preparation of this SPD. More information on this and other relevant Local Plan⁴ policies which refer to developer contributions is included in appendix 1 of this SPD

⁴ www

Infrastructure Needs & Priorities

- 3.5. The identified infrastructure needs for the Local Plan are set out in the Infrastructure Delivery Plan (IDP) which provides costs, phasing and priorities for infrastructure to support the proposed economic and housing growth. It is recognised that by its very nature the IDP will require regular update to reflect changing circumstances.

4.0 Central Lincolnshire Approach to Developer Contributions

Introduction

- 4.1. This section sets out the LPA's role in the developer contributions process, the types of infrastructure which may be sought from S106 and CIL and the relationship between them.

The role of Local Authorities within Central Lincolnshire

- 4.2. It is the role of LPA's within Central Lincolnshire to:
- a. Lead discussions on securing developer contributions for infrastructure taking account of input from infrastructure/service providers and needs identified in the IDP and through consultation responses to planning applications;
 - b. Notify developers of their CIL liabilities;
 - c. Strive to ensure a balance is maintained between infrastructure needs and development viability; and
 - d. Ensure that funds provided by developers are spent in an appropriate and timely manner that responds to the impacts of the development alongside other processes which may not be within its control for example site access, legal processes, utility connections etc.
- 4.3. The Planning Services of the LPA's within Central Lincolnshire offer a pre-application advice service and it is recommended that developers and their agents use this service and contact the authority at the earliest possible opportunity to discuss the above. Further details are available on the relevant authority's website.
- 4.4. The benefits of this early negotiated approach include:
- a. Ensuring that developers are aware of the scale and nature of likely contributions required for a proposed development at the earliest opportunity;
 - b. Assisting in determining project viability;

- c. Providing greater clarity and certainty to the process; and
- d. Helping to minimise the timescales involved in determining affected planning applications.

The range of developer contributions

4.5. An indication of the range of developer contribution types that the LPA will give consideration to, as part of the assessment of planning applications, is indicated below. It should not be considered as a definitive list. However, the topics listed below are the more common infrastructure types considered and often required.

- Archaeology, Conservation and the Historic Environment
- Affordable Housing
- Community Halls and Facilities
- Drainage & Flood Risk Management
- Education
- Health
- Libraries
- Open Space and Green Infrastructure
- Transport

4.6. Sections 5 to 14 of this SPD provide the detail of when S106 or CIL may be required for the above infrastructure, with a summary in Table 3 (below).

4.7. The range of development proposals seeking planning permission is diverse, in both scale and type. When assessing a planning application, judgement needs to be applied. It will not be appropriate in every circumstance to require a planning obligation for each of the contribution types listed above.

4.8. When considering the planning obligations requirements for a development, the capacity of existing infrastructure will be considered to ensure that obligations are only necessary where the current capacity would not be able to accommodate the additional need generated by the proposed development.

4.9. The use of thresholds can be beneficial in helping to simplify and clarify which contribution mechanism will be used.

- 4.10. The relationship between when the CIL will be used to secure a contribution towards certain infrastructure types and when a S106 planning obligation will be used is explored below.

Planning Obligations Process

- 4.11. It is expected that planning obligations will be used to fund on-site or site related infrastructure only. The Central Lincolnshire authorities’ role and the process involving planning obligations is outlined in Table 1 below whilst further detail can be found in appendix 3

Table 1 Overview of Planning Obligations Process

Steps	S106 Planning Obligations – Agreements & Unilateral Undertaking
1	As part of the documentation submitted with the planning application, the developer provides a draft Planning Obligations Heads of Terms form, using the template available on the Central Lincolnshire website. Planning applications will not be validated if this is not done
2	Draft Heads of Terms are agreed in principle.
3	Once the Local Planning Authority is minded to approve the application, the relevant authority’s Legal Services Team are instructed to prepare a draft s106 Agreement. Minimum charge of £xxx to be paid by applicant.
4	S106 Agreement / Unilateral Undertaking is signed and planning permission can then be granted.
5	The agreed Planning Obligations and their relevant triggers are entered on a database. Implementation of approved applications is monitored through to completion.
6	On final payment of the outstanding s106 contributions, the District Council’s Land Charges Section will remove the charge from the Land Charges Register.

- 4.12. The Whole Plan Viability Study⁵ has assessed the viability of different development with the Central Lincolnshire administrative areas. This has been used to inform the rates set out in the Preliminary Draft Charging Schedule⁶. The principle is that all eligible developments must pay the CIL charge, as well as any site specific requirement(s) to be secured through S106 planning obligations. The process for securing CIL payments and the LPA’s role is set out in the Preliminary Draft Charging Schedule and is summarised in table 2 below whilst further detail can be found in the CIL element of the Planning Practice Guidance⁷.

⁵ www

⁶ www

⁷ <http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/>

Table 2 CIL Overview Process

Steps	Community Infrastructure Levy
1	Alongside planning application, developer / agent completes and submits a 'Determining whether a Development may be CIL Liable' ⁸ form including the appropriate floorspace and development type details (where available). An Assumption of Liability Notice should be included with the application.
2	The relevant LPA will determine the levy based on the adopted charges.
3	LPA prepares a draft Liability Notice.
4	Provided planning permission is granted, a Liability Notice will be issued and the levy rate will be registered
5	Where a party wishes to apply for relief, they should assume liability and submit the relief application to the Local Authority prior to the commencement of development. Such applications will be considered and where relief is granted an amended Liability Notice will be issued to reflect the amount of relief granted
6	Liable party submits Commencement Notice
7	Once an Assumption of Liability Notice and Commencement Notice have been received, a Demand Notice/s will be issued to the person/s liable to pay the CIL in accordance with the CIL Payment Instalments policy. Where liability is not assumed the payment will be due in full on the intended commencement date
8	On final payment of the outstanding CIL charge, the LPA's Land Charges Section will remove the charge from the Land Charges Register.

Relationship between S106 & CIL

- 4.13. Once the CIL Charging Schedule comes into operation CIL will become the main source of developer contribution towards infrastructure which is required as a result of the overall housing and employment growth in Central Lincolnshire, rather than the specific requirements of an individual site. As explained in paragraph 2.20, a Regulation 123⁹ list has been prepared which sets out the types of infrastructure / project which may be funded through CIL. There is also a provision in the CIL Regulations that a proportion of CIL be used for neighbourhood funding in those areas where development has taken place.
- 4.14. CIL will not replace the uses of S106 agreements completely. S106 agreements and conditions will still be used alongside CIL to secure affordable housing, which is outside the remit of CIL, and 'on site' infrastructure. Some of these requirements might be physically off site, but clearly linked to the development site and needed to make the

⁸ All CIL forms which need to be submitted to the Local Authority are available from the Planning Portal website: <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

⁹ www

development as proposed of that particular site acceptable in planning terms. Each Section 106 obligation must meet the relevant CIL Regulation legal tests, as set out in paragraph 3.2 above. Table 3 below provides clarifies the types of infrastructure which will be funded by CIL and which will be provided by S106.

4.15. Table 3 Requirements secured through Planning Conditions, S106 and CIL

Type of Infrastructure	Planning Condition	S106	CIL
Affordable Housing	✓	✓	×
Archaeology, Conservation and the Historic Environment	✓	✓	×
Community Halls and Facilities	×	✓	×
Drainage & Flood Risk management	✓	✓	✓
Education	×	✓ Primary Provision	✓ Secondary Provision
Health	×	✓ Primary Provision	✓ Secondary Provision
Open Space & Green Infrastructure	✓	✓	✓
Transport	✓	✓ Local site-related transport and accessibility requirements.	✓ Strategic / Central Lincolnshire-wide impact projects
Other Contributions which may be sought	Contaminated Land and (solely as part of the implementation of the Lincolnshire Minerals and Waste Local Plan) Minerals and Waste Development		

PART TWO

4.16. This part of the SPD sets out the types of obligations that that the LPA may seek to secure from development and how it identifies the relevant policy basis, types of development to which the obligation will apply, thresholds over which the obligation will be sought and, where possible the basis on which the level of obligation will be sought.

