

Central Lincolnshire Developer Contributions Supplementary Planning Document

Adopted June 2018

This Supplementary Planning Document was adopted by the Central Lincolnshire Joint Strategic Planning Committee at its meeting on 25th June 2018.

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PART ONE

1.0 Introduction

- 1.1. Central Lincolnshire covers the Local Planning Authority areas of the City of Lincoln Council, North Kesteven and West Lindsey District Councils. These three Councils have come together in a statutory Joint Planning Committee with Lincolnshire County Council to prepare the 2012-2036 Central Lincolnshire Local Plan (Local Plan) which was adopted in April 2017. The Local Plan sets the planning policies for the growth and regeneration of Central Lincolnshire by 36,960 more homes and 11,894 more jobs by 2036. This Central Lincolnshire Supplementary Planning Document (SPD) does not create policy but has been developed to support the policies in the Local Plan and the Minerals and Waste Local Plan.
- 1.2. Should a new Local Plan be prepared it will confirm the ongoing status of this SPD at that time.
- 1.3. As Central Lincolnshire will be the focus for significant levels of growth this SPD is an important document which sets out how we will secure obligations from eligible development that contribute toward delivering new and improving the existing infrastructure that our communities need to ensure growth is sustainable.

Content and Purpose of the SPD

- 1.4. As stated this SPD does not set policy. The SPD:
 - a. Explains how developer contributions, will be secured (including policy basis and procedures, type of contributions, methodology of calculation, timing and process of collection);
 - 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;
- 1.5. This SPD comprises two parts:
- 1.6. Part One sets out Central Lincolnshire's overall approach to securing planning obligations. In addition it explains how the SPD complies with national and local policy, and deals with procedural matters relating to the drafting and enforcement of Section 106 Agreements.
- 1.7. Part Two sets out the types of obligation that the Council's may seek to secure from development. It also 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.

Status of the SPD

- 1.8. This SPD was adopted by the Central Lincolnshire Joint Strategic Planning Committee at its meeting on 25th June 2018. The SPD was prepared and consulted upon in accordance with Section 4 of the Central Lincolnshire Statement of Community Involvement which relates to SPD's.
- 1.9. The district level SPDs set out below are now superseded by the adoption of this Central Lincolnshire SPD:
 - North Kesteven District Council – Affordable Housing SPD Adopted September 2008;
 - West Lindsey District Council – Interim Supplementary Planning Document Developer Contributions SPD (January 2010).
- 1.10. The SPD has been adopted by the Central Lincolnshire Joint Planning Committee but the responsibility for planning application decision-making remains with the individual local authorities. Where Local Planning Authority (LPA) is used in this document it refers to the relevant District Council area the proposed development is located in; i.e. North Kesteven, City of Lincoln or West Lindsey. Lincolnshire County Council covers the whole of the Central Lincolnshire and is referred to in full or abbreviated to LCC.

2.0 Securing Developer Contributions

- 2.1. When assessing a planning application, LPA's consider the need to apply specific conditions, restrictions, activities, operations and contributions, necessary to make the development acceptable in planning terms, when the only other alternative would be to refuse the application. These are referred to as 'planning obligations' and can include 'developer contributions' (financial obligations).
- 2.2. New development is expected to contribute to site related and other infrastructure needs, as appropriate, through a combination of the following mechanisms: These in summary are;
 - 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**); and/or
 - **Section 278 agreements** under the Highways Act 1980
- 2.3. These are defined in more detail 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 imposed where they meet six tests (see Planning Practice Guidance). They are:

1. Necessary;
2. Relevant to planning;
3. Relevant to the development to be permitted;
4. Enforceable;
5. Precise; and,
6. Reasonable in all other respects.

2.6. 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.

2.8. However 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. Where the above restrictions cause an issue in appropriately mitigating the impact of development; the LPA may use a planning obligation.

Planning Obligations

2.10. Planning obligations are an established delivery mechanism for matters necessary to make a development acceptable in planning terms, such as infrastructure and/or services provision on or off site, and which cannot be secured by Planning Condition. These contributions can be delivered by way of physical works on or off site, land transfer or financial contributions.

2.11. The planning obligation is linked 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 1.

How are planning obligation contributions secured?

2.13. Section 106 (S106) 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 LPA (and potentially LCC) with the applicant and, all other parties with an interest in the land. The agreement binds each of the parties, including the LPA, to the document and to any contributions, restrictions or commitments within it. For example requiring a developer to provide a certain number of affordable homes or make 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 LPA to cover any planning issues with an application before planning permission is granted. It may be offered at any point during the application process, but normally where agreement has not been reached. As the word ‘unilateral’ conveys, the undertakings are the applicant’s commitment (unlike the S106 agreement where the council is also obligated) 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 applicant if they consider all the issues have not been dealt with relating to granting planning permission. An applicant may offer a unilateral undertaking at a planning appeal against refusal, to overcome the local authority’s reason(s) for refusal. It will then be for the Inspector to decide its suitability or otherwise.

2.17. Planning obligations will be structured, where necessary, to take account of a development’s implementation timescale and phasing. They are often linked to and specify:

- The different agreed phases of development;
- When an applicant is required to undertake certain actions;
- When, or what event(s) , (for example occupation or completion of nth dwelling) triggers commuted sums payment(s) to the LPA;
- 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
- When a commuted sum or financial obligation has to be spent or the applicant could be reimbursed (including any interest accrued).

Community Infrastructure Levy (CIL)

- 2.18. CIL is a charge which charging authorities (second tier authorities such as a district, borough or city councils) can place on applicants to help fund infrastructure. First tier local authorities (County Councils) are not charging authorities.
- 2.19. CIL has been adopted by each of the Central Lincolnshire 'charging authorities' and will be implemented in early 2018. Once implemented CIL is a non-negotiable charge on all eligible developments (some development is eligible for relief). The charge is fixed within defined charging zones, for defined types of development (varying between zones) and based on a £ rate per square metre of development.
- 2.20. CIL will run alongside the existing S106 planning obligations process with some infrastructure secured by S106, and some secured by CIL. The Regulation 123 list defines which infrastructure will be funded by CIL and LPAs cannot seek obligations from both S106 and CIL for the same item of infrastructure. The R.123 list can be altered but this process is subject to consultation
- 2.21. Further information about this can be found within the CIL element of the Planning Policy Guidance and on each local authority website.

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 applicant 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. Minor Works Permit or Unilateral Agreement are potential alternatives to Section 278 Agreement. The Highways Authority will advise on the appropriateness of each route for a specific case. Further information and guidance on the three types of Agreement can be found on the Lincolnshire County Council webpages.
- 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 usually 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).

3.0 Policy and Legal Context

National Policy Context

- 3.1 The legislative framework for planning obligations is set out in S106 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. They must be:
- 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.

The CIL Regulations 2010 (as amended) state that after 6 April 2015 local authorities can only pool planning obligations from up to 5 obligations (back dated to 2010) 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

- 3.3 The Local Plan has an Objectively Assessed Need figure of 36,960 additional homes and allocated over 150 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 applicants 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 the Local Plan policy LP12 which provides policy framework for the preparation of this SPD.

Infrastructure Needs & Priorities

- 3.4 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 be updated to reflect changing circumstances.

4.0 Central Lincolnshire Approach to Developer Contributions

- 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 Planning Authorities within Central Lincolnshire

- 4.2 It is the role of LPA's within Central Lincolnshire to:

- 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;
- Notify applicants of their CIL liabilities;
- Strive to ensure a balance is maintained between infrastructure needs and development viability; and
- Ensure that funds provided by applicants 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 Central Lincolnshire LPAs offer a pre-application advice service and it is recommended that applicants and their agents use this service and contact the relevant authority as early as possible to discuss. Further details are available on the relevant authority's websites.

- 4.4 The benefits of this early negotiated approach include:

- Ensuring that applicants are aware of the scale and nature of likely contributions required for a proposed development at the earliest opportunity;
- Assisting in determining project viability;
- Providing greater clarity and certainty to the process; and
- Helping to minimise the timescales involved in determining affected planning applications.

The range of developer contributions

4.5 The LPA will assess an application and the need to require a variety of developer contributions. The list below is not definitive but sets out the more common infrastructure requirements.

- Affordable Housing
- Drainage & Flood Risk Management
- Education
- Health
- Open Space & Green Infrastructure
- Transport
- Other Potential Contributions:
 - Archaeology, Conservation and the Historic Environment
 - Community Halls and Facilities
 - Contaminated Land
 - Libraries
 - Minerals & Waste Development

4.6 It will not be appropriate to require a planning obligation for each of the items listed above in every circumstance. Consideration is also given to the capacity of existing infrastructure to ensure that obligations are necessary, i.e. current capacity would not be able to accommodate the additional need generated by the proposed development.

