

# Delivering Investment from Growth

West Berkshire Council's approach to securing developer contributions towards local infrastructure, services and amenities

## **Core Guidance**

**August 2004**

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### **CG1.0 Introduction**

CG1.1 Well planned and sensitive development offers great benefits to society. It provides the homes, workplaces and facilities that we need and stimulates the economy. However, development of all scales also creates considerable impacts on the environment, facilities and services of the area in which it is located and places burdens and costs on the community. The Council wishes to ensure that the impacts of new development in West Berkshire are minimised and that such development provides appropriate social, economic and environmental benefits to the community as a whole.

CG1.2 To implement these objectives and its Development Plan policies, the Council will seek developer contributions, via Section 106 or Section 111 agreements and other statutory measures, in order to provide for additional facilities and the infrastructure demands that are generated as a result of new development. It will also require suitable obligations to restrict or control the use of land to mitigate development impacts and secure any necessary benefits.

CG1.3 Planning obligations will continue to be considered on their merits and negotiated separately with developers in accordance with the provisions of Circular 1/97. However, it is recognised that similar types of development create similar impacts and that contributions should be made in a consistent and transparent way. Therefore, this supplementary planning guidance (SPG) provides landowners, developers and West Berkshire residents with guidance on the type and scale of contributions and other obligations which the Council will seek for defined types and scales of development.

### **CG2.0 Format of Supplementary Planning Guidance**

CG2.1 The SPG is presented as a set of documents – a core guidance paper supported by topic papers. This Core Guidance element of the SPG sets out the Council's overall approach to the provision of developer contributions and other forms of planning obligation in support of development plan policies. It also sets out the forms of development from which the Council will seek contributions, the nature of

what will be sought and the scale of development from which particular types of contribution will be sought.

CG2.2 This Core Guidance is accompanied by a set of topic papers which set out details of the contributions and obligations which the Council will seek on a topic basis. The current set of supporting topic papers covers the following matters:

1. Affordable Housing
2. Transport
3. Education
4. Public Libraries
5. Community and Social Services Facilities
6. Health Care Provision
7. Open Space
8. Recycling Facilities
9. Environmental Enhancements
  
10. Archaeology, Conservation and the Historic Environment
  
11. Provision of Fire and Rescue Infrastructure
12. Preventing Crime and Disorder

### **CG3.0 Legislative and Policy Framework**

CG3.1 The Town and Country Planning Act 1990 (Section 106) includes a power which allows any person interested in land to enter into a planning obligation which:

- Restricts the development or use of land in a specified way
- Requires specific operations to be carried out
- Requires the land to be used in a specified way
- Requires a sum or sums of money to be paid to the local authority

CG3.2 Planning obligations are legal agreements by developers to undertake to do something in connection with their development that could not be secured by imposing a planning condition or by other statutory means. Planning obligations are a proper and recognised part of the planning system. They can enhance the quality of development and enable proposals to go ahead which might otherwise be refused if such provision was not made. However, packages of developer contributions will not render acceptable developments which are inappropriate in principle in terms of their impacts and relationship to planning policy.

#### **National Policy**

CG3.3 The principle that a development should bear a proportion of the cost of facilities, for which it creates a need, is supported in Government policy. Circular 1/97 provides the Government's current guidance on the concept of planning obligations. It sets out that these may be negotiated to provide for on and off site community facilities and infrastructure requirements related to the development or in the case of small developments to provide a contribution to local provision.

CG3.4 Circular 1/97 states that planning obligations should only be sought when they are necessary relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development, and reasonable in all other respects. The Circular advises that contributions should be linked to:

- the proposed development both on and off-site, e.g. highways or public transport contributions, environmental improvements; and to
- identified service requirements related to the development, eg housing, education, or community facility requirements.

CG3.5 The Circular goes on to state that an obligation should be necessary to the granting of planning permission.

#### *Reforming Planning Obligations*

CG3.6 In December 2001 the Government published a consultation paper setting out its intention to reform the system of planning obligations. It said that it believed planning obligations should be used in a positive way to achieve planning objectives, and that they should be used to achieve a wider range of objectives than is permitted under current policy as set out in Circular 1/97. As a means of achieving its objectives the Government originally announced that it would introduce primary legislation to introduce a tariff system.