5.0 Affordable Housing

Introduction

- 5.1. 'Affordable housing' refers to a particular product outside of the private housing market. Affordable housing is usually owned and managed by Local Authorities or Registered Providers of Social Housing. It includes social rented¹⁰, affordable rented and intermediate housing. It can also include specialist accommodation needs for a range of groups, for example, the elderly. The definition of these products can currently be found in the National Planning Policy Framework 2012 Annex 2¹¹ or any succeeding national policy guidance.
- 5.2. The level of need for affordable housing is evidenced through the emerging Strategic Housing Market Assessment (SHMA). The findings of this indicate that within Central Lincolnshire there is a need for 17,400 affordable homes between 2012 and 2036. The Central Lincolnshire authorities recognise the importance meeting the housing needs of the community and this is set out in objective a) housing and policy LP11 of the Local Plan.
- 5.3. For the purposes of this SPD, homes that do not meet the above definition of affordable housing such as low cost market housing for example homes built for sale on the open market for first time buyers may not be considered as affordable housing.

Delivery Mechanism

- 5.5. Affordable housing was removed from the Planning Act's definition of CIL infrastructure¹² and is not identified in the R123 List. It is understood that it is the Government's intention that affordable housing is only to be provided through the use of planning conditions or obligations which are secured by Section 106 agreement.
- 5.6. Affordable housing will be sought through planning obligations to contribute to the overall delivery of affordable housing to meet need in Central Lincolnshire. The reasons and justification for doing this are set out further in the most recent Central Lincolnshire Housing Delivery Plan, Strategic Housing Market Assessment (SHMA) and other relevant policy documents. Locally held housing data quantifies the local needs.

When will planning obligations be sought?

- 5.7. An affordable housing obligation will be sought from residential development on qualifying sites. Policy LP11 of The Central Lincolnshire Local Plan sets out qualifying sites in terms of the thresholds (site size or number of units being developed which trigger an affordable housing obligation) and this threshold is 4.

¹⁰ within the meaning of Part 2 of the Housing and Regeneration Act 2008

¹¹ <http://planningguidance.planningportal.gov.uk/blog/policy/achieving-sustainable-development/annex-2-glossary/>

¹² Community Infrastructure Levy Regulations (2010) Regulation 63

The percentage of dwellings which should be provided as affordable is as follows:

Lincoln Strategy Area	25%
Gainsborough & Sleaford	20%
All other rural areas	20%
Lincoln SUE s	20%
Sleaford SUEs	15%
Gainsborough SUEs	15%
Flats	As above for respective areas

- 5.8 There may be exceptional circumstances, including development viability, where the affordable housing requirements as specified in Policy LP11 are not achievable. In such circumstances the Council may consider a reduction in the affordable housing target where robust justification is provided.
- 5.9 Residential development is defined as development of residential accommodation in the form of ‘traditional’ housing and apartments / flatted accommodation. This will include development under Use Class C3 (A-C). For the purposes of this document extra care accommodation or retirement living which provides self-contained accommodation for the elderly will be treated as C3. Residential Care / Nursing Homes where the accommodation is non self-contained and falls within Use Class C2, student accommodation and MOD housing development schemes whereby the proposal is to meet the needs of service personnel and their families (if the homes will not be available to purchase or rent on the open market) will not be subject to the Affordable Housing Policy. In respect of the latter if the homes are subsequently sold (freehold or leasehold) or rented on the open market, in accordance with the above affordable housing requirements, the relevant percentage of all homes (as shown in the list above at paragraph 5.7) and must be transferred to an appropriate body such as a Registered Social Landlord (RSL) subject to appropriate tenure mix (as set out further at paragraph 5.12 below). A Section 106 agreement to this effect will be put in place.

What S106 planning obligations will be sought?

- 5.10. The preferred approach will be for on-site provision of affordable housing. Only in exceptional local circumstances will the provision of affordable housing on an alternative site or equivalent financial contribution be considered.

On site Provision Requirements

- 5.11. The developer should discuss the affordable housing obligation provision requirements with the Local Planning Authority at the earliest stage. The appropriate mix and type of affordable housing provision on site will be dependent upon the local circumstances of the site, the viability of the development and housing needs information.

Tenure Mix

- 5.12. Central Lincolnshire Local Authorities’ preference will be for a tenure split of rent (affordable and /or social) and shared ownership. The exact tenure mix and split of appropriate affordable

housing tenures will vary across the 3 districts and will be informed by locally held needs information.

Property Type

- 5.13. It is expected that a range of property types and bedroom numbers will be provided to meet the identified need. Appropriate parking should be included and agreed with the Local Authority. It should be noted that garages are not considered appropriate and should not be included for affordable housing provision. If garaging is fundamental to the design of the dwellings, for example in flood risk areas, the situation should be discussed with the Local Planning Authority.

Appearance/ Location /Phasing

- 5.14. To promote integrated communities the affordable housing should be designed to be indistinguishable from the market housing (acknowledging some design features such as garaging might not be provided for affordable housing) and it should be dispersed throughout the site. On larger sites it is expected that there will be an element of affordable housing on each phase, as agreed with the Local Authority.
- 5.15. It is recognised that there are potential management and maintenance considerations that in some cases would make it acceptable to provide a degree of clustering or the provision of flatted / leasehold accommodation in self-contained blocks.

Housing Standards

- 5.16. Design of housing for example space standards and energy usage should be compliant with the relevant standards of the Homes and Communities Agency or successive affordable housing regulatory body.

Management

- 5.17. It will be the preference for all affordable housing provision to be in conjunction with a Registered Provider (RP) which includes North Kesteven and City of Lincoln Council. Currently, West Lindsey District Council does not have its own housing stock. Registered Providers can secure effective and long-term management of the affordable housing and ensure it is provided to eligible households in perpetuity. Developers are encouraged to work in collaboration with the Registered Provider (typically selected by the developer as their preferred partner) to deliver affordable housing on any particular site.
- 5.18. Where affordable housing is not provided by an RP, the Local Authority will expect the provider to deliver the affordable housing in the same way as a registered provider (for example rent levels, tenure, nomination rights and property management). The Local Authority will require a legal agreement to confirm this approach and to ensure that the dwellings remain available in perpetuity for those in housing need.
- 5.19. It is acknowledged that whilst there is a desire that affordable housing should be provided in perpetuity, there are legitimate instances where affordable housing can be sold, through right to acquire or staircasing of shared ownership for example. The provider will be expected to make every reasonable effort to recycle any funding generated in this way for additional affordable housing in the vicinity where it arose.

Off-site provision or commuted sums

- 5.20. Local Plan Policy LP11 states that the requirement for off-site provision or commuted payments in lieu of on-site affordable housing will only be acceptable where the developer can demonstrate exceptional circumstances which necessitate provision on another site, or the payment of a financial contribution to the relevant local planning authority (equivalent in value to it being provided on-site) to enable some housing need to be met elsewhere.

Calculating the contributions (off-site commuted sums)

- 5.21. An off-site contribution is not a lesser contribution for affordable housing and should be broadly equivalent to the level of contribution the developer is making to onsite affordable provision. The level of commuted sum needs to be able to fund delivery of affordable housing off site without the need for additional external grant funding (a principle of on-site affordable housing delivery).
- 5.22. Fundamentally the commuted sum will be the difference between the affordable housing transfer value and the open market value for the dwelling. Payment triggers will be agreed as part of the planning application negotiations and may include the opportunity for the development to make phased payments.

