



**Nottinghamshire  
County Council**

# **Planning Obligations Strategy – 2017 update**

## **Draft for consultation**

**November 2017**

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# 1 Introduction

## The purpose of the Strategy

- 1.1 This document is the third edition of Nottinghamshire County Council's Planning Obligations Strategy and replaces the April 2014 document. As with previous editions, it details the scope and range of contributions towards infrastructure which Nottinghamshire County Council may seek from developers and land owners in order to make development acceptable in planning terms, including how these contributions will be calculated.
- 1.2 The Strategy fits with the overall aims of the National Planning Policy Framework by supporting sustainable development. By promoting a consistent and transparent approach to likely obligations, developers and landowners will be able to take into account the potential costs of a proposed development at the earliest stage. They can be assured that they are making a fair contribution to the infrastructure needed to support growth, and local residents can understand how proposed development in their area will be accommodated.
- 1.3 The County Council does not determine applications for housing and commercial development which often require planning obligations – these are a matter for District and Borough Councils in Nottinghamshire. The Strategy aims to assist District and Borough Planning Authorities in making decisions on planning applications. The County Council will separately work with District and Borough Councils on Local Plans and where appropriate, local groups in preparing Neighbourhood Plans to identify the overall level of infrastructure needed to support proposals. The aim of the County Council is to ensure that infrastructure is delivered in a timely manner and thereby ensure that new development does not have a negative impact upon the quality of life in Nottinghamshire.
- 1.4 A significant change to developer contributions has come into force since the previous edition of the Strategy, namely amendments to the Community Infrastructure Levy (CIL) Regulations which came into effect in April 2015. These put limits on the use of Section 106 obligations and specifically the number of contributions which can be 'pooled' to finance a single infrastructure project, or type of infrastructure. That maximum has been set at five contributions agreed since April 2010. This provision coming into force and the implications it will have for providing infrastructure for many Nottinghamshire County Council services is a further factor requiring an update of the Planning Obligations Strategy at this time.
- 1.5 The Government is currently reviewing the Community Infrastructure Levy and any further announcements that are made regarding its future will be taken into account in the final version of the 2017 Planning Obligations Strategy Update.

## County Council Objectives

- 1.6 The County Council's strategic objectives are set out in its four year plan "Your Place, Your Nottinghamshire 2017 – 2021". The Plan is based around four vision statements:
  - A great place to bring up your family;
  - A great place to fulfil your ambition;
  - A great place to enjoy your later life; and
  - A great place to start and grow your business.

- 1.7 By providing a mechanism for supporting the County Council's responsibilities for enabling the provision of new schools, libraries, waste and recycling and other services, when dealing with the impact of new development, the Planning Obligations Strategy will help to ensure that these vision statements are achieved.
- 1.8 The County Council is the responsible body for minerals and waste planning in the County. Potential obligations for mineral and waste development are included in Appendices 8 and 9 of this document. The County Council is the Lead Local Flood Authority and Local Highway Authority and obligations which could arise from these responsibilities are set out in Appendices 3 and 4.
- 1.9 The County is also responsible for improving the general health of people in Nottinghamshire. The Nottinghamshire Health and Wellbeing Board has endorsed the document [Spatial Planning for the Health and Wellbeing of Nottinghamshire](#) (2016) and a Planning and Health Engagement Protocol (2017) between local planning authorities and health partners in Nottinghamshire. Whilst planning obligations are unlikely to be required in most cases, County, District & Borough Planning Authorities and the NHS should consider the impact of local plans and development applications on health and wellbeing.

#### Infrastructure this Strategy covers

- 1.10 The Strategy covers the administrative area of Nottinghamshire County Council. Nottingham City Council is a unitary authority outside Nottinghamshire and therefore its area is not covered by this Strategy.
- 1.11 The Strategy does not cover services provided by lower tier authorities (District and Borough Councils), such as affordable housing or open space, or contributions that may be sought by other infrastructure providers, such as the NHS or the Police. It solely deals with services provided by the County Council.
- 1.12 The services for which the County Council may seek contributions are:
- Archaeology
  - Education
  - Flood Risk Management
  - Highways and Transport
  - Library Provision
  - Natural Environment
  - Waste Management and Recycling
  - Mineral Development
  - Waste Development.

- 1.13 Further information on these requirements can be found in Appendices 1 to 9.

#### Status of the Strategy

- 1.14 This Planning Obligations Strategy is a revision of the document which was adopted in 2014.

- 1.15 Whilst this document will have no statutory status, it is intended to be a material consideration in the determination of planning applications and if development proposals do not comply, the Strategy should be capable of being used to justify the refusal of planning permission by a Local Planning Authority. The County Council encourages District and Borough Councils to endorse the Strategy and use it in determining planning applications.
- 1.16 The County Council recognises that the key basis for determination of planning applications is the relevant Local Plan and Neighbourhood Plan (where this exists). The County Council will provide necessary evidence at the time of Plan making about what infrastructure is needed to support Plan proposals in order to provide the framework for future contributions from development towards County Council services. Where Local Planning Authorities have Supplementary Planning Documents (SPDs) covering planning obligations, this document will inform the preparation or review of any such SPDs by the Local Planning Authorities.
- 1.17 The Planning Obligations Strategy will in future be published as an online resource on the County Council's [Planning Obligations Strategy web page](#), which will be updated as required to reflect changes to national policy guidance and updated figures for calculating obligations. Where changes are made notification of this will be given to Local Planning Authorities. Where significant changes are intended, these will be subject to re-consultation before being adopted.
- 1.18 This document should be read in conjunction with relevant Local Plan Policies and any Supplementary Planning Documents (SPDs) produced by the County Council and District / Borough Councils.

## 2 Purpose, Use and Application of Planning Obligations

- 2.1 Planning law recognises that it is reasonable to expect that developers should contribute towards the costs of services, infrastructure or resources that would not have been necessary but for their development.
- 2.2 The 1990 Town and Country Planning Act (as amended by the Planning and Compensation Act 1991) established the statutory framework for developer contributions in the form of Section 106 planning obligations. The Act provides that a planning obligation may:
- Be unconditional or subject to conditions;
  - Impose any restriction or requirement for an indefinite or specified period; and
  - Provide for payments of money to be made, either of a specific amount or by reference to a formula, and require periodical payments to be paid indefinitely or for a specified period.
- 2.3 The National Planning Policy Framework (NPPF)<sup>1</sup> and the Planning Practice Guidance<sup>2</sup> are the Government's overarching national planning guidance and define planning obligations as being "A *legally enforceable obligation entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.*"
- 2.4 Legal agreements and any planning contributions run with the land in the same way that a planning permission does. This means that they are enforceable against the developer who originally entered into the agreement and any subsequent person acquiring an interest in that land. These legal agreements must be registered as a land charge and will form part of the planning register, available for public inspection.
- 2.5 The Community Infrastructure Levy Regulations (as amended) and paragraphs 203 - 206 of the NPPF set out information on the use of planning obligations and the tests which should be applied. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. However, planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning obligations should only be sought where they are:
- 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.
- 2.6 The NPPF seeks to ensure that obligations allow development to proceed in a viable manner, taking into account market conditions.
- 2.7 The Planning Practice Guidance states that local authorities should not seek contributions from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1,000sq metres. Where the County Council is consulted or are made aware of such developments, unless there is clear evidence available that the

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<sup>1</sup> <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<sup>2</sup> <https://www.gov.uk/guidance/planning-obligations>

application is below this threshold, the County Council may seek a contribution where a need for this is required to mitigate the impact of development.