CG3.7 In July 2002, the Government said it was not now intending to pursue the primary legislation path. However, it said that the objectives of the tariff proposal were widely welcomed by a majority of respondents to the consultation and that it had decided that many of its objectives can be delivered without legislative change. The Government said it intended to revise its policy guidance and work with all the relevant stakeholders to create a more streamlined system that will enable the community to share in the benefits arising from development. The Government published a new consultation paper on this matter in October 2003 and is expected to produce revised guidance in late 2004. The Council will consider the proposed new guidance when it is published and may revise this supplementary planning guidance accordingly. It will also respond to the proposal for voluntary charges which are proposed by the Government to sit alongside the existing system of negotiated agreements, although it is expected that it will be some time before the necessary regulations for this are introduced.

### **Development Plan Policies**

#### *Structure Plan*

CG3.8 The general basis for the need to provide contributions towards community infrastructure, service and amenity is set out in the adopted Berkshire Structure Plan 1991- 2006. Policy LD6 says:

*Before proposals for development are permitted, the local planning authority will require to be satisfied that infrastructure, services and amenities made*

*necessary by the development are provided or will be provided at the appropriate time so as to ensure the proper planning of an area. To this end local planning authorities may require contributions to be made by landowners or developers to provide additional infrastructure or facilities where they are:*  
*Needed to enable development to take place;*  
*Directly related to the proposed development; and*  
*Fairly and reasonably related in scale and kind to the proposed development.*  
*Local planning authorities may also require an acceptable balance of uses in mixed development or the implementation of local plan policies for a particular area or type of development. Where appropriate, any amenity or resource lost or damaged as a consequence of the development should be offset by new provision elsewhere either on or off site.*

The deposit draft Berkshire Structure Plan 2001-2016 (deposit draft incorporating modifications) contains similar provisions in policy DP4.

#### *Local Plan*

CG3.9 Policy OVS.3 of the adopted West Berkshire District Local Plan 1991 – 2006 says;

*The District Council will require to be satisfied that the infrastructure, services and amenities made necessary by the development are provided or will be provided at the appropriate time so as to ensure the proper planning of the area. In addition, when considering proposals for development, opportunities will also be sought for securing environmental improvements and community benefits. Such provision will relate to those works necessary to grant of planning permission, and which are relevant, reasonable and directly related and fairly and reasonably related in scale and kind to the proposed development, and may for example include:*  
*affordable housing; and/or*  
*landscaping, including major structural landscaping on sensitive or exposed sites; and/or*  
*improved access for pedestrians, cyclists and people with disabilities; and/or*  
*public transport facilities and services, public car parking, provision for services vehicles or other highway improvements; and/or*  
*green travel plans where major developments are proposed; and/or*  
*the implementation of measures enabling the use of sustainable transport modes, such as walking, cycling and public transport; and/or*  
*space and facilities for recreation and community facilities; and/or*  
*provision of re-cycling facilities; and/or*  
*the repair of listed buildings and the preservation/enhancement of Conservation Areas and sites of archaeological interest; and/or*  
*the management of land and water area for nature conservation purposes; and/or*  
*public art in appropriate places.*

CG3.10 Further details of the provision sought by the Council is set out in polices:

<b>HSG.7</b>	Planning Benefits Relating to New Housing Development
<b>HSG.9&amp;10</b>	Affordable Housing For Local Needs
<b>ECON.4</b>	Enhancement of Employment Areas and their Surroundings
<b>TRANS.2</b>	Enhancement of Transportation Facilities and Network

## **CG4.0 Application of Supplementary Planning Guidance**

### CG4.1

CG4.2 Developer contributions will be sought in accordance with Circular 1/97 from both residential and commercial development, for both on and off site provision. In all cases contributions will be agreed through negotiation based on the provisions of this supplementary planning guidance and any other relevant considerations. In cases where contributions are not agreed the Council may refuse planning permission for a development proposal as it is unlikely that the proposal will have made provision for the impacts it creates.

CG4.3 The contributions and obligations sought will be based on the Council's assessment of the needs created by the development as indicated in this supplementary planning guidance. The Council will keep the needs arising from development under review and will bring forward revisions to this guidance as required. In some cases the developer will be required to carry out assessments of need in connection with planning applications.

CG4.4 The tables at the end of this document summarise the form of contribution and other obligations which the Council is likely to expect for different types and scales of development. Details of the type and scale of contribution which may be expected are set out in the relevant supporting papers.

### **Thresholds**

CG4.5 Contributions will be sought from developments which generally fall above the thresholds stated below.

- **Residential:** Proposals of 1 dwelling or more (for proposals of 1 – 4 dwellings the focus will be on transport provision, education, open space, primary health care facilities and libraries but other contributions may be necessary)
- **Commercial:** Proposal above approximately 200m<sup>2</sup> of B1 office floorspace (or equivalent for other Use Classes)

CG4.6 The Council will carefully scrutinise proposals which appear to fall artificially below any thresholds which may indicate a possible attempt to avoid making appropriate contributions. Such proposals are likely to be refused planning permission where they fail to make efficient use of land.