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

4.8 Sections 5 to 12 of this SPD provides the detail of when S106 or CIL may be required for the above infrastructure, with a summary in Table 3 (below).

Planning Obligations Process

4.9 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 Viability Assessment and Information List.

Table 1 Overview of Planning Obligations Process

Steps	S106 Planning Obligations – Agreements & Unilateral Undertaking
1	The applicant, when submitting the planning application, provides a draft planning obligations Heads of Terms form where possible.
2	Draft Heads of Terms are agreed in principle.
3	Once the LPA is minded to approve the application, the relevant authority's Legal Services Team are instructed to prepare a draft s106 Agreement. A minimum charge is required 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. Except where there is an ongoing affordable housing obligation.

CIL Process

- 4.10 The principle is that all eligible developments must pay the CIL charge, alongside any S106 planning obligations. The process for securing CIL payments is set out in the Charging Schedule and is summarised in table 2 below. Further information can be found on each LPA's website and in the CIL element of the National Planning Practice Guidance.

Table 2 CIL Overview Process

Steps	Community Infrastructure Levy
1	Alongside planning application, applicant / agent completes and submits a 'Determining whether a Development may be CIL Liable' 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 CIL rates.
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

4.11 The Regulation 123 list sets out the types of infrastructure / project which will be funded through CIL. There is also a provision in the CIL Regulations that a proportion of CIL be used for neighbourhood funding (see glossary) in those areas where development has taken place.

4.12 CIL will not replace the use of S106 agreements which will still be used alongside CIL to secure affordable housing and other infrastructure not on the Regulation 123 list. S106 infrastructure may be physically off site, but must be clearly linked to the development site and needed to make the development acceptable in planning terms. Each S106 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.

4.13 Table 3 Requirements secured through Planning Conditions, S106 and CIL

Type of Infrastructure	Planning Condition	S106	CIL
Affordable Housing	✓	✓ Preferred	×
Drainage & Flood Risk management	✓	✓	×
Education-Primary Provision	×	✓	
Education- Secondary Provision	×	×	✓
Health	×	✓	×
Open Space & Green Infrastructure	✓	✓	×
Transport	✓	✓	✓ Lincoln Eastern Bypass only
<i>Other Contributions</i>			
Archaeology, Conservation, Historic Environment	✓	In some circumstances	×

Type of Infrastructure	Planning Condition	S106	CIL
Community Halls and Facilities	×	✓	× (potentially via parish/ neighbourhood)
Contaminated Land	✓	In some circumstances	×
Libraries	×	In some circumstances	×
Minerals and Waste Development	×	✓	×

5.0 Development Viability

Introduction

- 5.1 The Local Plan is committed to delivering growth across the three Central Lincolnshire Local Authority areas and has agreed far reaching growth targets in support of this approach. However the plan also recognises the overriding need to ensure all development is sustainable and supported by necessary and appropriate infrastructure.
- 5.2 Therefore development viability is not only relevant but critical to determining planning applications. Planning Practice Guidance states viability is an important consideration when negotiating planning obligations and affordable housing.
- 5.3 This guidance sets out the overarching principles for how the Central Lincolnshire Authorities will approach development viability in line with National Planning Policy Framework (NPPF) and Planning Practice Guidance.
- 5.4 The purpose of this guidance is to provide greater clarity to applicants, Councillors and the public and so should be read alongside the Local Plan. This guidance supplements existing policies and provides additional advice on the information requirements and consistent approach taken by the Central Lincolnshire Authorities when assessing viability.

Delivering Sustainable Development

- 5.5 The NPPF establishes that the key purpose of planning is the delivery of sustainable development through a 'plan-led' system¹. The planning process should proactively drive and support sustainable economic development to deliver the homes, business and infrastructure, promoting the creation of sustainable, mixed and healthy communities.
- 5.6 The NPPF also requires that the costs of planning requirements should allow for competitive returns to a willing landowner and willing developer to enable development to be deliverable².
- 5.7 It is accepted that each proposal should be assessed having regard to its own characteristics and circumstances, however, in the supporting evidence for the Local Plan and each districts' CIL, the cumulative impact of policies on development has been assessed. The policy approaches were found sound through relevant examinations. This gives a strong indication that the requirements of the development plan have not threatened the viability of the sites and the scale of development identified within the plan.

¹ NPPF para 17

² NPPF para 173

Viability Assessment Considerations

- 5.8 Planning Practice Guidance requires that viability assessments are evidence based. Issues in relation to viability can cause significant delay in the determination of planning applications and it is therefore necessary for viability to be considered at an early stage in the planning process.
- 5.9 To facilitate a full and proper consideration of submitted viability appraisals applicants should:
- Consider s106 Heads of Terms and development viability at pre-application stage or at the start of the formal application process.
 - Submit designs and layouts that accord with Development Plan policies.
 - Ensure that all viability assessments should reflect current Planning Practice Guidance, including all relevant information required by the council including that set out here and through any correspondence;
 - Specifically, assessments should include robust, benchmarked, balanced, assumptions that are related to publically available data sources and relevant to the locality.
 - Applicants should confirm that the assessment provides a fair and true reflection of viability and that this complies with professional and ethical standards.
 - Where appropriate a working electronic version of the viability appraisal model should be provided. In circumstances where an assessment has been completed in an alternative format for example hand written, then full workings and assumptions must be provided.
- 5.10 The Council will consider whether the approach adopted and the inputs applied are appropriate and adequately justified by evidence³. In doing so, it may be necessary for the authority to take advice from external consultants. The reasonable costs of this process will be paid for by the applicant.
- 5.11 Applicants must demonstrate that schemes are deliverable. Where an appraisal appears to demonstrate a large viability gap prior to the consideration of developer contributions, this will only be acceptable where it is accompanied by a full explanation of how the scheme will be delivered.

³ PPG viability para 16

- 5.12 Dependent on the time between submission of an appraisal and determination of a planning application, it may be necessary for an applicant to update an appraisal to reflect current market conditions at the point of determination.
- 5.13 Following the assessment of an applicant's viability assessment the authority will confirm whether or not the scheme complies with the Development Plan and whether or not additional planning obligations are required to ensure compliance.
- 5.14 Information relevant to the plan-making and planning application process is publicly available. This is consistent with the NPPF which places a requirement on councils to facilitate community involvement in planning decisions. In accordance with this position, the PPG states that transparency of viability evidence is encouraged wherever possible⁴.
- 5.15 The Environmental Information Regulations (EIR) 2004 recognise the benefits of public participation and include a presumption in favour of disclosure. To ensure transparency and public participation the applicants should be aware that:
- 5.16 Authorities will expect that information provided can be made available to the public alongside other application documents. In submitting information, applicants do so in the knowledge that it may be made publicly available.
- 5.17 The council will allow for exceptions to this where it may be demonstrated an element of the assessment would cause harm to the public interest to an extent that it is not outweighed by the benefit of disclosure, in these cases it will be tested against the EIR adverse effect test⁵. It is however anticipated that these instances will be few.
- 5.18 Irrespective of the approach taken by the council in making an appraisal public the authority will make the information available to planning committee members and any other member who has a legitimate interest in seeing it.
- 5.19 Authorities may also be required to make information available to a third party where another body has a role in determining an application or providing public subsidy and when fulfilling duties under EIR or Freedom of Information (FOI) regulations.

Methodology

- 5.20 The LPAs consider that the Residual Land Value (RLV) methodology, is the most appropriate approach for assessing viability for a planning application. In this approach, Development Plan requirements must be included alongside other development costs. These costs should then be deducted from the Gross Development Value (GDV) to determine the residual land value that is available to pay for the land.

⁴ PPG para 4

⁵ EIR Reg 12(5)

- 5.21 It is not appropriate to use a fixed land value as an input based on the price paid for the land or aspirational sum sought by the landowner. Such an approach does not necessarily take into account planning policy requirements and could undermine the delivery of the Development Plan.
- 5.22 Viability assessments should comprise the information as set out in Appendix 3 and must be robustly justified with any assumptions benchmarked against publicly available data sources. In this regard, appraisals must also be balanced, coherent and internally consistent, with the relationship between specific inputs and outcomes considered.

Scheme Details & Definitions

- 5.23 Details of the scheme submitted should include; site area, residential units, densities, unit sizes, habitable rooms and floor space figures as well as proposed specification consistent with assumed costs and values. Dependent on the size and scale of the development the Authority will also require details of residential and non-residential (Gross Internal Area, Net Sales Area and Net Internal Area) as well as a development programme and cost plan.