Development of affordable housing on Brownfield Land

- 5.23. Affordable housing provision will be expected on brownfield sites. However, it is noted that there are other considerations to potentially take into account, for example viability due to abnormally high redevelopment costs. In respect of viability, detailed evidence will be expected to demonstrate a case for a below policy delivery.

Affordable Housing in Rural Areas

- 5.24. Policy LP11 also sets out criteria for supporting rural affordable housing. Affordable housing provided to meet the evidenced local need for such housing in the settlement would meet these criteria.
- 5.25. The scope and methodology of evidenced local need is to be agreed with the Local Authority at the time of the application. Examples include: Local Parish Housing Need Surveys, the Local Authority Housing Register and Neighbourhood Plans.

6.0 Archaeology, Conservation and the Historic Environment

Introduction

- 6.1. Central Lincolnshire has a rich historic environment that contributes strongly to its character and quality of life. This is recognised in the Local Plan where policy LP25 sets out the authorities' strategy for protecting, conserving and where possible enhancing the historic environment.
- 6.2. In its role as advisor in relation to archaeology, the County Council seeks to increase awareness of the importance of archaeological assets, and to protect them wherever possible. Whilst there are over 47,000 archaeological sites and historic features across the County, new sites continue to be discovered, often as a result of development activities. It is therefore important that

measures are taken when planning permission is granted to investigate, record, analyse and protect this non-renewable asset.

- 6.3. Additional information on the location and types of archaeological sites and historic features throughout Lincolnshire can be accessed via the County Council's Historic Environment Record (HER). For more information, please contact the Historic Environment team on 01522 552363 or lincssmr@lincolnshire.gov.uk
- 6.4. Whilst of the expectation is that virtually all matters relating to archaeology and the historic environment can be addressed through planning condition, there could be circumstances when a legal agreement is required.

Type of Development which may trigger need

- 6.5. There is no minimum threshold. All development which may have an impact on archaeologically sensitive structures or locations may be required subject to planning condition and potential to make a contribution towards facilities. The extent of the interest must be located and defined through a field evaluation.

Type of facilities for which provision may be required

- 6.6. Where relevant and justified, the following types of provision may be sought, most likely through planning condition and in some cases with an obligation:
- Archaeological consultants and contractors for investigation, recording, analysing, archiving and reporting on archaeological structure or remains;
 - Provision for site management, interpretation schemes, public access and community projects; and
 - Provision of open space, to protect archaeological remains that are of sufficient importance to warrant preservation in situ, and the maintenance of the open space to prevent any form of ground disturbance

Form in which contributions should be made

- Commissioning of relevant programme of work;
 - Safeguarding of archaeological interest or provision for excavation, recording and archiving
- 6.7. The approach will be applied throughout Central Lincolnshire, detailed information on sensitive areas will be provided for by the County Archaeologist.

7.0 Community Halls & Facilities

Introduction

- 7.1. Village and community halls are an important local recreational resource. This is recognised in Local Plan Policy LP15 which seeks to ensure that where possible existing community facilities are protected along with the requirement for new development to make provision either on site or off-site. LP15 and its supporting text define community facilities.
- 7.2. The Draft 'Central Lincolnshire Indoor and Built Sports Facilities Study' includes an assessment of village and community halls. This Central Lincolnshire supply and demand assessment recognises that the need for sports halls will not meet all the demand for sports halls in rural areas. Therefore village and community halls are an important resource in meeting some of the demand for indoor sports and particularly physical activity.
- 7.3. The provision of new and improved community facilities is considered to be a local issue. Therefore, with the exception of Sustainable Urban Extensions over the threshold set out below, contributions will not be sought and provision should be made utilising other funding sources such as the local proportion of CIL receipts which a community may receive.

Type and size of development which may trigger need

- 7.4. Developments of 1,000 dwellings or more (including where the development is undertaken in phases) may be required to make provision for community facilities where a need directly related to the impacts of new development is identified. Such a need will be assumed and with a direct link to a development of that scale.

Types of facilities which may be required

- 7.5. Where development generates a need for new or improved community facilities contributions may be sought for the following:
 - The preference will be for the construction of new on-site community facilities where the size of the development means that a new facility will be required – options for shared use will also be considered potentially using Sport England's Village and Community Halls Design Guidance Note¹³ which sets out information about site planning, internal configuration, example dimensions and construction standards; or
 - The extension and / or improvements to existing halls or facilities in the vicinity of the site
- 7.6. The latter may be acceptable where:

¹³ Available from <https://www.sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/other-design-guidance/>

- There is insufficient space available onsite/ adjacent to the site;
- Incorporation of the facility onsite/ adjacent would not be financially viable;
- It would be more appropriate to contribute (in whole or part) to the establishment or expansion of a facility elsewhere in order to meet wider demand or combine facilities with demonstrable benefits to the public.

7.7. Form in which contributions should be made

- Physical provision of on or off site community facilities; or
- Financial contributions

Calculation of Contributions

- 7.8. The size and specification of the required facility will be identified with the applicant on a case by case basis to reflect the individual requirements of the development. This will use local evidence where available; consultation with the relevant district and county council departments; and consultation with local organisations such as town and parish councils.
- 7.9. The scale and proportionate nature of contributions will be calculated on the basis of the size/specification and build costs for community facilities as specified by the Royal Institute of Chartered Surveyors (RICS) or, where relevant, competitive tenders. This will be subject to indexation as appropriate

Maintenance

- 7.10. Where provision is made for a new facility, provision for the long term maintenance of the site must be addressed by the developer for example, handing the site over to a third party, by ensuring a maintenance contract with a management company, or where an acceptable commuted sum is agreed with the Council. Where a contribution is agreed through the use of other funding sources such as the local proportion of CIL receipts, consideration by all parties should also be given to the ongoing costs of the facility.

8.0 Drainage & Flood Risk Management

Introduction

- 8.1. Within Central Lincolnshire the key challenges relate to potential development in flood risk areas, and surface water runoff caused by development or in times of heavy rainfall, by already saturated ground. Surface water drainage is a particular issue.
- 8.2. Local Plan policy LP14 adds to national planning policy related to an upfront sequential test; an exception test where required; and an appropriately detailed site specific flood risk assessment (FRA). The purpose of the sequential test is to promote development away from areas of flood risk both by considering alternative sites and the layout of development within a site. Once the

sequential test is met, the exception test can consider the potential of specific development(s) and this is where potential contributions could come apply. The site specific Flood Risk Assessment needs to consider flood risk from all sources to ensure that development is located in areas at low risk of flooding and to ensure that there is no increase in flood risk elsewhere taking climate change into account. The FRA will need to consider surface water and groundwater flooding as well as fluvial, coastal and other possible sources of flooding.

- 8.3. The National Planning Practice Guidance requires sustainable drainage systems to be provided for all proposed major development and states that priority must be given to the use of sustainable drainage systems in areas at risk of flooding. All developments, regardless of scale and constraints, should seek to incorporate sustainable drainage (SuDS). SuDS are intended to replicate, as closely as possible, the natural drainage from a site before development takes place. SuDS good practice should be undertaken on all sites within Lincolnshire. An integrated approach should be taken to the design of highway drainage and surface water runoff from other sources. SuDS should be considered as part of the design and layout of development and only where necessary through the provision of infrastructure and contributions.

When will S106 planning obligations be sought?