CG4.7 The Council considers that even relatively small forms of development create direct pressures on local services, facilities and infrastructure leading to a need for improvement. They add to the demands on West Berkshire's transport system, affect the needs for affordable housing and place demands on community facilities, open space and schools. This is particularly the case when the impacts of such developments are cumulative.

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### ***Residential Development***

CG4.9 The Council considers that the creation of a single new dwelling results in significant pressures on local services, infrastructure and facilities that should be addressed by developer contributions. Those pressures increase with development of larger numbers of dwellings and cumulative impacts grow. The framework in **Table 1** summarises the contributions the Council is likely to seek. This forms the framework for negotiations on such contributions. Details of contributions are set out in the topic papers.

CG4.10

*Very large schemes – approximately 200 dwellings or more*

CG4.11 Such schemes are assessed as for schemes of 1 dwelling and above. However, due to the large scale of proposals the contribution sought may be of a special character.

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Contributions towards particular services will not be sought from certain types of development where it is clear such services will not be required. For example, education contributions will not be expected from elderly persons accommodation.

### ***Commercial Development***

CG4.13 Commercial development also creates impacts on local services and infrastructure. The Council considers that it is appropriate for development equivalent to about 200m<sup>2</sup> of B1 office floorspace (able to accommodate, on average, about 10 employees) should routinely make contributions to address the impacts created. The Council may seek contributions from smaller developments where they are likely to create impacts which need to be addressed. Details of the

approach to contributions from commercial developments is set out in **Table 2** which provides a framework for the starting point for negotiations.

### **CG5.0 Processes and Implementation**

CG5.1 One of the aims of this SPG is that it will assist the development industry by giving a framework for developers to identify contributions at an early stage. The Council also recognises that it is important that securing appropriate developer contributions does not result in undue delays in the determination of planning applications once they are submitted.

CG5.2 The Council would like as far as is possible to assist those considering the development of land to understand the likely scope and scale of developer contributions which may be sought. In cases where impacts of development are reasonably predictable it is possible to determine the likely scale of contribution with reference to Table 1 and 2 below and the relevant formulas in the Topic Papers. In some cases the impacts and likely mitigation through contributions are less predictable and can only be established through site specific investigation. To assist those at an early stage of land acquisition, Table 1 and 2 give examples of potential types of contribution towards particular facilities or services.

CG5.3 When land becomes available for purchase the Council is frequently inundated with requests for information, including likely levels of developer contributions. The Council is unable to give detailed advice in response to these early, speculative queries but it recommends that this SPG is used to gain a general impression. **However, negotiations for purchase of land should only be undertaken on the basis that any developer contributions which may be sought can only be finally determined through the planning application process.**

#### Legal and Administrative Costs

CG5.4 The Council will seek contributions towards both the legal and administrative costs of planning obligations. Such costs will be relatively limited as a proportion of contributions overall but will enable the Council to deploy resources which will enable the negotiation and completion of legal agreements associated with planning applications to be carried out effectively. In addition to meeting legal costs such contributions will help to fund systems which manage and co-ordinate the process of handling applications liable to result in developer contributions from start to finish.

#### Fund for Focusing Contributions

CG5.5 Many developments may not by themselves generate the need for major investment in new infrastructure. However, a series of developments will have a cumulative impact on infrastructure, services and facilities. Those responsible for their provision will find it more cost effective to make a single improvement after a number of smaller developments have been carried out. There, where appropriate, service providers will create funds into which financial contributions

arising from legal agreements will be paid which will be directed towards the cost of the additional infrastructure required on a phased basis.

## Parish Plans

CG5.6 Parish plans will often identify services and facilities in local communities which would be subject to increased pressures in the event of new development. These may be taken into account by the Council when assessing the likely impacts of new development. Developer contributions may be sought which contribute towards the enhancement of such services and facilities.

## **CG6.0 Review – Keeping this SPG Up to Date**

CG6.1 The SPG will be kept up to date in the following ways:

### **Up-dating costs and factual information**

CG6.2 This paper and the accompanying topic papers of the supplementary planning guidance will be posted on the Council's web site [www.westberks.gov.uk](http://www.westberks.gov.uk) where they can be viewed or downloaded free of charge.

CG6.3 Information on costs which form the basis of developer contributions will be updated annually. For example, the Department for Education and Skills' cost multipliers are issued every year in January and this influences the cost of providing additional school places. This annual up-dating will also take into account the retail price index and any inflationary impacts particularly associated with construction costs or service provision costs where there is an implication for developer contributions.