Threshold Land Values

- 5.24 'Threshold Land Value should represent the value at which a typical willing landowner is likely to release land for development'⁶. Planning Practice Guidance requires that in all cases land value should reflect policy requirements, planning obligations and CIL charges. The PPG also confirms that current or existing use value (EUV) provides an appropriate basis for comparison with a threshold land value to determine whether this incentivises a land owner to release a site and achieve a competitive return.
- 5.25 It is acknowledged that a 'market value' approach can be used to establish land value, however it is widely accepted that this method does not always adequately reflect policy requirements. Recent research by the RICS has identified flaws in the application of the 'Market Value' approach specifically 'if market value is based on comparable evidence without proper adjustment to reflect policy compliant planning obligations, this introduces a circularity, which encourages developers to overpay for sites and try and recover some or all this overpayment via reductions in planning obligations'⁷. In this instance where concerns are evident the Council will rely on the EUV.
- 5.26 In line with this approach it is considered that the EUV plus a premium approach best reflects the need to ensure that the development is sustainable and should form the primary basis for determining the threshold land value. The value should be based on EUV and not a theoretical value based on obtaining consent for residential use. The EUV

⁶ Harman Report (2012) pg. 28

⁷ RICS Financial Viability Appraisal in Planning Decisions: Theory & Practice pg. 26

is what the site is worth in its current use and condition. Evidence in the form of a fully justified written valuation, undertaken by a RICS Chartered Surveyor will be required.

- 5.27 Comparable, market based evidence can be used to help inform the premium above the existing use value, but should always be appropriately adjusted to ensure transactions are genuinely comparable, reflect current policy requirements and not inflated through assumptions of growth values. Where this is not possible limited weight will be given to comparable evidence.
- 5.28 The Council will not accept overpayment for a site as justification for non-viability and, in this regard, it is expected that applicants when purchasing a site should take account and make deductions during site purchase negotiations to reflect the following:
- Adopted and emerging plan policies
 - 'Abnormal' site conditions
- 5.29 An alternative use value (AUV) approach to establish a threshold land value will only be accepted where there is a valid consent for the alternative use or if the alternative use would clearly fully comply with the development plan.

Development Values

- 5.30 Assumptions relating to development values should be justified with reference to up to date transactions and market evidence relating to comparable new build properties within a reasonable distance from the site. Any information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme.

Affordable Housing Values

- 5.31 Development appraisals should be carried out in conjunction with Registered Providers and evidence supporting the values assumed within the viability assessment should reflect the offers made by the RP for purchasing the affordable housing element wherever possible. Other methods of valuing Affordable Housing may be used where justified and in agreement with the Local Authority.

Build Costs

- 5.32 In the first instance the developer should provide accurate and specific build cost information for the application site. However, RICS Build Cost Information Service (BCIS) is a publically available (for a charge) source of cost information and may be used in viability assessments where justified. In such instances where agreed by the Council, BCIS costs may be used as a basis of cost inputs. Median build costs rebased for Lincolnshire

were used for the whole plan viability testing⁸ and should be used with assessments to support applications unless robust justification is provided to support other assumptions.

- 5.33 For larger and developer led schemes it is likely to be more appropriate to rely on a specific assessment of build costs. In these circumstances, costs should be fully justified based on a detailed specification of the proposed development and the intended construction approach.
- 5.34 Where specific assessment of build cost is relied on, rather than standardised costs from a recognised source, or where abnormal costs are applied, build costs will be reviewed on an open book basis as part of the viability review. Costs should be provided for different components of the scheme including market and affordable housing.
- 5.35 It is expected that clear correlation be evident between the development specification, assumed build costs and development values.

Abnormals & Exceptional Development Costs

- 5.36 It is expected that any applicant buying a site would undertake proportionate due diligence to ensure that the price paid for the land reflects the prevailing conditions. Whilst the following may be considered as 'abnormal costs' we would expect the land value to reflect these costs:
- Demolition works
 - Knotweed
 - Decontamination
 - Drainage and flood prevention measures

Finance Costs

- 5.37 Details of project finance, related to phasing of construction and sales should be clearly set out. Where assumptions appear to show unreasonable costs, applicants will be expected to justify, with evidence, the portion of the overall costs to be met through loans and the rate of interest applicable. The Local Authority will seek to verify this information through consultation with lenders and accessing publicly available information such as the applicant's company accounts and/or annual report.

⁸ WPV 2015 para 6.3.29

Professional & Marketing Fees

- 5.38 Expenditure on fees will depend on the complexity of the scheme. Evidence of fee costs should be provided where applicable or must be benchmarked in line with current industry standards and phased appropriately.
- 5.39 Marketing and professional fees may include the reasonable costs of sales and legal input for the sale or transfer of the units. Again Evidence of fee costs should be provided where applicable or must be benchmarked in line with current industry standards and phased appropriately. In this case they would normally only apply to later phases of development.

Developer Profit

- 5.40 The Council will require supporting evidence from applicants to justify proposed rates of profit. This should take into account the individual characteristics of the scheme, including property market conditions and a development's risk profile and profits achieved on comparable schemes.
- 5.41 Where an internal rate of return approach to measuring profit is relied upon then full justification must be provided for the assumed development programme, the timing of the cost and value inputs and the target IRR. It is likely that where IRR is used, the applicant will be expected to pay for independent scrutiny of this information, undertaken by a consultant of the Local Authorities' choice.
- 5.42 It is expected that developer overheads be accounted for within Developer Profit.

Viability Review Mechanisms

- 5.43 Where affordable housing targets or other policy requirements are not met at application stage due to viability considerations, the Council may require applicants to enter into review mechanisms within the S106 agreement. These will enable a reassessment of viability to determine whether additional contributions towards affordable housing and other planning obligations can be provided at a later date.
- 5.44 The purpose of a review mechanism is to ascertain whether additional policy compliance can be viably achieved at point of delivery or during delivery if over a long delivery period. Review mechanisms will not result in the reduction in policy compliance which would affect the acceptability of the development proposal in planning terms.
- 5.45 Reviews can take place at submission of Reserved Matters and prior to or at an early stage of development which could enable additional on-site affordable housing to be provided. Alternatively a review may be considered at a later stage based on actual values/costs which will generally result in a financial contribution. Equally on phased schemes viability reviews may be required at relevant phases.

- 5.46 Viability reviews will be established on a case by case basis, where an application has not met full policy requirements and will be delivered over a number of years. Trigger points for review will also be considered on a case by case basis.
- 5.47 The timing of the review and particulars of the application will influence whether further affordable housing contributions will be required on site or as an offsite contribution.
- 5.48 Reviews will be undertaken broadly based on the following principles and allows for both the Local Authority and Developer to benefit from the increased viability of a site:

The principles of the review to calculate the 'policy surplus' available for affordable housing (or other policy requirements) are:

$$(A - B) - (C - D) = F$$

Where

A = Actual (or updated estimates) of GDV as scheme is nearing completion

B = Actual (or updated estimates) of Development Costs as scheme is nearing completion

C = Anticipated GDV at application stage

D = Anticipated Development Costs at application stage

F = Surplus Value in scheme

Where a positive Surplus Value results, this will be utilised as set out in the relevant S106 agreement.

PART TWO

This part of the SPD sets out the types of obligations 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.

6.0 Affordable Housing

Introduction

- 6.1 Affordable housing is defined in the 2017 Central Lincolnshire Local Plan as social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.
- 6.2. The Central Lincolnshire Local Plan definition of affordable housing is derived from the 2012 National Planning Policy Framework (NPPF). The delivery of ‘affordable’ homes that do not meet this definition do not fulfil an applicant’s obligation to provide a proportion of affordable housing.
- 6.3 Any further amendments or additions to the NPPF (or subsequent equivalent national policy document) definition of affordable housing will be accepted as affordable housing for planning purposes, but the amount and proportion of their provision on a site will need to be agreed with the Council to ensure that housing needs are met.
- 6.4 Policy LP11 of the Central Lincolnshire Local Plan sets out the requirements for the delivery of affordable housing.
- 6.5 The main focus of this chapter of the SPD is detailing how applicants are expected to meet their planning obligations to provide affordable housing as part of their market housing developments.

Delivery Mechanism

- 6.6 An affordable housing contribution will be required from eligible developments, and the amount that is required in accordance with Policy LP11 (see below), will be dependent on the type /location of the development. The obligation will normally be secured through a S106 agreement.

What is an Eligible Development?