- 2.8 If a legal agreement makes provision for a commuted sum to be paid to the Local Planning Authority (LPA), the money must be spent within a reasonable time frame. This period is usually five years but may be longer, if deemed appropriate. If the money is not spent within the agreed period, the developer should be reimbursed with the outstanding amount, together with any interest accrued, unless the agreement is varied.
- 2.9 This Strategy sets out the likely level of planning obligations which may be sought in relation to Nottinghamshire County Council's functions and services. However, it is acknowledged that planning obligations may have an impact on the overall financial viability of development. In such circumstances, Nottinghamshire County Council would encourage open discussions with the developer and the LPA (which will include the County Council for Minerals and Waste planning applications) to achieve the most satisfactory outcome, without an undue burden being placed on either the developer or the County Council .

#### Relationship between Section 106 Obligations and the Community Infrastructure Levy

- 2.10 The Community Infrastructure Levy (CIL) is a funding mechanism intended to help fund major infrastructure to support the development of a wider area, rather than to make individual planning applications acceptable in planning terms. In Nottinghamshire, Bassetlaw District Council, Gedling Borough Council and Newark and Sherwood District Council have each introduced a CIL. Developers and land owners will thereby be liable in these areas to pay the Community Infrastructure Levy and enter into a Section 106 Agreement also.
- 2.11 Where a Community Infrastructure Levy is in place, Local Planning Authorities are required to set out in a 'Regulation 123 List', the types of infrastructure or individual projects they will use the Community Infrastructure Levy to fund. The items on the 123 list cannot then be funded by Section 106 obligations. Applicants are advised to consult the relevant District / Borough Council to ascertain the current Regulation 123 list which applies in the area concerned.

### 3 County Council approach to Planning Obligations

- 3.1 It is important that the County Council, District / Borough Councils, developers and their agents work together to identify and negotiate the contributions which may be sought to mitigate the impact of development.
- 3.2 The County Council's Planning Policy team within the Place Department will provide a single point of contact for developers and LPAs regarding planning obligations related to the County Council's services. It can be contacted via [planning.policy@nottscc.gov.uk](mailto:planning.policy@nottscc.gov.uk) or 0300 500 80 80. The team provides advice on planning applications sent to the County Council for comment and will provide to the local planning authority following internal consultation:
- Advice on planning obligations sought;
  - Liaison concerning the drawing up of legal agreements; and
  - Information on the receipt and use of all planning contributions received by the County Council in order that a clear audit trail can be established.
- 3.3 In addition to the above:
- The County Council as Highway Authority will continue to assess any development which is likely to result in a material increase in the volume of traffic or material change in the character of traffic entering or leaving a classified road or proposed highway and seek local highways and transport contributions; and
  - The County Council Flood Risk Management Team will work closely with Districts / Boroughs and developers to secure suitable, feasible and sustainable drainage solutions for new developments that are sympathetic to wider flooding issues in an area.
- 3.4 The County Council will normally only seek planning obligations from 'major' developments which are defined as follows<sup>3</sup>:
- Residential development for 10 dwellings or more where the provisions of the Planning Practice Guidance are met (see paragraph 2.7 above);
  - Residential development on a site in excess of 0.5 hectares where the phasing of developments will add up to 10 dwellings or more;
  - Non-residential development of 1,000 square metres or more gross floor space;
  - Non-residential development on a site of at least 1 hectare.
- 3.5 When considering infrastructure and potential planning obligations requirements, the County Council will:
- Act in accordance with relevant planning policies and other policy documents including the Government's National Planning Policy Framework (NPPF);
  - Provide a coordinated response regarding infrastructure implications to the District / Borough Council consultations on all Local Plans, development briefs, planning applications and informal enquires;<sup>4</sup>

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<sup>3</sup> Unless these differ from locally adopted policies

<sup>4</sup> Where a pre-application submission is made the County Council will provide an "in principle" response which sets out whether contributions are likely to be sought. Detailed information about the value of contributions will be provide should the proposal move forward to a formal application.



- Provide a coordinated response<sup>5</sup> to planning applications, within the consultation timescales, unless otherwise agreed with the relevant District or Borough Council;
- On the occasions that the County Council is approached directly by a landowner, developer or agent requesting information on likely developer contributions, the County Council will provide the advice but copy correspondence to the relevant local planning authority;
- Provide evidence and reasoned justification for infrastructure and contributions sought based on planning policies for requests for developer contributions;
- Identify a named individual to coordinate the County Council's response;
- Assess the capacity of existing infrastructure and services and particular area needs in areas planned for growth in District / Borough Local Plans and the infrastructure and service needs of any specific development proposal;
- Provide its coordinated response to the relevant District and Borough Councils and developers, and will provide draft heads of terms for incorporation into Section 106 obligations;
- Attend meetings with the relevant District and Borough Councils, applicants and their agents when requested and justified by the Local Planning Authority to discuss draft Section 106 heads of terms;
- Consult District / Borough Councils on County planning applications that it receives (in accordance with its statutory duty);
- Where requested by the relevant local planning authority, support the provision of evidence for planning appeals, including hearings and inquiries where the decision is supported; and
- Participate in District / Borough Council's Development Team meetings when requested.

3.6 As part of an approach of working together to deliver sustainable development which provides the supporting infrastructure for the community the County Council asks that District and Borough Councils:

- Consult the County Council on scoping opinions, pre-application proposals and applications for planning permission for 'major' development (as defined on page 7);
- Allow a 14 day period (10 working days) for baseline information requests for all screening/scoping opinions and pre-application consultations;
- Allow a statutory 21 day period (15 working days) for responses on all consultations on planning applications, extended by agreement;
- Notify the County Council of proposed developments that are likely to involve County Council requirements prior to pre-application if available;
- Inform the County Council as soon as practicably possible of any subsequent amendments to the proposal if the County Council's requirements are affected.

### Viability

3.7 As required by the National Planning Policy Framework, in pursuing sustainable development local planning authorities must in determining planning applications, take into account the infrastructure requirements arising from a development and the viability of that development. In making such determinations, local planning authorities are encouraged to

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<sup>5</sup> The Highways Authority and Flood Risk Management Teams may respond separately to consultation requests on a case by case basis, in these cases they will endeavour to meet statutory deadlines.

liaise with, and take the views of, the County Council into account and this will be balanced with local matters and available evidence.

- 3.8 The County Council notes that there is increased use of viability assessments to justify reduced or nil planning obligations . At the same time there has been a significant reduction in the level of public funding available to deliver necessary infrastructure. The result of these pressures has been that two key new issues are fundamental to any planning decision: sustainability and viability.
- 3.9 It is clear that a balance needs to be struck between supporting economic growth and ensuring that new developments do not have an adverse impact on existing and future communities.
- 3.10 The County Council will work with developers and Local Planning Authorities to help achieve planning obligations whilst being sensitive to the needs of development, eg by considering the use of flexible trigger points for payment of contributions in order help ensure development proposals remain viable.
- 3.11 The County Council will require clear, transparent and independent evidence to be provided where viability is cited by a developer as a reason for not providing contributions to the levels required. Nottinghamshire County Council will ask to inspect copies of viability appraisals which have been submitted to the District / Borough Council. This will allow the Council to review the evidence and, where necessary, brief senior officers and Members on the reason why reduced / nil contributions may be justified in certain circumstances and what the implication of this will be on delivering the infrastructure required to mitigate the impact of development.
- 3.12 Nevertheless, having been tested at appeal and having been accepted by developers over time, the County Council considers that the general level of contributions outlined in this document are reasonable and in general should be met by the development, otherwise the development will be unacceptable. This document, which indicates what level of contributions are needed, should be taken into account in the financial appraisal of proposed development at an early stage, prior to agreement over other negotiable items such as land price.
- 3.13 The County Council recognises that it is the District and Borough Councils who will determine most planning applications and consider the obligation(s) requested in light of the viability of the development. In circumstances where Local Planning Authorities do not accept the County Council's full request for developer contributions, a system for reviewing of planning obligations as the development proceeds will be required and will be expected to be incorporated into any agreement. The methods for this will differ on a case by case basis. However, for most cases, the developer will be expected to provide financial information for the particular development to the local authorities and will be liable for all costs incurred by the Councils in assessing any viability report.
- 3.14 For larger scale developments where some degree of phasing is likely, it may be that whilst full policy compliant 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. The County Council will work with Local Authorities in seeking to achieve such Contingent

Deferred Obligations, when the County Council's full request for developer contributions is not accepted.

