

# **Essex County Council Developers' Guide to Infrastructure Contributions**

**Revised 2019**



## Summary

Essex is proud to have been at the forefront of development of housing, industry and infrastructure for many years now. It provided support for two of the post-war New Towns and other developments such as major town expansions like Witham and the creation by Essex County Council (ECC) of a fundamentally new settlement in South Woodham Ferrers, established using clear master planning and design guide principles. On this basis we have a clear track record in facilitating development. There will in future be even greater pressure on the county to provide housing, employment and the infrastructure that goes with it, including the forthcoming proposals for the large Garden Communities which it is envisaged will be provided in Essex, the development of Bradwell Power Station and the third Thames crossing.

It should also be recognised that Essex is a uniquely diverse county containing in equal measure, thriving urban environments and sweeping open rural landscapes which residents naturally wish to see retained and enhanced where possible. Planning is about achieving the right balance between conserving the best of the environment and providing for people's needs through development. What we all - developers and local authorities - are looking for is high quality development which is sympathetic to its surrounding environment, whether this is in an urban or rural context.

Because of these challenges and ever-changing needs, we feel we need a more dynamic approach to the management of development in our County, ensuring the right balance between those competing needs and facilitating much needed infrastructure provision through whole-heartedly advocating the national policy desire to operate a plan led system. The only way of appropriately managing our infrastructure needs is to ensure a holistic approach to our County's development requirements, allowing proper assessment of impact and enabling resistance to speculative development proposals.

There have been many and various changes to the planning system in the recent past aimed at accelerating development, particularly housing. There is an inherent danger that increased pace of delivery will compromise the provision of accompanying infrastructure unless authorities like ECC adopt a more transparent and collaborative approach with the development industry. This updated guide is aimed at providing exactly that – a clear and transparent way for the development industry to understand our expectations and how to approach the provision of development should they wish to do business in Essex. In return we commit to a high quality and professional approach in our engagement with the planning process – advocating development that is compliant with emerging or adopted local plans and resisting speculative applications that have not demonstrated adequate assessment of their impact in the light of these Local Plans and provided appropriate mitigation.

That's why we are issuing, through this latest edition of our Developers' Guide, a call to developers to help us meet this challenge. To succeed over the longer term here in Essex we need an innovative partnership with developers where we all look further into the future to ensure a steady pipeline of sustainable development. One change for example, is a new requirement for developers to assist in addressing the perceived

shortage of labour in connection with the construction industry, by contributing towards new apprenticeships and encouraging interest in this industry. Other additions include requirements for contributions to be made towards waste and recycling and libraries.

This approach is clearly in line with the aspirations of national policy including recent advice from the Department for Education on the expectations that developers will contribute towards education provision, being overt in our support for planned and high quality development that brings with it appropriate infrastructure provision and economic benefits for Essex, whilst resisting ill thought out and speculative applications.

Developers should understand as a result that if their planning applications are deficient in terms of infrastructure provision, there will be a greater likelihood that such applications will be resisted to avoid further impact on our communities and pressure on ever decreasing public funds that would otherwise have to pick up the shortfall.

ECC is particularly concerned with issues such as the cumulative impact of development on existing local infrastructure across a number of sites in close proximity. We want to ensure that differing developers all contribute appropriately to mitigating the collective impact of these sites. The recent change to the Government's approach to the collection of contributions, by dispensing with the pooling restrictions, will go some way to realising this.

In some cases we ask developers to take a longer and more strategic view than they might normally take. ECC expects developers, both individually and where appropriate working together, to design infrastructure to complement and sustain the integrity of the highway and transportation network in which it will become an integral part, including the provision for future traffic growth and the need for passenger transport due to the success of individual development sites. This will ensure that the long-term impacts of the development on ECC infrastructure are comprehensively dealt with.

Although in future more Essex Districts may come forward with a Community Infrastructure Levy (CIL), planning obligations (S106) will still be working alongside CIL when dealing with transfers of land and site level mitigation. Whilst the use of a tariff approach is not current Government policy, the work to establish the additional infrastructure cost of each new house is still of relevance and demonstrates that everyone should be contributing to this shared issue in a fair and even-handed way.

We have also noted that Government seems to listen and act when a strong local coalition of interests comes together to pursue a single, shared objective. We want and need to build that type of coalition in Essex.

The cost of making the investment we need is undoubtedly great but the cost of not doing what needs to be done is even greater still. Good quality infrastructure is expensive but inadequate infrastructure will cost even more in the long run and it is only through the provision of planned development, complemented by appropriate infrastructure provision, that we can achieve a truly sustainable future for Essex.

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Section 1.

# Essex County Council Developers' Guide to Infrastructure Contributions

Revised 2019

**1**

Introduction

# **1. Introduction.**

## **1.1. Purpose of this guide.**

This document is the latest edition of the Essex County Council Developers' Guide to Infrastructure Contributions, which replaces the edition of January 2016. As with previous editions, it details the scope and range of contributions towards infrastructure which Essex County Council (ECC) may seek from developers and land owners in order to make development acceptable in planning terms.

The Guide fits with the overall aims of the National Planning Policy Framework (NPPF) by supporting sustainable development. By promoting a consistent and transparent approach, developers can be assured that they are making a fair contribution to the infrastructure needed to support growth, and local residents can understand how development in their area makes a positive contribution to their community. The Guide also aims to assist Local Planning Authorities in producing Local Plans and, if applicable, the Community Infrastructure Levy (CIL). Our aim is to ensure that infrastructure is delivered in a timely manner and thereby ensuring that new development does not have a negative impact upon the quality of life in Essex.

## **1.2. What is new in this guide.**

Since the previous edition of the Guide, there has been a major review of the Community Infrastructure Levy Regulations 2010 which has resulted in some significant changes to the current Regulations. The regulations allow Local Planning Authorities to introduce a floor-space based charge on new development known as the CIL. At present only one second tier District in Essex has implemented CIL, namely Chelmsford City Council, but a number of others are contemplating doing so. At the same time, as part of the process of bringing in CIL, the Regulations originally limited the use of Section 106 (s106) contributions and specifically the number of contributions which could be 'pooled' to finance a single infrastructure project, or type of infrastructure to contributions from 5 sites. That provision came into force in April 2015. However, due to issues with the ability of authorities to provide infrastructure because of this restriction, as well as the failure of this restriction to lure authorities into adopting CIL, this has been reviewed by Central Government and the pooling restrictions have now been removed (as of 1st September 2019). This factor means that contributions can now be collected from more development sites towards infrastructure provision in Essex.

The table below sets out the contributions outlined in this Guide and shows where changes have been made from the previous guide.



**Table 1: Contributions outlined in this guide and changes from the previous guide.**

<b>Contribution Type</b>	<b>Contributions and/or Changes</b>
<b>Early Years and Childcare</b>	Financial contribution from all sites of 20+ dwellings and land for new build where appropriate as well as provision in respect of employment sites (50+ FTE employees)
<b>Primary/Secondary</b>	Financial contribution from all sites of 20+ dwellings and land for new build where appropriate
<b>Special Needs</b>	Financial contribution from large sites
<b>Post 16 provision</b>	Financial contribution from sites of 20+ dwellings
<b>Employment and Skills</b>	<b>NEW</b> section – requiring developers to provide an Employment and Skills Strategy which will include Employments and Skills plans and financial contributions where necessary. (Developments of 200+ dwellings and 2500sqm+ of employment floorspace)
<b>Highways</b>	Changes to the commuted sums for maintenance.
<b>Travel Planning</b>	Travel plans now requested for sites of 80+ dwellings (rather than 250+)
<b>Waste and Recycling</b>	<b>NEW</b> requirement for financial contributions at the rate of £120 per house and £90 per flat (developments of 100+ dwellings) dependent on local requirements
<b>Libraries</b>	<b>UPDATED</b> requirement for financial contributions in respect of developments of 20+ dwellings dependent on local requirements
<b>Other:</b>	
<b>Public health</b>	Promotion of Public Health requirements with possible mitigation sought as required.
<b>Adult social care</b>	Promotion of Adult Social Care requirements in new development to ensure more homes are built to address the different age groups in society.
<b>NHS</b>	<b>NEW</b> Promotion of NHS requirements and relationship with Public Health
<b>Youth services</b>	Requirements on larger sites where a local deficit is identified.
<b>Monitoring changes</b>	<b>NEW</b> requirement in respect of all contributions following on from the Government’s decision to permit the collection of such charges under the amended CIL regulations.

### **1.3. Infrastructure covered by this guide.**

The Guide covers the administrative area of ECC and the infrastructure referred to relates to those services provided by this Council. This includes highways, early years and childcare facilities, schools, travel planning, public health, libraries, waste and recycling, adult social care and employment and skills.

However, it should be noted that Southend-on-Sea and Thurrock are unitary authorities that lie outside of Essex, in administrative terms. They thereby provide services such as education and highways which ECC would otherwise deliver for their communities. Their developer contribution policies are therefore not covered here.

The Guide also does not cover services provided by second tier district authorities themselves (City, District and Borough Councils), such as affordable housing or open space, nor contributions that may be sought by other infrastructure providers, such as the NHS or the Police.

### **1.4. The status of the guide.**

In developing this Guide, ECC has worked with a number of partners and carried out appropriate public consultation. The Guide has been adopted by ECC as 'County Supplementary Guidance'. It should therefore be considered a 'material consideration' in the determination of relevant planning applications.

### **1.5. Essex County Council's role in relation to district councils.**

ECC is responsible for delivering and maintaining much of the large scale infrastructure that its residents and businesses require, such as roads and schools. Full details are set out in section five of the Guide.

Local services are also provided to each part of the county by the appropriate district authority (City, District or Borough Council). There are twelve such local authorities in Essex's administrative area (Section 6, Further Advice) As well as providing services such as waste collection, recreation facilities and affordable housing they also act, in most instances, as the Local Planning Authority i.e. planning applications for new housing and commercial buildings are submitted to and determined by these authorities rather than by ECC. The County Council is also aware of role of the design of new developments and partnered the Essex Planning Officers Association in the publication of the Essex Design Guide, which is available on the ECC website.

ECC, as a major infrastructure provider, works closely with the district authority, as Local Planning Authority, identifying the infrastructure that is needed to support growth set out in Local Plans. In this work, ECC may provide advice regarding the suitability of potential growth locations in terms of how well they are, and can in the future be, served by infrastructure.

When a planning application is made, ECC is also consulted by the Local Planning Authority and, in turn, provides appropriate comments and advice

regarding infrastructure needs. Such advice may include requests for developer contributions to fund the infrastructure ECC needs to serve the development in question. On occasions ECC will object to new development that cannot suitably mitigate its own impact on local roads, schools and other community infrastructure.

## **1.6. Garden Communities.**

Since the last iteration of this guide, there has been the emergence of proposals for the creation of a number of garden towns and village settlements across the county. Proposals to date relate to:

- sites forming Harlow-Gilston Garden Town with smaller garden communities coming forward to the south, east and west of Harlow on the Harlow/Epping boundary at Gilston on the Harlow/Hertfordshire boundary;
- Dunton Hills in Brentwood;
- land around Marks Tey on the Braintree/Colchester boundary;
- land between east Colchester and west of Elmstead Market on the Colchester/Tendring boundary;
- North Uttlesford and Easton Park in Uttlesford;
- West of Braintree on the boundary of Braintree and Uttlesford;
- a significant new garden community being delivered in north east Chelmsford.

### ***Placemaking Garden Communities – Principles***

There is perhaps no greater placemaking endeavour than the creation of a new community. With new Garden Communities there is also, perhaps, no greater opportunity to create innovative, resilient, well-connected and inclusive places that will stand the test of time. Planning at scale offers the chance to think holistically about how a place will work, and to understand what mechanisms need to be put in place to help turn an ambitious vision into a real place.

Garden Communities in Essex must be holistically planned new settlements which enhance the natural environment and offers high-quality affordable housing and locally accessible work in beautiful, healthy and sociable communities.

The Town and Country Planning Association (TCPA) Garden City Principles, should be embedded into new Garden Communities in Essex; they are an indivisible and interlocking framework for their delivery, and include:

- Land value capture for the benefit of the community;
- Strong vision, leadership and community engagement;

- Community ownership of land and long-term stewardship of assets;
- Mixed-tenure homes and housing types that are genuinely affordable;
- A wide range of local jobs in the Garden City within easy commuting distance of homes;
- Beautifully and imaginatively designed homes with gardens, combining the best of town and country to create healthy communities, and including opportunities to grow food;
- Development that enhances the natural environment, providing a comprehensive green infrastructure network and net biodiversity gains, and that uses zero-carbon and energy-positive technology to ensure climate resilience;
- Strong cultural, recreational and shopping facilities in walkable, vibrant, sociable neighbourhoods; and
- Integrated and accessible transport systems, with walking, cycling and public transport designed to be the most attractive forms of local transport.

### ***Delivery of Infrastructure, Services and Facilities***

Critical to make these new communities work and function sustainably is the timely and efficient delivery of associated and necessary infrastructure, services and facilities to support the people living in these new neighbourhoods. This includes the delivery of physical infrastructure (transport and highways, energy, water and drainage, waste and digital connectivity), social infrastructure (education, youth facilities, libraries, sport and leisure facilities, health and social care, emergency services, community facilities, cultural facilities and markets) and green and blue infrastructure (open space networks, waterways, allotments and formal and informal play areas etc.)

It is essential that the required amount and nature of infrastructure, service and facilities to enable growth through new Garden Communities has been appraised and agreed with the district/borough and county council. ECC will engage early and throughout the development planning process to ensure that the needs and requirements of operational and strategic services areas are delivered in line with corporate priorities, plans and programmes.

### ***Growth and Development Team (Planning Services)***

ECC has created a Growth and Development Team within the wider Planning Service, which has been operational since January 2019, to assist with the growth agenda in Essex. It comprises a team of experienced town planners and transport planners to help co-ordinate and oversee the delivery of significant strategic, large-scale and complex developments like the new Garden Communities. Its focus is to work collaboratively with partners in the

public and private sector on proposals throughout Essex and neighbouring areas to support sustainable and challenging residential, employment and infrastructure schemes.

The team will have involvement in a range of different projects and proposals at the earliest opportunity, far beyond the Council's core function as statutory consultees on major applications and national infrastructure projects; as such proposals may be supported from inception to delivery by providing a robust and co-ordinated response to growth challenges and opportunities as they arise.

A key objective is to provide local authority partners as well as developers with a co-ordinated corporate single response from ECC to development proposals before plans are submitted through the pre-application process; which allows front loading of the planning process to occur, giving applicants clear direction and understanding of their proposals, solving problems and seeking solutions, where possible. Or alternatively once plans have been submitted. This will ensure that much needed and necessary infrastructure, services and facilities are delivered by development to create sustainable development and communities.

As with many local authorities, the aforementioned pre-application engagement would, in most circumstances, be accompanied by an approved Planning Performance Agreement (PPA). ECC has produced a model PPA to outline the offer and to assist partners in this process. Charges for this approach are also detailed herein to ensure that costs are clear and transparent to assist with early engagement, once a PPA is signed.

As part of this, the team will engage and consult with various internal and external service areas and providers at the earliest opportunity, so that development proposals come forward with a greater degree of certainty as to the ECC position in terms of, but not limited to, planning policy, highways, economic development, waste, health, education, adult social care, and sustainable drainage/flooding to ensure policy compliant schemes are delivered.

Section 2.

# **Essex County Council Developers' Guide to Infrastructure Contributions**

**Revised 2019**

**2**

**The Legal Framework**

## **2. The Legal Framework.**

### **2.1. Community Infrastructure Levy**

The 2008 Planning Act paved the way for the introduction of a charge on new development that Local Planning Authorities could collect to fund infrastructure needed to provide for growth in their area. In April 2010, the government published regulations setting out how CIL could be set and collected.

In order to set a CIL, the Local Planning Authority must have an up-to-date Local Plan setting out the development planned in their area and the cost of the infrastructure required to support it. They must also identify other potential sources of funding. To establish the case for setting a charge they must prove that there will be a gap between the cost of the infrastructure required by development and the available funding. In terms of setting the actual level of the charge, the Local Planning Authority must consider its impact on new housing and other development, and so the charge must be set at a level that will not impact development viability to the extent that the growth set out in its Local Plan is undeliverable. The 'Charging Schedule' which sets out the proposed cost per square metre for different types of development, e.g. residential, retail etc must be scrutinised through public consultation and approved by an inspector.

If approved, the CIL is collected by the Local Planning Authority (not ECC) from developers and land owners. The charge is calculated on the additional floor-space proposed by the planning application in question. Developments of less than 100 square metres are exempt, as are social housing and developments owned by charities.

However, the Local Planning Authority is not required to introduce a CIL and, if introduced, a zero rate may be approved in relation to particular types of development or parts of the district in question. Currently, Chelmsford City Council is the only second tier Essex district to have implemented CIL.

The spending of monies collected is a matter for the Local Planning Authority. They are required to pass a proportion of the money to the local communities where new development is located. This is usually channelled through the Parish Council in parished areas. Monies should also be passed to appropriate infrastructure providers, such as ECC, to fund the projects that were identified to justify the charge.

### **2.2. Section 106 Agreements.**

Section 106 of the Town and Country Planning Act 1990 (as amended) provides a mechanism whereby developers can address the impact of their development on the local community through the provision of, or contribution towards infrastructure. The Local Planning Authority can thereby take into account any such mitigation offered when deciding whether or not to approve a planning application. Mitigation can take the form of works, money, land or



buildings that must be contributed to an appropriate body that will then maintain the asset in question or deliver the required service. This body may be a public, private or charitable organisation depending on circumstance and statutory powers related to the service in question.

Legal agreements are used to secure obligations to deliver the contributions that are agreed. For an obligation to be lawful it must meet the following legal tests as set out in Regulation 122 of the Community Infrastructure Levy Regulations (as amended) 2010:

- it must be necessary to make the development acceptable in planning terms;
- it must be directly related to the proposed development and
- it must be fairly and reasonably related in scale and kind to the proposed development.

### **2.3. Relationship between Community Infrastructure Levy and Section 106.**

CIL is intended to help provide major infrastructure to support the development of an area, rather than to make individual planning applications acceptable in planning terms. Section 106 agreements are used to mitigate site specific impacts. Developers and land owners may thereby be liable, in many circumstances, to pay the CIL and also enter into a Section 106 Agreement.

Where a CIL is in place, Local Planning Authorities (including County Councils) are required to set out in an Infrastructure Funding Statement, the types of infrastructure or individual projects they will use the CIL to fund. This is to be published by the 31st December each year on the local authority's website (commencing from 2020) and replaces the Regulation 123 list.

### **2.4. Planning conditions and other legal agreements.**

There are differing views on whether planning conditions should be used to secure non-monetary contributions whereby the developer builds the infrastructure required, although Central Government would prefer Local Planning Authorities to use conditions where possible. A Planning Condition will usually require the detailed design of the infrastructure in question to be submitted and approved at a later date.

Planning conditions are used because entering into a legal agreement takes time and has an associated cost.

Planning conditions are more commonly used in relation to highway works. In order to undertake works in the highway, however, the Local Highways Authority (ECC) must give permission and this may require the developer to enter into a legal agreement e.g. Section 38 or 278 agreements.



Section 3.

# **Essex County Council Developers' Guide to Infrastructure Contributions**

**Revised 2019**

**3**

Guidance applicable to all  
Section 106 contributors

### **3. Guidance applicable to all Section 106 contributors.**

#### **3.1. Identifying infrastructure requirements.**

##### ***Pre-application advice***

Developers are strongly advised to contact the appropriate Local Planning Authority (listed in 'Section 6') to discuss their plans at the earliest opportunity. Most Local Planning Authorities will require a formal pre-application enquiry to be submitted and there may be a fee. The Local Planning Authority will advise whether they wish to conduct discussions with infrastructure providers, such as ECC, or whether they are happy for the developer to approach them directly. If ECC is approached for advice, a fee is payable and there are more details about this process on the ECC website.

ECC welcomes early involvement in discussions which may help resolve key issues before planning applications are submitted. Contact details are provided in 'Section 6', and a pre-application developer enquiry form is available in 'Appendix B: Request for Planning Advice' and on ECC's web site. Using the information provided, ECC will endeavour to identify the impact of the development on local infrastructure and services, suggest possible mitigation measures and estimate the cost of any developer contributions that it may seek once a planning application is submitted. It should be noted that officers will not attend public consultation events, and will only attend officer workshops if they have an appropriate focus and a (PPA) or pre-application charges fund officer time.

##### ***Submitting a planning application***

While it is ECC's role to assess the impact of a new development on the services it provides, it is the Local Planning Authority's duty to decide whether or not the level of contribution requested is appropriate. As a result of this division of responsibilities, ECC will not negotiate directly over the level of contribution requested unless asked to do so as part of a tripartite discussion including relevant Local Planning Authority officers and other infrastructure providers. Only the Local Planning Authority can look at the cumulative cost of the developer contributions requested, and thereby assess how the viability of the development should be balanced against the need to fund infrastructure. In cases where the LPA deem that payment of all S106 contributions would not be viable, then the legal agreement should include a review mechanism to require additional payments in the event that viability improves. In the course of the tripartite discussions mentioned above, issues such as equalising contributions between multiple developers on sites may be addressed.

In general, a development should not externalise any of its costs, but it is accepted that on occasions there may be overwhelming public benefits that can only be realised by giving permission to a scheme which would not be viable if full planning obligations were met. In these circumstances a decision of 'not viable' should not stem from a developer paying too much for land and the Local

Planning Authority will usually expect an 'open book' independent financial assessment before exceptions to policy are made. The EPOA Viability Protocol is available on the website and has been adopted by most Essex authorities.

In the event that planning applications are turned down by the Local Planning Authority, representations pertaining to infrastructure need may be recorded as objections and thereby reasons for refusal. ECC will assist Local Planning Authorities in defending such reasons for refusal at any subsequent appeal. However, Section 106 agreements may be entered into prior to the appeal to overcome the need for Essex County Council to raise such objections with the appeal inspector.

### **3.2. Type and level of contributions and triggers for payment.**

Each development will be assessed on its own merits and, where ECC seeks developer contributions, it will provide evidence that the infrastructure is required (in whole or in part) to serve the proposed development. Any appropriate local surplus service capacity will be taken into account before making any request. The level of contribution will always be relative to the need generated by the development in question. It should be noted that levels of provision and contributions in respect of the Garden Communities will be bespoke.