- 6.7 The Central Lincolnshire Local Plan Policy LP11 sets out sites which are eligible to make an affordable housing contribution. They are:
 - Sites providing 11 or more residential dwellings or
 - Sites which have a combined floor area of 1000 square metres or more

- 6.8 Sites are eligible if they meet either of the above criteria as a single scheme or through two or more separate but obviously linked schemes.

Residential Development and Residential Dwellings Definition

- 6.9 Residential development is considered to be a development of accommodation for use as a dwelling. A dwelling includes any unit of residential accommodation such as, detached, semi-detached, terraced, apartments, flats, and permanent park homes. Residential development includes

- Development under Use Class C3 (a-c).
- Self-contained accommodation in a block for a specific client group, such as older persons.
- Extra care or retirement living will be treated as C3
- Park home accommodation.

- 6.10 Residential Development which is not eligible for an affordable housing obligation is;

- Residential Care/ Nursing Homes, where the accommodation is non self-contained
- Use Class C2, student accommodation and MOD housing development schemes to meet the needs of service personnel and their families (the homes will not be available to purchase or rent on the open market). However if the homes are subsequently sold (freehold or leasehold) or rented on the open market an affordable housing obligation will be required in line with the criteria in this SPD.

What proportion of affordable housing is required?

- 6.11 The percentage of dwellings which should be provided as affordable housing is defined in Local Plan Policy LP11, and is:

- i. Lincoln Strategy Area (excluding SUEs*) 25%
- ii. Lincoln Strategy Area SUEs* 20%
- iii. Other SUEs* 15%
- iv. Elsewhere 20%

*SUE = Sustainable Urban Extension

- 6.12 The affordable housing percentages have been set in accordance with the findings of the '2016 Central Lincolnshire Local Plan and Community Infrastructure Levy Viability Study' and 'May 2016 Addendum Note'. The Councils therefore consider that these levels of affordable housing will be delivered. Only in exceptional circumstances, where it can be demonstrated to the Council's satisfaction that viability issues mean these rates cannot be delivered in full, will a reduction be considered. A robust justification will be required

in the form of an independent, detailed viability assessment undertaken by a Council approved specialist company.

How will the affordable housing be provided?

- 6.13. Affordable housing should be provided on-site. 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

- 6.14. The applicant should discuss the affordable housing requirements with the LPA at the earliest stage. The appropriate mix and type of affordable housing provision on site will be dependent upon the type of development, the housing needs information and any other local circumstances affecting the site.

Tenure Mix

- 6.15. In line with the findings of the 2015 Strategic Housing Market Assessment, the Central Lincolnshire Local Authorities' preference will be to maximise the delivery of rented affordable housing. The exact tenure mix and split of affordable housing will vary across the 3 districts and will be informed by Local Authority endorsed needs information. (See NPPF Glossary for Affordable Housing Definitions).

- City of Lincoln Council: a minimum of 80% of the affordable housing obligation should be in the form of social or affordable rented housing
- North Kesteven District: a minimum of 50% of the affordable housing obligation should be in the form of social or affordable rented housing
- West Lindsey District Council: a minimum of 70% of the affordable housing obligation should be in the form of social or affordable rented housing

Property Type

- 6.16. A range of property types and bedroom numbers should be provided to meet the identified need and this should be confirmed with the LPA. In order to ensure provision is affordable, detached housing and garaging is not normally required. If garaging is fundamental to the design of the dwellings, for example in flood risk areas, the situation should be discussed with the LPA. Appropriate parking should be included in all schemes and agreed with the LPA.

Appearance/ Location /Phasing

- 6.17. The Central Lincolnshire Local Plan states the 'affordable housing should integrate seamlessly into the site layout amongst the private housing'. This is to promote social and community integration of the affordable housing. This means that the affordable

housing provided should be appropriately integrated into the overall design of the development and not identifiable as different or inferior in design or quality.

- 6.18 Design integration can be achieved by using the same materials, details and build quality as the market development. Subject to meeting size standards and agreement with the affordable housing provider, the applicant's own designs are usually suitable for the affordable housing provision.
- 6.19 Appropriate integration can be achieved by the degree of dispersal /dispersed grouping of the affordable housing, rather than it being delivered in a single location. However there may be instances where a single location is most appropriate. The degree of dispersal will be dependent upon a number of factors including;
- the size of the scheme; for example on larger schemes there is an expectation that affordable housing will be on all phases of the development,
 - housing management requirements; affordable housing providers will normally prefer their homes to be self-contained, rather than physically attached to an open market property. This is to avoid shared maintenance, rather than sole maintenance responsibility for features such as private drives or common areas in flatted accommodation. On larger schemes this can be achieved by grouping affordable housing in a number of clusters and on smaller schemes by ensuring the affordable housing semi-detached provision is provided in pairs, or terraces in a single block,
 - the type of provision; flatted/ leasehold accommodation is generally preferred in self-contained blocks.

Ultimately the exact location of the affordable housing should be agreed with the LPA.

Housing Standards

- 6.20 All affordable homes provided should be of a size and type that is acceptable to meet local needs and suitable for a Registered Provider to own and manage. Applicants should take this into account at scheme design stage.
- 6.21 The former Homes and Communities Agency (now Homes England) Housing Quality Indicators formerly stipulated minimum and maximum acceptable sizes for various property types. Whilst these are no longer mandatory, affordable housing providers will use them as a benchmark and normally look for provision to at least meet the minimum size standard (see Appendix 4).

Affordable Housing Management

- 6.22 It is the Councils' preference that all affordable housing provision is owned and managed by Registered Providers. These organisations are registered with Homes England and meet detailed criteria on the delivery, letting and long term management of affordable housing. North Kesteven District Council and City of Lincoln Council are also Registered Providers.

- 6.23 Applicants are encouraged to work in collaboration with Registered Providers from an early stage, preferably with a provider that can demonstrate effective local letting and management arrangements to the LPA. The LPA will provide details if required.
- 6.24 Where affordable housing is not provided by a Registered Provider, the Local Authority will expect the provider to deliver the affordable housing in the same way as a Registered Provider including rent levels, tenure, nomination rights and property management. The Local Authority will require an approved legal agreement to confirm this approach and to ensure that the dwellings remain available in perpetuity for those in housing need.
- 6.25 Whilst affordable housing should be provided in perpetuity, it is acknowledged that there are legitimate instances where affordable housing can be sold, through the Right to Buy/ 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

- 6.26 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 applicant can demonstrate exceptional circumstances which necessitate provision on another site, or the payment of a financial contribution to the relevant LPA (equivalent in value to it being provided on-site) to enable the housing need to be met elsewhere.
- 6.27 Exceptional circumstance by definition are rare, but may include situations where a scheme attracts high service or maintenance charges.

Calculating the contributions (off-site commuted sums)

- 6.28 An off-site contribution is not a lesser contribution for affordable housing and should be broadly equivalent to the level of contribution the applicant should be making to on-site affordable provision. The level of commuted sum needs to be able to fund equivalent delivery of affordable housing off site without the need for additional external grant funding (a principle of on-site affordable housing delivery).

- 6.29 Fundamentally the commuted sum will be:

The difference between the open market value of a unit and the transfer value a Registered Provider would pay for that unit. The resulting difference is the developer's obligation. The commuted sum values which will be the starting point of any negotiations are as follows: (see Appendix 4 for further details of the calculation including a map of the Lincoln Strategy Area)

	Lincoln Strategy Area	Non-Lincoln Strategy Area
Commuted sum per unit	£82,973	£76,368

Payment triggers will be agreed as part of the planning application negotiations and may include the opportunity for the development to make phased payments.

Affordable Housing in Rural Areas

- 6.30 Policy LP11 also sets out criteria for supporting rural affordable housing. Where there is an evidenced rural affordable housing need, it may be possible to deliver affordable housing as an exceptional circumstance/ exception to policy.
- 6.31 The scope and methodology of evidenced local need is to be agreed with the LPA at the time of the application. Examples include: Local Parish Housing Need Surveys, the Local Authority Housing Register and Neighbourhood Plans.

An exception site for affordable housing will be considered against:

- Local Plan policies including –LP11, LP2 and LP4
- The need for affordable housing
- Any alternatives
- Deliverability of the potential site and deliverability of alternatives.