- 8.4. Developers must ensure that their proposed development is safe from flooding and will not increase flood risk elsewhere. It is expected that developers will in the first instance minimise and avoid flood risk through the location and design of development; and secondly meet the costs of the direct impacts of their development on local drainage and flood risk management through appropriate planning conditions. However planning obligations may be sought on all proposals where the development requires:
- Off site management of surface water to ensure no increase in flood risk elsewhere;
 - Offsite works to reduce the overall flood risk to an acceptable level.
- 8.5. The Section 106 Agreement will require the nature of the works to be agreed by the appropriate Risk Management Authority and appropriate contracts to be in place to secure the delivery of any work before the relevant phase of development can commence. All relevant regulatory bodies should be engaged by the applicant.
- 8.6. Where necessary, on-site infrastructure will be provided by the developer to alleviate the risk of flooding, to ensure no increase in flood risk elsewhere and reduce impacts on existing drainage infrastructure. This will normally form part of the detailed matters submitted and agreed through the planning application process and the delivery can therefore be secured through a planning condition.
- 8.7. Through the use of planning conditions or planning obligations, the LPA will ensure that clear arrangements are in place for the on-going maintenance and/or adoption of the proposed drainage system for the lifetime of the development. On-going maintenance of on-site infrastructure may be subject to a Section 106 Agreement.

- 8.8. Any provision will be required to meet the standards identified in the NPPF, the National Planning Practice Guidance (NPPG), and the Non-statutory Technical Standards for sustainable drainage systems, updated Highways Specification or any other local standards.

Types of facilities that may be required

- 8.9. Measures identified by a Flood Risk Assessment as being needed to enable development and mitigate or manage existing flood risk are likely to be site-specific and most likely secured by planning condition.
- 8.10. Surface water flood risk on site should be managed using sustainable drainage systems (SuDS) such as swales, filter drains, detention basins, permeable paving and green roofs. SuDs are designed to control surface water run off close to where it falls and mimic natural drainage as closely as possible. They provide opportunities to:
- Reduce the causes and impacts of flooding;
 - Remove pollutants from urban run-off at source;
 - Combine water management with green space with benefits for amenity, recreation and wildlife.
- 8.11. Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:
1. into the ground (infiltration);
 2. to a surface water body;
 3. to a surface water sewer, highway drain, or another drainage system;
 4. to a combined sewer.
- 8.12. Clear arrangements must be in place for the maintenance of such system and will be subject to planning condition or planning obligation.
- 8.13. The relevant cost of construction will be addressed by the applicant as part of drainage and landscaping design. The developer will be responsible for putting measures in place for maintenance costs of the drainage system. This could potentially include adoption of the drainage system by an agreed third party with relevant maintenance agreements to enable maintenance costs to be recovered from the households using the drainage system.
- 8.14. All flood or drainage schemes being led or supported by the Lincolnshire authorities, the County Council, or other water management partners could be managed as integrated water management schemes providing multiple benefits such as to flood risk management, biodiversity and amenity. CIL could potentially contribute towards the simultaneous delivery or improvement of both green and blue infrastructure but it is expected that applicants, through section 106, will address the vast majority of blue infrastructure concerns.

What S106 planning obligations might be sought?

- 8.15. For off-site schemes, the Central Lincolnshire authorities would expect applicants to provide a financial contribution towards the delivery of the required infrastructure. If appropriate and in consultation with relevant partners, consideration would be given to the applicant or a third party taking that responsibility to provide the required infrastructure to an agreed specification.
- 8.16. An obligation might also be sought to secure the necessary maintenance regime to preserve the effectiveness of the Scheme.

Phasing of Drainage and Flood Risk Management Planning Obligations

- 8.17. In order to ensure delivery of drainage and flood risk management infrastructure in line with the delivery of development, any financial planning obligations must be paid when development commences or according to an agreed timetable between the local planning authority and the applicant.
- 8.18. If the applicant has taken responsibility for physical work, this must be completed to a timetable or phasing plan agreed with the local planning authority. The Section 106 Agreement will set out the phasing requirements for planning obligations related to drainage and flood risk management infrastructure.

9.0 Education

Introduction

- 9.1. Education infrastructure is an integral component of balanced sustainable communities. It is the Central Lincolnshire Authorities' vision to ensure that the highest quality opportunities exist in education, learning and training, by ensuring access to facilities, improving school performance and raising aspirations and standards of achievement for all age groups. LCC has the Statutory Duty to ensure sufficiency of provision and does this via Maintained Schools, Academy Schools and Free Schools.
- 9.2. It is widely accepted that the provision of appropriate education facilities is a fundamental infrastructure requirement of sustainable growth. Local Plan Policy LP12 provides the policy link to successful delivery.
- 9.3. Development of new homes creates a need for additional school places at primary, secondary and other educational establishments. Recent demographic changes in Central Lincolnshire and the cumulative impact of the growth of the area mean that there is and will continue to be a need for additional capacity in education infrastructure throughout the plan period (2012-2036). The evidence in relation to projected school capacity is kept under annual review by the County Council and reported to Central Government via the annual SCAP Return (School CAPacity survey).

When will planning obligations be sought?

- 9.4. Planning contributions for additional school capacity will only be sought, where appropriate, in the form of planning obligations on sites of ten dwellings or more.
- 9.5. Contributions will not be sought for specialist older persons housing schemes or 1 bed dwellings, as these property types are generally unlikely to accommodate children.

What S106 planning obligations might be sought?

- 9.6. Although this list is not exhaustive, obligations could be sought in relation to:
- The on-site provision of land within the development to accommodate identified school facilities. It is expected that fully serviced land is provided by the applicant at nil cost to LCC as education authority;
 - In certain circumstances it may be more appropriate to have the facility at an alternative location off site. In such circumstances, where a significant proportion of the need for infrastructure is generated by the proposal, a proportionate financial contribution to purchase the land elsewhere will be required;
 - Contributions will also be needed for capital funding of the identified facilities;
 - Contributions to secure the necessary provision of new school places will include primary place (secondary and school based post-16 education places are included in the Regulation 123 list and are to be provided through CIL and certainly not section 106 once CIL has been adopted).
 - Where appropriate it may include ancillary facilities such as early years, to be let on a commercial basis.

Provision Requirements

- 9.7. The number of pupils living on a new development is usually linked to the number and size of dwellings proposed. In general terms, the greater the number of bedrooms the greater the number of pupils there is likely to be.
- 9.8. The child yield multiplier is shown in appendix 5 below based on Lincolnshire Research and is reviewed periodically to ensure it is up to date.
- 9.9. A guideline table for pupils per dwelling is included in appendix 5. This will be updated regularly and made available on request..
- 9.10. Using the guidelines in appendix 5 or as may be updated, it is possible to calculate the number of education places required for the development proposal. The availability of projected permanent spare capacity at local accessible facilities should be discussed with LCC before converting the number of school places generated into the number of additional places needed and required into facility requirements

- 9.11. LCC will consider development and make requests for new /expanded primary schools facilities based on the above guidance, taking into account projected permanent existing spare capacity of local accessible schools, planned and funded expansions and other planned residential development with consent or already being considered via a live planning application.

Secondary Education and Post-16 Education

- 9.12. This will be included on the Regulation 123 and funded through CIL once adopted. However, the quantum of development to establish a new secondary school is far higher than that for a primary school. The same process will be considered as for primary education in that projected surplus capacity will be considered first and where not available contribution requests for expansion or establishment of a new school will be made. Schools (Primary and Secondary) will be based on the guidance in Building Bulletin 103¹⁴ or relevant updates. Over the life of the Local Plan it is only expected that new secondary schools will be needed for key developments in Sleaford, Lincoln and Gainsborough.
- 9.13. School-based sixth forms will also be included on the Regulation 123 and funded through CIL once adopted. However, in the region of 50% of post 16 students will attend a sixth form within a school and LCC makes contribution requests where necessary based on a pupil productivity ratio of 1/5th of the Secondary Rate. It is noted LCC is not responsible for nor negotiates S106 for Colleges.

Conclusion

- 9.14. As stated, education contributions will be sought where necessary and reasonable due to insufficient surplus being available to support growth. The commentary in the above paragraphs is helpful, but only a starting point, for negotiations on education contributions on such sites of 10 or more units.