Section 106 contributions will not be requested where the infrastructure is expected to be delivered through an adopted CIL, unless circumstances mean that local mitigation is required as part of the development.

Broad levels of contribution for each type of infrastructure are set out in 'Section 5' of this guide. Most projects will, however, require bespoke costings to provide an accurate estimate. It is essential that applicants provide comprehensive information regarding the intended unit mix and land uses on the development to allow a realistic estimate of the infrastructure requirements. Formulae are, however, enshrined in most agreements to allow the precise contribution to reflect the final development and avoid the need for agreements to be varied each time plans change.

Some contributions are only likely to be required for major developments and there is a threshold, usually in terms of numbers of dwellings, which will trigger different services to consider the need for developer contributions. These are set out in 'Section 5' of this guide. In cases where adjoining or nearby plots (regardless of ownership) are likely to be developed separately, these thresholds may be deemed to have been reached on the basis of the sites' cumulative capacity. This approach ensures that developer contributions cannot be circumvented by sites being split up and likewise ensures there is no disincentive to developers working together to bring forward comprehensive regeneration schemes.

With the largest contributions, it is sometimes appropriate to phase payments. It should be noted, however, that ECC will not support contributions being paid

in arrears i.e. after the buildings, to which the amounts pertain, have been occupied. If later payments are considered essential by the Local Planning Authority to ensure development viability, ECC may request surety from the developer, through a bond provider, to protect payment in the event of insolvency.

The triggers for the payment of contributions will generally be on commencement and first occupation. However, on larger phased developments there may be more triggers tied into occupation points. It should be noted that if payments are made at later stages in the development, then contributions should not be made beyond the stage where ECC will need to commence work on a new provision. This could result in ECC having to forward fund a new provision which would result in interest payments being incurred which the developer would be required to fund. It is therefore important that triggers for payment are met during early stages in the development in order to avoid additional costs.

On large developments involving a range of different contributions, it may be possible to deliver mutual benefits by combining different types of contribution. For example, a community building may be proposed that provides both for youth services and library provision.

It is ECC's policy to ensure that contributions are spent within a period of 10 years following their receipt. This period is also referred to in the Department for Education (DfE) guidance 'Securing developer contributions for education' published in April 2019<sup>1</sup>.

### **3.3. Indexation.**

Once a contribution has been established it must be future proofed against cost inflation. This is done through indexation. The appropriate index for each type of contribution is given in 'Section 5' of this guide. In each case the indexation must run from the date the costing is based, up until the date of payment.

In general, indexation works by establishing a base date at which the index equals 100. If costs rise, then the index point also rises by an equivalent percentage i.e. if costs have increased by 5% since the base date the current index point will stand at 105. Updated indices are regularly published, and points are given for each past quarter and in some cases for future quarters, based on estimates of cost inflation. For ease and consistency, it is normally appropriate to base contributions on the cost at the start of the current financial year. The indexation that must be applied to the contribution will therefore start from the beginning of the appropriate financial year quoted.

To apply the index and work out the contribution that is payable, the sum quoted must be divided by the index point pertaining to the 'from' date and multiplied

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/793661/Securing\\_developer\\_contributions\\_for\\_education.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793661/Securing_developer_contributions_for_education.pdf)

by the index point pertaining to the 'to' date. For example, if a contribution of £10,000 is to be indexed from a point when the index point was shown as 200, to the date of payment where the index point is 210, the amount payable would be £10,500 (£10,000 divided by 200 then multiplied by 210).

Most indices are available on a subscription basis. ECC cannot therefore provide the index to developers as that would be in breach of copyright. ECC will, however, perform the calculation and provide an explanation of the result if requested to do so.

### **3.4. Legal agreements.**

The simplest type of agreement is known as a Unilateral Undertaking. These do not require the Local Planning Authority or ECC to perform any duties or become a signatory. They are, however, only appropriate for small developments where a full planning application has been made and the dwelling mix is fixed.

In the case of complex developments, full tripartite agreements are necessary. This is because ECC and the Local Planning Authority will need to enter into obligations with the developer such as:

- to use financial contributions for specific purposes;
- to place sums in interest bearing accounts and
- to return unused contributions after ten years.

Where the development is supported in the Local Plan, it may be appropriate to draft a legal agreement prior to planning permission being sought. Generally, however, they are completed once the Local Planning Authority has considered the application and it is clear that there will not be any abortive effort due to a decision to refuse the application.

In most cases ECC provides a first draft of the clauses required to deliver the contributions they have requested. A template agreement is provided as 'Appendix A: Section 106 Agreement Template', with a separate schedule for each type of contribution. This template should be used as a starting point to avoid delays and unnecessary expense.

Once completed, the Local Planning Authority will record the appropriate obligations as land charges. Both ECC and the Local Planning Authority will then monitor compliance with the agreement.

### **3.5. Legal agreement fees.**

The planning applicant is responsible for the cost of producing any legal agreement, including the charge ECC makes for its involvement. City, District and Borough Councils may also add their own fees. Standard agreements, that closely follow the template given as 'Appendix A: Section 106 Agreement Template' should not be expensive or time consuming to produce, however,

agreements involving land or works in kind are inevitably more complex and protracted negotiation will obviously lead to additional expense.

### **3.6. Monitoring costs.**

A recent change to the CIL Regulations, which includes legislative requirements to require local authorities to report on contributions received and spent annually, has resulted in the Government allowing local authorities to seek a monitoring fee through S106 planning obligations. Such fees should be 'proportionate and reasonable' and reflect the actual cost of monitoring. It is therefore proposed that the monitoring fee will be identified as such within each legal agreement (see 5.17-Monitoring Costs.).

Section 4.

# Essex County Council Developers' Guide to Infrastructure Contributions

Revised 2019

4

Land, Building and  
Contribution in kind.

## **4. Land, Building and Contributions in kind.**

### **4.1. When land may be needed.**

There are a number of circumstances under which ECC may need land to be transferred to its ownership under a S106 agreement. These include:

- To provide new or expanded schools and Early Years and Childcare facilities
- For shared community buildings (e.g. youth, library or adult learning facilities, District and NHS services)
- Land to be dedicated as highway

In most cases land is needed to establish a new facility on the development itself but in some circumstances, it may be needed to expand an existing one. On such occasions it will be appropriate for the developer to provide land adjacent to the existing facility rather than make an additional financial contribution to enable the council to purchase land.

### **4.2. Site suitability.**

During pre-application discussions the applicant and ECC need to work closely with the Local Planning Authority to identify potential locations that both fit with the emerging development masterplan (if relevant) and provide the best location for the infrastructure under consideration. Any land that is intended for public use must be safe and fit for purpose. Issues which will need to be examined include: ground conditions, sources of contamination, flood risks and the proximity of incompatible land uses. In the case of community use, the land will need to be central to the population it is intended to serve and well connected to walking and cycling routes and local bus services.

#### ***New school sites***

Once a potential location for a new facility has been identified, the quality of the land itself needs to be considered in detail. New school sites, in particular, have a number of requirements that should be considered at the earliest opportunity in the planning process. The need to meet DfE guidelines (e.g. Building Bulletin 103) to establish sports pitches and ensure pupil safety are all key. The Education Site Suitability Checklist provided as 'Appendix C: Education Site Suitability Checklist' sets out, in general terms, the issues and concerns that should be looked at. The list is not exhaustive and any other features of the site or surrounding area that may impact upon its use should be brought to ECC's attention at the outset. Many of these criteria apply equally to other community facilities. It should also be noted that where there is a requirement for a new primary and secondary school then the land for these uses should be co-located to facilitate an all-through school.



Ensuring that new facilities fit with, and are complemented by, the rest of the development must also be considered before a planning application is submitted. 'Appendix D: Exemplar Layouts for Education and Community Facilities' provides exemplar layouts, highlighting the key issues of reducing school run traffic and providing safe drop off space. The objectives as displayed in the exemplar layouts are to:

- create a sense of place;
- avoid congestion by dispersing school drop off;
- provide a safe environment around school entrances; and
- encourage sustainable travel.

In general schools will not provide on-site space for parents to drop children off by car for the following reasons:

- the school site area guidelines reflect the space required for education use and it is not appropriate to set aside significant areas for other purposes;
- schools should not be expected to manage or maintain facilities which may give rise to an insurance liability in the event of accidents, and
- bespoke drop off facilities can attract additional school run traffic and concentrate vehicle movements in a particular location, leading to an unpleasant or unsafe environment.

The preferred approach is to maximise the opportunities for safe drop off around the school perimeter, utilising the visitor parking spaces that the development is required to provide. The immediate area around school entrances should, where possible, be traffic free to prevent 'honey potting' i.e. a point that attracts a disproportionate level of traffic that could cause inconvenience to other road users. Such pedestrianised areas also function as a space for parents and younger siblings to congregate safely at the beginning and end of the school day and thereby encourage a sense of community. Such spaces should be well connected to walking and cycling routes and local bus routes to make sustainable modes of travel attractive.

#### **4.3. Land compliance requirement for new school sites.**

In finding a suitable location, checking the quality of land and designing the environment around it, a significant amount of information will need to be collected and analysed. This information must be formalised and submitted with the planning application in the form of a Land Compliance Study.

Local Planning Authorities are asked to make this a policy requirement and ECC may object to the application if a sufficiently robust study is not submitted, proving the land is fit for purpose and meets the criteria set out in this document.

By way of guidance, the following sections should be included in the Land Compliance Study report:

- Site boundary plan
- Development master-plan including partner organisation intentions
- Site Suitability Checklist (as per Appendix C in the case of education sites)
- Site history and previous uses
- Relevant planning policies including current land use designation
- Neighbouring land uses including ditches and power lines et al
- Ground conditions including local geology maps
- Topography including survey maps
- Contamination including radiation, soil and ground water
- Flood risk including Environment Agency flood zone designation
- Mobile phone/radio mast locations including operating characteristics
- Physical encumbrances
- Habitat, arboriculture and ecology study including site walkover report
- Archaeology
- Noise (for education sites assessment against criteria in DfE Building Bulletin 93)
- Air quality including reference to local Air Quality Management Areas
- Access (pedestrian and vehicular) and public rights of way
- Utility and service connections/capacity including searches
- Proposed pre-transfer works

As part of its response to a planning application including land intended for transfer, ECC will validate the Land Compliance Study submitted by the developer and provide feedback to the Local Planning Authority. Such feedback will include any requirements that must be included in a Section 106 agreement to make the land acceptable. These will include a number of standard works that the developer will be expected to complete prior to the site being transferred to ECC. The most common requirements are decontamination, site levelling, access, utility connection rights and fencing. 'Appendix E: Land Pre-Transfer Works' sets some of these out in more detail,

in relation to education sites, although these requirements would also apply to land provided for other uses.

Developers and land owners must obtain collateral warranties for any studies or works undertaken, either as part of their Land Compliance Study or during site preparation. ECC will require such warranties to be transferred so that it can rely on the information or works in question. By doing so, validation of the Land Compliance Study can be speeded up and the number of precautionary S106 obligations can be reduced.

#### **4.4. Legal agreements to transfer land.**

Legal agreements usually include a ten year option period during which ECC can require transfer of the land. The land will in most cases be provided at a cost of £1 as 'consideration' must be given to form a legal contract of sale. It is important that the agreement is sufficiently flexible on timescales to provide ECC adequate time to make a decision, and not be pressed into establishing a new facility prematurely. If ECC has not entered into contracts to provide the facility within five years of transfer, then the land will be handed back to the developer. Developers are, therefore, advised to consider how the Local Planning Authority might view potential alternative uses for the site in the event that it is not used by ECC.

In line with DfE guidance, additional land for expansion of new school sites should be safeguarded and alternative uses should be precluded thus enabling ECC to purchase such sites at an appropriate cost.

#### **4.5. Works and buildings.**

In some cases, developers may agree to carry out works in lieu of financial contributions. Such works could include the construction of a building that is then transferred to ECC along with land. Such contributions are subject to strict rules, detailed specifications and appropriate surety being provided.

Developers must also be aware of procurement and competition laws that require public works contracts to be openly tendered if they exceed a certain value. In circumstances where works in lieu are deemed acceptable, ECC will require an indemnity against any claim resulting from a breach in these regulations. However the future of European law/regulations are 'in the balance' and may need to be clarified after the publication of this guide.

Section 5.

# Essex County Council Developers' Guide to Infrastructure Contributions

Revised 2019

5

Contribution Requirements by  
service areas

## 5. Contributions Required by Service Area.

### 5A. Contributions Reference Table

Service area	Trigger for contribution	Expected contribution
5.1 Early years and childcare	20 dwellings +	Pupil product (0.09 per flat, 0.045 per house) x £17,422 (cost per pupil). Land for a new facility.
5.2 Education - primary	20 dwellings +	Pupil product (0.3 per flat, 0.15 per house) x £15,281 (cost per pupil) Land for a new school.
5.2 Education – secondary	20 dwellings +	Pupil product (0.2 per flat, 0.1 per house) x £17,422 (cost per pupil).
5.2.9 Education – special needs	20 dwellings +	Bespoke
5.2.10 Education – post 16	20 dwellings +	Pupil product (0.01 per one bed flat, 0.02 per 2+ bed flat, 0.04 per house) x £24,846 (cost per pupil). Land for a new school.
5.3 School transport	20 dwellings +	Primary - £11.40 x 190 days x 7 years = £15,162 per pupil. Secondary - £5.30 x 190 days x 5 years = £5,035 per pupil.
5.4 Employment and Skills	200 dwellings and/or 2500 sqm employment floorspace	Residential - £2000 per 1000 sqm floorspace Commercial – dependent on net additional employment.
5.5 Youth provision	1200 dwellings	Dedicated youth space - £700,000 and/or smaller provision, e.g. MUGA at £70,000.
5.6 Adult social care	N/A	None – details of housing types and location in Appendix N.
5.6 Public health	N/A	None – expectations re Health Impact Assessments.
5.6 NHS healthcare	N/A	Bespoke via the Local Planning Authorities.
5.7 Highways	All development	Highway works via S278 notices, contributions and/or commuted sums for maintenance.

Service area	Trigger for contribution	Expected contribution
5.8 Travel planning	All development	Travel packs in all cases, travel plans for 80 + dwellings. Work travel plans on employment sites where there will be 50+ employees.
5.9 Passenger transport	All development	Bespoke contributions for small sites – funding towards bus infrastructure; medium sites – fund diversions to existing routes or make a contribution to a new route; large sites – provide a transport service. Commercial sites as required.
5.10 Public rights of way	Any development where there is a PROW	Contribution to or appropriate works carried out and arranging temporary or permanent diversions. Cycle Track Conversion Orders to be provided as necessary.
5.11 Waste	100+ dwellings	£120 per house and £90 per flat.
5.12 Public art	Large developments	As per ECC expectations.
5.13 Protecting biodiversity	Any site where mitigation is required	Bespoke to achieve conservation objectives.
5.14 Libraries	20 dwellings +	Where required (per dwelling) £244 library extension, £100 fitting out, £75 provision of stock.
5.15 Flood and water management	Major sites	Ensure provision of SuDS on major sites. Commuted sums for maintenance of SuDS as required.
5.16 Monitoring	All S106 agreements	£550 per obligation. Bespoke payments on complex and/or major sites 1000+ dwellings.

NB All costs referred to are as at April 2019 and may increase each year.

Whilst this table is designed to assist in assessments of which contributions will be expected for each application, it is essential to read the relevant section in order to establish the actual amount likely to be required by ECC.

## 5.1. Early years and childcare.

### 5.1.1. Background.

High quality local childcare is often on the 'shopping list' of young families looking for a new home. Demand for early years and childcare provision in an

area is also generated by levels of local employment. People often prefer to arrange care for their pre-school age children close to where they work so that they can respond quickly in an emergency. Developer contributions for early years and childcare are thus sought from both residential and employment led development.

The Childcare Act 2006 places a range of duties on local authorities regarding the provision of sufficient, sustainable and flexible childcare that is responsive to parents' needs. Local authorities are required to play a lead role in facilitating the childcare market within the broader framework of shaping children's services in partnership with the private, voluntary and independent sector.

Section 6 of the Act defines 'sufficient childcare' as sufficient to meet the requirements of parents in the area who require childcare in order to enable them to take up, or remain in, work or undertake education or training which could reasonably be expected to assist them to obtain work.

The Childcare Act 2016 sets out a duty to secure free early years provision for preschool children. The Government committed to doubling the amount of free childcare from 15 to 30 hours a week for working parents of three and four year olds from September 2017. The Government wanted the 30 hours extended entitlement to have a real impact on the lives of families, supporting parents who wish to work, or to work more hours, to be able to do so. This provision must also be provided for two year olds from less well-off families (currently around 40% of children).

Early Years and Childcare provision includes: full day care, pre-schools, child minders, breakfast, after-school and holiday clubs and nursery classes in schools. This multiplicity of provision, working in partnership with the private and voluntary sectors, enables a wide range of childcare options to be made available.

### 5.1.2. How the need for additional provision is assessed.

All residential developments of twenty or more dwellings will be assessed to see if a developer contribution towards additional Early Years and Childcare is necessary. Commercial developments that will employ 50 or more people (whole time equivalent posts) may also be expected to contribute towards early years and childcare provision. Applications for smaller developments will be exempt unless their co-location with other sites necessitates a holistic look at their cumulative impact.

The Early Years and Childcare Service will only require developer contributions where there is a current or forecast lack of provision in the immediate area of the proposed development. Unfilled places associated with one type of provider cannot, however, be taken as evidence that provision in an area is sufficient. The work patterns and incomes of parents are all different and so are their childcare needs. ECC has a duty to facilitate diverse provision and thereby broadly meet the needs of all groups.



Details of Childcare Sufficiency Assessments and Area Action Plans and the Early Years and Childcare 5 year plan are published on the ECC website. These assessments give a snapshot of different providers in an area and the number of places that are filled. They should be read in conjunction with Local Plans, and other development proposal documents, plus census information to gain a holistic view of future demand.

### 5.1.3. Calculating the demand from new housing development.

When estimating the number of children that a new housing development will generate and that will require additional provision (child yield), the Early Years and Childcare Service takes account of the number of houses and flats that are suitable to accommodate children. For Early Years and Childcare contribution purposes, houses are all dwellings with two or more floors (including chalet style bungalows with an attic room), and with sole access to private outdoor space. Maisonettes, single storey bungalows and trailers/caravans are treated as flats whilst one bedroom units and dwellings such as student and elderly accommodation, are excluded from the calculation.

ECC estimates that the child yield from qualifying houses is nine children per one hundred homes (0.09 per dwelling) with half this number expected from qualifying flats i.e. 0.045 per dwelling.

**Table 2: Example of a development consisting of 120 x one bed units; 200 x flats (with two or more bedrooms) and 65 houses with 2 or more bedrooms would be calculated to generate the following number of children requiring a place:**

Dwelling Type	Units	Factor	Child Yield
One bed	120	0	0
Flats	200	0.045	9
Houses	65	0.09	5.85
<b>Total</b>	<b>385</b>		<b>14.85</b>

### 5.1.4. Calculating the demand from employment sites.

There will also be an expectation that contributions for Early Years and Childcare will be required for commercial employment sites where there are likely to be in excess of 50 full time equivalent employees. Such sites may include a mix of offices and warehousing and will generally fall within the B1, B2 and B8 use classes.

When estimating the number of Early Years and Childcare places that a new employment proposal will require, a factor of four places per one hundred employees is used. In the case of outline applications where the number of



employees is not stated, an estimate based on floor space is made but the final cost will be calculated once the number of employees has been established. The latest guidance on employment densities in different types of business was published, in 2010, by the then Homes and Communities' Agency under the title 'Employment Densities'.

Example: - A development expected to employ 150 staff would generate the following number of children requiring a place:

150 employees X 0.04 places per employee = 6 places.

It should be noted that there will be no contributions required for commercial developments with less than 50 employees. However, on mixed developments full contributions will be required for a combination of the pupil product from both residential and employment areas.

#### 5.1.5. Types and use of contributions.

Financial contributions may be sought to help extend existing provision or provide a new facility. Larger groups of development (upwards of 250 dwellings or 500 employees) are most likely to trigger the need for a new setting and in such circumstances a land contribution would also be required.

For a standard 56 place day nursery, around 0.1 ha of land is needed. The process for agreeing a suitable piece of land is explained in 'Section 4' of this guide.

Where the development in question also triggers the need for other community facilities it is often appropriate to co-locate Early Years and Childcare facilities. Provision is commonly included in plans for new primary schools, but it may also be appropriate to consider the benefits of an Early Years and Childcare provider acting as anchor tenant in a joint use community facility.

In some circumstances, subject to procurement and competition rules, it may be appropriate for the developer to provide buildings in lieu of a financial contribution. Where this approach is accepted the facility must comply with a specification provided by ECC (example provided as 'Appendix F: Early Years & Childcare Facility Specification') and any tenant, and their business model, must also be approved. When the County Council commissions additional Early Years and Childcare places and uses S106 funding to provide those places, it will require the provider to enter into a legal agreement detailing the building works and the number of additional places to be provided.

#### 5.1.6. Contribution costs.

The cost of each project and, thereby, any appropriate developer contribution must be considered on a case by case basis. By way of guidance, the expansion of existing facilities has in the past cost around £17,422 (April 2019) per place. Appendix G: Example of Early Years and Childcare facility costing'

provides an exemplar cost breakdown for a new 56 place day nursery, which is higher than the cost of an expansion.

All contributions sought are index linked. The 'PUBSEC' Building Tender Price index is used to index link all Early Years and Childcare contributions. The index is published by the Business Information Service of the Royal Institute of Chartered Surveyors and is available on payment of subscription.

## **5.2. Schools**

### **5.2.1. Background.**

The availability of places at a popular and successful local school is likely to be an important factor for families considering the purchase of a new home. Conversely, new residential development is unlikely to be welcomed by the existing community if additional pupils moving to the area deny their children a place at the local school or lead to larger class-sizes. Developer contributions towards education provision thus play an important role in the success of new residential developments.

Under section 14 of the 1996 Education Act, local authorities must secure sufficient school places to serve their area. The available schools must be sufficient in number, character and equipment to provide all pupils with the opportunity of an appropriate education. Section 2 of the 2006 Education and Inspections Act further places ECC, as the appropriate local authority, under a duty to secure diversity in the provision of schools and increase opportunities for parental choice. Subsequent legislation encouraged the development of a more diverse range of education providers, particularly academy trusts and free schools, a number of which now operate within the county.