7.0 Drainage & Flood Risk Management

Introduction

- 7.1. In line with the NPPF and Local Plan Policy LP 14 all potential developments are required to consider flood risk and drainage and should apply the sequential test and exception test where appropriate.
- 7.2 The National Planning Practice Guidance (NPPG) requires sustainable drainage systems to be provided for all proposed major development (of more than 10 residential units or one hectare of development) and states that priority must be given to the use of sustainable drainage systems in areas at risk of flooding. It is desirable for all developments, regardless of scale and constraints, to incorporate sustainable drainage, intended to replicate, as closely as possible, and the natural 'greenfield' drainage from a site.
- 7.3 An integrated approach should be taken to the design of highway drainage and surface water runoff from other sources. Sustainable drainage 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?

- 7.4. In accordance with LP14, development proposals should demonstrate that there is no unacceptable increased risk of flooding to the development site or to existing properties. It is expected that applicants 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 water to ensure no increase in flood risk elsewhere;
 - Off-site works to reduce the overall flood risk to an acceptable level.
- 7.5. The S106 Agreement will require the nature of the works to be agreed by the appropriate Risk Management Authority: Environment Agency for fluvial/ coastal risks; Lincolnshire County Council (Lead Local Flood Authority) for surface, ground and ordinary risks; and Internal Drainage Boards (IDBs). Appropriate contracts should 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.
- 7.6. Where necessary, on-site infrastructure will be provided by the applicant 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.
- 7.7. Through the use of planning conditions or planning obligations, the LPA will ensure that clear arrangements are in place for maintenance and/or adoption of the proposed drainage system and/or flood defence.
- 7.8. Any provision will be required to meet the standards identified in the NPPF, the 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

- 7.9. 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. In addition, the provisions of the Water Industry Act also provide routes by which applicants and developers can upgrade sewers and the sewerage network. However, there will be occasions where off site mitigation is required and where planning obligations will be the most suitable means for applicants to agree to undertake the necessary works.
- 7.10. 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 to benefit amenity, recreation and wildlife.
- 7.11. Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:
- into the ground (infiltration);
 - to a surface water body;
 - to a surface water sewer, highway drain, or another drainage system;
 - to a combined sewer only where evidence is provided that other options above are not possible and therefore as a last resort.
- 7.12. Clear arrangements must be in place for the maintenance of such system and will be subject to, as appropriate, planning condition or planning obligation.
- 7.13. The relevant cost of construction will be addressed by the applicant as part of drainage and landscaping design. The applicant will be responsible for putting measures in place for maintenance costs of the relevant drainage system and/or flood defence. 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. Such parties could include Lincolnshire County Council and/or Anglian Water.

What S106 planning obligations might be sought?

- 7.14 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.
- 7.15 An obligation might also be sought to secure the necessary maintenance regime.

Phasing of Drainage and Flood Risk Management Planning Obligations

- 7.16 In order to ensure delivery of drainage and flood risk management infrastructure in line with the delivery of development, any planning contributions must be paid when development commences or according to an agreed timetable.
- 7.17. If the applicant has taken responsibility for physical work, this must be completed to an agreed timetable. The S106 Agreement will set out the phasing requirements for planning obligations related to drainage and flood risk management infrastructure.

8.0 Education

Introduction

- 8.1. Education infrastructure is an integral component of balanced sustainable communities. Lincolnshire County Council (LCC) has the statutory duty to ensure there is sufficient provision and does this via Maintained Schools, Academy Schools and Free Schools.
- 8.2. As set out in Policy LP12, appropriate education facilities are a fundamental infrastructure requirement of sustainable growth and new homes create a need for additional education capacity. LCC annually review and report the capacity of education facilities (the School Capacity Survey return).

When will planning obligations be sought?

- 8.3. Planning contributions for additional school capacity will only be sought where appropriate and on sites of eleven or more residential units or on sites of less than 11 units if the total floorspace of the development exceeds 1000 square metres.
- 8.4. Education 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?

- 8.5 LCC will undertake an assessment of school capacity and the most appropriate means to increase provision. Although this list is not exhaustive, obligations could be sought, where appropriate, for:
 - on-site provision of land within the development for new education facilities. It is expected that fully serviced land is provided by the applicant at nil cost to LCC as education authority
 - a financial contribution to provide additional capacity for a new or existing education facility off-site
 - a proportionate financial contribution (based on the education need generated by the development) to purchase land for off-site provision
 - capital funding of identified facilities
 - the improvement of – or a contribution towards – cycle and pedestrian links to allow children from a development to access education facilities with spare capacity, rather than a financial contributions to new educational facilities.
 - ancillary facilities such as early years, to be let on a commercial basis.

Secondary and school based post-16 education places are included in the Regulation 123 list and are to be provided through CIL not S106 obligations.

Provision Requirements

- 8.6 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 are likely to be.
- 8.7 The child yield multiplier (pupils per dwelling) and cost of provision per pupil, is shown in Appendix 6. It is based on research undertaken in Lincolnshire and is reviewed periodically to ensure it is up to date.
- 8.8 Using the guidelines in Appendix 6 or as may be updated, it is possible to calculate the number of education places required by the development proposal. The availability of projected permanent spare capacity at locally accessible facilities is also considered in the calculations and should be discussed with LCC, as this is used in converting the number of school places generated into the number of additional places needed
- 8.9 LCC will also take into account, planned and funded expansions of education facilities and other planned residential development with consent or already being considered via a live planning application which will make contributions.

CIL, Secondary Education and Post-16 Education

- This will be included on the LPA's Regulation 123 lists and funded through CIL once adopted.
- School-based sixth forms will also be included on the Regulation 123 and funded through CIL once adopted. However, it is noted LCC is not responsible for negotiating S106 for Colleges.

New schools will be built on the guidance in Building Bulletin 103 or relevant updates.

Conclusion

- 8.10. As stated, education contributions will be sought where necessary and reasonable due to insufficient surplus capacity being available to support growth at the time of application. The information provided an overview of the process for negotiations on education contributions.

9.0 Health

Introduction

- 9.1 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.

- 9.2. 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'
- 9.3. Central Lincolnshire's health priorities and issues are set out in the latest Joint Health and Well Being Strategy for Lincolnshire, Joint Strategic Needs Assessment and NHS Health Profiles for Lincoln, North Kesteven and West Lindsey.
- 9.4. 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

- 9.5. 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.
- 9.6. 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.
- 9.7. In line with Local Plan policy LP9: Health and Wellbeing, planning applications for development of 25 dwellings or more, 0.5Ha or more for other development, require a supporting Health Impact Assessment. HIA is considered further in LP9, its supporting text and the separate guidance note available on the Central Lincolnshire Local Plan website. However, planning contributions for additional or improved health facilities will only be sought where appropriate and on sites of eleven or more residential units, or on development sites of less than 11 units if the total floorspace of the proposed units exceed 1,000 sqm

Types of facilities for which provision may be required

- 9.8. 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);
- Construction costs for additional facilities / extensions, adaptations or alterations which are required to meet the needs of the development;

Form in which contributions should be made

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

- Capital money 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 applicant 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

9.10. A case of need for new or improved health provision will be drawn up for each development proposed. Where need is established the developer contribution currently equates to:

- North Kesteven and West Lindsey councils the figure is 2.3 persons per dwelling, which results in a request of £425.50 per dwelling.
- City of Lincoln council, the density figure is 2.2 persons per dwelling, which results in a request of £407 per dwelling.

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. These figures may be subject to revision in line with changing market costs.

9.11 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.

10.0 Open Space and Green Infrastructure

Introduction

- 10.1 The Local Plan seeks to ensure that new development safeguards and enhances the area's existing Green Infrastructure by creating new, and improving the quality and capacity of existing open spaces and connectivity within the network.

Type and size of development which may trigger need

- 10.2 All types of development both Residential and Commercial will be expected to contribute to the quality of Central Lincolnshire's Open Spaces and Green Infrastructure network as summarised in the table below;

Matrix of types of development and indicative Green Infrastructure contribution						
Type of provision required	Residential Development (units)				SUES	Other development i.e. commercial industrial leisure retail
	1-9	11-49	50+	100+		
Landscaping and associated Planting scheme (condition)	*	**	**	**	**	*
New access /links to existing green networks including Public Rights of Way network (condition or S106)	*	*	*	**	**	*
Water management including SUDS see drainage and flood risk management section (condition or S106)	*	**	**	**	**	**
Habitat protection and creation and biodiversity enhancements (condition or S106)	*	**	**	**	**	*
On site provision of local or strategic playing fields to standards in Local Plan if there is no existing provision within Local Plan access standards (condition or S106)			**	**	**	
On site provision of Local Useable Green space if there is no existing provision within Local Plan access standards condition or S106)		**	**	**	**	
Off-site contributions to existing strategic playing fields if within Local Plan access standard thresholds (S106)	*	***	***	***	***	

Off-site contributions to existing Local Greenspace provision including walking and cycling network provision if such is within Local Plan access standard thresholds (S106)	*	***	***	***	***	
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* Required where need/opportunity are identified

** Required unless agreed contribution to suitable offsite provision

*** Required where agreed on site provision is not appropriate

The level of contribution will be proportionate to the scale of development and the likely impact on the network.