10.0 Health

Introduction

- 10.1 There are two main types of health provision: primary care and secondary care. Primary care focuses on the treatment of minor injuries and illnesses, and deals with minor surgery and the on-going management of chronic conditions. Secondary care covers care in general and specialist hospitals for conditions that normally cannot be dealt with by primary care services. It includes medical and mental health services.

¹⁴Published by Department for Education and available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324056/BB103_Area_Guidelines_for_Mainstream_Schools_CORRECTED_25_06_14.pdf

- 10.2. NHS England Midlands and East supports the commissioning of high quality services and directly commission primary care and specialised services at a local level including Central Lincolnshire. They also help Clinical Commissioning Groups (CCGs) to commission services for their communities. The CCGs which cover Central Lincolnshire are Lincolnshire West, South West Lincolnshire and Lincolnshire East. Further information about the structure of health provision can be found in 'A guide to the healthcare system in England for local planning authorities'¹⁵
- 10.3. Central Lincolnshire's health priorities and issues are set out in the latest Joint Health and Well Being Strategy for Lincolnshire¹⁶, Joint Strategic Needs Assessment¹⁷ and NHS Health Profiles for Lincoln, North Kesteven and West Lindsey.
- 10.4. The Central Lincolnshire Authorities recognise the social benefits of the provision of excellent healthcare facilities to the area. New residential developments put pressure on existing health facilities and cumulatively create the need for additional facilities and services. Local Plan Policies LP9 and LP12 recognise the need to make provision for an appropriate amount of (amongst other things) health facilities which meet local needs and contribute to the health and wellbeing of residents within Central Lincolnshire.

Type and size of development which may trigger need

- 10.5. Planning obligations for new / improved health facilities are only expected from residential developments (C class uses). However, any development which places an extra demand on local health care facilities through its operation could be required to make physical provision or financial contributions may also be sought.
- 10.6. Applications for the development of concentrated or multi-tenant housing such as residential care homes, nursing homes, sheltered housing or student accommodation will need to be assessed for their impact on local health care on a case by case basis.

Types of facilities for which provision may be required

- 10.7. The impacts of proposed developments on health should be assessed and considered at the earliest stage of the design process to avoid negative health impacts and ensure positive health outcomes for the community as a whole. Subject to an identified need in the locality, contributions may be sought for the following health infrastructure:
 - New health facilities (these may be co-located with other health or social care providers);

¹⁵ Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414137/hbn08-addend1.pdf

¹⁶ Available to view at <http://www.lincolnshire.gov.uk/residents/public-health/behind-thescenes/policies-and-publications/joint-health-and-wellbeing-strategy/115339.article>

¹⁷ Available to view at <http://www.lincolnshire.gov.uk/residents/public-health/behind-thescenes/policies-and-publications/joint-strategic-needs-assessment/115338.article>

- Construction costs for additional facilities / extensions, adaptations or alterations which are required to meet the needs of the development;

CIL Funding of Health Infrastructure

The cumulative impact of development may lead to pressures on the health infrastructure network which is beyond the immediate proximity of the proposed development. In the later years of the plan it is anticipated that CIL will fund some Secondary (acute) healthcare.

Form in which contributions should be made

10.8. It is expected that contributions will be made in the following ways:

- Capital monies to provide new or enhanced facilities;
- Land or buildings may form all or part of the contribution;
- The financial contribution towards the delivery of healthcare facilities will take into account the availability of mainstream NHS funding and any time lag between that funding stream availability and the 'on the ground' provision of the facility to support the development proposal; and
- If appropriate, consideration of the developer building the required infrastructure to an agreed specification will be considered on a case-by-case basis in consultation with appropriate partners

What are the costs and how are they calculated

10.9. A case of need for new or improved health provision will be drawn up for each development proposed however assuming a typical density of development, which gives 2.4 people per household, this currently equates to a capital contribution of £400 per dwelling to support GP premises. This figure is based on the Statement of Financial Entitlements for GP services and the typical cost of providing a GP development for between 5 and 6 fulltime equivalent GPs.

10.10. NHS England and the Clinical Commissioning Groups (CCGs) will not typically seek to support 'single handed' GP services which are run by single GPs, although this may be considered in exceptional circumstances. This is because of clinical accountability reasons.

10.11. The cost per dwellings is not a 'tariff' on all new dwellings; it will only be applied where additional health provision is required as a result of new housing and will not be used to remedy deficiencies elsewhere within Central Lincolnshire.

11.0 Libraries

- 11.1. The Central Lincolnshire Authorities will not seek contributions for new standalone library facilities. Where development has an impact on an existing facility it is considered to be a local issue and therefore should be funded utilising other funding sources such as the local proportion of CIL receipts which a community may receive.
- 11.2. Where there is an identified need for improved facilities, options for providing this in other community facilities should be considered where it provides planning and financial benefits.

12.0 Open Space and Green Infrastructure

Introduction

- 12.1 The Local Plan seeks to ensure that new development safeguards and enhances the area’s existing Green Infrastructure by creating new open spaces and improving connectivity within the network Policy LP 24 and appendix C also set out expectations regarding provision requirements expected from new development.
- 12.2 As well as ensure the development’s design protects and enhances the existing green network it is also expected that development will include provision to meet the needs of the new residents through new provision or through contributions to improve the capacity of existing provision.

When will contributions be sought?

- 12.3 The level of contribution will be proportionate to the scale of development and of the network. Developments with the greatest impact are those which increase the demands on the existing network – mostly residential development. The table below indicates potential requirements:

Table 4 - Matrix of types of development and indicative requirements				
Type of provision required	Residential Development (units)			Other i.e. commercial industrial leisure uses
	1-9	10-49	50+	
Planting scheme; associated Landscaping scheme	*	**	**	*
On site provision of local useable Green space as standards in Local Plan		**	**	
New access networks /links to existing green networks	*	*	*	*
Water management including SUDS	*	**	**	**
Habitat protection and creation	*	**	**	*
Off-site contributions to existing provision	**	*	*	*

- * Required where need/opportunity are identified
- ** Required

Provision Requirements

- 12.4 Each site presents unique opportunities and developers should engage with Central Lincolnshire Development teams at an early stage.
- 12.5 None residential developments should comply with Local Plan design standard requirements and look for opportunities to provide amenity space, access links, SUDs and biodiversity enhancement through planting.
- 12.6 Residential requirements will be based on an assessment of need and opportunity within the context of the local area, using the population size of the development and the standards of accessibility, quality and quantity set out in the Local Plan as follows;
- 12.7 The need for open space in new developments is required as outlined in Policy LP24.
- 12.8 As a minimum any new major development (as defined under the Town and Country planning Act (Development Management Procedures) (England) order 2010) should provide/access to Formal Playing Fields and Local Green space to the following quantity standards;

Open Space Type	Quantity Standard
Strategic Formal Playing Fields	1.1ha/1000 pop
Local Usable Greenspace - Urban settlements	1.8 Ha/1000 pop
Local Usable Greenspace - Rural settlements	1.5 ha/1000

- 12.9 On site provision is preferable but where such is not feasible through development size or context, then off site contributions for improving the quality of existing sites within the accessibility standard ranges and quality standards outlined below will be considered.
- 12.10 Local Useable Greenspace may include the following types of open space; formal and informal play space; parks gardens; amenity space; informal kick about/ball game areas and natural/semi natural greenspace. The precise mix and design of these open space typologies within new developments should be based on the existing local/neighbourhood provision levels and needs. Reference should be made to the accessibility and quality standards outlined in the table below, alongside any other known local evidence.