Section 2 of the 2008 Education and Skills Act requires that all persons under the age of eighteen yet to obtain a 'level three' qualification (for example two 'A' levels), must participate in education or training. Participation does not require all young people to stay on at school, as employment-based training can fulfil this requirement (see '5.4-Employment and Skills.').

Paragraph 94 of the NPPF states that 'It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- Give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- Work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.'

The Department for Education published guidance for ‘Securing developer contributions for education’ in April 2019, in which it underlines the principles that:

- housing development should mitigate its impact on community infrastructure, including schools;
- developer contributions towards new school places should provide both funding for construction and land where applicable subject to viability assessment when strategic plans are prepared and using up-to-date cost information; and
- the early delivery of new schools within strategic developments should be supported where it would not undermine the viability of the school, or of existing schools in the area.

The County Council acts as a commissioner rather than a provider of new schools. It has the duty to set out the requirements for any new school needed to serve a new community in order that potential providers may express their interest in providing that school. Where a Section 106 agreement provides the land and funding for a new school, the County Council will usually procure the school building and then transfer the new building for the successful provider to occupy.

Regardless of whether schools have academy status, are free schools, or are maintained schools, the County Council remains the responsible authority for ensuring that there are sufficient school places available within the county to meet the educational needs of its school age (5-19 years) population. This means that the County Council also remains the appropriate authority to assess the requirements for school place provision for any new housing developments, be a signatory to any S106 agreement and receive the appropriate contributions.

### 5.2.2. How the need for additional school places is assessed.

Any development of 20 or more dwellings will be assessed and could generate a request for a contribution.

Contributions towards the provision of additional places will not be sought where pupil forecasts suggest that existing local schools can reasonably accommodate the expected increases in demand for places without expansion. However, local authorities with allocated sites in the Local Plan or emerging Local Plan may take the view that where an increase in pupil numbers is anticipated then the cost of expansion should be borne by the developers of all the allocated sites on a pro rata basis.

The Essex School Organisation Service’s 10 Year Plan, ‘Meeting the demand for school places in Essex’, is published on the Council’s website on an annual basis and sets out the forecast availability of school places in each area of the county, during each year’s admissions round for Reception and Year 7 (the

start of secondary school) places. These forecasts are based on G.P. registration data, planned housing development, historical trends and other factors likely to affect admissions to particular schools.

The need for additional school places to serve new development may either be immediate or gradual. It is considered reasonable to take account of the future demand for places as well as the current picture since:

- there will be a time lag between the planning application and completion of the development;
- the peak of additional demand for places generally comes a few years after a development is first occupied and
- the development will be a permanent feature of the local community and it should not cater just for its immediate impact.

Forecast demand is generally measured against the yearly 'Admission Number' that each school must publish as part of the annual admissions process. However, any school accommodation that is temporary in nature, as defined by either its planning permission or design life, may be deemed to reduce the number of available places. The presence of temporary accommodation should be taken as evidence that a school is already under pressure for places. Although some 'temporary' class-bases can remain on school sites for a considerable period of time, they will eventually be removed if not needed by the existing community. It would be unreasonable for pupils from a new development to generate the need for temporary class-bases to be converted to permanent build without the developer making an appropriate contribution.

It is generally accepted that education provision in an area should not operate at 100% of its capacity, as it is important to retain some level of surplus places. The National Audit Office report 'Capital Funding for New School Places' (2013) refers to a minimum 5% surplus that the Department for Education assumes in its planning as necessary to support operational flexibility (mid-year admissions) and facilitate parental choice. A deficiency may thus be deemed to exist without the certainty of every local place being filled.

In deciding which local provision it is reasonable to include in an assessment, the needs of the new development must be balanced against those of the existing community. If the new development displaces pupils from another area there may be significant local opposition to the scheme. It is, therefore, important to look not just at the nearest school but also at the wider area. There may, for example, be places at a school within reasonable distance of the new development to which pupils could safely walk. A reasonable walking distance is defined in the Essex Design Guide as 600 metres for primary and 1500 metres for secondary school pupils. Conversely there may be surplus places forecast at the nearest school that will be needed by the current population because another local school is forecast to be oversubscribed.

Traditionally schools have admitted pupils from their priority admissions or 'catchment' areas. Current school admissions are, however, also based on a number of other criteria including the presence of siblings at the school, faith or aptitude in a particular curriculum area. Schools with admissions policies that could exclude the majority of pupils moving to a new development from gaining admission are excluded from the assessment of developer contributions. A list of admissions criteria for schools can be found in the Schools Admission Policies Directories which are available on the ECC website.

Having taken all the above factors into account, where it can be demonstrated that the number of pupils generated by a development is greater than the surplus capacity in permanent accommodation in a suitable school(s), ECC may require a developer contribution to build additional permanent capacity. This may on occasions include the transfer of land. For this purpose a suitable school is any academy, free school or maintained school that provides education appropriate to the age, ability and aptitude of a child between the ages of 4-19. This definition excludes schools providing education exclusively for pupils with special educational needs or disabilities. Whilst selective schools and faith schools can and do provide education that is appropriate they are excluded from the assessment of developer contributions on the basis that their admissions policies could exclude the majority of pupils moving onto a new development.

In addition to contributions to build additional permanent places, a contribution may also be sought to fund transitional costs. This may apply when there is no surplus capacity at schools within a reasonable travelling distance and additional provision cannot be delivered quickly to serve the development. In such cases ECC will need to provide temporary accommodation at existing schools and/or provide school transport to schools in excess of two miles for children under the age of eight and three miles for older children. These distances are measured via the shortest available safe walking route.

ECC may seek developer contributions to fund these costs in addition to the sums required to provide the permanent places needed. This situation will only usually arise during the first phases of a major development or when the phasing of development does not allow a new school to be delivered early on.

### 5.2.3. Calculating the demand from new housing development.

When estimating the number of children that a new housing development will generate, and that will require a school place (yield), ECC takes account of the number of houses and flats that are suitable to accommodate children. One bedroom units and dwellings, such as student and elderly accommodation, are excluded from the calculation. For education contribution purposes, houses are all dwellings with two or more floors, (including chalet style bungalows with an attic room) and with sole access to private outdoor space. Maisonettes, single storey bungalows and trailers/caravans will be treated as flats.



The primary school yield from qualifying houses is thirty pupils per one hundred homes (0.3 per dwelling) with half this number, fifteen, expected from qualifying flats (0.15 per dwelling). For secondary schools the yield (excluding 6th form students) is 20 pupils per 100 qualifying houses (0.2 per dwelling) and 10 pupils per 100 qualifying flats (0.1 per dwelling).

**Table 3: Example of a development consisting of 120 x one bed units; 200 x flats (with two or more bedrooms) and 65 houses would generate the following number of children requiring a place:**

Dwelling Type	Units	Primary		Secondary	
		Factor	Yield	Factor	Yield
One bed	120	0	0	0	0
Flats	200	0.15	30	0.1	20
Houses	65	0.3	19.5	0.2	13
<b>Total</b>	<b>385</b>	<b>Pupils</b>	<b>49.5</b>	<b>Pupils</b>	<b>33</b>

Due to the younger than average age profile, most new developments will, for a time, generate greater demand for school places than suggested by the above factors.

#### 5.2.4. Expanding existing provision.

If it is not planned to build a new school, financial contributions will be used to fund capital works to add additional capacity at academies, free schools or maintained schools in the appropriate area.

It is often not practical or desirable to use S106 contributions to provide additional capacity at the nearest school because, for example, their site may be constrained, the expansion could result in an unacceptable admission number or the school may not have the necessary infrastructure, in respect of ancillary accommodation, to support the increased capacity. In addition, due to legislation that enables voluntary aided schools, free schools and academies to refuse proposed expansions, ECC may be forced to look further afield. In these circumstances the contributions could be used to provide additional capacity through extension, refurbishment or re-modelling of other schools where the needs could be best met. This may result, through parental choice, in changes to local admission patterns or require priority admission area changes to be negotiated with local schools.

When ECC commissions additional places through a free school or academy, and uses S106 funding to provide those places, it will require the provider to enter into a legal agreement detailing the building works and the number of additional places to be provided.

### 5.2.5. Thresholds for new schools.

The Education & Skills Funding Agency currently looks to establish two form entry primary schools (420 places), to ensure financial viability. Essex County Council supports this approach and, thereby, when considering new primary school sites an area of 2.1 hectares will usually be sought as a minimum. This is in line with Department for Education guidance set out in Building Bulletin 103 and also provides space for commensurate Early Years and Childcare provision.

420 primary aged pupils is the number likely to be generated by approximately 1,400 new houses or a mixed development of approaching 2,000 dwellings. However, it must be recognised that if suitable existing local schools cannot be expanded, a new school may become necessary to cater for a lower number of new homes.

Generally, secondary schools accommodate at least 600 pupils or four forms of entry (one form of entry = five age groups x thirty per class). However, larger schools are:

- able to offer a wider curriculum to their community;
- cheaper to build on a per place basis;
- more resilient to fluctuations in demand that could challenge financial viability.

For these reasons Essex County Council will look to establish a new school only where demand for six forms of entry has been established (from approximately 4,500 new or existing houses).

In the case of both age groups, there is no exact growth threshold for establishing a new school and the following factors need to be considered when deciding whether a particular development should include land for a school:

- the ability of local schools to expand sufficiently and the impact of a new school on them;
- cumulative impacts with other residential development proposals and the needs of the existing community;
- the viability of the development and the cost of a new school against other solutions;
- the viability of a new school (particularly in the first years);
- the potential for innovative solutions such as an all-through school (combined primary & secondary) or a split site school (with more than one campus).

ECC may request on occasions that additional land is set aside to future proof the new school site and allow for its potential expansion.

### 5.2.6. The cost of additional places.

At current costs for extending an existing primary school can be estimated to cost on average in the region of £15,281 (April 2019) per place. The equivalent cost for secondary places is £23,214 (April 2019). These costs include buildings, site works, professional fees plus furniture and equipment.

With an extension scheme it is often unnecessary to expand all the common areas used by a school such as the staff room, toilets or the hall. The cost of major works and new schools is thus higher. Example new school costs are provided in ‘Appendix H: Example of New Primary School costings.’.

The precise cost of projects will be determined by ECC after reviewing the Land Compliance Study report (see ‘4.3-Land compliance requirement for new school sites.’) that the developer must submit with any planning application that includes land for a new school.

### 5.2.7. School site areas.

The area of land that ECC requires for schools is based on current Department for Education Building Bulletins, the latest being BB103, and other relevant publications. In line with its aspiration to increase educational achievement and enhance skills, ECC will always seek site areas towards the top end of the recommended range. Government also encourages ‘extended schools’ that include other community services and, clearly, larger sites are required if joint use of school facilities is to be considered. In order to produce a school with manageable year groups, ECC may require slightly more land than is indicated by a straight forward calculation of pupils from a development. The following figures are a guide to likely requirements in terms of land:

**Table 4: Primary school land requirement.**

Class bases	Pupils/Places	Site Area (hectares)	Ideal Dimensions (metres)	
			Length	Width
14 (2FE)	420	1.9452	162	120
21 (3FE)	630	2.7978	175	160

**Table 5: Secondary school land requirement.**

11-16 Pupils/Places	Site Area (hectares)
900	6.77
1200	8.66



11-16 Pupils/Places	Site Area (hectares)
1500	10.55

One extremely important consideration when considering the land required for a new school is the provision of sports pitches. For a playable surface, a consistent gradient of approximately 1 in 70 widthways should be achieved. This encourages suitable water run off without hindering play.

The following pitch sizes need to be considered:

**Table 6: Pitch sizes (including run off areas)**

Age	Width (metres)	Length (metres)	Area (hectares)
Minimum Primary	49	82	0.402
Preferred Primary	59	92	0.543
Age 13 to 15 min.	54	87	0.470
Age 15 to 17 min.	59	103	0.608
Senior (18) min.	72	114	0.821
Adult min.	76	118	0.897

Where ideal site areas cannot be achieved, artificial pitches may be considered as a way of reducing the land that a school requires. The cost of providing and maintaining artificial pitches is, however, significant and likely to add considerably to the financial contribution sought by ECC from the developer.

### 5.2.8. Additional site requirements to consider.

The main requirements that a school site must meet are set out in appendix C and the process and evidence needed to agree a site are explained in section 4 of this guide. There are, however, a number of considerations specific to schools which warrant additional guidance here.

#### *Utility requirements.*

**Table 7: Utility requirements.**

Pupil Places	210	315	420	630
Electrical (three phases)	100KVA 200amps	130KVA 200amps	150KVA 200apms	200KVA 300amps
Gas (21mbar at meter)	230KW/HR	300KW/HR	400KW/HR	550KW/HR

<b>Pupil Places</b>	<b>210</b>	<b>315</b>	<b>420</b>	<b>630</b>
<b>Water (domestic)</b>	50mm 1.5L/S	65mm 2.0L/S	65mm 3.0L/S	65mm 4.2L/S
<b>Water (sprinkler system)</b>	A 100mm mains connection pressurised system is required, storage tank with pumps to fill the tank in 36 hours.			
<b>Telecom ducts (90mm)</b>	2	2	2	3

N.B. Advice should be sought from ECC's Infrastructure Delivery team and the appropriate project manager before relying on these estimates.

### ***Fence Requirements***

Prior to transfer to ECC, all school sites must be fenced by a 1.8 metre high welded mesh polyester powder coated fence (conforming to BS1722-16:1992) with vertical wire diameter of at least 5mm and horizontal wire diameter of at least 7mm conforming to BS 1722 Part 14:2001 'specification for open mesh steel panel fences Category 1 (general purpose fences up to 2.4m high)', and gated at both highway access points.

Where congruent to vegetation or soft landscaping the fence must be supplemented by rabbit-proof fencing that shall be a minimum of 0.9m in height. The rabbit-proof fencing must be constructed with wire netting, to be 18-gauge (1.2mm diameter) with 31mm hexagonal mesh conforming to the appropriate British Standard and European DIN Standard. The base of the fence must be turned outwards from the school site by a minimum of 150mm and buried with clean topsoil. The specification for the rabbit fencing, including all posts, struts and stakes must also be in accordance with CIRIA report C645 'A Guide to Rabbit Management'.

Where appropriate, fencing should be complemented by landscaping. New tree and shrub planting should also be protected with individual rabbit guards. Species should be considered carefully to ensure that plants will not prove a burden to the school either in terms of maintenance, safety and/ or security.

### ***Soil Quality Requirement***

The levels of any compound in the soil, to a depth of at least three metres below the final soil level, shall not exceed figures set for residential end use as defined by the Soil Guideline Values (SGV) derived using the Contaminated Land Exposure Assessment (CLEA) model and published by the Environment Agency and also the Generic Assessment Criteria values published by Land Quality Management and the Chartered Institute of Environmental Health at the time of the assessment. Any contaminants leaching from the site must not exceed the levels published in the United Kingdom Environmental Quality Standards (statutory and proposed).

Top soil is to be supplied across the entire site which must comply to BS 3882:2015 and be applied evenly to a minimum of 300mm but is not to exceed 500mm in depth at any point.

### ***The environment around schools***

Establishing a safe environment around schools, which is conducive to learning is paramount. The following issues / measures should be considered:

- establishing and improving walking and cycling routes to schools (including off site provision);
- reducing school run traffic and dispersing it away from school entrances;
- enforcing low traffic speeds around schools and the walking routes pupils use;
- 'school zones' where traffic is restricted in the area at the start and the end of the school day;
- ensuring pavements around schools are clear and wide enough for parents with pushchairs to pass;
- substantial pedestrianised zones around school entrances used by pupils;
- providing public art, nature areas and local history information boards, in the immediate area, to offer learning opportunities;
- the planting of trees and / or hedges to enhance air quality / reduce exposure to poor air quality; and
- the use of landscaping and carefully selected street materials to reduce noise.

#### **5.2.9. Special needs.**

Some of the children generated by the development of new dwellings will have special educational needs. It is extremely difficult to predict the number of special needs places required in any given planning area for each type of need. However, the number of children likely to present with special educational needs can be roughly calculated as follows:

The following statistics applied at the 2018 school census:

- 15% of the Essex school population has some sort of special need.
- 3.4% of the child population currently has an Education, Health and Care Plan (this is now closer to 3.9%), and of this, 2.1% has a plan and is educated in mainstream schools, including specialist SEN units in mainstream schools, and 1.3% are educated in a special school.

This is the current position and these percentages are subject to fluctuation, although the trend has been upwards in recent years.

The cost of providing a special needs place is generally greater than that of a primary or secondary place depending on the type of need to be met. The capital cost per child of a special needs school varies with the type of need to be addressed. However the DfE guidance 'Securing developer contributions for education' recommends that developer contributions for special or alternative school places are set at four times the cost of mainstream places which is consistent with the space standards in Building Bulletin 104.

Only the largest housing developments will generate the number of children with serious special educational needs which justify the requirement for a new school. It is more likely that the Council would seek to create a small unit of Specially Resourced provision in a mainstream school or to expand an existing unit of Specially Resourced Provision in a mainstream school.

It may therefore be necessary to request a contribution commensurate with the need arising from any significant development.

All new school sites within new developments will be considered for the provision of special needs facilities and appropriate contributions will be requested if a need is identified.

#### 5.2.10. Post 16 education provision.

Access to education for the post 16 year olds plays a key role in skills development and assists both residents and businesses progression into, and through, sustainable employment, including apprenticeships.

The Department for Education's 'Participation of young people in education, employment or training statutory guidance for local authorities' (September 2016)<sup>2</sup> requires all young people in England to continue in education or training beyond the age of 16. This is a duty under the Education Act.

Young people have a choice at key stage 4 (year 11) as to how they continue in education or training post-16, which could be through:

- full-time study in a school, college or with a training provider
- full-time work or volunteering (20 hours or more) combined with regulated part-time education or training (about one day per week).
- an apprenticeship<sup>3</sup> or traineeship (See '5.4-Employment and Skills.' for guidance on obligations and contributions for apprenticeships).

ECC has a duty to secure sufficient and suitable education and training provision for all young people in their area who are over compulsory school age

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<sup>2</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/561546/Participation-of-young-people-in-education-employment-or-training.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/561546/Participation-of-young-people-in-education-employment-or-training.pdf)

<sup>3</sup> <https://www.gov.uk/topic/further-education-skills/apprenticeships>



but under 19, or aged 19 to 25 and for whom an Education, Health and Care (EHC) plan is maintained. To fulfil this, ECC needs to have a strategic overview of the provision available across the county in order to identify and resolve gaps and ensure appropriate choice in provision. This requires ECC to ensure training provision is holistic and reflective of local industry skills requirements.

ECC determines 'sufficient' as having enough post 16 provision to meet need and choice. ECC determines 'suitable' as offering a range of academic, technical and vocational provision against demand.

Revenue funding for all post 16 education is provided via the Education Skills Funding Agency (ESFA) and covers academic and vocational learning.

Due to a growing number of 16-19 year olds (up to 25 with an EHC plan) from local housing developments, where necessary, capital contributions will be sought to support additional full-time Post 16 education as per point 1 above. Apprenticeships and other skills related requirements are outlined in '5.4- Employment and Skills.'

The Local Growth Fund (LGF) is government funding awarded to Local Enterprise Partnerships (LEPs) for projects that benefit the local area and economy. This funding is not ringfenced to support post 16 provision, however some funding may be sourced through an application to the LGF. Investment is limited on a case-by-case basis and not guaranteed. Developers' contributions would make up any unmet funding from other sources.

### ***Funding Formulae for Post 16 education in Essex***

It is calculated that there are 0.04 qualifying post 16 students per house and half this number from qualifying flats. One bed units are included as research has revealed that in the 2011 census there were 1% of young people aged 16-18 living in one bedroom properties across Essex. However other types of accommodation such as aged restricted units are discounted as they are unlikely to generate a need for additional places. The key difference between post 16 provision and primary / secondary education is the element of choice and the landscape of different training routes. Therefore the need in any area will be assessed on a case-by-case basis, so that contributions are only required where necessary.

**Table 8: Per 100 qualifying homes examples**

<b>Dwelling Type</b>	<b>Units</b>	<b>Post 16 total Factor</b>	<b>Post 16 total Yield</b>
<b>One bed</b>	100	0.01	1
<b>Flats</b>	100	0.02	2
<b>Houses</b>	100	0.04	4

### **The Cost of Additional Places**

Subject to indexation the cost per place for full-time post 16 places is £24,846.

The precise cost of projects will be determined by ECC after reviewing the Land Compliance Study report (see 'Section 4') that the developer must submit with any planning application that includes land for a new educational provision.

**Table 9: The cost of additional places.**

<b>Dwelling Type</b>	<b>Units</b>	<b>Post 16 - Factor</b>	<b>Post 16- Yield</b>	<b>Average Costs per place</b>	<b>Total</b>
<b>One bed</b>	120	0.01	0	£24,846	0
<b>Flats</b>	200	0.02	4		£99,384
<b>Houses</b>	65	0.04	3		£74,538
<b>Total</b>	<b>385</b>	<b>Pupils</b>	<b>7</b>		<b>£173,922</b>

## **5.3. School transport and sustainable travel.**

### **5.3.1. Assessing the need to provide school transport.**

The Education Act 1996, as amended by Part 6 of the Education and Inspections Act 2006, places a duty on Local Authorities to make suitable travel arrangements free of charge for eligible children as they consider necessary to facilitate their attendance at school. Walking distance is defined by S 444(5) of the Education Act 2006 at two miles for under-eights and three miles for those who have attained eight years.

These distances are measured by the shortest available walking route. An 'available route' is one which a child, accompanied as necessary, may walk with reasonable safety to school. In excess of these distances ECC has to fund 'free' school transport. Where development is proposed in locations that may require ECC to provide school transport, developer contributions are sought to fund provision for a minimum of seven years for primary and five years for secondary pupils

On average the cost of transporting a primary school child to school is around £11.40 per day (return). The corresponding cost for secondary school transport is £5.30 (April 2019 costs). This is due to economies of scale. The calculation of school transport contributions is based on 190 days per year over 7 years for primary school children, and 190 days per year over 5 years for secondary school children.

### 5.3.2. Promoting sustainable modes of travel.

ECC has statutory duties to promote the use of sustainable methods of transport for all education and training related journeys, from pre-school age to post 16 students. Under the Education and Inspections Act 2006 authorities are encouraged to develop Travel Plans with schools.