#### Impact of Reduced or Zero contributions

- 3.15 There may be certain circumstances, e.g. due to viability, where a developer may put forward a case for reduced or zero contributions. This can have a significant impact on the delivery of infrastructure, especially where there are no other funding sources available. Where it becomes evident that a reduced or zero contribution will be secured as part of an application and the County Council sees no justification, the County Council may submit a formal objection to the District / Borough Council.

#### Land for infrastructure

- 3.16 There will be some developments where land will be requested to help deliver infrastructure which is required to mitigate the impact of development, e.g. new schools / land to allow future extension of a school. The County Council will liaise with District / Borough Councils and developers and their agents in respect of the amount of land required and the timescale for its transfer to the County Council.
- 3.17 The following sets out the serviced site requirements where land is being provided for a new school:

*A site remediated to an appropriate standard and without the presence of contamination, ordnance or protected species with all necessary & safe access and rights of access (including free and uninterrupted construction access and to enable the secure passage of people on opening), gas, electricity, potable water, foul & storm drainage, telecommunications, broadband internet and any other services or infrastructure appropriate (to adoptable standard where applicable) to the extent necessary to supply a Primary School (including a Sprinkler installation). Surface water drainage shall be provided to accommodate the 1 in 30 year design flow with attenuation up to 1 in 100 year plus climate change provided within the overall development site, where the utility is to be adopted with an executed agreement (if required) with the relevant body and transferred with confirmation that the infrastructure will be adopted without further payment to the relevant body.*

#### Signing of Legal Agreements

- 3.18 Where the proposed development triggers a County Council requirement in terms of infrastructure, the County Council requires that it is a signatory to the agreement. As part of the process for preparing the legal agreement, District and Borough Councils should consult the County Council on the content of the draft document. This is to allow the County Council to provide input regarding the value of the various contributions (or in the case of land area and transfer requirements), the projects on which monies will be spent and the triggers for payment or provision of land.
- 3.19 In addition, where a legal agreement includes a requirement for monies or a physical contribution to be made to the County Council, the developer will be required to notify the County Council in writing of when development commences and when triggers for payment or provision of infrastructure are reached.

### Indexation

- 3.20 In order to ensure that planning obligations provide for the actual costs of the infrastructure for which they are levied, all financial contributions agreed in legal agreements will be index-linked appropriately to reflect increases in build costs between the date the agreement is signed and the actual delivery date of the service or facility.
- 3.21 The indexation which will be used for County Council obligations will be the BCIS All-In Tender Price Index published by the Office for National Statistics contained in the monthly Digest of Statistics (or contained in any official publication) or such other index as may from time to time be published in substitution. Where local bus service contributions are secured the County Council will use the CPT Cost Index.

### Legal Fees

- 3.22 The County Council will recharge the developer its legal costs incurred in agreeing planning obligations for its services. These costs are payable for work done regardless of whether agreements are ultimately completed. Legal fees will be recharged on a time expended basis.

### Payment of monies

- 3.23 Where agreed by District / Borough Councils, funds payable in relation to the County Council's requirements will be paid directly by the developers to the County Council. In other cases, the sums will be forwarded by the District / Borough Councils to the County Council when the terms and conditions set out in the Section 106 agreement are met and the monies have been received by the District/Borough Councils. In these cases the County Council will expect the District / Borough Council to:
1. Commit to the payment of developer contributions to identified County Council projects, as set out in the S106 agreement (once monies have been received by the District / Borough Council for those identified projects); and
  2. Pay the required developer contributions upfront to allow funds to be spent on the identified project.

### Transfer of monies

- 3.24 In certain cases, in particular relating to education requirements, there may be occasions where S106 monies will need to be transferred to other organisations, e.g. The School Academy Trust. Where this occurs the County Council will enter into a Grant Agreement which will set out:
- The conditions of the grant;
  - The party to whom the monies are to be paid;
  - The amount of monies to be transferred and how this will be paid;
  - The project for which it will be used to deliver; and
  - The clawback period for spending the monies and the process for recovering it in the event that it is not spent in the time period specified.

## Appeals

- 3.25 In the event that planning applications are refused by the Local Planning Authority, representations pertaining to infrastructure need may be recorded as objections and thereby set out as reasons for refusal. The County Council will assist Local Planning Authorities in defending such reasons for refusal at any subsequent appeal, and where considered appropriate, will submit a Planning Obligations Position Statement to the Inspector setting out the various contributions sought and how these requests comply with the three statutory tests. Clearly, Section 106 agreements may be entered into prior to the appeal to overcome the need for Nottinghamshire County Council to raise such objections with the appeal inspector.
- 3.26 Where an appeal is submitted to the District Council, the County Council requests that it is notified. This is to ensure that it has sufficient time to consider the need to submit additional information to the Planning Inspector and, if being determined by a Public Inquiry, whether it needs to attend to set out its position on the planning obligations sought.
- 3.27 The County Council will work with District / Borough Councils, developers and their agents in respect of all aspects relating to the provision of infrastructure that is required to mitigate the impact of development as set out above. The following sections of the document set out in detail the various contributions which may be sought by the County Council.

## ARCHAEOLOGY PROVISION

In its role as advisor in relation to archaeology, the County Council seeks to increase awareness of the importance of archaeological assets, and to protect them wherever possible. Whilst there are over 8,000 known archaeological sites and historic features across the County, new sites continue to be discovered, most frequently as a result of development activities. It is therefore important that measures are taken when planning permission is granted to investigate, record, analyse and protect this non-renewable asset.

Additional information on the location and types of archaeological sites and historic features throughout Nottinghamshire can be accessed via the County Council's Historic Environment Record (HER)<sup>6</sup>. For more information, please contact the Historic Environment team on 0115 993 2604.

Whilst a lot of matters relating to archaeology can be subject to a planning condition, there will be circumstances when a legal obligation is required.

<b>Current guidance</b>	<ul style="list-style-type: none"> <li>National Planning Policy Framework (NPPF);</li> <li>Historic Environment Good Practice Advice in Planning Notes 1,2 and 3</li> </ul>
<b>Type of facilities for which obligation may be required</b>	<ul style="list-style-type: none"> <li>Archaeological consultants and contractors for investigation, recording, analysing, conserving archiving and reporting on archaeological structure or remains;</li> <li>Provision for site management, interpretation schemes and public access; and</li> <li>Provision of open space, to protect archaeological remains that are of sufficient importance to warrant preservation in situ, and the maintenance of the open space to prevent any form of ground disturbance in the future.</li> </ul>
<b>Type of development which may trigger need</b>	<ul style="list-style-type: none"> <li>All development which may have an impact on archaeologically sensitive structures or locations. (The extent of the interest must be located and defined through archaeological field evaluation)</li> </ul>
<b>Form in which contributions should be made</b>	<ul style="list-style-type: none"> <li>Commissioning of relevant programmes of work;</li> <li>Safeguarding of archaeological interest or provision for excavation, recording and archiving.</li> </ul>
<b>Does a threshold apply?</b>	<ul style="list-style-type: none"> <li>No threshold. Where sensitive sites are affected, it applies to all development proposals.</li> </ul>
<b>Location for application</b>	<ul style="list-style-type: none"> <li>Throughout Nottinghamshire (detailed information on sensitive areas can be provided by the County Archaeologist).</li> </ul>

<sup>6</sup> <http://www.nottinghamshire.gov.uk/whats-on/heritage/historic-environment-record>

## EDUCATION PROVISION

### Planning to meet increasing demand for school places

The Education Act 1996 states that Local Authorities such as Nottinghamshire County Council have a duty to secure school places for all children of statutory school age who are resident in the County and whose parents want them to be educated in a state-funded school. Subsequent Education Acts have built upon this but the obligation placed on local authorities has not changed. In addition the County Council has a statutory duty to ensure a sufficiency of pre-school places (e.g. Play Group and/or Nursery provision) for children aged three and four. There is also a duty to ensure places for certain 2 year olds. Since 2017, the government has also delivered a policy to allow access to an additional 15 hours to working parents of 3 and 4 year olds. Contributions for nursery and pre-school provision may be required either for existing pre-schools or purpose built new facilities on a separate site, possibly shared with a school. Existing playgroups and nurseries (including private facilities) will be taken into account.