Provision Requirements

- 10.3 Each site presents unique opportunities for open space provision and applicants should engage with LPA Development Management teams at an early stage.
- 10.4 Non-residential development should comply with Local Plan design standard requirements and look for opportunities to provide amenity space, access links, SUDs and biodiversity enhancement through landscaping and planting schemes.
- 10.5 Central Lincolnshire Local evidence regarding open space and biodiversity priorities are referenced in Local Plan Policy and include; Central Lincolnshire Interactive Map; Lincolnshire Biodiversity Action Plan; Central Lincolnshire Biodiversity Opportunity Mapping Study; Central Lincolnshire Green Infrastructure Study; Local Environmental Record (managed on behalf of Central Lincolnshire Authorities by the Greater Lincolnshire Nature Partnership); Lincolnshire County Council public rights of way network; Central Lincolnshire Playing Field Needs assessment; Central Lincolnshire Open Space Audit and Provision Standard Assessment; Anglian and Humber basin Management Plans. In addition the LPA may hold additional district level information on current supply and demand.
- 10.6 Reference will be made to the above documents when assessing open space requirements for residential developments and will be based on the need and opportunity within the context of the local area, using the estimated population size of the development and the standards of accessibility, quality and quantity set out in Policy the Local Plan;

Quantity

- 10.7 New Residential developments will be required to provide or contribute to open space on the following basis;

Open Space provision Type	Quantity Standard
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Strategic Formal Playing Fields	1.1ha/1000 pop
Local Usable Greenspace - Urban settlements (Lincoln Urban Area, Sleaford and Gainsborough)	1.8 Ha/1000 pop
Local Usable Greenspace - Rural settlements	1.5 ha/1000

Development population will be calculated using District average household size

- 10.8 Development Population will be based on the following assumed population generation rates based on ONS data (Tenure by Household size by number of bedrooms 2011). Where household size is unknown (e.g. outline permission) the district average household size will be used.

	Lincoln mean persons per dwelling	North Kesteven mean persons per dwelling	West Lindsey mean persons per dwelling
1 bedroom	1.3	1.3	1.3
2 bedrooms	1.9	1.7	1.7
3 bedrooms	2.4	2.3	2.3
4 bedrooms	2.9	2.9	2.8
5 or more bedrooms	3.5	3.2	3.1

Strategic Playing Fields

- 10.9 Priorities for Strategic Playing Fields to meet the needs of Central Lincolnshire's planned new population are set out in the CL Playing Pitch Assessment. These priorities along with any other local evidence will be the basis of calculating offsite contributions and on-site provision requirements.

Local Useable Greenspace

- 10.10 Local Useable Greenspace includes 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. All Local Useable Greenspace should be publically accessible. The precise mix and design of these open space typologies within new developments will 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.

- 10.11 Accessibility to suitable open space is a key policy objective so even if a development is in an area of good general provision if this provision does not meet the required walking time or distance standards or is not publically accessible then provision on site will be required or works undertaken to improve accessibility.
- 10.12 In accordance with the access standards set out in the Local Plan assessment of the adequacy of existing quantity provision for determining on site provision requirements will be based on the following distance criteria;

Strategic Playing Fields	15KM or 15 minute drive
Local equipped Play area, local park, amenity space Accessible Natural Greenspace	400M or 5 minute walk
Neighbourhood equipped Play Area, local playing field	1200M or 15 minute walk

- 10.13 If an adequate quantity of provision for a specific type of open space is available within the stated distance criteria then on site provision will not be required. A contribution to improving the accessibility or quality of the existing provision may be requested instead depending on whether other types of open space provision are needed.
- 10.14 The Local Plan recognises 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.
- 10.15 Where there is evidence of local need for additional allotments and/or civic/cemetery provision, this may need to be considered in addition to Local Useable Greenspace provision.
- 10.16 The design and layout of any on site Local Useable Greenspace will also consider and accommodate the wider Green Infrastructure objectives such as any identified for Sustainable Urban Drainage, River and/or drainage system water quality protection or improvement, biodiversity opportunities and/or new cycle and pedestrian routes/linkage requirements.
- 10.17 All publically usable open spaces should meet the quality standards in Appendix C of the Local Plan and any available local criteria. Even when a development is in an area with a sufficient quantity of provision, quality improvements to that provision may be deemed necessary and a contribution in proportion to additional population generated from the development may be required.
- 10.18 Accessibility is a key objective so even if a development is in an area of good general provision if these are not easily accessible then provision on site will be required or works undertaken to improve accessibility.

Off-site contributions

- 10.19 Developer contributions will apply in a number of situations;
- Smaller developments of 10 units or less with a combined floor area of 1000 square metres or more
 - Where meeting the quantity requirement on site is not appropriate e.g. where sufficient accessible quantity already exists within an area;
 - Where a site is accessible to open spaces but those spaces are of poor quality;
 - Where local evidence demonstrates a need.
- 10.20 The contribution will be based on the cost of providing the facility/type of open space as appendix 7.

Maintenance

- 10.21 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 where agreed by the Local Authority. The Local Planning Authority may seek to negotiate the payment of an appropriate bond to enable implementation and ensure the completion of and agreed site works. These sums will be calculated based on evidence of maintenance costs from a District, Local Town or Parish Council or other organisation that will undertake the maintenance.

11.0 Transport

Introduction

- 11.1. 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.
- 11.2. Local Plan Policy LP13 and its supporting text reiterate the NPPF objectives to minimise travel needs and maximise options for sustainable travel. Further details of the overarching transport policies and strategies for Lincolnshire can be found in the 4th Lincolnshire Local Transport Plan (LTP4) and the adopted transport strategies for Lincoln, Gainsborough and Sleaford.

Types of facilities that may be required

- 11.3. The type of transport infrastructure that is required to support growth is wide ranging and, although this list is not exhaustive, obligations could be sought in relation to measures set out in LP13 and summarised infrastructure 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.

CIL funding of Transport projects

The current CIL Regulation 123 list for each district charging authority contains the Lincoln Eastern Bypass as the only transport project in Central Lincolnshire

When will planning obligations be sought?

- 11.4. 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?

- 11.5. Policy LP13 elaborates on the type of improvements that might be required to mitigate a development and these, depending on the characteristics of the development, are likely to require a planning obligation. In summary, although this list is not exhaustive, obligations could be sought in relation to:

- Improvements or additions to the highway network;
- Public transport improvement or provision;
- Measures for cyclists / pedestrians;
- Traffic management/highway safety measures;
- Travel information, including personalised travel planning
- Public Rights of way (see also section 10.0 Open Space and Green Infrastructure)

- 11.6. The Central Lincolnshire authorities may require planning applications to be supported by 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.

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

- 11.8. Guidance on the need for and scope of a TA, TS or TP can be found within the National Planning Policy Guidance and policy LP13. Neither document is prescriptive about when a TA, TS or TP should be used. In summary, this is dependent on the scale and nature of the development and should be agreed through early discussion with planning and highways authorities. LCC is updating its 'Guidance Notes for the preparation and implementation of Development Travel Plans'. Applicants should check with LCC and on

the LCC website for the latest version of this guidance which covers in more detail when travel plans or statements would be required and the scope of travel plans.

- 11.9. Typically, the TA, TS and/or TP will indicate what measures need to be in place, and therefore should be subject to a planning obligation, in order to mitigate the proposed development. Where a TA, TS or TP is not required, there may remain to be circumstances where a contribution is required.

12 .0 Other Contributions which may be sought

Archaeology, Conservation and the Historic Environment

- 12.1. Central Lincolnshire has a rich historic environment that contributes strongly to its character and quality of life. This is recognised in the Local Plan in policy LP25.
- 12.2. Additional information on the location and types of archaeological sites and historic features throughout Lincolnshire can be accessed via the LCC's Historic Environment Record (HER). For more information, please contact the Historic Environment team on 01522 552363 or lincssmr@lincolnshire.gov.uk
- 12.3. 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 these assets.
- 12.4. Whilst the expectation is that virtually all matters relating to archaeology and the historic environment (historic landscapes, conservation areas, listed buildings, locally listed buildings, canals etc.) can be addressed through planning condition, there could be circumstances when a legal agreement is required. All development which may have an impact on archaeologically sensitive structures or locations may be subject to planning condition and potential contribution towards facilities. The extent of the interest must be located and defined through a field evaluation.
- 12.5. Where relevant and justified, the following provision may be sought, most likely through planning condition and in some cases planning obligation:
- Archaeological consultants and contractors for investigation, recording, analysing, archiving and reporting;
 - Provision for site management, interpretation schemes, public access and community projects; and
 - Provision of open space, to protect archaeological remains that are of sufficiently importance to warrant preservation in situ, and the maintenance of the open space to prevent any form of ground disturbance
- 12.6. The approach will be applied throughout Central Lincolnshire, detailed information on sensitive areas will be provided for by the County Archaeologist.