ECC will use its highways, transport and schools expertise to examine the provision of safe walking and cycling routes from new housing to education and other community facilities. Safe direct routes that encourage parents to leave the car at home will be required on all new developments. Financial contributions may also be required for off-site works. Such contributions may also be appropriate from smaller developments.

Where appropriate, highway contributions (as set out in '5.7.3-Highways work versus contributions.')

to establish a safe walking route will be considered before seeking a school transport contribution.

## 5.4. Employment and Skills.

### 5.4.1. Background.

In order to address local construction skills challenges, ECC will expect developers to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. These plans will help to address negative perceptions of the sector and develop a strong future pipeline. This is referred to as the 'development phase'.

ECC will expect land owners to produce an ESP for commercial developments, to enable wider employment opportunities for those requiring additional support to enter the job market. This is referred to as the 'end-use phase'.

Additionally, a monetary contribution will be sought, to help bring about interventions enabling those requiring additional support to enter the job market. Therefore, residential sites with 200 dwelling units or more and employment sites providing in excess of 2,500sqm of floorspace will be required to provide development and end-use ESPs and provide monetary contributions. This will ensure that significant new opportunities for skills and jobs are aligned with local training provision and residents.

These measures seek to enable local residents to benefit economically from new developments by reducing long-term unemployment, increasing skills and employability levels as well as providing employment and in-work progression opportunities for residents. It will encourage realistic and deliverable provision for employment and skills, responding flexibly to the circumstances of individual schemes.

### 5.4.2. Employment and Skills strategy plan.

Employment and Skills Plans should be created by the applicant prior to implementation and must include a series of key performance indicators for both the development phases and, in the case of commercial sites, for the end-use phases. The ESP should include the following key performance indicators and meet the minimum benchmarks outlined in 'Appendix O1'.

#### ***Construction Phase***

- New construction apprenticeships working on the project, open to candidates nominated by ECC (or other agency as agreed by ECC), and notification of apprenticeship opportunities, prior to advertisement, to ECC or any other agency nominated by ECC.
- School/college engagement activities or events to enable them to promote the achievement of the skills and qualifications needed for employment in the construction and built environment sectors amongst young people aged 11 to 19 (25 with Education, Health and Care Plan (EHCP)). The ESP will need to contain a detailed programme for the initiatives to be delivered. Examples include career inspiration events, employability and work readiness activities, curricula support and employer engagement.
- Work placements. ECC expects developers or their supply chains to support residents in Essex with real-life experiences of work by providing work experience placements lasting a minimum of one week for those 16+.
- Note: in order to prepare for the forthcoming introduction of technical study programmes (T Levels), ECC will continually review and where necessary, update the appropriateness of the above obligation in relation to work experience placements to reflect changing Government policy.
- Supported employment opportunities.
- Pre-employment opportunities. Support the delivery of bespoke pre-employment and skills training for Essex residents that will provide them with the skills to access the jobs that are being created.

#### ***End-use phase***

- Supported employment for local residents. Provision of employment opportunities which have appropriate support to make them suitable for those unemployed or groups who require additional educational and skills support such as individuals with an EHCP, care leavers, young carers, youth and ex-offenders.



- ECC would expect every 2,500 sqm of commercial development to be capable of generating at least one paid job placement lasting for a minimum of six months. These supported employment opportunities will need to be open to candidates nominated by ECC (or another agency as agreed by ECC).

***End-use and construction phase:***

- Provision for notification of job vacancies (including apprenticeships), arising from both the construction and end-use occupation, to ECC or any other agency nominated by ECC.

The obligations set out above envisage that developers and/or landowners will make, or will bring about, the necessary provision. However, if the developer or landowner can demonstrate to the satisfaction of ECC that there are circumstances specific to the scheme such that either direct provision is not operationally feasible, or that an alternative means of delivery would result in a more effective outcome because of the particular circumstances of the scheme, then ECC may consider a financial contribution in lieu. ECC encourages developers and landowners to engage with ECC officers at the earliest opportunity, to discuss the specific circumstances of the scheme.

**5.4.3. Financial contributions towards Employment and Skills.**

In addition to the obligations set out as part of an ESP, developments will be expected to make financial contributions to help support those sections of the Essex workforce that are furthest from employment, having been out of work for a long period of time and/or having low levels of skills, or groups who require additional educational and skills support such as individuals with an EHCP, care leavers, young carers, ex-forces, youth and ex-offenders. The financial contributions will be used by the Council to fund training and support to enable access to newly created employment opportunities for those who may struggle to access the opportunities without extra support.

- Residential developments and residential elements of a mixed-use development: a monetary contribution of £2,000 towards the cost of vocational training and employment support will be required by ECC for every 1,000sqm of development.
- Commercial developments and commercial elements of a mixed-use development: a monetary contribution will be calculated on the basis of an assumption about the level of net additional employment generated by a development.

***Development phase construction (build) costs***

To agree the volume of obligations and monetary contributions, it is expected that developers will supply ECC with the total build values of their project. In the absence of these values ECC will calculate the construction costs using the

Building Cost Information Service, based on the unit mix and/or commercial floor space.

#### 5.4.4. Compliance.

The S106 will set out what the developer will need to do by way of providing information about progress against the ESP objectives – generally to provide data on a quarterly basis. The S106 will also contain provision for the Council to seek a compliance payment from developers if the Council isn't satisfied that the developer has been using reasonable endeavours to deliver the target employment opportunities set out in the ESP.

Should instances occur where ESPs are not met or are partially met, relevant penalty clauses will be applied, based upon 'Appendix O2' contribution in lieu guidance. Developers and land owners who fail to agree to an ESP (but who haven't agreed a payment in lieu) will be subject to a deemed target number of Essex resident jobs being imposed for the purposes of calculating the amount of a compliance payment.

#### 5.4.5. Further advice.

'Appendix O: Employment and Skills' contains examples of contribution payments.

### 5.5. Youth Services.

#### 5.5.1. Background.

Youth work in Essex is delivered through a range of informal learning and personal development services that fulfil a number of statutory obligations (detailed in appendix I) as well as providing personal development opportunities. Access to good quality youth services is vital in ensuring strong community cohesion and can ultimately contribute to the success of a development and the area's economic well-being.

The Youth Service works mainly with young people between the ages of 13-19. It works alongside schools and other partners to:

- Provide access to advice and guidance;
- Deliver targeted support to those at risk of not progressing;
- Support volunteering and community development;
- Provide access to personal and social development programmes;
- Support young people to have a voice and active involvement in their communities.

Services are delivered from 'youth hubs', satellite centres, community buildings, mobile units and outdoor spaces where young people gather. Critical

to the work is involving partners, particularly young people, who are fully involved in service design, delivery, governance and evaluation of our services.

Partners should be encouraged to work together and co-design and co-produce any facilities, looking at community needs, national best practice and local evidence bases – this includes provision that is part of community hubs, rather than building stand-alone provision.

### 5.5.2. What is needed to serve new development.

It is estimated that for every 20 dwellings there will be a young person needing some youth work provision. The minimum size of development requiring a bespoke youth centre or dedicated youth space (catering for approximately 60 young people) is around 1200 houses. The capital cost of such a facility can be put at around £700,000.

Most youth provision is, however, delivered through flexible community spaces. The need for developer contributions, thereby, needs to be considered on a case by case basis and in partnership with other services that may be delivered out of multi-functional community hubs.

In addition to community buildings there are a number of low cost ‘big win’ facilities that can be provided as part of new development of various sizes. Examples include (at current costs):

- Multi Sports Arena or Multi Use Games Area (MUGA) - costing around £60,00 – £70,000;
- A basic skate park - costing around £50,000;
- Outdoor gym – costing around £12,000;
- Youth shelters - costing around £12,000.

## 5.6. Adult Social Care, Public Health and NHS.

### 5.6.1. Adult social care.

#### ***Background***

City, Borough and District Councils in Essex are responsible for securing contributions from developers towards Affordable Housing but ECC has responsibilities for housing some vulnerable groups and will work with districts on how these responsibilities can best be met.

These services are provided to deliver wider benefits to individuals and communities as well as to meet statutory duties. The strategic and legislative framework for social care is set nationally with local strategies and initiatives developed to interpret national strategy and reflect local priorities.

The Care Act 2014 has integrated the provision of social care and health services for the benefit of the client. Health and social care providers in Essex

are increasingly seeking to join up their efforts into integrated pathways which provide a consistent service for citizens and make best use of resources. ECC has appointed Integrated Commissioning Directors to work with each of the five local Clinical Commissioning Groups (CCGs) to join up services.

### 5.6.2. Specialist housing need.

In order to deliver its aims and duties, ECC seeks to develop a range of supported living options and to commission services to support people to remain living independently for as long as possible.

Since 2012 ECC has offered capital grant support to developments for working age adults with disabilities and in 2014 began to make a similar offer for housing for older people. The number of schemes accessing these grants is lower than anticipated and insufficient to meet the current and future demands.

In 2014 ECC began developing a strategic approach to the delivery of housing for older people at scale; districts, providers and developers are involved in shaping the outcomes. This work will be progressively concluded in 2015 with information published throughout the year. It is likely to include details of a continued capital grant scheme, models for land and building donations to support scheme viability and proposals for ECC to work in closer partnership with a number of developer/providers. A similar process is being considered to meet the needs of working age adults with disabilities.

A Market Position Statement, which is updated at regular intervals, provides a picture of the County in terms of demand, supply and opportunity for a range of specialist housing. Specific needs identified include:

- Older people: Data analysis tells us that there are approximately 5,000 Essex residents who meet the criteria to access specialist housing with care that is being provided as an affordable housing option. This figure increases only slightly over the next 5 years. A proportion of these 5,000 residents will be best served by a form of specialist housing with care.
- Working age adults with disabilities, including learning disabilities, physical impairments and sensory impairments: There is an identified shortfall of around 270 units of supported accommodation of various types across the County. Specific gaps in provision include supported accommodation for Deafblind people and people with physical impairments who are wheelchair users and/ or have specialist support needs such as due to an Acquired Brain Injury.

Details on the characteristics of suitable sites/ buildings for specialist housing with care for older people and working age adults with disabilities can be found in 'Appendix N: Site characteristics profile for housing for older people and adults with learning disabilities'.

- Mental health: There is a need for blocks of 12 or so flats, with an on-site office, in a number of areas. In addition, there is a need for move-on

accommodation of self-contained flats in general needs accommodation.

- Vulnerable people: Support is currently provided to a range of vulnerable groups such as women fleeing domestic violence; homeless single people and families, older people and people with substance misuse problems.

### 5.6.3. Public Health.

Public Health is responsible for improving health, protecting health and preventing poor health across all ages within the population. It is recognised that 'place' is a major influencer on health and wellbeing, and this is demonstrated through the NPPF and Planning Policy Guidance. Public Health wants to ensure that places in Essex are as supportive to healthier living as they can be, addressing the lifestyle, social and economic factors that are influenced by our environments. New developments should be inclusive, accessible and supportive of reducing health inequalities. In order to achieve these aims, Public Health works closely across the health and care system with partners from Communities, Social Care, the NHS, the Emergency Services Collaboration and Sport England.

Healthy Place-making should include:

- Opportunities for increasing physical activity and active travel. This includes formal i.e. leisure centres, playing fields and formalised space for activity such as outdoor gyms, changing facilities and lighting and informal spaces i.e. walking/cycling/scooting routes and green space within development where spontaneous activity can occur such as play. These principles are supported via Active Design principles which are embedded throughout the Essex Design Guide
- The design of homes and housing so that it is adaptable and accessible to all throughout their lives
- Increasing access to healthier and local food growth opportunities through allotments, community growing space and local markets. It includes access to local amenities shops
- Access to quality green and blue environments through parks, open green space, coastal and inland water spaces
- Community and neighbourhood development through good design as promoted by the Essex Design Guide including opportunities to support the integration of existing communities to new communities.
- Environmental sustainability during both the construction and operational phases of development
- Access to education, skills, training and employment

- Access to NHS healthcare services- Public Health work closely with NHS estates and infrastructure teams across the County

It is expected that the above principles are addressed through positive place-making and then assessed via a health impact assessment as per local planning authority policy. Health Impact Assessments (HIAs) are designed to highlight how the development will positively impact on health and wellbeing and allow for the early identification of potential unintended consequences. They also allow for the identification of groups that may be more at risk from the impacts of the development. HIA should align to the local health evidence base and relevant strategies in place. Mitigation may be sought from a developer should a HIA identify unintended impacts and will, therefore, be site specific.

It is advised that early contact is made with Planning and Public Health teams within local authorities to discuss the application proposed and local HIA requirements. Further information on HIA and healthier places can be found via the EDG website.

#### 5.6.4. NHS healthcare.

In 2016 the NHS and local councils came together in 44 areas covering all of England to develop proposals to improve health and care. They formed new partnerships – known as sustainability and transformation partnerships (STPs) – to run services in a more coordinated way, to agree system-wide priorities, and to plan collectively how to improve residents’ day-to-day health.

There are three STPs within Essex:

- Mid and South Essex STP cover the local authority areas of Basildon, Braintree, Brentwood, Castle Point, Chelmsford, Maldon, Rochford, Southend and Thurrock.
- Hertfordshire and West Essex STP cover the Essex local authority areas of Epping Forest, Harlow and Uttlesford.
- Suffolk and North East Essex STP cover the Essex local authority areas of Tendring and Colchester.

Development growth will have a significant impact on the delivery of health care services across Essex. Although new models of care will see greater utilisation of existing public sector assets there remains a requirement to increase capacity by means of physical infrastructure, digital technology and clinical staffing levels.

In order to meet the needs of our future populations whilst making best use of existing assets one of the priorities of the NHS is to increase utilisation of existing infrastructure, which in some instances will see extension of operating hours and greater collaboration between providers. Whilst this may provide



additional physical capacity, there will remain a gap in the availability of staff to provide services and digital technology to deliver new models of care.

To this end mitigation will be sought from new development for a range of uses and for a range of services to facilitate the delivery of appropriate levels of care across STPs.

Traditionally developer mitigation from S106 /CIL was utilised to increase capacity within primary care, and in most instances resulted in a request for funding to increase physical infrastructure. The changing models of care and limited funding to deliver services for a growing and aging population will see a change in the use of mitigation, and funding may be utilised collectively within an acute setting to increase space or improve premises which are not within close vicinity of the development site but will be sited where residents of new development will be treated if/when necessary. Funds may also be used to fund one off costs to recruit and retain clinical personnel within the area, and for the benefit of the residents of the development funds may also be sought to introduce or expand digital technologies which will in turn increase capacity within local services.

All discussion and negotiations for mitigation from development sites will be approached on an individual basis and via discussion with the Local Planning Authority to ensure that mitigation requests are in alignment with the NPPF.

NHS Commissioners work closely with Public Health to ensure ECC objectives align, and that in collaboration information and guidance can be provided to developers to consider health and wellbeing in design regardless of the size of the proposed development.

## **5.7. Highways and transportation.**

### **5.7.1. Background.**

A high quality and efficient transport system is central to the growth of the Essex economy. ECC works closely on long-term transport plans with each Local Planning Authority in support of their Local Plans. This work assesses the overall impact of development and identifies transportation measures to deliver sustainable development, including enhanced passenger transport services and infrastructure, comprehensive cycle and pedestrian networks, improved public rights of way, and active travel planning.

ECC, acting as the Highway Authority, is consulted by the Local Planning Authorities on any planning applications that may have an impact on the Highway. In its response, ECC may request mitigation measures in the form of works to the highway, provision of active travel planning measures and/or financial contributions towards strategic transportation projects. Where planning applications cannot satisfactorily mitigate their impact on the highway network and/or meet with current policy requirements the Highway Authority may raise an objection to the planning application.

### 5.7.2. Assessing the impact of development.

Any development site that proposes more than 50 dwellings, or commercial development that generates equivalent or higher traffic flows, will require a full Transport Assessment (TA). Lower levels of development may require a Transport Statement (TS). The TA will identify the sustainable transport measures that will be required to ensure that the site is accessible by a choice of modes other than the private car, including cycling, walking, public transport and horseriding. It should also assess the residual impact of the development traffic on the highway network, including identifying appropriate mitigation to ensure there is no detrimental impact on the safety and capacity of the highway network. Early pre-application discussion with the Highway Authority is essential to agree the scope of any TA or TS and for the applicant to understand the transportation requirements and strategy for the local area. Details on the thresholds for TAs and TSs are given in Appendix B of ECC's Development Management Policies February 2011 and any subsequent updates.

### 5.7.3. Highways work versus contributions.

Where mitigation is required this must be fully funded and delivered directly by the developer. The developer will be required to enter into a S278 Agreement with the Highway Authority to deliver the works. All work within or affecting the highway will be subject to technical approval by the Highway Authority prior to commencement on site. Details are to be agreed with the Development Management Team at [development.management@essexhighways.org](mailto:development.management@essexhighways.org).

Contributions for highway works will only be taken in exceptional circumstances such as for large scale strategic transportation schemes, with more than one funding source, which have been identified through the Local Plan process and included in the associated Infrastructure Delivery Plan.

Where more than one development in an area generates the need for a specific local highways scheme which cannot be delivered by an individual development, it may be appropriate for ECC to secure financial contributions and to procure the works. ECC will require the developer to enter into a legal agreement under S106 or S278 agreement, as appropriate, to secure the contribution.

### 5.7.4. Highways work and surety.

ECC will require an appropriate surety (either a cash deposit or a Bond) that can be called upon to pay for the completion of works in the event that the developer does not complete the highway works to the satisfaction of the Highway Authority.



### 5.7.5. Inspection fees.

Where developers are working in the highway, inspections have to be carried out by ECC and fees are charged, based on the cost of the works. At the current time the following fees apply:

**Table 10: Fees applied to cost of works.**

Cost of Works	% fee applied to cost of works
Under £10,000	Inspection fee based on the cost of the works with a minimum of £1,450
£10,000 to £500,000	8.5% of cost of works
£0.5m and £1.5m	7.5% of cost of works
Above £1.5m	Determined case by case

Prior to ECC embarking on any drawing checks an advanced checking fee of £3,000 will be required.

Further guidance is available in the Development Construction Manual available on the ECC website.

### 5.7.6. Traffic Regulation Orders (TROs).

Where a development requires a traffic regulation order e.g. to provide waiting restrictions, there is a fee payable, to ECC, to cover the costs of processing and advertising the order(s). The fee varies according to what order and associated works are required. The developer will be responsible for procurement and implementation of the associated infrastructure including signage and lining. This will be secured through a S278 agreement. Further guidance can be found in the Development Construction Manual.

### 5.7.7. Commuted sums for maintenance.

When the Highway Authority takes on assets from developers it incurs maintenance costs for the life of the assets, and replacement costs at the end of their useful life. Commuted sums to cover these costs are required from the developer. These sums are secured through both Section 278 and Section 38 agreements, but any agreement that includes the transfer of an asset to ECC may require such a contribution. The types of asset include:

- Street lighting
- Traffic signals and illuminated signs
- Pedestrian crossings
- Highway structures such as retaining walls, bridges and gantries

- Landscaping and adopted land
- Fencing and noise bunds
- Bus shelters and other public transport infrastructure
- Street furniture and bollards
- Soak-aways
- Drainage infrastructure
- Tree planting in soft and hard landscaping, hedges
- Culverts
- Traffic management features
- Interceptors
- Pavements

The calculation of commuted sums for maintenance follows the principles set out in the guidance produced for the Department for Transport by ADEPT, the Association of Directors of Environment, Economy, Planning and Transport, formerly the County Surveyors' Society. More details of this guidance, and how sums are arrived at, are given in 'Appendix J: ADEPT guidance on maintenance costs'. A full list of assets, with relevant maintenance contributions, is given in 'Appendix K: Standard Commuted Sums for Maintenance (April 2017)'. It must be noted that developers should not assume that ECC will accept responsibility for or maintain all Highways infrastructure. For example, street lighting that does not form a useful network function may not be requested on some roads and it would not thereby automatically be eligible for adoption.

Any asset that a developer is seeking ECC to adopt must be in an appropriate condition and any required maintenance work at that time must be completed by the developer prior to transfer. Where proposed materials are not within the current specification applied by the Highway Authority, additional sums may be added or adoption of the item refused.

There are also special circumstances whereby ECC will require commuted sums for maintenance of an asset it already owns. For example, if construction traffic is likely to damage the carriageway, the developer may be required to deposit a sum with ECC. The sum will in whole or in part be returned if no damage occurs. This type of maintenance is usually secured through a Section 106 agreement.

## **5.8. Sustainable travel planning.**

### **5.8.1. Background.**

Travel Plans are long term management strategies providing a framework for managing transport issues and promoting travel choice. Developing a Travel Plan can help to reduce the use of the private car, which in turn helps to tackle localised congestion.

In accordance with the requirements of the NPPF, Travel Plans are an essential component of workplace, residential and school planning applications. Each Plan contains 'modal share' targets and identifies measurable outcomes, along with arrangements for monitoring the Plan's progress, and mitigating actions to be agreed in the event that targets are not met.

The Sustainable Modes of Travel Strategy sets out how ECC aims to effectively target and adopt different methods of successfully encouraging modal shift, by giving the people of Essex a better choice when it comes to travelling in and around the county; as well as trying to alleviate some of the strain on the highway network. The strategy also aims to facilitate the associated environmental, social and health benefits of better managed congestion.

Example frameworks for Workplace, Residential and School Travel Plans and accompanying guidance notes can be found at: [www.essex.gov.uk/sustainabletravel](http://www.essex.gov.uk/sustainabletravel)

### **5.8.2. Workplace travel plans.**

Workplace Travel Plans are required for all commercial developments, including expansion plans, where the proposal would take total staff numbers to 50 employees or more. A robust Travel Plan can aid recruitment, retention and morale, improve transport infrastructure and reduce congestion in and around the site, also raising the ethical profile of the company. More information on developing a Workplace Travel Plan can be found in the document 'Helping you create a Business Travel Plan'. ECC also runs a network for businesses who want to develop a travel plan – see Appendix L for further information.

### **5.8.3. Residential travel planning.**

Focusing on travel by residents and designed to encourage sustainable travel from the start of a journey, rather than to a specific destination, and for a number of journey reasons, i.e. work, leisure, education and/or accessing services.

The size of a residential development determines the requirement, as set out below:

***Residential Travel Information Pack - applicable for all residential developments comprising of 1 to 79 dwellings:***

A booklet, tailored to the specific site location, containing information on local transport and travel opportunities and promoting the benefits of these; including tickets for free bus (or rail) travel.