Funding for the provision of additional school places is derived from two sources:

1. An allocation from the Department for Education (DfE) to meet demand from the existing population; in this case an increasing demand for places is a direct result of either rising birth rates or a net inward migration; and
2. Developer education contributions which are required to mitigate the impact of new housing developments on infrastructure.

The annual Department for Education (DfE) School Capacity (SCAP) Return requires the local authority to state clearly where places are required as a result of new housing developments (increased demand) and, in addition, there is a requirement to list the new school or school expansion projects funded by Section 106 / CIL education contributions.

### Methodology for forecasting the demand for school places

The methodology employed by the County Council for forecasting pupil numbers is the same as that used by most other local authorities.

The County Council groups schools (both primary and secondary) across the County into 'planning areas'.

Population profile data is aggregated to postcode and age group, which enables the numbers of children in each cohort to be mapped against school catchment areas. In turn, this data is aggregated to the planning areas. This provides the number of young people living in each planning area organised by National Curriculum Year.

The statutory school census data for an individual school for each of the past 3 years is compared to the corresponding population profile data for the planning area in which the school is located. This results in a 3 year period percentage intake from the planning area. These 3 percentages are averaged; however, the average is weighted towards the more recent census year.

This percentage is then applied to the appropriate population profile data for the next 5 years to create a first admission and infant to junior projection for the following 5 years.

There is a degree of movement into and out of schools throughout the year and this may produce a 'cohort flux' – for example, losses or gains between one school year and the next. The average cohort flux for each year group over the past 3 years is calculated for the school and then applied to each cohort projection to project numbers for the following year.

The same methodology is employed to forecast the demand for secondary school places.

It should be noted that School Planning Areas are not static. As required by the DfE, the County Council are currently reviewing the planning areas and this may have an impact on future education requirements.

If a school has been delivered through the private Finance Initiative (PFI) the cost of delivering pupil places is increased by a factor of approximately 15%. This will be due to the terms of the legal agreement which will have been signed at the time the school was delivered.

### Demographic Changes

In line with the underlying national trend, Nottinghamshire has seen an increase in birth rates across the County since 2007. This has been seen by an increase in numbers at primary schools, and the increase will move into the secondary education phase in the next couple of years.

The total primary number on roll (NOR) had seen a steady decline in numbers between 2001 and 2010 but subsequent years have seen a sharp increase in total numbers to the school year 2014/15. The numbers of 4 year olds entering the school system show a sharper increase. Across the whole of the County, the number of 4 year olds began to increase around 2006.

Given the falling rolls of previous years, this sharp increase in numbers of 4 year olds did not impact on the County's overall ability to provide pupil places where they were needed. However, as smaller cohorts of older children are replaced by larger cohorts of young children, pressure on places increases inevitably.

### **Meeting expected demand resulting from proposed housing developments**

The County Council's consideration of whether or not developer contributions towards education provision are required will be informed by the projected demand for places compared with the known capacity figures. *Seemingly 'spare' capacity at a school does not necessarily equate to there being sufficient capacity at that school as it is a DfE expectation that schools should not operate at more than 90-95% of their capacity and NCC officers consider recent trends in in-year applications to ensure that a school is able, wherever possible, to accommodate the normal movement of families around the area. This does NOT include new families moving into an area as a result of them occupying newly built houses.*

The projected demand for places, taking into account the proposed development, is calculated during the planning application process using the formulae described in the County's Planning Obligations Strategy. This is translated into a funding requirement which is detailed in the Strategy as a per pupil place cost. Any costs to be paid to the County Council will be index linked through the Section 106 agreement.



Where a new development is proposed in an area with sufficient projected capacity, no financial contribution will be required; where the proposed development would result in insufficient projected capacity, a contribution will be required. There may be a requirement, in some cases, for the provision of a completely new school. This is likely to be the case if the proposed development is in an area where all schools have already been expanded to reach their site capacity, or where the development is large enough to sustain its own school. Where a new school is required, the base level of contribution required will be an appropriate area of land for the required size of school plus the cost of building the school.

If there is insufficient capacity to accommodate the increase in pupils likely to be generated by a development and the development itself cannot enable the necessary provision the County Council will raise objections to the development.

### **Delivering Education Places**

The roll out of academies does not impact on the County Council's requirement to ensure sufficient school places are available. Therefore when providing school places developers / agents should contact the County Council to discuss how these places will be provided.

When a new school is required this will be done via academisation. There are 2 ways was achieving this:

- New Academy / Free School using the Presumption Process; or
- Direct Route.

Both of these approaches will require the approval of the Regional Schools Commissioner acting on behalf of the Secretary of State.

Further information about these processes is available [here](#).

Where financial contributions are made to allow the delivery of new school places these will either be paid direct to the County Council or to the District / Borough. Where the latter occurs the County Council will submit a claim to allow the monies to be transferred to the County Council. Where monies will be used to deliver additional places at an academy, a Grant Agreement will be prepared by the County Council and sent to the Academy Trust for signing. This will set out the level of contribution to be transferred, how this will be paid, what the monies will be used for and the conditions for spend including circumstances which will see monies repaid to the County Council. Further information about these agreements is set out in paragraph 3.24.