CG6.4 Factual up-dating which does not materially change the SPG will be made as and when required.

### **New or Revised Topic Papers**

CG6.5 It may be necessary from time to time to issue new topic papers or revise existing ones. Where material revision is needed the Council will undertake public consultation on its proposed changes.

### **Comprehensive Review**

CG6.6 When the need arises this SPG will be subject to a comprehensive review. The new Supplementary Planning Document will be subject to public consultation before it is adopted.





In all cases other contributions, or other forms of obligation, may be sought where the development results in impacts not otherwise fully addressed by the contributions listed above.

Very large schemes - Due to the scale of development it may not be possible to mitigate the impacts by a cash contribution or solely in the form indicated in the table above. For example, a development may require the construction of an entirely new facility, such a medical surgery, on or off site. The developer may need to carry out or fund studies to ascertain the impacts of a development and then to secure the solution to those impacts. For more details see the relevant topic papers.

**Table 2 – Summary of Contributions Expected from Commercial Development**

The contributions from commercial development are calculated in various ways according to the topic and the specific impact of the development type. In many cases the approach is based on the average number of employees likely to occupy the new floor space. The table below shows the average number of employees the Council assumes will occupy new floor space

Use and Use Class	Floorspace:Employee Ratio	Approximate threshold above which contributions will be expected
Office B1a	20 m <sup>2</sup> :1	200 m <sup>2</sup>
Light industrial B1c	25 m <sup>2</sup> :1	250 m <sup>2</sup>
Industrial B2	33 m <sup>2</sup> :1	330 m <sup>2</sup>
Distribution B8	48 m <sup>2</sup> :1	480 m <sup>2</sup>
Retail	27 m <sup>2</sup> :1	270 m <sup>2</sup>
Retail Warehouse	90 m <sup>2</sup> :1	900 m <sup>2</sup>

Derived from: Babbie Employee ratio study 1998 (based on "Use of Business Space" by Roger Tym/SERPLAN1997) and English Partnerships Employment Densities guide.

Contributions will be sought as set out below:

	<b>Indication of Potential Contribution (2003/04)</b> <b>NB – this is only intended as a very general guide to assist those at the early stage of considering development proposal</b>	
Transport	see Topic Paper 2	Contribution to provision of transport facilities based on the scale and impacts of the proposal
Public Libraries	see Topic Paper 4	£21.50 per employee based on average floorspace ratios
Open Space	see Topic Paper 7	Approximately £158 per employee based on average floorspace ratios
Recycling Facilities	see Topic Paper 8	<u>Varies according to the proposal</u>
Environmental Enhancements	see Topic paper 9	<u>Varies according to the proposal</u>
Archaeology, Conservation and the Historic Environment	see Topic Paper 11	<u>Varies according to the proposal</u>
Provision of Fire and Rescue Infrastructure	see Topic Paper 13	Varies according to proposal. Determined on a risk assessment basis
Preventing Crime and Disorder	see Topic Paper 14	Varies according to the proposal
Legal and Administrative Costs		Dependent on time taken and complexity

Commercial development may also need to contribute to provision of skills training, child care facilities and other services/facilities which mitigates its impact on the demand for housing, labour and skills.

In all cases other contributions, or other forms of obligation, may be required where the development results in impacts not otherwise fully addressed by the contributions listed above.

Very large schemes - Due to the scale of development it may not be possible to mitigate the impacts by a cash contribution or solely in the form indicated in the table above. For example, a development may require the construction of an entirely new facility, such as a child care facility, on or off site. The developer may need to carry out or fund studies to ascertain the impacts of a development and then to secure the solution to those impacts. For more details see the relevant topic papers.

Although number of employees is a key factor in assessing the impact of commercial schemes it is also necessary to consider the impacts in terms of matters such a number of visitors/clients, amount and character of traffic created, visual impacts, potential for noise and pollution and crime and disorder matters. For example, a retail development will create impacts in terms of its employees and also in terms of shoppers generated, the need to prevent crime and disorder and the effects of delivery vehicles. Therefore, contributions may be expected from development which generally has fewer than 10 employees but which creates other impacts.

### **Other Forms of Commercial Development**

The contributions to be made from other forms of commercial development will be assessed having regard to the matters set out above. For example a sui generis<sup>1</sup> development that is similar in character to an office use will be assessed having regard to the number of employees generated on average by a B1 office and any specific impacts associated with the development.

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<sup>1</sup> Not falling within a Use Class as defined by the Town and Country Planning Use Classes Order