Contents included are:

- Introduction
- Walking and Cycling
- Public Transport - broken down into bus and rail travel (including free tickets if applicable)
- Park and Ride
- Car Sharing
- Electric Vehicles
- School Transport
- Taxi travel
- Useful contacts

The packs can be purchased at a charge through the Sustainable Travel Planning Team (travelplanteam@essex.gov.uk).

***Residential Travel Plan - applicable for all residential developments comprising of 80+ dwellings:***

A working plan includes a number of travel plan measures (listed below) to ensure sustainable means of travel are available to residents. The Plan will incorporate information on the Travel Plan Co-ordinator, Aims and Objectives, Targets (including an Action Plan) and an agreed monitoring programme (including biennial travel surveys and annual traffic counts).

Measures include:

- Residential Travel Information Pack
- Safe pedestrian and cycle routes
- Car Clubs
- Public Transport services, maps, leaflets and information
- Websites, travel information boards or online portals
- Community travel events

- Community Engagement Group
- Car Sharing
- Car charging points (standard and rapid chargers)
- Marketing, Promotion and Information (including walk/cycle challenges)

#### 5.8.4. School Travel Plans

Where a new development includes a proposal for building new educational or training spaces, developers will be expected to help minimise the carbon footprint produced by the education establishment through the design and layout of the development, i.e. through better routes or provision to/from the location.

They will be required to work with the Sustainable Travel Planning Team to implement a School Travel Plan. This will involve consideration of access to the educational site and the walking and cycling routes to it, including any appropriate crossing facilities and the funding of a School Crossing Patrol (for Primary Schools), in line with the ECC School Crossing Patrol Volunteer Agreement that must be signed and agreed by the developer for the duration of the development.

#### 5.8.5. Section 106 requirements.

Details of the legal obligations associated with Travel Plans are set out in the template Section 106 agreement provided as 'Appendix A: Section 106 Agreement Template' of this guide. Developers are required to pay a one-off fee of £5,000, index-linked with the Government's Consumer Price Index (CPI) and based on April 2019 costs for ECC to monitor and review each Travel Plan. The fee pertains to ECC involvement over a five year period from the date of first occupation, to ensure the Travel Plan remains an 'active' document with the overarching aim of achieving a reduction in single car occupancy

Monitoring and review consists of three main activities:

1. Management and co-ordination of annual travel surveys
2. Setting modal shift targets annually with agreement between both parties
3. Providing advice and support to the on-site Travel Plan Co-ordinators

The travel plan monitoring fee structure for residential developments is detailed below:

**Table 11: Travel plan monitoring fee structure for residential developments.**

<b>Dwelling</b>	<b>Fee</b>
<b>Up to 79 dwellings</b>	No fee
<b>80-449 dwellings</b>	£1,500 per annum (index-linked as above)
<b>450-749 dwellings</b>	£2,500 per annum (index-linked as above)
<b>750-1000 dwellings</b>	£3,500 per annum (index-linked as above)
<b>1000+ dwellings</b>	Fee will be negotiated case by case.

For applications of more than 1000 dwellings, the fee will be negotiated case by case.

The fee is for services supplied to the developer by ECC, for the provision of support and advice to the onsite Travel Plan Co-ordinator on the management and implementation of the Residential Travel Plan, thus enabling them to effectively deliver the Travel Plan. Co-ordination of the travel surveys and/or traffic data counts must be paid for separately by the developer.

An authority may require a developer to prepare a Workplace/Residential Travel Plan for a development which has fewer employees/dwellings than those identified in the thresholds specified above, for example because the development is in an area that is particularly congested or has an air quality issue. In such cases ECC will require the minimum fee of £5,000 (one-off payment for workplace) or an annual fee of £1,500 (for residential) index linked, to monitor and review the Travel Plan.

In all cases (both Workplace and Residential) the developer is responsible for producing the draft plan and any travel packs that are required. The developer may however seek ECC's assistance and under certain circumstances buy-in ECC's expertise.

## **5.9. Passenger Transport.**

### **5.9.1. Background.**

Public passenger transport has a vital role in keeping communities connected, supporting economic growth, reducing congestion, helping to protect the environment and maintaining journey time reliability for all road users.

Public transport allows residents to reach essential key amenities and services (such as employment, health, education and shopping) and has a major influence on our overall quality of life. Such services are particularly important in rural communities and for sections of society that do not have access to a



car, such as young people, but also make a major contribution to ensuring long term sustainable development.

ECC, as the Local Highway and Transportation Authority, has responsibilities for public transport under the Transport Act 1985, the Transport Act 2000, the Traffic Management Act 2004, the Local Transport Act 2008 and the Bus Services Act 2017. The legislation requires the production and review of a Local Transport Plan which identifies transport policies and how these will be delivered. It has also adopted and published its Passenger Transport Strategy “Getting around in Essex” and the ‘Local Bus Service Priority Policy 2015 to 2020’<sup>4</sup>.

Between them they set out the County Council’s strategy and policies for the provision of public transport. Guidance notes have been produced for developers dealing with the demand for public transport, and passenger transport infrastructure arising from new developments is described in these documents which have been incorporated into the Essex Design Guide.

### 5.9.2. Common developer contribution requirements.

In general developers will be expected to make an appropriate financial contribution to mitigate the impact of their development on the local transport network and to help ensure that the development is sustainable.

However, requirements for contributions will be gauged on a site by site basis. ECC’s view of the appropriate levels of infrastructure and service support required for a development to meet these criteria is set out in ‘Appendix P: Additional Guidance for Developers on Passenger transport requirements’.

In broad terms:

- For small scale developments of up to 100 dwellings located near to frequent current bus routes, developer funding will be focused on improvements to existing bus infrastructure, including the provision of footway access, raised access kerbs, and dropped kerbs, central pedestrian refuges at safe crossing points, bus stop signs, timetable cases, passenger shelters and/or real time passenger information.
- For moderately sized developments of between 100 and 500 dwellings, the developer will (in addition to the above and where the existing service level is considered inadequate), be required to fund diversions to existing bus routes or make a proportionate contribution to new services aimed at ensuring that all residents are able to access to bus stops with an adequate level of service to key amenity centres.
- For larger scale developments of between 500 and 1000 dwellings the council will (in addition to the above) require a suitable level of transport service to be agreed with the aim of meeting access and sustainability

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<sup>4</sup> <https://www.essexhighways.org/transport-and-roads/getting-around/bus/bus-strategy.aspx>



requirements (including any modal share targets agreed for the development) and which mitigates the impact of the development on the local transport network

- For very large developments of in excess of 1000 dwellings, such as the proposed Garden Villages/Towns, a fully bespoke integrated transport package will be required, with strong focus on establishing modal share and long term financial and environmental sustainability and to mitigate the effect of the development on the wider transport network.
- For moderate sized developments upwards, developers will be asked to meet any identified interim costs incurred by the county council from transporting students to and from education sites between first occupation and the opening of any education provision agreed for the site (see '5.3.1-Assessing the need to provide school transport.').
- ECC will either collect contributions itself, to allow it to ensure that the services procured have real network benefits and maximise the potential for commercial viability in the longer term or in some cases developers may be required to negotiate directly with bus companies to deliver an appropriate package of services.
- To encourage long term financial sustainability and meet modal share targets, bus services should be provided at the time dwellings are first occupied. It is likely that in such cases the developer may be expected to subsidise a service until it becomes commercially viable. The agreement may, however, set time, occupation or financial limits to this type of contribution.
- In some locations the provision of demand responsive transport may be appropriate.
- Recognising that many households will require parking for private cars, adequate provision for unimpeded through routing of buses must be made. To this end the design of roads intended as bus routes must allow for unimpeded bus travel even if parking occurs on both sides of the road.
- Parking restrictions may also be required to protect key turning or stop areas and to prevent parking allowing vehicles to block speed cushions or tables. Developers should expect to contribute towards any necessary Traffic Regulation Orders and the delivery of associated signs.
- The intention to establish bus routes, and the associated measures, must be made clear to potential new residents to ensure that objections to Traffic Regulation Orders are avoided.

## 5.10. Public right of way.

The Highway Authority may seek works or a financial contribution from developers to ensure that Public Rights of Way either on, or in areas adjoining new developments, are appropriate to accommodate the additional use new residents will generate. Where the Public Right of Way or relevant part thereof, is over land within the control of the developer, the developer will be required to complete the works under a Section 278 agreement. Where the works require the agreement of any third party owners, ECC may agree to take a financial contribution, and complete the appropriate works, but will only do so where it is evident that the upgrade is achievable. Any transport strategy that relies upon the delivery of an upgraded Public Right of Way must be proved feasible by the developer to be accepted.

Such improvements, where appropriate, may be secured by a Section 106 Agreement (which can have attached to it a public path creation agreement) or by a suitably worded planning condition. Where such improvements are for the provision of a cycle track, which coincides with an existing public path, the developer would be expected to fund the necessary Cycle Track Conversion Order. The agreement would also require the cycle track to be constructed in accordance with specifications agreed by the Highway Authority.

Specimen clauses for insertion to secure Public Rights of Way as part of a development scheme are available in 'Appendix A: Section 106 Agreement Template'. However the following points are also important:

- The Highways Act 1980 places a responsibility on all Councils to protect Public Rights of Way. Public Rights of Way are also a material consideration in the determination of any planning application. The granting of planning permission does not in itself provide authority to obstruct or alter the legal route of a Public Right of Way.
- Paths should be retained on their existing routes wherever possible. Section 257 of the Town and Country Planning Act 1990 states that diversions should only be made if it is considered that it is 'necessary to do so to enable development to be carried out'. There is every expectation therefore that the existing Public Right of Way should stay where it is, particularly in large development sites, and the layout of the new build should be designed to accommodate the existing path alignment.
- With the ever increasing need for sustainable transport often with the provision of cycle facilities, it is expected that these will be delivered by way of purpose built cycle tracks or where appropriate, upgrades to an existing footpath with a cycletrack conversion order. Creation of new bridleways in urban areas as a means of facilitating cyclists is not considered an appropriate means of provision for cyclists.

- For detailed guidance, please refer to “Development and Public Rights of Way” advice notes for developers as published on the Essex Highways website.

## **5.11. Waste management.**

### **5.11.1. Background.**

ECC is both the Waste Planning Authority (WPA) for Essex and the Waste Disposal Authority (WDA). The WPA is responsible for waste development planning for all waste arisings and is required to determine planning applications for waste facilities. The WDA is responsible for making arrangements for the appropriate treatment and disposal of Local Authority Collected Waste (LACW). ECC also has a duty to provide accessible facilities to the public for the disposal of their waste; this is currently fulfilled through the provision of a network of Recycling Centres for Household Waste (RCHW). ECC works jointly with the twelve Essex District, Borough and City councils, in their capacity as Waste Collection Authorities (WCA). The WCAs are responsible for the kerbside collection of waste and recycling, and street cleansing services.

The cost of waste disposal is affected by a number of factors including waste type, treatment methodology utilised and the proximity to the disposal facility. Typically to dispose of mixed waste to either landfill or other non-recycling routes would cost in excess of £120 per tonne; and will continue to rise as landfill capacity decreases and the need to meet higher environmental standards come into effect. Each household in Essex currently produces in excess of a tonne of waste per annum of which approximately half is recycled or composted and the remainder is sent for disposal.

The Joint Municipal Waste Management Strategy (JMWMS) for Essex details the vision for the management of LACW in Essex and is supported by the WDA and WCAs. Essex favours an approach led by waste minimisation, coupled with high levels of recycling and composting. It has a target to recycle at least 50% of household waste with an aspiration to achieve 60% recycling and no longer send any waste to landfill.

### **5.11.2. Infrastructure need.**

Waste treatment and logistics infrastructure has been developed in Essex to support the delivery of the JMWMS. Development growth will lead to an increase in municipal waste arisings, placing operational pressure on local waste treatment and logistics infrastructure. Although infrastructure has been developed with some capacity to accommodate growth it is likely that larger scale developments will necessitate the need to expand existing, or develop new, infrastructure. Such infrastructure requiring expansion, or establishment may include:

- Recycling centres for household waste

- Waste transfer stations
- Local bulking points and depots for waste and waste operations
- Recycling bring banks

### 5.11.3. Assessing contributions.

The waste infrastructure that has been delivered by the WDA or by the market, in response to the requirements of the WDA has been developed with headroom capacity. This flexibility recognises the likely impacts of population growth and social or legislative changes on waste arisings and composition. Despite the flexible approach adopted in the provision of infrastructure the cumulative impact of development will erode this headroom capacity and may require the upgrading of existing infrastructure or the development of additional infrastructure.

Many of Essex's RCHW are already operating at or close to capacity and will be impacted by additional housing in their areas.

Significant development may also impact on the waste transfer station network and require the expansion of existing stations or the development of new ones in the locality of the waste source.

Large developments of 100 units or more may be asked to contribute through Section 106 Agreements at a rate of £120 per unit for houses and £90 per unit for flats, or through funding from CIL. This rate may be subject to review during the lifespan of this guide to ensure it properly reflects the cost of waste management.

## 5.12. Public Art.

### 5.12.1. Background.

Today it is now widely recognised that public art is an important factor in improving the aesthetics of our built environment, enhancing a sense of community and place, whilst also fostering community pride and ownership. All initiatives in the built environment can benefit from the skills and approach of an artist. These include opportunities for the local context to be creatively explored, community collaboration, site appraisals, contributing to design teams, master plans, architecture and other development partnerships.

Public Art has the ability to:

- Enhance the natural, built and historic built environment
- Increase social development - enabling people to investigate and celebrate local identity and/or issues, extending opportunities to participate and engage in culture through public art
- Assist in local economic development initiatives

However, there are limitations as to what ECC can achieve on its own with limited resources. Private developments also have a major role to play in enhancing the environment for communities through the use of appropriate art work

### 5.12.2. The contribution of development to public art.

Within the NPPF there is a requirement to include cultural wellbeing within the planning system; the contribution of Public Art in delivering cultural wellbeing has been identified with guidance documents.

To be most effective, artists should be engaged at an early stage in shaping any proposition for development and, certainly, in advance of the submission of a planning application.

To secure opportunities and funding for Public Art it is necessary for a Local Planning Authority to produce a long-term policy and strategy which identifies where, when, how and why public art will be delivered as part of specific development sites and as part of the development of a place as a whole. Details of the policy and strategy should be included within the local planning authority's Local Plan.

Large developments may be asked to contribute through Section 106 Agreements or funding from CIL sought where levies are in place. Contributions through Section 106 agreements may thus be considered on a case by case basis within each Local Planning Authority.

ECC will encourage all private sector developments to include the integration of art within their schemes. This can manifest itself in many forms such as:

- Large scale, three-dimensional artworks such as sculpture or environmental land art providing a focal point aiding navigation or enhancing an area's identity
- Integrated artwork, incorporated into the architecture or public realm
- Smaller scale, high impact projects including street furniture, which can make a contribution by the sensitive use of fencing, paving, railings, security screening, tree grills, lighting and bollards.
- New media, performances or audio works as part of temporary installations or events.

Place Services lead the delivery of ECC's Public Art Strategy to ensure the work and skills of artists feature in the structures and functioning of new development, either as part of an ECC funded programme, through liaison with Districts, City and Borough Councils, or by acting as expert consultants for privately funded development. As these arrangements range from district to district, early consultation is strongly recommended. Contact Place Services at [www.placeservices.co.uk](http://www.placeservices.co.uk) or email enquiries to [enquiries@placeservices.co.uk](mailto:enquiries@placeservices.co.uk).

## **5.13. Protecting Biodiversity.**

### **5.13.1. Background.**

The NPPF recognises that the planning system should contribute to and enhance the natural environment, by minimising impacts on biodiversity and providing net gains where possible. It suggests that development should be directed at land of lower environmental value and that planning policies should consider biodiversity at a landscape level, identifying local ecological networks and promoting the preservation, restoration and re-creation of Priority Habitats.

Within the NPPF, there is a clear hierarchy enshrined within the principles by which biodiversity can be conserved and enhanced within the planning system. This states that, for a planning application to be acceptable, significant harm should be avoided if possible, adequately mitigated if not, and compensated for only as a last resort. It stresses the need to encourage the incorporation of biodiversity in and around developments and the importance of habitats that are considered irreplaceable, such as ancient woodland and veteran trees.

### **5.13.2. Mechanisms for achieving net gain.**

It is required and anticipated that the majority of ecological impacts will be avoided or mitigated through careful site selection and thoughtful design, but where this is judged not to be possible, or further effort is required to achieve net gain in biodiversity, a contribution can be made to enable approved schemes of compensation or enhancement to be achieved. This approach is often referred to as offsetting and either requires an assessment of the type, quality and extent of habitats to be lost, as a basis for determining the requirements of the approved scheme, or should be focussed on conservation priorities within a strategic local ecological network.

Contributions would normally be made through a Section 106 agreement, with collateral agreements between the developer and an offset provider, landowner or site management body. The level of contribution will be determined by the requirements of achieving the conservation objectives set out within the approved scheme, and are likely to include both capital investment and ongoing management costs over an agreed time period.

## **5.14. Libraries.**

### **5.14.1. Background.**

Our vision for the library services is that our provision is inclusive and vibrant, and enables all users to learn, engage and remain connected to their communities. A review on how we will deliver the vision is under way.

Provision of a Library Service is a statutory duty (Public Libraries & Museums Act 1964), and ECC is required to provide a comprehensive and efficient service for all persons resident working or studying in in the area that want to make use of it. This statutory requirement is articulated by central Government

through its inspection regime. Further information is found on the Department of Culture, Media and Sport website.

The Library service has increasingly become a shared gateway to other services and also for accessing digital information and communications.

#### 5.14.2. Service delivery.

ECC is reviewing its service delivery and proposing new ways of working so that in 2024 Essex library service will:

- have books and reading at the heart of the library service offer
- have a smaller number of libraries more effectively focused on meeting the needs of communities
- work in partnership with communities to run and improve library services
- offer a consistently good customer experience
- offer a mobile library service
- have a comprehensive eLibrary offer and embrace digital technology.

Engagement with developers is therefore important to ensure the same high level of service is maintained and delivered to new residents.

#### 5.14.3. When contributions will be considered.

Contributions will be sought to provide additional facilities where there is expected to be significant growth in population created by development, or where a new community remote from an existing provision is established

For provision of new libraries, including within community shared facilities, the process below is followed, with local district considerations taken into account:

- Planning applications for developments with 20 or more dwellings will be considered
- Other known growth in the area will be taken into account
- Long term capacity and future requirements across the area

The Essex guideline for a new stand-alone library is that it should serve a discrete community of at least 7,000 people - very few developments will therefore demand a library for itself so there is likely to be a need to pool contributions.

Where the increase in projected population more than doubles an existing library catchment area, it is likely that a new facility or building will be required. Provision of this space could be as part of a shared community or educational facility for example – and would allow consideration to be made for varying scales of development.



#### 5.14.4. How the money will be used.

- Monies may be used to enhance existing service points; work with other County Councils, districts, voluntary and other services, eg NHS, to establish joint community facilities or create a new mobile library stop or build a new library in the case of the largest developments.
- Additional requirements, which may include expansion of existing buildings, and/or furniture, technology and stock, will be directly proportional to the increase in the projected population of the specific area.

#### 5.14.5. How the contributions will be calculated.

Detailed calculation is based on a number of factors:

- A new library building, fixtures and stock. The provision of a new library is only likely to be sought on major new housing sites/allocations of 7000 people or more. However, each case will depend on an assessment of the particular requirements in that area and the likely impact of the new development on current provision. The cost of a new library will need to be negotiated on a site by site basis
- A library extension - A service requirement of 30m<sup>2</sup> net of public library space per 1000 population, based upon the current model of delivery and found in the Museums, Libraries and Archives (MLA) advice. The average cost per sq.m. for library provision is £2,020 (RICS East of England Library tender value first quarter 2013). Based on an average household size of 2.4 occupants (ONS figure) this gives a figure of £144 per dwelling. In addition, there would be a requirement for the extension to be fitted out at £100 per dwelling. This brings the total requirement to £244 per dwelling
- Major Capital Project to an existing library facility – this might include provision of new toilets etc. The cost associated with this work is £244 per dwelling
- Fitting out costs including furniture, decoration, new flooring, reconfigure layout, refurbish toilets, improved access, external works such as parking and bike racks and technology based upon current fitting out costs of new provision in Essex. The costs associated with this work is £100 per dwelling
- Provision of stock, “talking books”, DVDs and other leisure materials, self-service facilities and other potential IT equipment to increase the opening times and capacity of the library, provision of furniture, provision of computers and computing equipment - including tables, provision of learning equipment / play equipment for younger children. The costs associated with the above items is £75 per dwelling.

## **5.15. Flood and Water management and Sustainable Drainage Systems (SuDS).**

### **5.15.1. Background.**

SuDS are a requirement of the NPPF (paragraph 103). Most Local Planning Authorities also require their inclusion in new developments under their local policies in order to meet water quantity, water quality and amenity/biodiversity requirements. From 6 April 2015 Government has made the upper tier authorities as the Lead Local Flood Authorities a statutory consultee to be consulted by local planning authorities in relation to surface water and SuDS proposals put forward in relation to major planning applications as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015.

In addition to the requirement for major planning applications to provide on-site SuDS, there is an overriding need to ensure that there is a viable option for the maintenance of sustainable drainage systems to ensure that SuDS can be implemented and do not fall into disrepair which may result in flooding. SuDS are holistic systems that often cater for private and highway water within the same features however, Essex County Council's position is to adopt SuDS only in exceptional circumstances. There is further information on the County Council's SuDS adoption policy on the ECC website. Adoption of SuDS will be subject to features being designed and built to the required standard with the long term maintenance cost being addressed through an up-front commuted sum payment. SuDS design should accord with the Essex County Council SuDS Design Guide. Agreement to adopt will be on a voluntary basis for the developer and ECC. Some of the Local Planning Authorities have reflected the SuDS Design Guide in their own Supplementary Planning Document adoption statements.

Whilst whole life maintenance costs of SuDS features are accepted by the industry to be comparable to those of conventional drainage, the routine maintenance is often more frequent/expensive and the replacement costs less frequent/expensive. If SuDS were to be approved for adoption under ECC's exception policy, the commuted sum should reflect this short term increase in cost. As vegetative SuDS features are expected to last longer before requiring replacement there is also an argument that the commuted sum fee period should be extended to include one replacement. Therefore, Essex County Council will require a minimum 30 year commuted sum maintenance payment, to include the replacement cost of SuDS infrastructure.