- 12.11 This Plan recognised that access to Green corridors including the public rights of way network contribute greatly to local open space needs, particularly within the rural settlements and therefore access standards to such are included as part of the Natural/semi natural greenspace typology.
- 12.12 Where there is evidence of local need additional requirement for allotment and or civic/cemetery provision may need to be considered in addition to Local Useable Greenspace provision.
- 12.13 The design and layout of Local Useable Greenspace should also consider and accommodate the suitability for meeting wider Green Infrastructure objectives such as any identified Sustainable Urban Drainage, biodiversity opportunities and/or new cycle and pedestrian routes/linkages requirements.

Open Space Type	Accessibility Standard	Quality Standard
Park and Garden	Local /Neighbourhood provision : 400m-1200m or 5-15 minute walkable distance Strategic provision :15K or 15 minute drive	Good and above as defined by Green Flag standards or any locally agreed quality criteria.
Amenity Green space over 0.2 ha	Local: 400m or 5 minutes' walk	Good and above as defined by Green Flag standards or locally agreed quality criteria.
Formal Equipped Play areas	Local provision; Local Equipped Area of Play) : 400m or 5 minute walk Neighbourhood Equipped Area of Play ; 1200m or 15 minute walk	Good and above as defined by Fields in Trust standards and/or any locally agreed quality criteria.
Playing Field provision	Local provision : 1200m or 15 minute walk Strategic provision: : 15km distance 15 minute drive	Good and above as defined by sport England Governing body standards or locally agreed quality criteria.
Natural/Semi Natural Greenspace (including access to Green corridor and PROW networks)	Local provision (including access to Green corridor and PROW networks) : 400 m 5 minutes walkable distance Strategic provision : 2km or 25 minute walkable distance	At least 2 ha locally accessible and 20 ha strategically accessible. Quality good and above as defined by locally agreed criteria.
Civic Space including cemetery provision	As locally identified	Good and above as defined by locally agreed quality criteria.

Allotments & Community Growing Spaces	As locally identified	Good and above as defined by locally developed criteria.
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12.14 All publically usable open spaces should be of good quality as assessed against suitable criteria.

12.15 The Central Lincolnshire Open Space Audit and CL Playing Field Assessment will be used as the basis for considering the local usable Greenspace need of a development. The standards and audit will be used to;

- inform developers what the minimum requirements are for sites
- to prioritise works for any enhancement of facilities ;

12.16 Accessibility, quality and quantity will be used to inform provision of open space for new development in Central Lincolnshire.

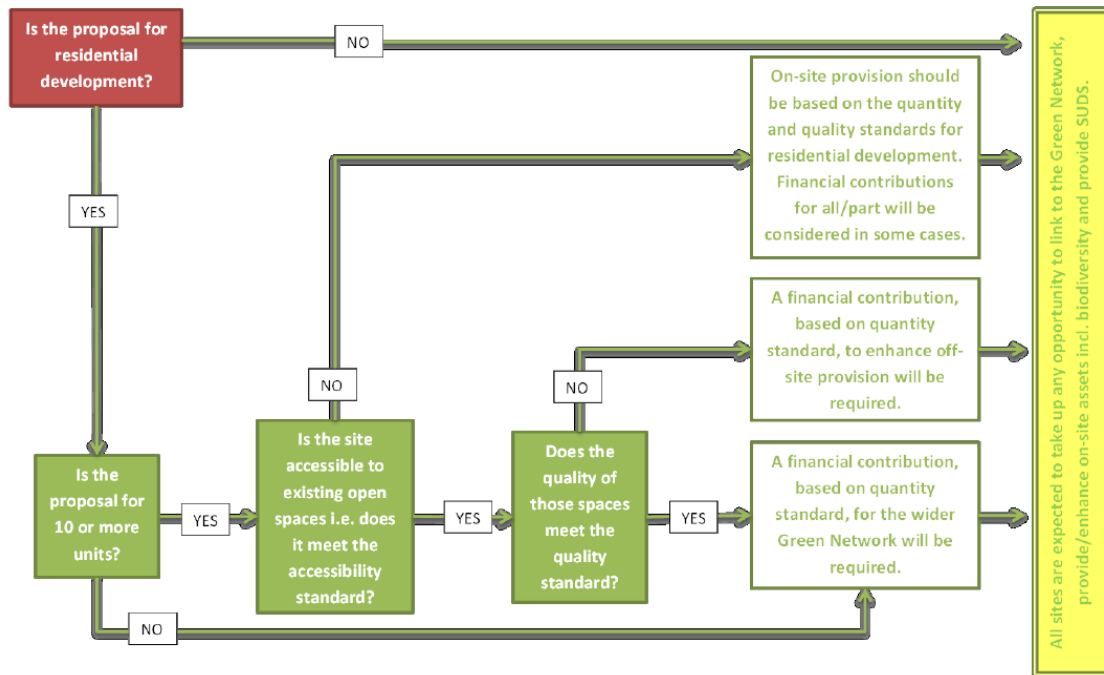
12.17 Accessibility is a key objective so even if a development is in an area of good general provision if these are net easily accessible then provision on site will be required or works undertaken to improve accessibility.

On site provision

12.18 With regard to on site provision each site is unique but the process applicable to all sites requiring on site provision is summarised in the following diagram:

Developer’s Flow Chart

5



Off site contributions

12.20 Developer contributions will apply in a number of situations;

- Smaller site less than 10 units;
- Where meeting the quantity requirement on site is not appropriate e.g. urban areas;
- Where a site is accessible to open spaces but those spaces are of poor quality;
- Where sites are accessible to good quality open space but a contribution is required to the wider strategic open space.

12.21 The contribution will be based on the cost of providing the facility excluding land costs.

12.22 The financial contributions will be used by the Central Lincolnshire Authorities for an identified project.

Maintenance

12.23 New on site provision will also require consideration for long term maintenance. This could be either through a third party/management company or through agreement with the local management authority or parish. A commuted sum will be required for adoption of new open space.

13.0 Transport

Introduction

13.1. Investment in transport infrastructure represents one of the greatest challenges to Central Lincolnshire's growth agenda. In recent years, rising population levels coupled with local economic growth have resulted in increased demand for travel across Central Lincolnshire leading to increased congestion and a range of associated problems such as increased air pollution, noise impacts and visual intrusion. Between 1991 and 2011, the proportion of households in Central Lincolnshire without access to a car fell from 27.3% to 19.0%, whilst across Lincolnshire as a whole, the number of vehicles licenced increased by 16.0% over the last 10 years. Similarly, the number of passengers using rail stations in Central Lincolnshire has risen by 12.4% over the last 8 years. It is critical to the successful and sustainable growth of Central Lincolnshire that major transport improvements are delivered. Without this, the Local Plan targets will not be achieved.

13.2. Local Plan Policy LP13 is the main policy and it is aimed at reducing the need to travel by private car and delivers a sustainable transport package capable of supporting growth. Further details of the overarching transport policies and strategies being pursued can be found in the 4th Lincolnshire Local Transport Plan (www.lincolnshire.gov.uk/ltp4) and the adopted transport strategies for Lincoln, Gainsborough and Sleaford.

Types of facilities that may be required

13.3. The type of transport infrastructure that is required to support growth is wide ranging and includes schemes such as, new access roads, junction improvements, bridges, cycle-ways, footpaths, bus lanes, bus stops, station improvements and park and ride. In addition to revenue

projects such as 'behaviour change"; programmes delivered in businesses, schools and local communities. The LTP4 transport improvements are reflected in the IDP.

13.4.

CIL funding of Transport projects

The cumulative impact of development leads to pressures on the transport infrastructure network which are 'off-site' and beyond the immediate proximity of the proposed developments. Following the adoption of the CIL, the strategic / Central Lincolnshire-wide impact projects will be funded from, in whole or part, CIL receipts, but not S106 planning obligations or S278 agreements. These projects will be set out on the CIL Regulation 123 list.

When will planning obligations be sought?