<b>Current guidance</b>	<ul style="list-style-type: none"> <li>• National Planning Policy Framework (NPPF);</li> <li>• Department for Education Strategy Overview 2015-20</li> <li>• Policy Statement – Planning for schools development (DCLG 2011)</li> <li>• Schools Admissions Code (latest update 2014)</li> </ul>
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<p><b>Type of facilities for which provision may be required</b></p>	<ul style="list-style-type: none"> <li>• Sites for new schools;</li> <li>• Construction costs of new schools;</li> <li>• Contributions towards additional classrooms;</li> <li>• Contributions towards equipment;</li> <li>• Other building provision at existing schools (including additional grass / artificial turf sports pitches); and</li> <li>• Contributions towards highway needs arising as a result of the development.</li> </ul>
<p><b>Type and size of development which may trigger need and what contributions will be used for</b></p>	<ul style="list-style-type: none"> <li>• Developer contributions will be generated by residential development, which create extra demand at local schools (subject to a lack of existing capacity at the local catchment schools). Requests for contributions will be made for all residential developments of <b>10 dwellings and above</b> (where the provisions of the Planning Practice Guidance are met). The contributions will be used for: <ul style="list-style-type: none"> <li>- Extending and/or improving existing schools and pre-school provision that serve the development; and/or</li> <li>- Building a new school or pre-school facility where there is a significant housing proposal (see new school costs below).</li> </ul> </li> <li>• When building a new school the County Council will consider the wider community use of both the school buildings and playing fields.</li> </ul>
<p><b>The numbers of children generated by new developments</b></p>	<ul style="list-style-type: none"> <li>• A development of 100 dwellings can be expected to generate 21 children of primary school age and 16 children of secondary school age; (Calculated on the numbers of children of primary and secondary school ages which developments can be expected to generate);</li> <li>• The impact of individual developments on pupil numbers will be based pro-rata on the above figures to help calculate the appropriate level of planning contributions required.</li> </ul>
<p><b>What if there is spare capacity at the existing catchment schools?</b></p>	<ul style="list-style-type: none"> <li>• Contributions will be required for every pupil place required in excess of the projected capacity (if calculations indicate that spare places will exist in the catchment primary and/or secondary school by the time the development can reasonably be expected to generate new demand for places, the requirement will be adjusted accordingly).</li> <li>• Projected capacity will be calculated on the basis of: <ul style="list-style-type: none"> <li>- the school's existing net capacity and Published Admission Number (PAN) ;</li> <li>- any planned changes to the school building stock affecting the school's net capacity calculation (a revised net capacity);</li> <li>- pupil projections (revised annually);</li> <li>- Infant Class Size legislation, which limits the size of key stage one classes to 30 per teacher; and</li> <li>- development(s) with planning permission which will generate a need for pupil places (and which may itself have been subject to a contribution) which will have been factored into the assessment of available capacity for new applications.</li> </ul> </li> </ul>
<p><b>How are the costs calculated</b></p>	<p>The costs of providing the extra room necessary at the local catchment schools are based on "cost per pupil place". These cost multipliers are</p>

<p><b>and what are they?</b></p>	<p>provided to the County Council by the Department for Education (DfE), at a price base of January 2016. They are the per pupil funding amounts used by DfE to calculate the Basic Need funding allocation awarded to local authorities and are adjusted to account for regional building cost variations.</p> <ul style="list-style-type: none"> <li>• <b>The costs per school place are:</b> <ul style="list-style-type: none"> <li>- <b>£ 13,656 for primary education; and</b></li> <li>- <b>£ 17,753 for secondary education.</b></li> </ul> </li> <li>• These figures will be updated as and when the DfE produces updated information. These figures are index-linked from the date of the relevant legal agreement relating to the granting of planning permission to the BCIS All-In Tender Price Index.</li> <li>• If a school has been delivered through the private Finance Initiative (PFI) the cost of delivering pupil places is increased by a factor of approximately 15%. This will be due to the terms of the legal agreement which will have been signed at the time the school was delivered.</li> <li>• The trigger point for payment of the contribution will be prior to the first occupation of the first dwelling built pursuant to the planning permission for the development generating the need.</li> <li>• Where a development is to take place in phases over a period of time, it may be possible to phase the payment of contributions to reflect this.</li> </ul>
<p><b>Do any discounts apply?</b></p>	<ul style="list-style-type: none"> <li>• The costs are calculated on the basis of a mix of housing types and are not discounted unless the development proposed is <b>solely</b> for apartment developments which are unsuitable for families, or specialist units, such as those for the elderly;</li> <li>• Where a development is solely for apartments, the contribution will be discounted for the 1 bed unit element of the development – the County Council will not require a contribution for these units;</li> <li>• There is <b>no</b> discount for developments which are solely or wholly for affordable / social housing, as evidence shows that these can reasonably be expected to generate at least as many children as private housing, and often more.</li> </ul>
<p><b>What about large developments which generate the need for a new school?</b></p>	<ul style="list-style-type: none"> <li>• The figures above are not applicable to situations where a new school is required. Where this is the case, the County Council will require fully serviced land from the developer within the site, plus sufficient monies to build a new school;</li> <li>• The cost of the new school will depend upon its required size, any relevant building standards requirements and the BB 103 and NCC specific requirements and issues relating to the proposed site itself;</li> <li>• The County Council will make every reasonable effort to minimise the cost of providing the new school and will provide the developer with the option of building the new school, subject to meeting the required DfE and NCC standards.</li> </ul>
<p><b>Form in which contributions should be made</b></p>	<p>Land where required, and either the costs of construction of buildings or work in kind, to the County Council's specification. Contributions towards other infrastructure as referred to above.</p>

## **FLOOD RISK MANAGEMENT**

New development and redevelopment offers an opportunity to manage flood risk to both users of a development, neighbouring third parties and the wider community. It can do this through careful design of surface water drainage systems and considerate site layouts whilst still meeting development requirements.

Parliament introduced Legislation in 2009, the Flood Risk Regulations, and 2010, the Flood and Water Management Act, to improve the way that we tackle the risk of flooding in England and Wales. This legislation created a new role of Lead Local Flood Authority (LLFA) the duties of which are undertaken by Nottinghamshire County Council.

The legislation also places a duty on all flood risk management authorities to co-operate with each other and provides LLFAs and the Environment Agency with a power to request information required in connection with their flood risk management functions.

As LLFA Nottinghamshire County Council has a duty to develop and maintain a Local Flood Risk Management Strategy (LFRMS) for the management of local flood risk in Nottinghamshire. The County Council works closely with representatives from the District / Borough Councils together with other partnering authorities including the Environment Agency, Severn Trent Water, Internal Drainage Boards etc. The strategy was published in 2016 and can be found on the County Council's website. Developers are strongly urged to familiarise themselves with the objectives of the strategy and consider the objectives when planning developments.

In certain areas, new development could provide the catalyst for delivering wider flood alleviation benefits to existing communities and in these situations a contribution in the form of a planning obligation from developers towards such works may be sought.

Under the Flood and Water Management Act 2010, Nottinghamshire County Council has, since April 2015, been a statutory consultee to local planning authorities providing them with comments on the surface water drainage proposals of large scale developments or those within an area of high flood risk.

Those proposing development should consider the risk of flooding from all sources, seeking to develop in the lowest flood risk areas, proposing mitigation measures where appropriate and managing the surface water runoff generated from development.

## HIGHWAYS AND TRANSPORT

One of the core planning principles in the National Planning Policy Framework (NPPF) is to actively manage patterns of development growth to make the fullest possible use of public transport, walking and cycling which can also have positive outcomes for health & wellbeing, and to focus significant development in locations which are or can be made sustainable. The transport system should be balanced in favour of sustainable and healthy transport modes, giving people a real choice about how they travel. All planning applications that propose developments that generate significant amounts of movement must be supported by a Transport Statement or Transport Assessment prepared in accordance with current Department for Transport guidance.

As the Local Highway Authority, the County Council will view the highway elements of any applicable proposals with a view as to their suitability, sustainability, connectivity and acceptability in mitigating any adverse effects of the development on the local highway network using guidance contained within the NPPF and other relevant guidance. In those instances where the proposals made by the developer do not allow the adverse effects on the highway network to be fully mitigated or where the development would be considered unsustainable in transport terms, the County Council will seek opportunities in co-operation with the Local Planning Authority for the introduction of sustainable transport modes funded by the developer.

These may include off-site public transport and cycling / walking measures in the general area surrounding and affected by the development. These could include road based improvements such as crossings, footways, cycle routes, intelligent transport systems, public transport services, and bus priority measures. They may also include general highway capacity improvements where journey times would otherwise be delayed.

It should be noted that current Government guidance means that the Highway Authority may only expect the Local Planning Authority to require a developer to make a contribution to a highway improvement or sustainable transport facility where the requirement for it is both a direct consequence of the development proceeding and that without it the development could not function properly.

Developers will be required to commit to travel plan monitoring and to pay a separate fee to cover the County Council's travel plan monitoring costs proportionate to the size of the development and the likely staff time involved. Contributions will be sought in all cases where it is necessary to make the development acceptable in planning terms.