Where this exception SuDS adoption policy does not apply, local planning authorities will work with the developers to identify an alternative SuDS adoption body which could include a Water Authority or private management company. The Local Planning Authority will work with the developer to secure the long term maintenance of SuDS through a combination of planning obligation, planning condition and commuted sum payment guaranteeing their

long term maintenance. Whichever SuDS maintenance option is chosen by the developer, early engagement with the relevant adoption organisation and the local planning authority is essential to achieving a successful outcome.

As a Lead Local Flood Authority, Essex County Council must develop, maintain, apply and monitor a strategy for local flood risk management in its area consistent with national strategies and in accordance with the Flood Risk Regulations 2009 and the Flood and Water Management Act 2010 Paragraphs 9 (1), (2), (3) and (4). Surface Water Management Plans (SWMP) provide the platform for the identification of Critical Drainage Areas, a suite of feasible measures to reduce the flood risk in the Critical Drainage Areas (CDA) and preliminary costs of delivering these measures. Therefore in accordance with NPPF (paragraph 156), Local Plans should be supported by Strategic Flood Risk Assessments taking into account advice from risk management authorities such as Lead Local Flood Authorities. Essex County Council has taken the approach of undertaking SWMPs for all the District, Boroughs and City Councils in Essex and views these as the most up-to-date body of evidence about surface and ordinary water course flood risk. The SWMP documents should constitute a significant component of the evidence needed by LPAs when negotiating Section 106 contributions from developers in order to mitigate the impacts of developments on the level of flood risk in a CDA. They should also inform any Infrastructure Baseline Studies and Infrastructure Delivery Plans and facilitate setting up a CIL charging schedule to provide flood defence infrastructure in order to accommodate new developments.

#### **5.16. Heritage Assets.**

ECC and Borough, City and District Councils are involved in the protection of heritage assets within the county, and Place Services provides historic environment advice to some Essex local authorities and to ECC itself. Where developments will directly affect heritage assets, which are of national or regional significance, there will be potential for positive management and enhancements to be put in place and defined within a section 106 agreement.

#### **5.17. Monitoring Costs.**

ECC will seek a charge towards the monitoring and administration of the relevant County Council obligations in S106 agreements to cover the following:

- The maintenance and development of the planning obligations monitoring database system to assist in the co-ordinations of obligation preparation, completion, monitoring and review
- The monitoring of trigger points and development progress;
- Recovery of obligation contributions not made, including any necessary formal or legal action;

- Liaison between ECC and district/city/borough councils in respect of financial contributions requested and those held for infrastructure being provided by ECC;
- Reporting on the operation and outcome of ECC developer contributions (as required in the revised CIL Regulations – the Infrastructure Funding Statement).

The charge will generally be levied at a rate of £550 per obligation including schemes involving the phasing of payments. On more complex sites the charge will be levied at a rate of 1 % of the ECC's total obligations up to a maximum of £10,000 per agreement.

However on major strategic housing sites (typically over 1,000 dwellings), the monitoring fee will be negotiated on a site by site basis reflecting any potential complexities associated with the S106 and the additional work involved in monitoring the agreement over a lengthier time period.

In all cases the monitoring charge will be payable on commencement of the development.

Section 6 and Appendix

# Essex County Council Developers' Guide to Infrastructure Contributions

Revised 2019

6

Further Advice

## 6. Further Advice

Developers are strongly advised to check the scope and level of potential obligations prior to purchasing development land or submitting a planning application. In the first instance developers should contact the Local Planning Authority responsible for the area in which their proposed development lies. Their contact details are as follows:

**Table 12: Contact details of Local Planning Authorities.**

Local Planning Authority	Email	Telephone
Basildon Borough	planning@basildon.gov.uk	01268 533333
Braintree District	planning@braintree.gov.uk	01376 552525
Brentwood Borough	planning@brentwood.gov.uk	01277 312500
Castle Point Borough	info@castlepoint.gov.uk	01268 882200
Chelmsford City	On line form on <a href="http://www.chelmsford.gov.uk">www.chelmsford.gov.uk</a>	01245 606826
Colchester Borough	planning.services@colchester.gov.uk	01206 282424
Epping Forest District	contactplanning@eppingforestdc.gov.uk	01992 564000
Harlow District	planning.services@harlow.gov.uk	01279 446655
Maldon District	contact@maldon.gov.uk	01621 854477
Rochford District	planning.applications@rochford.gov.uk	01702 318191
Tendring District	planning.services@tendringdc.gov.uk	01255 686868
Uttlesford District	planning@uttlesford.gov.uk	01799 510510

The Local Planning Authority may request that developers contact ECC direct regarding some of the aspects listed in the guide. A Contribution Enquiry Form is provided, as 'Appendix B: Request for Planning Advice' to this document. This can be sent in by post to the address on the back cover of this guide or a copy can be downloaded from [www.essex.gov.uk](http://www.essex.gov.uk) and emailed to [development.enquiries@essex.gov.uk](mailto:development.enquiries@essex.gov.uk).

It must be stressed that circumstances can change between advice being issued and the formal assessment of a planning application. The estimated level of financial contributions will also rise in line with cost inflation during any intervening period.



## Appendix A: Section 106 Agreement Template

### AGREEMENT

Under Section 106 of the Town and County Planning Act 1990 as amended

BETWEEN

(1)

ESSEX COUNTY COUNCIL (2)

and

DISTRICT COUNCIL (3)

[ BANK ](4)

[ OWNER ](5)

Re: Contribution [of land for (an early years & childcare) (primary) and (secondary school) facilities] [monetary contributions for education purposes] [monetary contribution towards transportation measures and highway works in the vicinity of ( ) Essex]

Director for Essex Legal Services

Seax House

Victoria Road South

Chelmsford

Essex CM1 1QH

(Ref: )

DATE

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PARTIES

(1) [of] [whose registered office is situated at] (the Developer)

(2) ESSEX COUNTY COUNCIL of County Hall Market Road Chelmsford Essex CM1 1QH (the County) and

(3) DISTRICT COUNCIL of (the Council)

[(4) whose registered office is situate at ] (the Bank)  
and]

[(5) whose registered office is situate at (the Owner)]

## WHEREAS

(1) The Council and the County are local planning authorities for the purposes of the Town and Country Planning Act 1990 for the area within which the Site is situated

(2) The County is the local highway authority and the local authority for statutory age education and pre-school age education and childcare in the area within which the Site is situated

(3) The Developer is the owner of the Site which forms the land registered at HM Land Registry with Freehold Title Absolute under Title Number [subject only to the Charge] and has an interest in the Site within the meaning of Section 106 (9) (b) of the 1990 Act

## OR WHERE THE DEVELOPER IS NOT THE OWNER

(3) The Owner is the owner of the Site which forms the land registered at HM Land Registry with Freehold Title Absolute under Title Number [subject only to the Charge] and has an interest in the Site within the meaning of Section 106 (9) (b) of the 1990 Act and the Developer has agreed with the Owner subject to the satisfaction of certain conditions to purchase the Site

(4) A Planning Application given the Reference Number has been made to the Council for planning permission for the Development on the Site

(5) The Council and the County consider it expedient that provision should be made for regulating or facilitating the development or use of the Site in the manner hereinafter appearing and the County consider that entering into this Agreement will be of benefit to the public

(6) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council and or the County against the Developer [and the Owner] and its successors in title

(7) In order to satisfy the tests in Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 all of the parties are satisfied that the planning obligations contained in this Agreement are necessary to make the Development acceptable in planning terms are directly related to the Development and fairly and reasonably relate in scale and kind to the Development

[(8) The Bank consents to the giving by the Developer of the covenants in this Agreement and agrees that its interest in the Site shall be bound by them]

[(9) The Owner consents to the giving by the Developer of the covenants in this Agreement and agrees that its interest in the Site shall be bound by them]

## 1. OPERATIVE POWERS

1.1 THIS AGREEMENT is made pursuant to Section 106 of the 1990 Act as amended by the 1991 Act and 2004 Act and 2008 Act and 2011 Act to the intent that it shall bind the Developer [and the Owner] and its successors in title and assigns and the persons claiming under or through it subject to Clause 8.18 of this Agreement

1.2 The covenants restrictions and requirements imposed upon the Developer [and the Owner] under this Agreement create planning obligations pursuant to Section 106

of the 1990 Act and are enforceable by the Council and the County as local planning authorities against the Developer [and or the Owner]

1.3 This Agreement is conditional on the grant of the Planning Permission

1.4 Nothing in this Agreement is intended to confer any benefit on any party other than the parties executing this Agreement

1.5 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act they are entered into pursuant to the powers contained in Section 111 of the 1972 Act and Section 1 of the 2011 Act and all other enabling powers

## 2. DEFINITIONS

2.1 In this Agreement the following expressions shall have the following meanings:

**the 1972 Act** means the Local Government Act 1972

**the 1980 Act** means the Highways Act 1980

**the 1982 Act** means the Local Government (Miscellaneous Provisions) Act 1982

**the 1990 Act** means the Town and Country Planning Act 1990

**the 1991 Act** means the Planning and Compensation Act 1991

**the 2004 Act** means the Planning and Compulsory Purchase Act 2004

**the 2008 Act** means the Planning Act 2008

**the 2011 Act** means the Localism Act 2011

**Charge** means the legal charge dated \_\_\_\_\_ between the Developer and the Bank

**Commencement** means the carrying out on the Site of a material operation described in Section 56(4) of the 1990 Act PROVIDED ALWAYS for the purposes of this Agreement Commencement shall exclude demolition site survey investigation preparation remediation the removal of services or the erection of fences or hoardings and Commence shall mutatis mutandis be construed accordingly

**Commencement Date** means the date on which the Development Commences (by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in section 56(4) (a-d) of the 1990 Act )

**Completion Notice** means the notice served by the Developer [and or the Owner] on the County pursuant to Clause 5.5.3

**Contribution** means any payment made pursuant to the obligations set out in this Agreement save for the Residential Travel Information Fee and the Travel Plan Monitoring Fee

**Development** means the development permitted by the Planning Permission to construct (*insert description*)

**Dwelling** means a house self-contained flat bungalow maisonette or other domestic property constructed as part of the Development or created by conversion of an existing building on the Site and for the avoidance of doubt for the purposes only of the Education Land Schedule and the Education Contributions Schedule of this Agreement this definition shall exclude any dwelling that by condition set out in the Planning Permission cannot under any circumstance be Occupied by persons under the age of nineteen (19) years of age

**General Index** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County

**General Index Point** means a point on the most recently published edition of the General Index at the time of use

**Index** means the most recently published edition at the time of use of each index used under the terms of this Agreement to calculate any amount to be paid with or in addition to a Contribution due under the terms of this Agreement to add to or reduce the Contribution to reflect changes in cost over time

**Index Point** means a point shown on the relevant Index indicating a relative cost at a point in time

**Notice of Commencement** means the written notice served pursuant to Clause 5.5.1

**Occupation** means occupation of a building constructed as part of the Development for the purposes permitted by the Planning Permission but excluding day time occupation by workmen involved in the construction of the Development or in so far as such uses are ancillary to the construction of the Development the use of finished buildings for sales purposes for use as temporary offices or for the storage of plant and materials and **Occupied** and **Occupy** shall mutatis mutandis be construed accordingly

**Payment Notice** means a written notice advising of a proposed payment served pursuant to Clause 5.5.2

**Planning Application** means the application for planning permission for the carrying out of the Development carrying the reference [xxx/xx/xxxx] and for the avoidance of doubt for the purposes of this Agreement the term Planning Application shall include any application(s) to vary a condition on the Planning Permission or any application(s) for reserved matters approval provided that such application(s) shall not change the Unit Mix if stated in the first Planning Application and shall relate substantially to the same development of the Site as is proposed under the aforementioned application reference number

**Planning Permission** means the planning permission granted for the Development subject to conditions pursuant to the Planning Application

**Purpose** means the relevant purpose or purposes defined in the Schedules to this Agreement for which each of the Contributions are to be utilised

**Seven Day LIBID Rate** means an assessment of the rate of interest the County can expect to earn on investments through the money market, the rate used being the average interest rate at which banks are willing to borrow eurocurrency deposits or such other rate as the County considers appropriate

**Site** means the area edged red on drawing \_\_\_\_\_ attached hereto comprising of [ (XX)] hectares of land

**Triggers** means when [Contributions or part thereof are due to be paid to the County] [the Highway Works are to commence] [and the shall start]

**Working Days** means any day(s) upon which banks in the City of London are open to the general public

## 2. FORMAT

2.2 Where in this Agreement reference is made to a Clause Paragraph Schedule Plan or Recital such reference (unless the context otherwise requires) is a reference to a Clause Paragraph Schedule Plan or Recital of or in the case of a Plan attached to this Agreement

2.3 Where in any Schedule or Part of a Schedule reference is made to a Paragraph such reference shall (unless the context otherwise requires) be to a Paragraph of that Schedule or (if relevant) Part of a Schedule

2.4 References in this Agreement to the Developer [and the Owner] or any one or more of them shall include reference to their respective successors in title and to persons claiming through or under them

2.5 Words importing the singular meaning where the context so admits include the plural meaning and vice versa

2.6 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner

2.7 Any reference to a statute a provision thereof a statutory instrument or such Specification Code of Practice or General Direction as is issued under statutory authority or by a Secretary of State shall include any modification extension consolidation or re-enactment thereof for the time being in force and shall include all instruments orders plans regulations permissions and directions for the time being made issued or given thereunder or deriving validity therefrom.

2.8 Clause headings and Paragraph headings contained in this Agreement are for reference purposes only and should not be incorporated into this Agreement and shall not be deemed to be any indication of the meaning of the parts of this Agreement to which they relate.

2.9 The word including shall mean including without limitation or prejudice to the generality of any description defining term or phrase preceding that word and the word include and its derivatives shall be construed accordingly.

## 3. OBLIGATIONS OF THE PARTIES

3.1 The Developer [and the Owner] so as to bind the Site covenants with the Council and the County to comply with the obligations set out in this Agreement and the Schedules to this Agreement

3.2 The County covenants with the Developer [and the Owner] to comply with the obligations set out in this Agreement and the Schedules to this Agreement

3.3 Representatives of the Council and the County may enter upon the Site at any reasonable time (and in the case of an emergency immediately) to ascertain whether the terms of this Agreement and of the Planning Permission are or have been complied with subject to complying with all health and safety requirements notified by the Developer

## 4. TRANSFER OF INTERESTS

4.1 Upon passing an interest in the Site to a successor in title to the Site the Developer [and the Owner] shall be released from all obligations rights and duties (save for liability in respect of any antecedent breach) pertaining to the relevant interest under the terms of this Agreement Provided That For The Avoidance of Doubt if the Developer [and the Owner] shall retain an interest in any part of the Site the Developer [and the Owner] shall remain liable insofar as such liability relates to such retained interest

4.2 Otherwise than in relation to individual purchasers of dwelling houses the Developer [and the Owner] shall give to the County within one month of the Developer [and the Owner] disposing of any part of the land comprised in the Site written notice of the name and address of the person to whom the land has been transferred

4.3 The provisions of Clause 4.1 and 4.2 shall apply in relation to any successor in title of the Developer [and the Owner] as the owner of the Site or any part thereof mutatis mutandis

## 5. NOTICES

5.1 The address for any notice or other written communication is as specified above in the case of each party hereto or (at the option of the recipient) such address as may be specified for service from time to time provided that the same is within the United Kingdom or (at the option of the party giving notice or other communication) the last-known place of abode or business in the United Kingdom of the recipient.

5.2 Any notice or other written communication to be served or given by one party upon or to any other under the terms of this Agreement shall be deemed to have been validly served or given if received by electronic mail AND delivered by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing provided that the notice or other written communication is sent to the email address stated and marked as follows for each recipient:

5.2.1 for the Developer to (*insert email address*) and marked for the attention of (*insert description of person*)

5.2.2 for the County to [development.enquiries@essex.gov.uk](mailto:development.enquiries@essex.gov.uk) and marked for the attention of the s106 Officer Planning Service Place and Public Health County Hall Chelmsford CM1 1QH

5.2.3 for the Council to (*insert email address*) and marked for the attention of (*insert description of person*)

[5.2.4 for the Bank to (*insert email address*) and marked for the attention of (*insert description of person*)]

[5.2.5 for the Owner to (*insert email address*) and marked for the attention of (*insert description of person*)]

5.3 Unless the time of actual receipt is proved a notice demand or communication sent by the following means is to be treated as having been served

5.3.1 In the case of electronic mail in the absence of evidence of a delay at the time the message was sent

5.3.2 in the case of recorded delivery at the time delivery was signed for



5.4 If a notice demand or any other communication is served after 4.00 pm on a Working Day or on a day that is not a Working Day it is to be treated as having been served on the next Working Day

5.5 The Developer [and the Owner] shall serve on the County

5.5.1 the Notice of Commencement not less than three (3) months prior to Commencement stating the expected Commencement Date an estimate of the Triggers and any further information stipulated in the Schedules to this Agreement

5.5.2 the Payment Notice between sixty (60) and thirty (30) Working Days prior to the date that each and any payment is due to be made to the County under this Agreement stating the date that such payment becomes due and any further information stipulated in the Schedules to this Agreement

5.5.3 the Completion Notice within 30 Working Days of all Dwellings being Occupied for the first time stating the date that the last Dwelling was Occupied for the first time and any further information stipulated in the Schedules to this Agreement and for the avoidance of doubt any dispute regarding any notice to be served under this Agreement may be resolved through the 2 mechanisms set out in Clause10 of this Agreement.

## 6. CONTRIBUTIONS

6.1 In the event that a Contribution is overpaid by the Developer [Owner] then the County shall be under no obligation to return any such overpaid sum in whole or in part if in good faith the County have spent the Contribution or have entered into a legally binding contract or obligation to spend the Contribution otherwise the County shall upon the Occupation of the final Unit on the Site or at such earlier time as the County shall determine return any such overpaid sum or sums in whole or in part to the Owner (in excess of those sums calculated as due for payment under this Agreement) together with interest calculated at the Seven Day LIBID Rate within twenty (20) Working Days of the County being informed by the Owner of such overpayment

6.2. If requested in writing by the Developer [and or the Owner] no sooner than the tenth (10th) anniversary of the date that the last Payment Notice due to be served under this Agreement was validly served but no later than one (1) year thereafter the County shall return to the party that made the payment of the relevant Contribution any part of the relevant Contribution that remains unexpended when such notice is received (together with interest accrued that relates to that unexpended part) PROVIDED ALWAYS THAT [if the County retains land passed to it under this Agreement or the option to acquire such land and no legally binding contract has been entered into to deliver building works on such land any Contribution or part thereof that may be used under the terms of this Agreement to build on the land shall not be deemed repayable unless and until the afore mentioned option to acquire land has expired without a land transfer taking place or the land transferred has been returned unused to the original owner AND FURTHER PROVIDED ALWAYS THAT ]if the County is legally obliged to make a payment in respect of any Purpose the unexpended part of the Contribution shall not be repaid until such payment is made

and the unexpended part of the Contribution to be repaid shall not include such payment.

6.3. Upon receipt of a written request from the Developer [and or the Owner] prior to the eleventh (11<sup>th</sup>) anniversary of the date the last Payment Notice due under this Agreement was due to be served the County shall provide the Developers [and or the Owner] with a statement confirming whether the Contributions have been spent and if the Contributions have been spent in whole or in part outlining how the Contributions have in whole or in part been spent.

6.4. Any dispute in relation to how a Contribution has been spent must be raised in writing by the Developer [or the Owner] and received by the County within twenty (20) Working Days of receipt by the Developer [or the Owner] of the Council's statement referred to in Clause 6.3 and shall clearly state the grounds on which the expenditure is disputed.

6.5. In the event that no written request is received by the County from the Developer [or the Owner] pursuant to Clause 6.2 or no valid dispute is raised by the Developer [or the Owner] pursuant to Clause 6.4 the Developer [and the Owner] shall accept that the Contributions have been spent in full on their appropriate Purposes.

## 7. INTEREST

7.1 In the event that a Contribution or part thereof is paid later than the date payment is due then the amount of the Contribution or part thereof payable by the Developer [and or the Owner] shall in addition include an amount equal to any percentage increase in costs shown by the relevant Index between the Index Point prevailing at the date payment is due and the date payment is received by the County multiplied by the Contribution or part thereof due or if greater an amount pertaining to interest on the Contribution or part thereof due calculated at the Seven Day LIBID Rate or such other rate as the County deems appropriate from the date payment is due until the date payment of the amount due is received by the County.

## 8. GENERAL

8.1 Unless otherwise specified where any agreement certificate consent permission expression of satisfaction or other approval is to be given by any party or any person on behalf of any party hereto under this Agreement the same shall not be unreasonably withheld or delayed or imposed (as the case may be) but may only be given in writing and may be validly obtained only prior to the act or event to which it applies and the party giving such agreement certificate consent permission expression of satisfaction or other approval shall at all times act reasonably and where any payment of costs or other payments are to be made by the Developer [and or the Owner] to the County and or the Council such costs and other payments shall be deemed to be reasonable and proper.

8.2 Any covenant by the Developer [and the Owner] not to do an act or thing shall be deemed to include an obligation to use reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.

8.3 No compensation shall be payable by the Council or the County to any party to this Agreement or their successors in title arising from the terms of this Agreement and unless specified otherwise in this Agreement all works and activities to be executed hereunder (including such as are of a preparatory ancillary or maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Developer [and the Owner] and at no cost to the Council or the County

8.4 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax (VAT) properly payable PROVIDED ALWAYS THAT if at any time VAT is or becomes chargeable in respect of any supply made in accordance with the provisions of this Agreement then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.

8.5 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the County and the Council in the exercise of their functions in any capacity and the rights powers duties and obligations of the County and the Council under private public or subordinate legislation may be effectively exercised as if neither were a party to this Agreement and in particular neither shall be precluded from entering into any agreement under the 1980 Act and/or the 1990 Act with any other party and shall not be deemed to be in breach of this Agreement by so doing.