Community Halls & Facilities

- 12.7 Village and community halls can be 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.
- 12.8. 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 neighbourhood or parish may receive.
- 12.9. 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.
- 12.10. Where development generates a need for new or improved community facilities contributions the preference will be for the construction of new on-site community facilities where – options for shared use will also be considered potentially using Sport England's Village and Community Halls Design Guidance Note which sets out information about site planning, internal configuration, dimensions and construction standards. The extension and / or improvements to existing halls or facilities in the vicinity of the development could otherwise be a justifiable alternative, for example, if more appropriate to contribute (in whole or part) to meet wider demand or combine facilities with demonstrable benefits to the public.
- 12.11. Contributions will therefore be physical provision on or adjacent to site community facilities or, where justified, financial contributions to off-site facilities.
- 12.12 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.
- 12.13 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 Building Cost Information Service (BCIS) or, where relevant, competitive tenders. This will be subject to indexation as appropriate
- 12.14. Where provision is made for a new facility, provision for the long term maintenance of the site must be addressed by the applicant 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 relevant 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.

Contaminated Land

- 12.15 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.

Libraries

- 12.16. The Central Lincolnshire Authorities will not seek contributions for new standalone library facilities. This is considered a 'local' issue and therefore should be funded utilising other funding sources such as the local proportion of CIL receipts which a neighbourhood or parish may receive.

Minerals and Waste Development

- 12.17. 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 LCC may seek planning obligations solely to mitigate the effects of these types of developments. Appendix 5 sets out the types of obligations which may be sought.

Appendix 1 S106 Frequently Asked Questions

What is a S106 Planning Agreement?

A planning agreement is a legal agreement entered into by the Local Planning Authority, the applicant and other interested/relevant 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?

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 LPA 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 applicants 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?

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?

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?

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.

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?

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?

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.

How do I make payments to the council?

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.

Delayed payment of financial contributions will incur interest at rate specified by the Local Authority. 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.

What will happen to the payments?

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 Authority Monitoring Report.

How long will a S106 obligation run for?

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.

Appendix 2 Approach for S106 Agreements / Unilateral Undertakings

Introduction

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, applicants 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

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.

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.

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

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.

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.

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

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

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

Phasing, Viability and Renegotiation

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.

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.

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 an applicant.

Typical information required to support a development appraisal is shown in the table below. Without this information the LPA are unlikely to be able to conduct an appraisal (further details are also given in Appendix 3).

Information required to support a Development 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 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 applicant to contribute
Profit	Financial return to the applicant from the project	Total figure in pounds (£), also shown as a percentage of gross development value or cost

Contingent Deferred Obligations

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.

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

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.

The Council will work with applicants 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

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.

Obligation Compliance

It is the developers' responsibility to ensure compliance with the obligations within the s.106 agreement. Payments should be made to the Local Authority once the relevant triggers are met and late payment will incur a penalty.

Appendix 3 Viability Assessment Information and Evidence List

Appraisal Format	<ul style="list-style-type: none"> • Hard and electronic version of planning appraisal in format that can be fully tested and interrogated, using the residual appraisal method
Proposed Scheme Details	<ul style="list-style-type: none"> • Floor areas: <ul style="list-style-type: none"> -Residential: Gross Internal Area (GIA) and Net Saleable Area (NSA) -Commercial/Other: Gross Internal Area (GIA) and Net Internal Area (NIA) • Proposed specification for each component of development, consistent with assumed costs and values • Residential unit numbers, sizes and habitable rooms including the split between open market and affordable tenures • Site area and densities
Development Programme	<ul style="list-style-type: none"> • Project plan, including land acquisition, prebuild, construction and marketing periods and phasing (where appropriate) • Viability cash flow forecast (where appropriate)
Gross Development Value	<ul style="list-style-type: none"> • Anticipated residential sales values, ground rents, sales rates (per month), assumptions regarding forward sales and supporting evidence • Anticipated rental values, yields and supporting evidence (where appropriate) • Details of any likely purchaser incentives (where appropriate) • Anticipated value of affordable units based on evidence including details of discussions with Registered Providers & offers
Costs	<ul style="list-style-type: none"> • Build costs based on BCIS, with values correctly adjusted to reflect specific proposals and justified to demonstrate a reasoned approach has been taken in estimating costs • Where applicants use specific assessment of costs rather than a recognised source of information, expected build cost and supporting evidence including a fully detailed elemental cost plan demonstrating the basis of costs estimations and evidence of contractor costs. Disaggregated abnormal costs (if relevant) that can be benchmarked against BCIS • Details of other costs such as demolition costs and supporting evidence
Profit	<ul style="list-style-type: none"> • Profit on cost and value • Development yield (where appropriate) • Supporting evidence from applicants to justify proposed target rates of profit taking account of the individual characteristics of the scheme

Benchmark Land Value	<ul style="list-style-type: none"> Existing Use Value (EUV) based on evidence including existing income, comparable data and details of condition of existing site. Justification for any premium applied over the EUV, taking in account of circumstances of site and guidance in SPD Freehold/leasehold titles Tenancy schedule – to include lease summaries (where appropriate) Details of income that will continue to be received over the development period Arrangements between landowner and developer, including any land sale, development or tenancy agreements Evidence for how benchmark land value reflects planning policy
Planning Contributions	<ul style="list-style-type: none"> S106 costs CIL costs
Development Finance	<ul style="list-style-type: none"> Finance costs appropriate to the type of proposal, reflecting that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction
Other	<ul style="list-style-type: none"> Statutory declarations to verify accuracy of information submitted for example regarding the deliverability of the scheme Other information requested by the Council having regard to the specific application

Appendix 4 Affordable Housing

Homes and Communities Agency – Housing Quality Indicators (HQIs) 2008

Bedspace(s)	Bedroom(s)	Square metres	Square feet
1*	1	30 – 35	323 – 377
2	1 or 2	45 – 50	484 – 538
3	2	57 – 67	614 – 721
4	2 or 3	67 – 75	721 – 807
5 (1 storey)	3	75 – 85	807 – 915
5 (2 storey)	3	82 – 85	883 – 915
5 (3 storey)	3	85 – 95	915 – 1023
6 (1 storey)	3 or 4	85 – 95	915 – 1023
6 (2 storey)	3 or 4	95 – 100	1023 – 1076
6 (3 storey)	3 or 4	100 – 105	1076 – 1130
7 (2 storey)	4	108 – 115	1163 – 1238
7+	4+	As for 7 bedspaces plus 10 sqm per additional bedspace	As for 7 bedspaces plus 108 sqf per additional bedspace

* Single bedspace affordable housing units are not usually acceptable

Affordable Housing commuted sum calculation

Base data is Land Registry sold house prices (from <http://landregistry.data.gov.uk/app/ppd/>) for the period 1 April 2016 – 31 March 2017 for Central Lincolnshire. These were then separated into the Lincoln Strategy Area and the Non-Lincoln Strategy Area and the average (mean) sold price was calculated for each area.

Transfer values paid by Registered Providers for Affordable Housing units within Central Lincolnshire are typically around 55% of Open Market Value for blended affordable tenures.