13.5. In addition to the strategic implications of transport, there are also local matters which may justify the use of planning obligations. The LPAs envisage that the majority of sites will not require a planning obligation to address specific local transport improvements. The transport and access issues in most cases can be addressed as part of the scheme design. This matter will however be determined on a case by case basis.

What planning obligations might be sought?

13.6. Although this list is not exhaustive, obligations could be sought in relation to:

- New access roads;
- Improved junction layouts;
- Public transport accessibility;
- Measures for cyclists / pedestrians;
- Traffic management/highway safety measures;
- Travel information, including personalised travel planning
- Public Rights of way (see also section 12: Open Space and Green Infrastructure)

13.7. When developers apply for planning permission, the Central Lincolnshire authorities may ask them to produce a Transport Assessment (TA) or Transport Statement (TS) to provide a technical assessment of all the accessibility issues and transport implications that may arise due to the development, in line with Local Plan policy LP13. The TA or TS may be used in negotiating specific local off-site access improvements to allow the relevant LPA to assess the impact of the development plus any mitigation measures proposed as necessary. The LPA may seek a financial contribution or works from the applicant to provide any necessary mitigation measures in the form of a Section 278 and/or S106 obligation. Information on the production and need of Transport Assessments and Transport Statements can be found within the National Planning Policy Guidance.

13.8. The wider transport implications of a development may also be addressed, in whole or part, through a Travel Plan (TP).

- 13.9. A Travel Plan will be required for residential applications of 80 or more households. In all other cases the thresholds for travel plans are to be found in Table 1 within LCC Guidance Notes for the Preparation and Implementation of Development Travel Plans¹⁸. Travel plans may also be required for developments under the TP threshold.
- 13.10. Information on the production and need of a Travel Plan can be found within the National Planning Policy Guidance and LCC Guidance Notes for the preparation and implementation of Development Travel Plans.

14.0 Other Contributions which may be sought

- 14.1. The contributions referred to above is not exhaustive and there may be circumstances where others types of infrastructure may be sought.

Contaminated Land

- 14.2. Proposals for sites that are known, or suspected, to be contaminated from a previous land use will be required to be accompanied by a contamination land assessment. Where the need for remediation is identified this will normally be secured through a planning condition however where this not possible then the LPA may seek to achieve such measures through a planning obligation.

Minerals and Waste Development

- 14.3. As set out in paragraph 1.9, this SPD also provides the framework for delivering Lincolnshire County Council's Minerals and Waste Local Plan. As a result there may be circumstances where the County Council may seek planning obligations solely to mitigate the effects of these types of developments. Appendix 4 sets out the types of obligations which may be sought.

¹⁸ <http://www.lincolnshire.gov.uk/transport-and-roads/strategy-policy-and-licences/control-of-new-development-affecting-the-highway/preparing-development-proposals/preparing-travel-plans/88371.article>

15.0 Appendix 1 Relevant Local Plan Policies

15.1. The following provides more detailed information relating to the principal policy in the Local Plan regarding planning obligations which is Policy LP12. It will also be relevant to mitigate the effects of development under the policies outlined below:

LP9 – Health and Wellbeing

LP11 – Meeting Housing Need

LP13 – Transport

LP15 – Community Facilities

LP20 – Green Infrastructure Network

LP24 – Creation of New Open Space, Sports and Recreation Facilities

LP28 – Sustainable Urban Extensions

The policies outlined above can be viewed on the Central Lincolnshire website.¹⁹

¹⁹ www

16.0 Appendix 2 S106 Frequently Asked Questions

What is a S106 Planning Agreement?

- 16.1. A planning agreement is a legal agreement entered into by the Local Planning Authority and the developer or applicant which outlines the details of a planning obligation. This may include details of new community facilities or the amount and type of open space that would be required in a new housing scheme. Planning Agreements run with the land so will bind successive owners. If the applicant does not own the land the landowner will need to be party to the agreement.

What is a Unilateral Undertaking?

- 16.2. This is an undertaking made by the applicant to the planning authority to cover any planning issues before the granting of planning permission and may be offered at any point in the application process – but normally where agreement has not been reached. The undertaking does not require any agreement by the local planning authority and may therefore have no legal input into the drafting of such agreements. However, local authorities do not have to accept unilateral undertakings offered by the developers if they do not feel they deal with all the issues in granting planning permission. An applicant may offer a unilateral undertaking at a planning appeal against refusal to overcome the local authority's objections. It will then be for the Inspector to decide its suitability or otherwise.

Do I need a solicitor to complete the S106 Agreement?

- 16.3. You do not necessarily need a solicitor but it may be advisable because legal agreements and undertakings can restrict the use of the property in the future. Alternatively, some applicants may choose to use their agent or planning consultant. However a solicitor will be required to confirm title to the land concerned.

Can a legal agreement cover more than one obligation?

- 16.4. A legal agreement may contain any number of planning obligations depending on the complexity and scale of the development and what would be necessary in order to grant planning permission. Where an obligation is very straightforward it may be contained in an undertaking which tends to be a short and simple document.

How long will it take to complete a legal agreement or undertaking?

- 16.5. This will depend on a number of issues including the complexity and size of the proposed development, the negotiations between the parties and progress made before the application is submitted or goes before the Planning Committee. It is the council's aim to carry out as much as possible of this work prior to consideration by Committee.
- 16.6. Straightforward agreements on noncomplex sites should normally be completed shortly after a favourable resolution. The council will look to commence negotiations with the applicant as soon as it is apparent that an agreement will be sought.

When does infrastructure or financial contributions need to be paid?

- 16.7. In order that the needs and impacts arising from new developments are addressed as soon as possible the council will generally aim to achieve the provision of infrastructure or payment of financial contributions on the commencement of development. In the case of outline planning permission and major phased developments, contributions may be paid in instalments on the commencement of each phase. The phasing of payments will be set out in the S106 agreement agreed by the applicant and the council.

Why are financial contributions Index Linked?

- 16.8. In order to maintain the value of contributions from the date of the planning consent until the time development is commenced, they will be index linked to reflect changes in, for example, the RICS Index or Retail Price Index. Delayed payment of financial contributions will incur interest at a rate 5% above Base Rate. This is to ensure that the projects and works for which the contributions are earmarked are not unduly delayed or if delay occurs there is a contingency which may help negate the costs associated with delay.

How do I make payments to the council?

- 16.9. It is the applicant's responsibility to be aware of when payments are due and to ensure that they are made on time. Payments can be made by cheque, made payable to the relevant planning authority. This should specify the relevant planning application number, the date of the Legal Agreement and development site address.

What will happen to the payments?

- 16.10. When payments are received they will be recorded and noted against the relevant agreement and included in the receiving council's Capital Programme for spending. Progress with particular obligations and expenditure in general will be reported regularly as part of the Planning Service Annual Monitoring Report.

How long will a S106 obligation run for?

- 16.11. Some requirements of a S106 obligation are of an ongoing nature, for example the maintenance of a facility or the community use of a building and so the obligation will continue for so long as development implemented under the associated planning permission continues. S106A of the Town and Country Planning Act 1990 also provides a procedure by which an applicant can apply for the formal modification or discharge of planning obligations.

17.0 Appendix 3 Approach for S106 Agreements / Unilateral Undertakings

Introduction

17.1. Where it is agreed that it will be necessary to secure Developer Contributions via a S106 Planning Obligation (in the form of a S106 Agreement or Unilateral Undertaking) then a draft 'Heads of Terms' must be submitted with a planning application. Prior to submitting a Draft Heads of Terms, developers will need to consider a range of factors that influence contributions. The Central Lincolnshire Local Plan and supporting documentation is the primary source of information setting out the requirements of new development within the three districts. The process for agreeing Developer Contributions involves a series of steps, set out in Table 1 on at section 4 of the SPD, that are designed to ensure that the process is as swift and transparent as possible.