8.6 Any agreement obligation covenant or undertaking contained herein by any of the parties which comprise more than one person or entity shall be joint and several and where any agreement obligation covenant or undertaking is made with or undertaken towards more than one person it shall be construed as having been made with or undertaken towards each such person separately [and where the Developer and the Owner are different persons agreements obligations covenants and undertakings given by either shall be deemed to be given jointly and severally by both]

8.7 If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality provided that any party may seek the consent of the other or others to the termination of this Agreement on such terms as may in all the circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of the parties

8.8 No variation to this Agreement shall be effective unless made by Deed or pursuant to the determination of an application made under Section 106A of the 1990 Act or an appeal under section 106B of the 1990 Act

8.9 The failure by any party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement

8.10 The Developer [and the Owner] hereby agrees to pay prior to the date of this Agreement both the Council's and the County's reasonable legal costs and disbursements incidental to the preparation negotiation and entering into of this Agreement

8.11 The Developer [and the Owner] hereby agrees to pay prior to the date of this Agreement the County's costs in connection with the negotiation entering to and completion of this Agreement

8.12 This Agreement shall be enforceable as a local land charge and shall be registered as such immediately by the Council and the Council covenants with the Developer [and the Owner] that it will note the local land charges register and the planning register following the occurrence of the compliance performance and satisfaction of all of the said obligations

8.13 This Agreement is governed by the laws of England and Wales and is subject to the exclusive jurisdiction of the English and Welsh Courts

8.14 It is hereby agreed and declared that a person who is not a party to this Agreement shall not be entitled in his own right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999

8.15 This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts and each of those counterparts when executed and delivered shall constitute an original but all the counterparts together shall constitute one and the same instrument

8.16. This Agreement will come to an end if

8.16.1 The Planning Permission is quashed revoked or otherwise withdrawn or otherwise materially modified without the consent of the Developer [and or the Owner] before Commencement so as to render this Agreement irrelevant impractical or unviable or

8.16.2 the Planning Permission expires

8.17 Where the Agreement comes to an end under Clause 8.16.1 the Council is on the written request of the Developer [and or the Owner] to vacate or cancel the entry made in the Local Land Charges register in relation to this Agreement or otherwise to record the fact that it has come to an end and no longer affects the Site

8.18 This Agreement shall not be enforceable against

8.18.1 Owner-occupiers of individual dwellings or other buildings constructed

8.18.2 Any statutory undertaker or other person who acquires any part of the Site or any interest in it for the purposes of the supply of electricity gas water drainage telecommunications education services community facilities transport or public services

8.19 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement

8.20 This Agreement shall not be construed as limiting any right to develop any part of the Site in accordance with any planning permission granted by the Council or the County Council or by the First Secretary of State on appeal or reference to him after the date of this Agreement

## 9. COMMENCEMENT

9.1 Save in respect of those Clauses and Paragraphs which will become operative on the date of this Agreement and in respect of obligations expressly in this Agreement

requiring compliance prior to Commencement and which will become operative on the issue of the Planning Permission this Agreement will come into effect on the Commencement Date

## 10. DETERMINATION OF DISPUTES

10.1 Subject to Clause 10.7 if any dispute arises relating to or arising out of the terms of this Agreement either party may give to the other written notice requiring the dispute to be determined under this Clause 10 and the notice shall propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute

10.2 For the purposes of this Clause 10 a Specialist is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to the matters in dispute

10.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute) who will have the power with the right to take such further advice as he may require to determine the appropriate type of Specialist and to arrange his nomination under Clause 10.4

10.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power with the right to take such further advice as he may require to determine and nominate the appropriate Specialist or to arrange his nomination and if no such organisation exists or the parties cannot agree the identity of the organisation then the Specialist is to be nominated by the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute)

10.5 The Specialist is to act as an independent expert and

10.5.1 each party may make written representations within twenty (20) Working Days of his appointment and will copy the written representations to the other party

10.5.2 each party is to have a further fifteen (15) Working Days to make written comments on the others representations and will copy the written comments to the other party

10.5.3 the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require

10.5.4 the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross examine each other

10.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision which is to be in writing and is to give reasons for his decision and

10.5.6 the Specialist is to use all reasonable endeavours to publish his decision within twenty (20) Working Days from the last submission of evidence

10.6 Responsibility for the costs of referring a dispute to a Specialist under this Clause 10 including costs connected with the appointment of the Specialist and the Specialist's own costs but not the legal and other professional costs of any party in relation to a dispute will be decided by the Specialist

10.7 This Clause 10 does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts of England.

#### [11. BANK'S CONSENT

11.1 The Mortgagee consents to the terms of this agreement and acknowledges that subject as provided by this Agreement the Mortgagee's interest in the Site shall be bound by the covenants, restrictions and obligations contained in this Agreement but without liability on the Mortgagee's part save in the event that the Mortgagee becomes successor in title to the Developer at any time before the Developer has fully performed all its obligations under this Agreement

#### [12. OWNER'S CONSENT

12.1. The Owner consents to the giving by the Developer of the covenants in this Agreement and agrees that its interest in the Site shall be bound by them]

#### EDUCATION LAND SCHEDULE.

#### DEFINITIONS

1. In this Schedule the following expressions shall have the following meanings:

**County's Nominee** means any person(s), company (ies), body (ies) or organisation(s) that the County shall employ, fund or work in partnership with in connection with the design, construction, commissioning, running or maintenance of the Education Facility and for the avoidance of doubt the County's Nominee may include any providers of free state education or childcare of any type

**Education Facility** means indoor and outdoor facilities for education, childcare, sports and ancillary uses (paid or otherwise) commensurate to the capacity of the Education Site

**Education Site** means the [ (xx)] hectares (ha) of usable land identified edged [red] on the 'Education Site' drawing (*insert number*) appended to this Schedule

**Education Site Access Plan** means a plan setting out the location, design and specification of routes on the Site to be adopted as public highways which shall provide pedestrian and emergency vehicle access to the Education Site via a paved, pedestrianised public area of at least one hundred (100) metres square abutting the [xxx] boundary of the Education Site and also separate vehicular access to the [xxx] boundary of the Education Site for construction, grounds maintenance and emergency vehicles and also separate vehicular access to the [xxx] boundary of the Education Site for parking, delivery and emergency access and also any additional such access infrastructure that the County may reasonably require to adequately and properly serve and service the Education Facility from adopted public highway



**Education Site Notice** means the notice that the County may serve on the Developer [and or the Owner] pursuant to Paragraph 5 of this Schedule

**Education Site Option Period** means a period of time starting with the date that [twenty (20)] Dwellings are Occupied for the first time and ending ten (10) years after the date the Completion Notice is validly served

**Education Site Specification** means the criteria set out in the 'Education Site Specification' appended to this Schedule with which the Education Site must comply

**Education Site Transfer Terms** means all terms and conditions in this Agreement to be met by the Developer [and or the Owners] to facilitate the transfer of the Education Site to the County or to the County's Nominee

**Education Site Utility Plan** means a plan setting out the design specification and layout of Utilities infrastructure that shall meet the County's requirements to properly and sufficiently serve the Education Facility and shall be provided by the Developer [and or the Owner] to the boundary of the Education Facility at points specified by the County and that shall where specified provide the capacities set out in the 'Minimum Education Site Utility Capacities' appended to this Schedule as a minimum

**Education Site Works** means all reasonable works required to render the Education Site congruent to the Education Site Specification and fit for an Education Facility in all respects to the satisfaction of the County

**Utilities** means gas water electricity telephone broadband foul drainage and surface water drainage (including such legal rights as the County considers necessary for the discharge of surface water over adjoining land) and any and all other media services and or utilities as may in the County's reasonable view be appropriate with appropriate rights to use all relevant delivery infrastructure

2. From the date of this Agreement the Developer [and the Owner] hereby covenant

2.1 not to use or allow or permit any works or activities to be carried out on the Education Site that may render the Education Site unsuitable for use as an Education Facility in any way or add to the cost or time taken to construct an Education Facility including for the avoidance of doubt storage and or car parking

2.2 to share with and provide at no cost to the County and or the County's Nominee as appropriate any relevant data studies surveys drawings reports mapping and or other evidence held that may be of assistance in the design and or construction and or commissioning of an Education Facility on the Education Site that shall for the avoidance of doubt include such information pertaining to topography ecology archaeology contamination arboriculture noise and Utilities including depths invert levels and manhole locations

3. At any time during the Education Site Notice Option Period the County may at the County's total discretion serve the Education Site Notice on the Developer [and or the Owner]

4. On service of the Education Site Notice the Developer [and the Owner] hereby covenant with immediate effect

4.1 to grant to the County and the County's nominee the right to the free and uninterrupted use passage and running of all Utilities and the like over through and along all Utilities infrastructure (permanent and or temporary) and the like which shall at the time exist or which shall within eighty (80) years of the Commencement Date exist on the Site and if required by the County (acting reasonably) grant such legal rights as the County considers necessary for the discharge of surface water through land adjacent to and in the vicinity of the Education Site.

4.2 to grant to the County and the County's Nominee rights of way with or without vehicles and for all purposes over any roads or routes (temporary or permanent) on the Site constructed or to be constructed within a period of eighty (80) years from the Commencement Date which are intended for public or construction use.

5. The Developer [and the Owner] hereby covenant to within six (6) months of the date on which the Education Site Notice is served:

5.1 with all due diligence to complete in full the Education Site Works to the County's satisfaction

5.2 to allow the County and or the County's Nominees access to the Education Site with or without vehicles plant and machinery for the purposes of investigation or verification that the Education Site Works have been satisfactorily completed and or for the purposes of carrying out works for the laying out of playing fields or any other works which the County may reasonably require in pursuit of the establishment of an Education Facility

5.3 to provide in favour of the County and if appropriate the County's Nominee surety in the form of a collateral warranty backed by appropriate insurance as agreed by the County guaranteeing that the Developer [and the Owner] have met the duties set out in Paragraph 5.1 of this Schedule and in the event that the Education Site is later found by the County not to meet the Education Site Specification in full then the County or the County's Nominee shall be entitled to carry out any such works required to render the Education Site congruent to the Education Site Specification and recover all costs reasonably incurred by the County or the County's Nominee from the Developer [and the Owner] and or the Developer's [and the Owner's] surety pertaining to the cost of these works and also any incidental expenses in connection with such works such payment to be made by the Developer [and the Owner] within twenty eight (28) days of any such works being completed

5.4 to agree in writing with the County the Education Site Utility Plan and the Education Site Access Plan ensuring always that there are no ransom strips that prevent full access to the Education Site or use of Utilities

5.5 to provide to the boundary of the Education Site at points agreed by the County with rights to use adequate infrastructure sufficient to bring suitable and adequate electricity and water and drainage (foul and surface water) to the Education Site for uninterrupted construction and commissioning of the Education Facility until such time as connection to all permanent Utilities is provided pursuant of Paragraph 6.1 of this Schedule and until such permanent Utilities have been commissioned rendering the temporary supplies unnecessary ensuring always that there is no break in supply from such Utilities to the Education Site during any required changeover

5.6 to provide and grant to the County and the County's Nominee access over a temporary route and surface suitable for the free and uninterrupted passage ingress and egress of plant machinery vehicles and pedestrians over the Site from the existing maintainable highway to the boundary of Education Site such route being agreed between the Developer [and the Owners] and the County which shall remain in existence and be maintained at the Developer's [and the Owner's] expense until such time as a permanent maintainable highway has been provided over such route and which is open to the public to the boundary of the Education Site pursuant to Paragraph 6.2 of this Schedule

5.7. to complete the transfer free of encumbrances of the Education Site to the County or if so directed by the County to the County's Nominee on the Education Site Transfer Terms in exchange for consideration not exceeding in total the sum of one pound sterling (£1)

6. The Developer (and the Owner) hereby covenant to within eighteen (18) months of the date on which the Education Site Notice is served

6.1 provide the Utilities as set out and agreed by the County in the Education Site Utility Plan

6.2 provide the access as set out and agreed by the County in the Education Site Access Plan

6.3 agree with the County and then provide and install including any necessary traffic regulation orders appropriate road signage pertaining to the Education Facility all at the Developer's [and the Owner's] expense

6.4 provide footways three (3) metres in width to all highways (excluding non-thru-routes) within one hundred (100) metres of the Education Site

7. The County hereby covenants:

7.1 to use the Education Site for the sole purpose of an Education Facility including any ancillary uses paid or otherwise that shall not detract from the primary function of the Education Facility

7.2 that in the event that the whole or a substantial part of the Education Site is not being used as an Education Facility on the tenth (10th) anniversary of the Education Site being transferred to the County or the County's Nominee and it is not demonstrated that there will be a need for such future use then in the absence of a legally binding contract or obligation requiring the construction or provision of facilities pertaining to an Education Facility the Developer [and or the Owner] may serve on the County or the County's Nominee as appropriate a notice requiring that the part or the parts of the Education Site that are not being used as an Education Facility shall be transferred to the Developer with vacant possession in consideration of the sum of one pound sterling (£1)

## **Appendix Education Site Drawing**

Bespoke – to be inserted by developer/owner.

## Appendix Education Site Specification

This Appendix will be based on criteria set out in Appendix C of this Guide and will include a requirement to fence the site in line with the specification in para 5.2.8 of the Guide.

## Appendix Minimum Education Site Utility Capacities

This Appendix will be based on figures provided in paragraph 5.2.8 of this Guide.

### EDUCATION CONTRIBUTIONS SCHEDULE

1. In this Schedule the following expressions shall have the following meanings

**Education Contribution** means the sum of the [Early Years and Childcare Contribution] and [the Primary Education Contribution] and [the Secondary Education Contribution] and the [Employment Contribution] and the [School Transport Contribution] to which sums the Relevant Education Indexation shall be added

**Education Index** means the Department for Business Innovation and Skills Tender Price Index of Public Sector Building Non-housing (PUBSEC Index) or in the event that the PUBSEC Index is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County

**Education Purposes** means [Early Years and Childcare Purposes] and [Primary Education Purposes] and [Secondary Education Purposes] and [School Transport Purposes]

**Flat** means a Dwelling that occupies a single floor and /or does not benefit from private open space for the exclusive use of the residents of the Dwelling and no other persons

**House** means a Dwelling that does not meet the definition of a Flat

**Qualifying Flats** means the total number of Dwellings that meet the definition of a Flat and that shall have two or more rooms that may by design be used as bedrooms

**Qualifying Houses** means the total number of Dwellings that meet the definition of a House and that shall have two or more rooms that may by design be used as bedrooms

**Relevant Education Indexation** means the amount that the Developer [and or the Owner] shall pay with and in addition to each part of the Education Contribution paid that shall in each case equal a sum calculated by taking the amount of the Education Contribution being paid and multiplying this amount by the percentage change shown in the Education Index between the Index Point pertaining to April [20XX] and the Index Point pertaining to the date the payment is due to be made to the County

**Unit Mix** means the number of Qualifying Flats and the number of Qualifying Houses and the number of Dwellings that by definition shall not be counted as Qualifying Houses or Qualifying Flats the sum of which shall for the avoidance of doubt equal the total number of Dwellings to be constructed on the Site or created by conversion of an existing building on the Site.

### School Contribution Definitions

**Primary Education Contribution** means the Primary Pupil Product multiplied by the cost generator of (*insert amount*) pounds sterling (£XX)

**Primary Education Purposes** means the design (including feasibility work) and or delivery and or provision of [the Education Facility] [facilities] for the education and/or care of children between the ages of 4 to 11 (both inclusive) including those with special educational needs [on the Education Site] [at (*insert school*) including any successor institution] and including the reimbursement of capital funding for such provision made by the County in anticipation of the Primary Education Contribution

**Primary Pupil Product** means the sum of the Qualifying Flats multiplied by 0.15 plus the Qualifying Houses multiplied by 0.3

**Secondary Education Contribution** means the Secondary Pupil Product multiplied by the cost generator of (*insert amount*) pounds sterling (£XX)

**Secondary Education Purposes** means the design (including feasibility work) and or delivery and or provision of [the Education Facility] [facilities] for the education and/or care of children between the ages of 11 to 19 (both inclusive) including those with special educational needs [on the Education Site] [at (*insert school and description of works*)] including the reimbursement of capital funding for such provision made by the County in anticipation of the Secondary Education Contribution

**Secondary Pupil Product** means the sum of the Qualifying Flats multiplied by 0.1 plus the Qualifying Houses multiplied by 0.2.

Early Years and Childcare [Employment] Contribution Definitions.

**Early Years and Childcare Contribution** means the Early Years and Childcare Pupil Product multiplied by the cost generator of (*insert amount*) pounds sterling (£XX)

**Early Years and Childcare Pupil Product** means the sum of the Qualifying Flats multiplied by 0.045 plus the Qualifying Houses multiplied by 0.09

**Early Years and Childcare Purposes** means the design (including feasibility work) and or delivery and or provision of [the Education Facility] [facilities] for the education and/or care of children between the ages of 0 to 5 (both inclusive) including those with special educational needs [on the Education Site] [at (*insert provision and description of works*)] including the reimbursement of capital funding for such provision made by the County in anticipation of the Early Years and Childcare Contribution

**[Employees** means the estimated number of full time equivalent persons that are employed by businesses or organisations housed within buildings on the Site and working from these buildings on an average Working Day when 100% of the Employment Floorspace is Occupied as set out in the Commencement Notice

**Employment Contribution** means an amount equal to the Employment Demand multiplied by (*insert amount*) pounds sterling (£XX)

**Employment Demand** means the number of Employees multiplied by a factor of 0.04 places per employee

**Employment Floorspace** means the floor area of non-residential uses within the Site] School Transport Definitions.

**Primary School Transport Contribution** means the Primary Pupil Product multiplied by the cost generator of (*insert pounds*) pounds sterling and (*insert pence*) pence



(£X.XX) multiplied by one hundred and ninety (190) (being the average days in an academic year) multiplied by seven (7) (being the number of years a pupil is in primary school)

**School Transport Contribution** means the Primary School Transport Contribution and the Secondary School Transport Contribution

**Secondary School Transport Contribution** means the Secondary Pupil Product multiplied by the cost generator of (*insert pounds*) pounds sterling and (*insert pence*) pence (£X.XX) multiplied by one hundred and ninety (190) being the average days in an academic year multiplied by five (5) (being the number of years a pupil is in secondary school)

**School Transport Purposes** means the transportation of children generated by the Development to school

1. The Developer [the Owner] hereby covenants to pay:

1.1 [fifty (50)] percent of the Education Contribution to the County prior to Commencement and shall not Commence until the County has received payment of [fifty (50)] percent of the Education Contribution.

1.2 [the remaining fifty (50)] percent of the Education Contribution to the County prior to the first Occupation of a Dwelling and shall not cause or allow a Dwelling to be Occupied until the County has received payment of [the remaining fifty (50)] percent of the Education Contribution and 100% of the Education Contribution has thereby been paid

2. The Notice of Commencement shall in addition to that information stipulated in Clause 5.5.1 to this Agreement

2.1 state the Unit Mix and in the event that the Unit Mix constructed or to be constructed should at any time differ from the Unit Mix notified to the County then the Developer [and or the Owner] shall serve on the County a further notice stating the revised Unit Mix within ten (10) Working Days of the revised Unit Mix being decided and in the further event that the Developer [and or the Owner] fails to serve any notice set out in this Paragraph 2.1 the County may estimate and determine the Unit Mix as it sees fit acting reasonably

[2.2 provide clear evidence of the number of Employees and in the event that the number of Employees or the Employment Floorspace constructed or to be constructed should at any time differ from the number of Employees or the Employment Floorspace used to estimate the number of Employees the Developer [and the Owner] shall serve on the County a further notice stating the revised number of Employees within ten (10) Working Days of the revised number of Employees being known and in the further event that the Developer [and the Owner] fails to serve any notice set out in this Paragraph 2.2 the County may estimate and determine the number of Employees as it sees fit acting reasonably]

3. The Payment Notice shall state the Unit Mix [and the number of Employees] on which the payment is to be based

4 The Completion Notice shall state the final Unit Mix [the final Employment Floorspace and the actual number of Employees]

5. In the event that the Unit Mix to be constructed on the Site [and or the number of Employees] does not match the Unit Mix [and or the number of Employees] on which the Education Contribution or part thereof paid was based the Developers [and the Owner] hereby covenant to pay to the County as soon as the revised Unit Mix [and or number of Employees] becomes apparent any additional amount pertaining to the difference between the amount of the Education Contribution paid and the amount of the Education Contribution that would have been payable using the revised Unit Mix [and or number of Employees] and any such additional amount shall from the date payment is received by the County form part of the Education Contribution.

#### HIGHWAYS SCHEDULE

1. In this Schedule the following expressions shall have the following meaning

**Highway Contribution** means the sum of (*insert amount*) thousand pounds sterling (£XX) to which sum the Relevant Highway Indexation shall be added

**Highway Contribution Works** mean (*insert description*) as the County considers necessary in the vicinity of the Site and shall include any design and feasibility work (even if abortive) in relation to such works

**Highway Contribution Purpose** means the carrying out of the Highway Contribution Works

**Highway Works** mean [*insert description of works*] [as identified and set out in principle on the drawings provided as the Highway Works Drawings appended to this Schedule] and including any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment to the provision of or alteration to street lighting road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of the County's inspections

**Highway Works Agreement** means an agreement entered into pursuant to all powers enabling the parties to regulate the carrying out of the Highway Works (in particular Sections 38 and 72 and 278 of the 1980 Act and Section 33 of the 1982 Act) and shall include but not be limited to the following matters

(a) securing of a bond to ensure that third party funds are available to complete the Highway Works to the satisfaction of the County

(b) payment of the County's works inspection fees maintenance fees special orders fees supervision fees and any other such fees as the County shall require

(c) payment of the County's legal administrative and other fees and disbursements associated with the drafting negotiating and completion of the Highway Works Agreement

(d) preparation and advance approval of works drawings and traffic management measures

(e) certification and maintenance of the Highway Works

(f) regulating of the issue of the Works Licence to enable the Highway Works to be carried out



- (g) the securing of a bond relating to both Land Compensation Act 1973 matters and Noise Insulation Regulations 1975 as amended by the Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000) and any other indemnity and bonds for liability issues as the County shall require
- (h) the dedication of land as public highway
- (i) the standards and procedures for carrying out the Highway Works
- (j) traffic regulation orders and statutory processes

**Highway Index** mean the Department for Business Innovation and Skills Price Adjustment Formulae Indices (Civil Engineering) Series 2 (BIS) or in the event that the BIS is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County

**Relevant Highway Indexation** means the amount that the Developer [and or the Owner] shall pay with and in addition to each part of the Highway Contribution paid that shall in each case equal a sum calculated by taking the amount of the Highway Contribution being paid and multiplying this amount by the percentage change shown in the Highway Index between the Index Point pertaining to (*insert date that request for the Highway Contribution was based on*) and the date of the most recent Index Point published in relation to the date the payment is due to be made to the County

1. The Developer [and the Owner] hereby covenants
  - 1.1 to pay the Highway Contribution to the County prior to the first Occupation of a Dwelling and shall not cause or allow the first Occupation of a Dwelling until the County has received payment of the Highway Contribution
  - 1.2. to enter a Highways Works Agreement in relation to the Highway Works prior to [Commencement] [Occupation]

Appendix Highway Works Drawings  
 Bespoke –to be inserted by developer/owner.