## Public Transport

The Transport Act 1985, Section 63(1) (a), explains that local transport authorities must:

“... secure the provision of such public passenger transport services as the council consider it appropriate to secure to meet any public transport requirements within the county which would not in their view be met apart from any action taken by them for that purpose.”

Developer contributions for public transport are an important source of funding to mitigate the impact of new housing developments on the transport network as follows:

- Local Bus service contributions to provide socially necessary services, including revenue support for services that are forecast to break-even and become commercial in the future. This will include school bus services where appropriate.
- Bus infrastructure contributions to provide bus stop facilities, information (including real time information) and bus priority measures, including bus stop clearways.

The level of funding contribution requested will be subject to the particular characteristics of the development site.

<p><b>Current guidance</b></p>	<ul style="list-style-type: none"> <li>• National Planning Policy Framework;</li> <li>• Nottinghamshire County Council Strategic Plan</li> <li>• Local bus strategy - <a href="http://www.nottinghamshire.gov.uk/transport/public-transport/plans-strategies-policies/local-bus-strategy">http://www.nottinghamshire.gov.uk/transport/public-transport/plans-strategies-policies/local-bus-strategy</a></li> <li>• Integrated passenger transport strategy and Delivery Plan- <a href="http://www.nottinghamshire.gov.uk/transport/public-transport/plans-strategies-policies/integrated-passenger-transport-strategy">http://www.nottinghamshire.gov.uk/transport/public-transport/plans-strategies-policies/integrated-passenger-transport-strategy</a></li> <li>• Detailed information about how the level of requested funding is calculated can be found in the ‘Transport Statement for Funding’ document issued to developers as part of the process for negotiating funding. This document is available on request from the Council.</li> <li>• Spatial Planning for the Health &amp; Wellbeing of Nottinghamshire, Nottingham City &amp; Erewash</li> <li>• Rights of Way Improvement Plan 2007-2012</li> </ul>
<p><b>Type of facilities for which provision may be required</b></p>	<ul style="list-style-type: none"> <li>• Local Bus service contributions to provide socially necessary services, including revenue support for services that are forecast to break-even and become commercial in the future;</li> <li>• Bus infrastructure contributions to provide bus stop facilities, information (including real time information)</li> </ul>

<p><b>Type of facilities for which provision may be required continued</b></p>	<p>and bus priority measures, including bus stop clearways;</p> <ul style="list-style-type: none"> <li>• Public transport;</li> <li>• Cycling &amp; Walking measures, including upgrading of public rights of way via surface or infrastructure improvements for accessibility and higher levels of use;</li> <li>• Travel Plan Monitoring Fee proportionate to the size of the development;</li> <li>• Crossings and footways; and</li> <li>• Intelligent transport systems.</li> </ul>
<p><b>Type and size of development which trigger need and what these contributions will be used for</b></p>	<p>Developer contributions will be generated primarily by residential and industrial development. Requests for contributions will generally be considered for all residential developments of <b>10 dwellings and above</b> (where the provisions of the Planning Practice Guidance are met). However, contributions are also requested for employment and retail developments, for the equivalent scale of development. The contributions will be used for:</p> <p><b>Local Bus Services</b></p> <ul style="list-style-type: none"> <li>• <b>Public Transport Provision</b> – The County Council will look at the number of dwellings being proposed and the likely modal split in terms of transport usage, taking the developer’s Transport Assessment and Travel Plans for the site into consideration. Also any new bus service provided by the developer will be expected to meet any Quality Bus Partnership standards applicable in the local area. The operator will also be expected to participate in any Integrated ticketing schemes/initiatives in the local area i.e. Robin Hood Card, PlusBus and new opportunities, including quality partnership standards arising from the Local Bus Services Act 2017.</li> </ul> <p>The bus service route, frequency and days of operation will be determined through discussion with Transport and Travel Services (TTS), and will be considered in the context of the prevailing bus network and the network in neighbouring local authority areas where the development is close to the boundary with other areas.</p> <p><b>Bus Infrastructure</b></p> <ul style="list-style-type: none"> <li>• <b>Public Transport Usage</b> – TTS will look at the number of likely trips that would be generated and the likely modal split in terms of transport usage, taking the</li> </ul>



<p><b>Type and size of development which trigger need and what these contributions will be used for continued</b></p>	<p>developer’s Transport Assessment and Travel Plans for the site into consideration.</p> <ul style="list-style-type: none"> <li>• Public Transport Infrastructure Availability – TTS will look at the proposed development and its nearest current bus stop infrastructure and what improvements directly related to the development are necessary to make the development acceptable in planning terms. The 6C’s guidelines state “3.81 generally walking distances to bus stops in urban areas should be a maximum of 400m and desirably no more than 250m. In rural areas the walking distance should not be more than 800m.” Should the nearest bus stop infrastructure be further away than the distances in the guidelines TTS will request that new bus stops are installed within the relevant distances via developer contributions.</li> <li>• Quality of Existing Bus Stop Infrastructure – TTS will consider the quality of the nearest bus stops to the proposed developments and whether the infrastructure could be improved to promote the use of sustainable transport. Any suggested improvements will be relative to the size of the development proposed and its potential impact on the usage of the infrastructure.</li> <li>• Some developments require the installation of new bus stops and/or the relocation of existing bus stops. When considering the position of bus stop infrastructure a developer must take several key issues into account as set out in the 6C’s Guidelines.</li> <li>• Other public transport measures not related to bus stop provision i.e. bus lanes, bus gates and corridor enforcement is included in the Highways Section.</li> </ul>
<p><b>Does a threshold apply?</b></p>	<p>For residential developments a public transport contribution will be requested for sites with a minimum of 10 dwellings (where the provisions of the Planning Practice Guidance are met).</p>
<p><b>How are the costs calculated?</b></p>	<p><b>Local Bus service</b> – the cost is derived from the additional cost to supplement the local bus network to provide a service that meets the requirements for the new development including reference to providing access for schools, work, shopping and leisure purposes. A bus service funding model is used to simulate a range of service solutions with supporting costs. This will include the provision of statutory school bus services where appropriate.</p> <p>The level of contribution will represent the cost of providing the bus service, minus revenue generated from tickets and passes.</p>



<p><b>How are the costs calculated? continued</b></p>	<p><b>Bus Infrastructure</b> – The cost to provide suitable bus stop facilities including the following (where appropriate):</p> <ul style="list-style-type: none"> <li>• Real Time Bus Stop Pole &amp; Displays including Associated Electrical Connections;</li> <li>• Bus Shelter (Polycarbonate or Wooden dependant on location);</li> <li>• Solar/Electrical Lighting in Bus Shelter;</li> <li>• Raised Boarding Kerb;</li> <li>• Lowered Accessibility Kerb;</li> <li>• Enforceable Bus Stop Clearway</li> </ul> <p>Costs will also include reference to requirements for services for schools, ticketing enhancements including smart ticketing, and information provision.</p> <p>All costs will be calculated on a case by case basis. Nottinghamshire County Council will demonstrate best value for provision of bus services and bus stop infrastructure through the established procurement process.</p>
<p><b>Form in which contributions should be made</b></p>	<p>For public transport provision, the contribution will be in the form of a S106 Agreement unless public transport is to be delivered by CIL as set out on a Local Authorities CIL Regulation 123 list. It is the Council’s preference that funds are paid to the Council who will manage and co-ordinate provision of the agreed services and facilities enhancements in line with their role as the Local Transport Authority (local bus, information and ticketing), Transport Concessionary Authority and the statutory authority for the provision of school services.</p> <p>For Bus Stop improvements, where the size of the development is modest, the Council may request a Planning condition rather than a S106 Agreement. For larger developments the contribution will be included within the S106 Agreement.</p>

## LIBRARY PROVISION

The County Council has a statutory responsibility under the terms of the 1964 Public Libraries and Museums Act, to provide “a comprehensive and efficient library service for all persons desiring to make use thereof”.