Drafting of S106 Agreements

- 17.2. S106 Agreements and Unilateral Undertakings (UUs) will normally be drafted by the LPA's Legal Services Team; a service paid for by applicants. Title has to be deduced to the relevant LPA and all persons with an interest in the land must be party to the agreement. The LPA carries out searches to make sure there have been no new owners or mortgages in the period before completion. Agreements and UUs are registered as local land charges and their provisions bind future purchasers/tenants of the site. Both draft and completed s106 Agreements and UUs may be viewed by members of the public and are in no sense confidential documents.
- 17.3. If contributions are being sought for a range of items, they will usually be addressed in a single document; however, some infrastructure is provided by outside agencies, for example, electricity and water. Their requirements may occasionally be set out in separate documents, but to save time and costs a combined s106 Deed is usually entered into.
- 17.4. It should be understood that each Agreement or UU has to be entered into before any planning permission is granted. In non-appeal cases the Councils seek to issue the planning permission within one working day of completion of the Agreement or UU. In appeal cases the Agreement or UU needs to be completed before the appeal is determined by the Planning Inspectorate.

Contribution Triggers and Requirements

- 17.5. Planning Obligations are normally triggered on commencement of development which is the date on which works to begin the development start, as defined by the carrying out of a material operation (Section 56 of the 1990 Town and Country Planning Act), but may be earlier or later such as upon first occupation.
- 17.6. Trigger dates for the payment of financial contributions or the provision of physical infrastructure will be included in the Planning Agreement, as will any time periods by which the contribution is to be spent.
- 17.7. Following receipt by the LPA, financial contributions will be held in interest bearing accounts and will be individually identifiable due to each contribution being allocated a unique finance code

by the receiving council. Contributions remaining unspent at the end of a time period specified in the Planning Agreement will be returned to the payee in accordance with the terms of the Agreement.

Index Linking

17.8. Unless otherwise stated to the contrary all contributions (sums payable) by the owner will be subject to increase by application of the principles of indexation. For the purpose of applying indexation the index will mean the Building Cost Information Service All-in Tender Price Index (TPI) of the Royal Institution of Chartered Surveyors (or any successor organisation) and will be calculated from the date of the obligation to the date the actual payment is made.

Transfer of Land

17.9. Occasionally obligations will require land to be transferred to the District Council, Parish Council or other community organisation, usually in in respect of public realm or open space. In such cases developers will be required to pay the Council's legal costs in respect of the land transfer.

Phasing, Viability and Renegotiation

17.10. The Central Lincolnshire Authorities accept that there may be occasions where development proposals are unable to meet all the relevant policy requirements and still remain viable. Where the determining authority is satisfied that an otherwise desirable development cannot be fully policy compliant and remain viable, a reduced package of planning obligations may be recommended. In most cases where viability is an issue, the application will be determined by committee and not under delegated powers.

17.11. In order to enable the determining authority to assess the viability of a proposal, the applicant will be required to provide any necessary cost and income figures to them, and pay the Council's full costs in appointing consultants to undertake the assessment.

17.12. In all cases, the Council requires viability assessments to be undertaken using a residual land value approach. This means that the starting point for a viability assessment is to be the existing use value (what the site is worth in its current condition for the use that it has planning consent for). Viability claims based on an over-inflated price that has been paid for a site will not be accepted, as the Council does not consider it right that the public purse should suffer due to an ill judged purchase of land by a developer.

17.13. Typical information required to support a development appraisal is shown in the table below. With this information the LPA are unlikely to be able to conduct an appraisal.

	Information	Justification / Details
Gross Development Value	How much the development is expected to sell for	Provide sales / rental estimates from valuers or estate agents, floor space and number of units
Development costs	Site acquisition costs	The land value, or for conversions, the use value of

	Information	Justification / Details
Development costs continued		existing building
	Build costs	Expressed as an overall cost, or cost per square metre
	Professional fees	Overall cost, or as a % of build costs
	Other costs	Provide details of any other costs, and evidence to support
	Contingency	Overall cost, or as a % of build costs
	Finance costs	Overall cost, or as a % of build costs
	Sales costs	Overall cost, or as a % of build costs
	Planning obligations	What the Council has asked the developer to contribute
Profit	Financial return to the developer from the project	Total figure in pounds (£), also shown as a percentage of gross development value or cost

Contingent Deferred Obligations

17.14. For larger scale developments where some degree of phasing is likely, it may be that whilst full policy requirements cannot be met at the time when any Viability Assessment is undertaken, positive changes in market circumstances over time may allow additional contributions to be made whilst maintaining the economic viability of development.

17.15. Therefore where policy targets are not met, the Council's will consider the use of Contingent Deferred Obligations that apply a viability re-evaluation mechanism to the development based on time or unit number triggers. A positive re-assessment that demonstrates additional viability, usually as a result of increased sales values in relation to construction costs, may then release additional affordable housing or infrastructure contributions.

Late payment and Enforcement

17.16. In the event of any delay in making any payment required under a s106 Agreement, (regardless of whether or not any formal demand for payment has been made by the Council) interest shall be added to such contribution until payment is made on a daily basis at the rate of 5% per annum above the standard rate of Barclays Bank plc.

17.17. The Council will work with developers to find solutions in cases where they have difficulty in making payments at the trigger set out in the Agreement. This could be through agreeing payment of obligations at a later stage of the development process, or agreeing payments by instalments. However, where it is imperative that the relevant measure is in place prior to a

development being occupied, the obligations to fund it will always become payable in accordance within the timescales within the S106 agreement and no variation will be possible

17.18. The Council will enforce obligations through the relevant legal channels once all other reasonable approaches to remedying a failure to comply with the obligations have been exhausted. In such cases, the Council will seek to retrieve its legal costs in taking action against the party that is in breach of its obligations.

Monitoring obligations

17.19. Monitoring of obligations will be undertaken by the individual planning authority to ensure all obligations entered into are complied with on the part of both the developer and Council.

18.0 Appendix 4 Obligations for Minerals & Waste Development.

18.1. In implementing the Lincolnshire Minerals & Waste Local Plan the County Council may seek planning obligations, where appropriate to achieve suitable control over and to mitigate and/or compensate for the effects of minerals and waste development where such objectives cannot be achieved by planning conditions. Matters to be covered by such planning obligations may include:

- Highways and access improvements;
- Traffic management measures including the regulation of lorry traffic;
- Long-term site management provision to establish beneficial after-use;
- Improvement of the rights of way network;
- Financial guarantees to ensure restoration is undertaken;
- Measures for environmental, recreational/sport, economic and community gain in mitigation or compensation for the effects of mineral development.

19.0 Appendix 5 Indicative Pupil Production, Education Costs and School Site Areas

19.1. As a guideline, pupil production per dwelling ratios (based on current LRO Research / Performance Assurance) are shown below:

No. of Bedrooms	Primary Pupils per dwelling (to be section 106)	Secondary Pupils per dwelling (to be CIL once adopted)
1	Zero	Zero
2	0.09	0.09
3	0.17	0.17
4	0.33	0.27
unknown	0.2	0.19

Primary Education

- 1FE Primary School 210 places, will require, in general, a 1.1 hectare site
- 2FE Primary School 420 places, will require, in general, a 1.8 hectare site
- 3FE Primary School 630 places, will require, in general, a 2.7 hectare site

FE= Forms of Entry

19.2. An indicative cost for school building provision within a new school or facility on a per pupil place basis is tabled below:-

Facility Type and Size	Cost of Building ²⁰
Primary School	£12,000
Secondary School	£18,021
School Based Sixth Form	£19,685

19.2 Source: DCSF Survey – noting recent LCC local evidence shows similar but slightly higher new school build costs

²⁰ Assumes fully serviced land will be provided by the developer at nil cost, figures were reduced 8% to reflect Lincolnshire's lower than average build costs.