The Developer's obligation is therefore the difference, as follows:

Open Market Value 100% of OMV

Minus

RP transfer value 55% of OMV

Equals

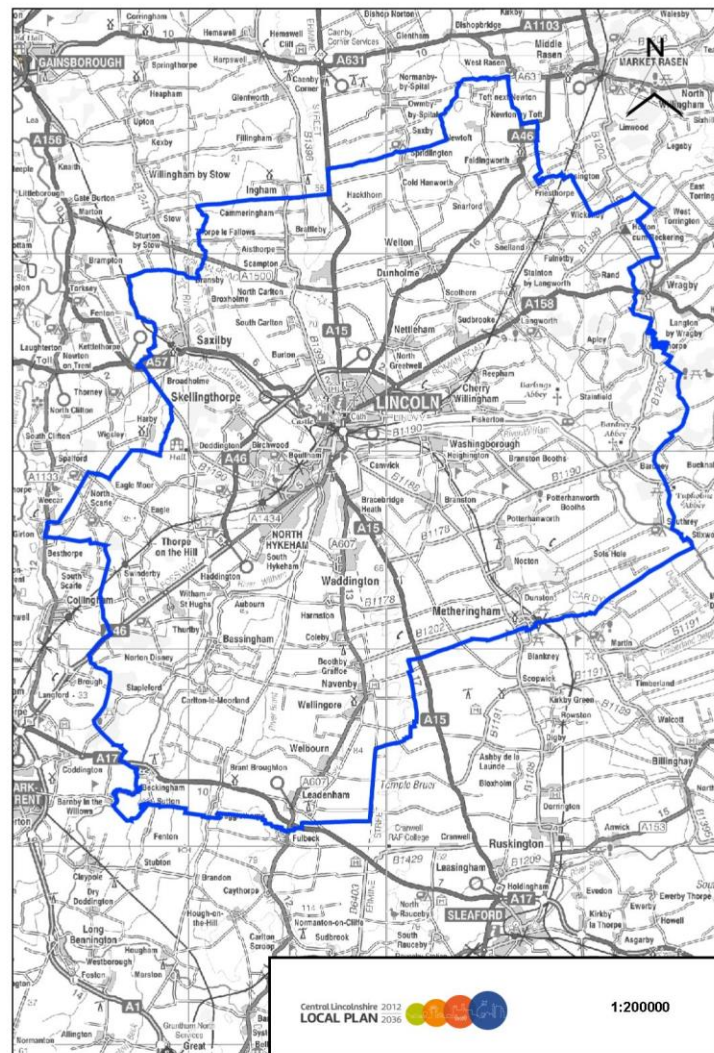
Developer obligation 45% of OMV

The commuted sum values which will form the basis of negotiations are therefore as follows:

Lincoln Strategy Area		Non-Lincoln Strategy Area	
Average sold price	45% of OMV = Proposed commuted sum	Average Sold price	45% of OMV = Proposed commuted sum
£184,384	£82,973	£169,707	£76,368

These figures will be updated annually using the same methodology for the previous financial year by the following July using the same methodology and will be published on the Central Lincolnshire website (www.central-lincs.co.uk).

Map Showing the Lincoln Strategy Area



Appendix 5 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.

Appendix 6 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 S106)
1	Zero
2	0.09
3	0.17
4	0.33
unknown	0.2

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
Primary School	£12,000

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

Appendix 7 Indicative Open Space Provision Costs

Table of cost of providing open space by type	
Typology	Cost per ha of provision
Local Greenspace *	
Parks and Gardens	£423,272
Natural and Semi Natural Green Space	£37,774
Amenity Green space	£139,448
Provision for Children and young people**	£907,713
Allotments	£61,840
Playing fields ***	
AGP 3G football	£1,212,938
adult football pitches	£114,555
junior pitches	£118,303
cricket pitch	£130,757
bowling green	£875,000
New changing rooms	£26,326,530

*based on locally contracted rates

**based on cost of LEAP provision

*** converted to cost/ha based on Sport England facility costs

<https://www.sportengland.org/facilities-planning/design-and-cost-guidance/cost-guidance>

Glossary

Affordable Housing	Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes. The above definition was derived from the definition set out in the NPPF published in 2012.
Amenity	A general term used to describe the tangible and intangible benefits or features associated with a property or location that contribute to its character, comfort, convenience or attractiveness.
Best and most versatile agricultural land	Land in grades 1, 2 and 3a of the Agricultural Land Classification.
Biodiversity	The whole variety of life encompassing all genetics, species and ecosystem variations, including plants and animals.
Brownfield land / Previously Developed Land	Land that has been previously developed.
Building Bulletin 103	‘Building Bulletin 103: Area Guidelines for Mainstream Schools’ (BB103) sets out simple, non-statutory area guidelines for school buildings (part A) and sites (part B) for all age ranges from 3 to 19. It covers all state schools, including mainstream academies and free schools, except special schools and alternative provision.
Cash Flow Forecast	A cash flow forecast is a plan that shows how much money a development expects to receive in, and pay out, over a given period of time.
Catchment Flood Management Plans (CFMPs)	Produced by the Environment Agency, CFMPs give an overview of the flood risk across each river catchment. They recommend ways of managing those risks now and over the next 50-100 years.
Clinical Commissioning Group (CCG)	Clinically-led statutory NHS body responsible for the planning and commissioning of health care services for its local area.
Community Infrastructure	Facilities available for use by all the community, such as church or village halls, doctor’s surgeries and hospitals, even public houses. Community facilities could also include children’s playgrounds and sports facilities.
Community Infrastructure Levy (CIL)	CIL is charged on almost all new buildings to ensure that development contributes towards the infrastructure needed to support growth in an area.
Conservation Area	A formally designated area of special historic or architectural interest whose character must be preserved or enhanced.
Environmental Information Regulations (EIR)	The Environmental Information Regulations 2004 provide public access to environmental information held by public authorities.

Freedom of Information Act (FOI)	The Freedom of Information Act 2000 provides public access to information held by public authorities.
Geodiversity	The range of rocks, minerals, fossils, soils and landforms.
Greenfield Land	Land which has not been previously developed.
Gross Development Value (GDV)	The total market value of the proposed development, assessed on the special assumption that the development is complete as at the date of valuation in the market conditions prevailing at that date.
Important Open Spaces	Existing open spaces that are protected under Policy LP23 of the Central Lincolnshire Local Plan.
Infrastructure	A collective term which relates to essential services, including road and transport facilities; education and medical facilities; and open space.
Joint Strategic Needs Assessment	The means by which Primary Care Trusts and local authorities describe the future health care and wellbeing needs of the local population and to identify the strategic direction of service delivery to meet those needs.
Local Green Space	Local Green Space designation is a way to provide special protection against development for green areas of particular importance to local communities. Local Green Space can be designated through a Local Plan or Neighbourhood Plan. The National Planning Policy Framework and National Planning Practice Guidance set out criteria and guidance for the designation of Local Green Space.
Local Plan	A Development Plan Document (DPD) which contains the spatial vision, main objectives and policies for managing the future development of the area.
Local Planning Authority (LPA)	The local authority which has duties and powers under the planning legislation.
National Planning Policy Framework (NPPF)	Sets out planning policies for England and how they are expected to be applied. It provides guidance for local planning authorities and decision-takers, both in drawing up plans and making decisions about planning applications.
National Planning Practice Guidance (NPPG)	Provides guidance for local planning authorities and decision-takers, both in drawing up plans and making decisions about planning applications. The guidance is categorised into subject categories.
Neighbourhood Funding	CIL charging authorities (district councils) must pass a proportion of CIL levied in a local (parish or town) council area to that local council. The amount is set by the Regulations as either 15%, capped to £100 per existing dwelling, where there is not a neighbourhood plan in place; or, 25% uncapped where there is a neighbourhood plan in place. In areas without parish councils, the charging authority (district council) may use this proportion of CIL to address the demands of development in the parts of the district which are without parish or town councils.

Objectively Assessed Need (OAN)	The identified housing need to meet the needs of the local authority area over the plan period.
Planning Obligations / Section 106 Agreements	Legal agreements between a planning authority and a developer, or undertakings offered unilaterally by a developer, that ensure that certain extra works related to a development are undertaken. For example, the provision of highways. Sometimes called “Section 106” agreements.
Strategic Housing Market Assessment (SHMA)	An assessment of housing need in the housing market area, including the scale and mix of housing and the range of tenures that is likely to be needed over the plan period.
Supplementary Planning Document (SPD)	SPDs expand on policies or provide further detail to policies contained in a Local Plan. At the time of writing, The Town and Country Planning (Local Planning) (England) Regulations 2012 set out what an SPD can cover.
Sustainable Development	Usually referred to as “development which meets the needs of the present without compromising the ability of future generations to meet their own needs” (Brundtland, 1987). See also the NPPF.
Sustainable Drainage Systems (SuDS)	A sequence of water management practices and facilities designed to drain surface water in a manner that will provide a more sustainable approach than what has been the conventional practice of routing run-off through a pipe to a watercourse.
Threshold Land Value	The value at which a typical willing landowner is likely to release land for development.
Use Class	A Use Class is something that falls under the General Use Classes Order. The General Use Classes Order is a piece of national secondary legislation which groups types of use of premises into classes, so that no development is involved if a building is changed from one use to another within the same class. Changing the use of a building from one class to another constitutes development, and needs planning permission, but in certain circumstances this may be automatically permitted without the need to submit a planning application.