In Nottinghamshire, public library services are delivered through a network of library buildings and mobile libraries, under contract with Inspire, a non-profit organisation. These libraries are at the heart of the communities. They provide access to books and DVDs; a wide range of information services; the internet; Wi-Fi and opportunities for learning and cultural activity.

The County Council has a commitment to maintain and develop a strong libraries network across the County and confirms the purpose of libraries as being places that aim to be at the heart of Nottinghamshire’s community life and that offer facilities to:-

- Inspire the enjoyment of books and reading;
- Create knowledge through access to learning, information and local heritage;
- Stimulate and encourage cultural activities; and
- Offer excellent and inclusive customer service for all every time.

The County Council has a clear vision that its libraries should be:

- Modern and attractive;
- Located in highly accessible locations; and
- Of suitable size and standard for intended users.

Therefore contributions from developments which place demand on library services are required in order to maintain this statutory responsibility and vision for libraries.

<b>Current guidance</b>	<ul style="list-style-type: none"> <li>• National Planning Policy Framework (NPPF);</li> </ul>
<b>What contributions could pay for</b>	<ul style="list-style-type: none"> <li>• Construction and fit out costs of extensions / alterations to existing libraries; and</li> <li>• Stock costs.</li> </ul>
<b>Type and size of development which may trigger need</b>	<ul style="list-style-type: none"> <li>• Residential (including student accommodation) <b>of over 50 dwellings</b> may trigger a requirement for a contribution;</li> <li>• Where new development generates a need for additional library provision, a contribution will be required;</li> <li>• The need for a contribution will be established by comparing the current capacity of the library and population it serves against the number of people likely to be generated by the new development;</li> <li>• Where the existing library’s capacity would be exceeded, a contribution will be required;</li> </ul>

	<ul style="list-style-type: none"> <li>• The capacity of the library is determined based on a service requirement of 30m<sup>2</sup> of public library space per 1,000 population, based upon the current model of delivery and found in the Museums, Libraries and Archives (MLA) advice;</li> <li>• The catchment population of the library is identified by the home addresses of customers who borrow from that library using data from the Library Management System. For any postcode where the majority of customers use a specific library, that library will include that postcode in its catchment area.</li> </ul>
<p><b>How are the costs calculated and what are they?</b></p>	<ul style="list-style-type: none"> <li>• Where new development places demands on the library above its physical capacity, the following standard build cost charges will be applied:</li> <li>• <b>Building Costs (including stock):</b> <ul style="list-style-type: none"> <li>○ Building costs linked to the RICS BCIS Tender Price Index and new build prices;</li> <li>○ Fitting out costs including furniture and technology based upon current fitting out costs of new provision in Nottinghamshire.</li> </ul> </li> </ul> <p>Where such a contribution is required the cost will be determined at the time of the planning application.</p> <ul style="list-style-type: none"> <li>• <b>Stock costs only:</b> <ul style="list-style-type: none"> <li>○ Where a library building is able to accommodate the extra demand created due to a new development but it is known that the stock levels are only adequate to meet the needs of the existing catchment population, a “stock only” contribution will be sought;</li> <li>○ The National Library Standard upper threshold cites a recommended stock level of 1,532 items per 1,000 population. At an average price of £10.00 per stock item (based on Askews Library Services book prices at September 2017). Thus costs for the provision of stock only is as follows: <ul style="list-style-type: none"> <li>○ <b>£36.77 per dwelling</b> (based on 2.4 occupants per dwelling).</li> </ul> </li> </ul> </li> </ul>
<p><b>Form in which contributions should be made</b></p>	<ul style="list-style-type: none"> <li>• Land, where required, and either the costs of construction of buildings to the County Council’s specification and fitting out costs including initial book stock and IT; or</li> <li>• Contributions towards stock increases.</li> </ul>

## NATURAL ENVIRONMENT

Biodiversity is a key test of sustainability in both rural and urban areas. Taking opportunities to protect, and where possible enhance, the natural environment is a key objective at national, regional and local level. Within Nottinghamshire, certain habitats and species have declined to such critical levels that they are now rarely found outside designated sites. Nottinghamshire County Council seeks measures to halt this decline, manage the current resource and restore past losses in order to promote sustainable development.

Additional information on the location and types of designated sites throughout Nottinghamshire can be accessed via the County Council’s Nature Conservation team. For more information, please contact the team on 0115 993 2602.

It is also important to safeguard against adverse impacts upon Nottinghamshire’s Landscape Character or significant visual intrusion into the wider landscape from specific developments. Nottinghamshire County Council seeks measures to provide appropriate landscape mitigation works either within the development site or potentially off site to safeguard these assets.

Whilst matters relating to the natural environment are usually subject to a planning condition, there may be circumstances when a legal agreement is required.

<p><b>Current guidance</b></p>	<ul style="list-style-type: none"> <li>• National Planning Policy Framework (NPPF);</li> <li>• National Planning Practice Guidance (NPPG) – Natural Environment;</li> <li>• Circular 06/2005 – Biological and Geological Conservation;</li> <li>• Biodiversity 2020: A strategy for England’s Wildlife and Ecosystem Services;</li> <li>• British Standard 42020:2013 Biodiversity – Code of Practice for Planning and development;</li> <li>• Nottinghamshire Local Biodiversity Action Plan;</li> <li>• Nottinghamshire Landscape Guidelines;</li> <li>• National Character Area profiles – Natural England, September 2014;</li> <li>• East Midlands Regional Landscape Character Assessment – April 2010;</li> <li>• Greater Nottingham Landscape Character Assessment 2009;</li> <li>• Bassetlaw District Landscape Character Assessment 2009;</li> <li>• Newark &amp; Sherwood Landscape Character Assessment;</li> <li>• Mansfield Landscape Character Assessment 2010.</li> </ul>
<p><b>Measures for which provision may be required</b></p>	<p>To mitigate against and / or compensate for unavoidable impacts on the natural environment, landscape character, and visual amenity caused by development the County Council may seek the following measures to include, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Habitat protection, enhancement , restoration and creation (off and on site);</li> <li>• Landscaping - on site or strategic landscaping solutions;</li> </ul>

	<ul style="list-style-type: none"> <li>• Site management;</li> <li>• Site interpretation;</li> <li>• Landscape – mitigation, creation, and enhancement.</li> </ul>
<b>Type of development which may trigger need</b>	<ul style="list-style-type: none"> <li>• All development which may have an impact on ecological, geological or landscape sensitive features;</li> <li>• Specific locations will need to be assessed individually.</li> </ul>
<b>Form in which contributions should be made</b>	<ul style="list-style-type: none"> <li>• All capital costs of implementation, mitigation or compensation measures; and</li> <li>• Maintenance costs for a period to be agreed (for example, up to 10 years).</li> </ul>
<b>Does a threshold apply?</b>	<ul style="list-style-type: none"> <li>• No thresholds apply (If sensitive features or sites are affected, it applies to all development proposals)</li> </ul>
<b>Where does this apply?</b>	<ul style="list-style-type: none"> <li>• All ecologically / geologically sensitive features and locations in Nottinghamshire and in areas of particular landscape sensitivity;</li> <li>• All landscapes of high sensitivity and/or good condition, including smaller parcels of land having particular landscape sensitivity within a wider area of less significance.</li> </ul>

## WASTE MANAGEMENT & RECYCLING

### Meeting additional demand on waste facilities

Several of Nottinghamshire's Recycling Centres are now at or close to capacity and with significant house building in their catchment area will no longer be fit for purpose. Where significant additional housing is planned and a catchment site is at or close to capacity it may be necessary to seek developer contributions to support the construction of a new or expanded Recycling Centre site.

District and Borough Councils publish their Local Plans which set out the expected housing growth over the coming years. This predicted rise in housing will be used to formulate how large a contribution any one housing development will be expected to make. In April 2015 regulations were amended which limited the pooling of developer contributions to no more than 5 obligations, therefore it is important that only the largest of housing developments will be expected to make a contribution should a new or improved waste facility be required due to increased population within the catchment area.

Large housing developments will generate significant levels of additional waste, with each household in Nottinghamshire on average taking 250kg of waste to the County's Recycling Centres each year. In addition to this, there are a number of additional factors that influence the need to replace or upgrade recycling centre sites, these include:

- Additional new users at many recycling centres may lead to an increase in queuing times and congestion in the area;
- Additional site usage and therefore waste may mean an increase in vehicles needing to access the sites to remove waste. This can mean public access to the sites is further restricted whilst the waste is removed; and
- The site no longer being acceptable with regards to public usability such as not being split level for ease of disposing of waste and therefore can present accessibility and health and safety issues with the public having to use steps and ramps to access skips.

### Contribution Model

In order to ensure a fair contribution request is made the following model has been developed that works out a contribution per household. The contribution per household will vary from district or borough to district based upon the expected housing in the area as well as land purchase or lease costs.

The 'per household contribution' will be determined as follows:

A = Contribution per household

B = Capital costs associated with construction of new or extended site

C = Saleable assets of old site where appropriate

D = Land lease costs per annum

E = Length of lease in years

F = Existing households in the catchment area/borough/district  
G = Expected additional housing as set out in relevant Local Plan/s.

$$A = (B-C + (D * E) / (F+G))$$

### **Example**

A proposed development of 2,000 houses would require the development of a new Recycling Centre. The capital costs for a new site are £2,500,000 and the existing site has £500,000 of saleable assets. The new site will be on a lease of 25 years at a cost of £50,000 per annum. The current catchment of the area is 40,000 with the local plan setting out a further 5,000 new homes over the coming years. The developer contribution sought would be £144,440 based on a 'per house contribution' of £72.22.

$$(2,500,000-500,000 + (50,000 * 25) / (40,000+5,000)) = £72.22 \text{ per household}$$

### **Contribution Threshold**

Any proposed development of 200 new dwellings may trigger the need for a developer contribution to support the development of a new or improved recycling centre capable of serving the expected additional demand in the area. Any request for contributions will be based on the need for a new or improved recycling centre and the overall expected housing development in the area.

### **Land as Contributions**

In cases where a new site is required it may be possible for a developer to gift land that is deemed to be in a suitable location for the construction of a new Recycling Centre. Any agreement of land to be used can contribute to part or all of what would otherwise be a financial contribution. Any offers of land as a contribution will be considered on a case by case basis.

## Mineral Development

All mineral development, including both extraction and associated processing, could give rise to issues including highways, flood risk, landscape character and archaeological and ecological impact.

There are many areas where mineral extraction will continue to affect local communities. In order to ensure that a balance is struck between society's needs for minerals and the need to protect the local environment, measures need to be secured through legal agreements associated with planning permissions for minerals developments.

<b>Current guidance</b>	<ul style="list-style-type: none"> <li>• National Planning Policy Framework (NPPF);</li> <li>• National Planning Practice Guidance (NPPG) – Minerals</li> <li>• Nottinghamshire Minerals Local Plan, Adopted Dec 2005</li> <li>• Emerging Nottinghamshire Minerals Local Plan</li> </ul>
<b>Measures for which provision may be required</b>	<ul style="list-style-type: none"> <li>• Highway improvement and reinstatement works, lorry routing arrangements, off-site highway safety works;</li> <li>• Off-site provision of landscaping, screening, noise attenuation measures, flood mitigation measures etc.;</li> <li>• Off-site monitoring of noise, dust, blasting impact;</li> <li>• Financial guarantees for site restoration;</li> <li>• Provision for extended aftercare;</li> <li>• Long term management of restored sites;</li> <li>• Archaeological consultants and contractors for investigation, recording, analysing, archiving and reporting on archaeological structure or remains;</li> <li>• Off-site provision for habitat protection, enhancement, restoration and creation;</li> <li>• Safeguarding protected species and species of local biodiversity interest;</li> <li>• Public access;</li> <li>• Associated community facilities and projects;</li> <li>• Transfer of land ownership and associated management provisions.</li> </ul>
<b>Type of development which may trigger need</b>	<ul style="list-style-type: none"> <li>• All minerals development, including both extraction and associated processing (including emerging technologies such as shale gas development);</li> <li>• Proposals which give rise to issues in respect of impacts on highways and residential amenity, visual landscape and ecological impact;</li> <li>• Site restoration which provides an opportunity for creation of habitats and features of landscape and ecological interest.</li> </ul>
<b>Form in which contributions should be made</b>	<ul style="list-style-type: none"> <li>• Commuted sums (for highways works);</li> <li>• Establishment of trust funds (for long term management of restored sites, for example Quarry Products Association have a Restoration Guarantee Fund).</li> </ul>



<b>Does a threshold apply?</b>	<ul style="list-style-type: none"><li>• No threshold – obligations apply to all development proposals and will depend on specific circumstances.</li></ul>
<b>Where does this apply?</b>	<ul style="list-style-type: none"><li>• All areas containing workable minerals reserves in Nottinghamshire.</li></ul>

## WASTE DEVELOPMENT

All waste development proposals could give rise to issues including highways, flood risk, landscape character and archaeological and ecological impact.

There are many areas where the treatment of waste will affect local communities. In order to ensure that a balance is struck between society's needs for waste infrastructure and the need to protect the local environment, measures need to be secured through legal agreements associated with planning permissions for waste developments.

<b>Current guidance</b>	<ul style="list-style-type: none"> <li>• National Planning Policy Framework;</li> <li>• Waste Management Plan for England;</li> <li>• National Planning Policy for Waste (Oct 2014);</li> <li>• Planning Practice Guidance – Waste</li> </ul>
<b>Type of facilities for which provision may be required</b>	<ul style="list-style-type: none"> <li>• Highway improvement and reinstatement works, lorry routeing arrangements, off-site highway safety works;</li> <li>• Off-site provision of landscaping, screening, noise attenuation measures etc.;</li> <li>• Off-site monitoring of noise, dust, groundwater, landfill gas migration – provision of leachate/landfill gas control measures;</li> <li>• Provision for extended aftercare;</li> <li>• Archaeological consultants and contractors for investigation, recording, analysing, archiving and reporting on archaeological structure or remains;</li> <li>• Long term management of restored sites;</li> <li>• Habitat creation, enhancement and protection;</li> <li>• Safeguarding protected species and species of local biodiversity interest;</li> <li>• Transfer of land ownership and associated management provisions.</li> </ul>
<b>Type of development which may trigger need</b>	<ul style="list-style-type: none"> <li>• All waste management development though arrangements for leachate and landfill gas controls and extended restoration provisions are normally associated with landfill sites only.</li> </ul>
<b>Form in which contributions should be made</b>	<ul style="list-style-type: none"> <li>• Commuted sums (for highways works);</li> <li>• Establishment of trust funds (for long term management of restored sites);</li> <li>• Off-site leachate/landfill gas control measures usually implemented directly by the operator.</li> </ul>
<b>Does a threshold apply?</b>	<ul style="list-style-type: none"> <li>• No threshold – obligations apply to all waste development proposals and will depend on specific circumstances.</li> </ul>
<b>Where does this apply?</b>	<ul style="list-style-type: none"> <li>• All areas of Nottinghamshire.</li> </ul>