## SUSTAINABLE TRAVEL SCHEDULE

In this Schedule the following expressions shall have the following meanings:

**Biennial Traffic Counts** shall mean the collection of travel data from all entry and exit points to the development including pedestrian and cycle routes leading to a service or amenity where a lower traffic generation rate has been agreed based on the fact that there will be travel planning measures in place to reduce the modal share travelling by car.

**Relevant Sustainable Travel Indexation** means the amount that the Developer [and or the Owner] shall pay with and in addition to each part of the Residential Travel Information Fee [and the Travel Plan Monitoring Fee] paid that shall in each case equal a sum calculated by taking the amount of the Residential Travel Information Fee [and the Travel Plan Monitoring Fee] being paid and multiplying this amount by the percentage change shown in the Sustainable Travel Index between the Index Point pertaining to April 20xx and the date payment is made to the County.

**Residential Travel Information Pack** means a specific district or borough tailor-made booklet aimed at promoting the benefits of sustainable transport in support of the objective to secure a modal shift from the private car and increase the use of sustainable modes of travel

**Residential Travel Plan Monitoring Fee** means a non-refundable annual payment of [insert amount] thousand pounds (£ ) plus Relevant Sustainable Travel Indexation [in accordance with the monitoring fee structure] payable from the date of Commencement over a minimum period of five (5) consecutive years towards the monitoring by the County of the implementation of the Travel Plan

**Staff Travel Survey** shall mean a questionnaire approved by the STPT and undertaken to identify the main modes of travel used by employees for journeys to and from work and business trips.

**Sustainable Travel Index** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published, or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council.

**Targets** shall mean those objectives or aims set within the Travel Plan to reduce single occupancy car journeys to and from the Site and at the same time increasing other sustainable modes of transport

**Travel Plan** means a working plan to include all measures to ensure sustainable means of travel are available to [residents] [and] [employees] of the Development in accordance with the requirements of the National Planning Policy Framework and shall include but not be limited to such [Residential] [Workplace] Travel Plan Measures as stated in the 'Travel Plan' appended to this Schedule

**"Travel Plan Co-ordinator"** shall mean a permanent member of staff appointed by the Developer [and or the Owner] with the appropriate skills budgetary provision and resources to fulfil the role of the Travel Plan Co-ordinator as described in the job description(s) stated in the 'Travel Plan Co-ordinator Job Description' as appended to this Schedule

**Travel Plan Monitoring Fee** means the non-refundable payment of FIVE THOUSAND POUNDS sterling ("£5,000") plus Relevant Sustainable Travel Indexation towards the County's costs in approving and or monitoring and or reviewing the Travel Plan to cover a five (5) year period

**Travel Surveys** shall mean a questionnaire approved by Essex County Council, undertaken as appropriate under the terms of the Travel Plan to identify the main modes of travel used by residents and visitors for journeys to and from the site where a lower traffic generation rate has been agreed based on the fact that there will be travel planning measures in place to reduce the modal share travelling by car.

**Travel Vouchers** shall mean tickets/passes/ vouchers or other means of accessing transport or journey planning information as agreed with the County including the following as a minimum (six scratchcard bus tickets per household OR season ticket voucher) and/or (incentives for rail travel with the local rail operator) for each eligible member of the household AND access to an online tool to generate personalised travel plans using a home and destination postcode to provide details of different travel modes/options travel routes/maps and timetable information).

2. The Developer [and or the Owner] hereby covenants with the County  
Residential Travel Information Pack

Not to Occupy or permit the Occupation of any Residential Dwelling constructed as part of the Development until:

- (a) the Residential Travel Information Pack (including details of the Travel Vouchers to be included) has been submitted to and approved by the County, and
- (b) the Residential Travel Information Packs including Travel Vouchers are then provided to the first occupiers of each Residential Dwelling at the expense of the Developer and/or Owner

Travel Plan

- (a) to pay the [Workplace] and [Residential] Travel Plan Monitoring Fee to the County prior to Commencement and not to Commence until the County has received the Travel Plan Monitoring Fee
- (b) to formulate and submit to the County for approval a [Workplace] [Residential] Travel Plan prior to Commencement of the Development and FURTHERMORE not to cause or allow Occupation prior to the Travel Plan being approved in writing by the County
- (c) to appoint a Travel Plan Co-ordinator prior to Occupation and not to cause or allow any Occupation prior to the appointment of a Travel Plan Co-ordinator and to notify the County of the identity and contact details of the Residential Travel Plan co-Ordinator as soon as an appointment is confirmed
- (d) to continue to employ a Residential Travel Plan Co-ordinator for the period until a minimum of one year after the Occupation of the final Residential Dwelling on the Site) and in the event of a vacancy occurring in the post to re-appoint within a maximum period of two (2) months of the vacancy occurring and to notify the County as soon as the appointment is confirmed
- (e) to employ a Travel Plan Co-ordinator for a minimum continuous period of 5 years and in the event of a vacancy occurring in the post to re-appoint within two (2) months of the vacancy occurring and to notify the County of the appointment and any changes to the nomination or responsibilities of the Travel Plan Co-Ordinator as soon as the replacement appointment is confirmed
- (f) to ensure that the Travel Plan Co-Ordinator fulfils his or her duties in accordance with the duties specified in the job description[s] of the Residential Travel Plan Co-ordinator and [Workplace Travel Plan Co-Ordinator] stated in the 'Travel Plan Co-Ordinator Job Descriptions' appended to this Schedule
- (g) not to change the responsibilities or role of the Travel Plan Co-ordinator without prior written approval of the County
- (h) to pay the annual Residential Travel Plan Monitoring Fee to the County on each subsequent anniversary following the first annual payment and in the case of late payments interest will be payable by the Developer and or the Owner from the date payment is due to the date payment is made on which late sums interest shall accrue under the Seven Day LIBID Rate

(i) raw data collected as part of the Biennial Traffic Count shall be submitted to the County Council no later than two (2) months from completion of the Biennial Traffic Count to which the data relates

(j) in the event that any of the biennial traffic counts are not carried out by the Developer and or the Owner pursuant to the Residential Travel Plan the County shall on written notice to the Developer and or the Owner be entitled to conduct such biennial traffic counts as are necessary to discharge the requirements of the Residential Travel Plan and FURTHERMORE on receipt of an appropriate invoice or request for payment from the County acting reasonably the Developer or the Owner hereby agrees to pay the costs arising from such surveys

## PUBLIC RIGHTS OF WAY SCHEDULE

(Relevant clause set dependent upon Circumstances)

In this Schedule the following expressions shall have the following meanings

**PROW Improvement Scheme** means a scheme for the provision of public rights of way as shown on the 'PROW Drawing' numbered \_\_\_\_\_ appended to this Schedule which may be subject to revision as agreed in writing between the Developer [and the Owner] and the County following the date of this Agreement.

The Developer [and the Owner] hereby covenants to

1. provide the PROW Improvement Scheme within the Site so as to enhance the existing public rights of way network

1.1 the PROW Improvement Scheme shall be provided in accordance with a timetable and construction standard to be agreed with the County (*insert when*) and shall upon completion be maintained by the County as highways maintainable at the public expense

1.2 the timescale for construction diversion and dedication of the PROW Improvement Scheme shall be agreed with the County in writing prior to Commencement and

1.3 the PROW Improvement Scheme shall be made available for the public to use as a public right of way no later than (*insert time /event trigger here*)

1.4 enter such agreements under the 1980 Act and 1990 Act as shall be considered appropriate by the County to facilitate the provision of the PROW Improvement Scheme within the Site including the diversion of such public rights of way and shall seek to obtain the appropriate diversion orders under the 1990 Act

OR

In this Schedule the following expressions shall have the following meaning

**Bridleway** means a new bridleway link three (3) metres wide from (*insert location*) to (*insert location*) within the Site so as to enhance the existing public rights of way network and to be constructed in accordance with the route as shown on the 'Bridleway Plan' (*insert plan number*) appended to this Schedule

**Bridleway Creation Works** mean such works required by the County to bring the Bridleway to the standard required to be capable of use by the public such works to be at the Developer's [and the Owner's] expense

**Section 25 Agreement** means an agreement or agreements entered into by the Developer [and the Owner] with the County under Section 25 of the 1980 Act in the form of the County's standard 'Section 25 Agreement' appended to this Schedule

**Section 25 Agreement Application** means an application submitted to the County by the Developer [and the Owner] for the purpose of entering into the Section 25 Agreement on the Section 25 Application Form appended to this Schedule

1 The Developer [and the Owner] hereby covenants

1.1 prior to public access to the (*e.g. Public Open Space*) being permitted

1.1.1 to submit to the County a Section 25 Agreement Application and

1.1.2 to enter into the Section 25 Agreement with the County

1.1.3 to carry out the Bridleway Creation Works to the satisfaction of the County in accordance with a timetable and reasonable construction standard to be approved in writing by the County prior to its construction

1.1.4 to dedicate the Bridleway as a public bridleway and such dedication shall take effect in accordance with the terms and conditions and drawings contained in the Section 25 Agreement

1.2 The dedication of the Bridleway shall take effect in accordance with the terms and conditions and drawings contained in the Section 25 Agreement upon the issue of a certificate of completion by the County following the satisfactory completion of the Bridleway Creation Works for the use by the public

2 The County hereby covenants

2.1 To enter into a Section 25 Agreement with the Developer [and the Owner] prior to the occupation of the [Public Open space appropriate trigger]

OR

**Permissive Bridleway`** means a new permissive way (over which the right of way is intended to be on foot and by pedal cyclists and on horseback or leading a horse) to be carried out in accordance with the details stated in the 'Permissive Bridleway Specification' appended to this Schedule to link to the existing public footpath numbers (*insert details*) and the proposed Site access at the boundary of the Development as shown by a (*insert colour*) line indicatively on the 'Permissive Bridleway Plan' (*insert number*) appended to this Schedule the final alignment of which shall be subject to the approval of the Council and the County

**Permissive Bridleway Works** means the works to provide the Permissive Bridleway to the standard required by the County to be capable of use by the public the cost of such works to be borne entirely by the Developer [and the Owner]

**Warning and Advisory Signs** means signs to be placed at appropriate points on the Permissive Bridleway in the positions marked on the Permissive Bridleway Plan (*insert number*) appended to this Schedule warning motorists of the possible presence of walkers cyclists and horse riders and a notice at both ends of the Permissive Bridleway

pursuant to Section 31(3) of the 1980 Act so as to negate the intention of the Developer [and the Owner] to dedicate the Permissive Bridleway as a highway maintainable at the public expense

1. The Developer [and the Owner] hereby agrees and covenants to
  - 1.1 prior to the first Occupation of a Dwelling to carry out the Permissive Bridleway Works as a permissive way to the satisfaction of the County in accordance with a scheme to be approved in writing by the County prior to Commencement including the requirement that the width of the Permissive Bridleway shall be no less than three (3) metres along its entire length.
  - 1.2 prior to the first Occupation of a Dwelling to provide and erect the Warning and Advisory Signs at the Developer's [and the Owner's] expense in accordance with the requirements of the County
  - 1.3 maintain the Permissive Bridleway to the standard reached upon completion of the Permissive Bridleway Works from the date of issue of the certificate of completion in perpetuity being a period of no less than eighty (80) years
  - 1.4. place a restriction on the Developer's [the Owner's] title at HM Land Registry requiring that no transfer of any part of the land containing the Permissive Bridleway shall take place unless the transferee first enters into a covenant with the transferor to maintain the Permissive Bridleway in perpetuity being a period of no less than eighty (80) years in accordance with the requirements of this Agreement
2. The County hereby agrees and covenants with the Developer [and or the Owner] to
  - 2.1. to liaise with the Developer [and or the Owner] in relation to the erection of the Warning and Advisory Signs and notices to negate the intention to dedicate the Permissive Bridleway as a highway maintainable at the public expense
  - 2.2 to issue an appropriate certificate of completion following the satisfactory completion of the Permissive Bridleway Works for the use by the public

## **Appendix PROW Drawing**

Bespoke – to be inserted by developer/owner

## **Appendix Bridleway Plan**

Bespoke – to be inserted by developer/owner

## **Appendix Section 25 Agreement**

Please see paragraph under this heading above

## **Appendix Section 25 Application Form**

Please see paragraph under this heading above



## Appendix Permissive Bridleway Specification

See para 1.1 on page 99 above

## Appendix Permissive Bridleway Plan

Bespoke – to be inserted by developer/owner

### PASSENGER TRANSPORT SCHEDULE

1. In this schedule the following expressions shall have the following meanings

**Bus Service** means a bus service to serve the Development on the following basis or as otherwise agreed in writing between the County and the Developer [and the Owner] so as to be operative at the following times and frequency: [insert details]

**Bus Service Subsidy** means the sum of XXX pounds sterling (£ ) less the revenue achieved from running the Bus Service

The Developer [and the Owner] hereby covenants to

2 procure the Bus Service prior to occupation of the XXth Dwelling and not to cause or allow occupation of the XXth Dwelling until the Bus Service has been procured

3. deliver and retain the Bus Service from the Occupation of the XX Dwelling until the first to occur of either

3.1 the lapse of a period of no less than five years from the Occupation of the XXth Dwelling or

3.2 the full amount of the Bus Service Subsidy has been expended by the Developer [and or the Owner] in delivering the Bus Service and the Developer [and or the Owner] have first provided full documentary written evidence of such expenditure that has been accepted as a true record by the County.

THE COMMON SEAL of [                      ) )  
  ] was hereunto   ) )  
affixed in the presence of: -                     ) )

Executed as a Deed by affixing                ) )  
the common seal of                                 ) )  
ESSEX COUNTY COUNCIL                           ) )  
in the presence of:                                 ) )

Attesting Officer

THE COMMON SEAL of               DISTRICT ) )  
COUNCIL was hereunto affixed in the        ) )  
presence of: -                                     ) )

Mayor

Town Clerk

THE COMMON SEAL of                    ) )  
  BANK                         ) )  
was hereunto affixed in the                ) )  
presence of: -                                 ) )

Director

Secretary

THE COMMON SEAL of                    ) )  
  OWNER                         ) )  
was hereunto affixed in the                ) )  
presence of: -                                 ) )

Director

Secretary

## Appendix B: Request for Planning Advice

### For Community Infrastructure Enquiries only.

It is important that you complete all applicable sections to avoid any delay in processing of your request. The form asks for the minimum information required. In some cases, it may be beneficial to provide additional information.

Upon completion submit this form along with any accompanying information/plans and the correct fee to Infrastructure Planning Team, Essex County Council, CG05, County Hall, Chelmsford, Essex, CM1 1QH or by e-mail to [development.enquiries@essex.gov.uk](mailto:development.enquiries@essex.gov.uk)

Applicant Details		Agent Details (if applicable) <i>Please note if this section is completed all correspondence will be sent to the Agent</i>	
Name:	Click here to enter text.	Name:	Click here to enter text.
Company:	Click here to enter text.	Company:	Click here to enter text.
Address:	Click here to enter text.	Address:	Click here to enter text.
Postcode:	Click here to enter text.	Postcode:	Click here to enter text.
Tel no:	Click here to enter text.	Tel no:	Click here to enter text.
Email:	Click here to enter text.	Email:	Click here to enter text.

Interest in property / land	Are you (your client) the only party with an interest in this property / land	
Click here to enter text.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Location of proposed development	Authority Area:	Choose an item.
<i>If there is no postal address, please give a clear and accurate description of the site location, including the grid reference details or post code</i>		
Click here to enter text.		

Basic information regarding the proposal <i>Please provide an accurate, detailed description of the proposed development</i>					
Residential Development	<input type="checkbox"/>	Commercial Development	<input type="checkbox"/>	Other Development	<input type="checkbox"/>
Description of the proposal:					

Click here to enter text.

Information Required <i>Please tick to confirm you have included the following information:</i>		Comment
Site Location Plan (at an appropriate scale)	<input type="checkbox"/>	Click here to enter text.
Block plan	<input type="checkbox"/>	Click here to enter text.
Other – Please state	<input type="checkbox"/>	Click here to enter text.
Planning Statement	<input type="checkbox"/>	Click here to enter text.
Details of advice received already e.g. Planning advice	<input type="checkbox"/>	Click here to enter text.
Please indicate any additional information and supporting documentation that has been submitted for further clarification of proposals Click here to enter text.		

**Pre-application charges for Community Infrastructure (education et al) Advice**

Payment can be made [online](#) or by cheque payable to Essex County Council at the address below. Costs are exclusive of VAT.

	Charge	
Written pre-application advice	£150 + VAT	<input type="checkbox"/>
Attendance at a meeting	£50 + VAT	<input type="checkbox"/>
Written advice following meeting	£150 + VAT	<input type="checkbox"/>
Follow up meetings will be charged at £110 per meeting at County Hall and £165 per meeting on site regardless of time. Follow up telephone calls and correspondence will be based on an hourly rate confirmed in advance and invoiced in arrears.		
Where additional specialist advice is required, consultants fees will be charged at cost. Advice from specialists will be sought where appropriate. Subsequent meetings or advice may attract a further charge. A separate form and guidance notes are available for <a href="#">Planning Performance Agreements</a> (PPAs) which will command a bespoke fee at the application stage.		
Total payable to Essex County Council      £ _____		

### Freedom of Information Act

*If you consider your proposals are required to be kept confidential, please set out the reasons why, for what period and the specific information that needs to remain confidential. The authority will advise whether it considers the information could be kept confidential. All information submitted will be handled in accordance with the Data Protection Act*

Click here to enter text.

### Declaration

I confirm that to the best of my knowledge all of the information submitted herein is accurate and that planning advice is requested and have made the appropriate fee as payment for the service.

I also agree to pay any additional costs arising from the provision of the service as required, as outlined in the guidance note.

Signed:

Dated:

Please submit this form along with any accompanying information/plans and the correct fee to Infrastructure Planning Team, Essex County Council, CG05, County Hall, Chelmsford, Essex, CM1 1QH or by e-mail to [development.enquiries@essex.gov.uk](mailto:development.enquiries@essex.gov.uk)

## Appendix C: Education Site Suitability Checklist

Site Name & Address:	Postcode	
	Site Area (hectares)	

Please tick one column for each criterion. Supporting evidence must be provided for each answer as part of a Land Compliance Study. Please use the final column to signpost your evidence and any accompanying studies.

CRITERIA	Does Meet	Will Meet	Won't Meet	Evidence
<b><i>Is the land suitable for the construction of high quality education buildings and outside spaces?</i></b>				
Flat ground				
Broadly level (A gradient of 1 in 70, across the width, is ideal to assist water run-off from most pitches)				
At level with surrounding areas and in particular with suitable points of access (vehicular and pedestrian )				
Roughly rectangular in shape				
Sufficient width and length for size of an education facility				
At least 30cm of clean topsoil				
Free draining				
Standard trench fill / strip foundations can be used				
<b><i>Is the site appropriately located for a school / early years &amp; childcare facility to be established? Accessible from suitable Highways (not a cul de sac) and safe direct walking &amp; cycling routes</i></b>				
Centrally located to the overall development or area the school will serve				
Well located in relation to other neighbourhood facilities and public realm				
Not crossed by any public rights of way or access wayleaves				
Not liable to flooding				
Not crossed by or bounded by any power-lines				
Not crossed by and sufficiently distant from any gas mains				
Outside the cordon sanitaire of any sewage plant				
Free of items or structures of archaeological interest				
Free from protected species or habitats of special interest				
Site not part of a conservation area or subject to any special planning authority restrictions				



<b><i>Is the site and surrounding area free of pollution, contamination and other risk factors?</i></b>				
Free of soil and water table contamination				
Outside any current or proposed 55db LAeq (30min) noise source or contour				
Free from radiation or potential sources thereof				
Air quality standards are met				
Free from invasive plants such as Japanese Knotweed				
Not affected by ground gasses and vapours				
Not affected by potential sources of light pollution e.g. major roads, car parks or industry				

<b><i>Is the site sufficiently distant from any land use that could cause public anxiety?</i></b>				
Chemical or petro-chemical production or storage				
Establishments storing or handling live viruses				
Facilities housing or treating people with a history of violence or a threat to children				
Incinerators				
Sites currently or previously used for land fill or rubbish disposal				
Aviation or high speed transportation e.g. train lines or helipads				
Major roads or traffic honeypots e.g. large retail outlets				
Prisons or facilities for persons with a history of offending				
Phone or radio masts and transmitters				
High voltage power lines				
Firing ranges, premises storing live ordnance / ammunition or UXB sites				
Land or buildings with a use emitting a strong odour				
Quarries or other major sources of dust				
Premises housing dangerous animals, birds, reptiles or insects				

<b><i>Is the site free from encumbrances that may need to be removed?</i></b>				
Free of buildings and other surface structures				
There are no trees on or abutting the site				
Free of pipes, cables and the like				
Free of ponds, ditches or water courses				
Free from foundations, fuel tanks and other buried structures				
Free from spoil and fly tipping				
Free from filled spaces including mineral workings and land fill				
Free of void spaces including wells, sumps and pits				

*If you have answered 'Will Meet' in relation to any criteria, please give details below or on a separate sheet.*

*Please give details of any current or proposed adjoining land use that may disrupt the normal functioning of a school or early years & childcare facility, detract from learning or place anyone associated with the establishment at risk.*

*Please give any other details you know about, that may make this land unsuitable for a school or early years & childcare facility or may add to the cost of building or establishing one on the site.*

#### **DECLARATION**

I confirm that the information I have given represents full disclosure of the facts and I have taken all necessary steps to ensure it is accurate beyond reasonable doubt. Should any information become evident in the future, that may have altered the response I have given, I will bring these facts to Essex County Council's attention immediately.

SIGNED:

Print  
Name

ON BEHALF OF:

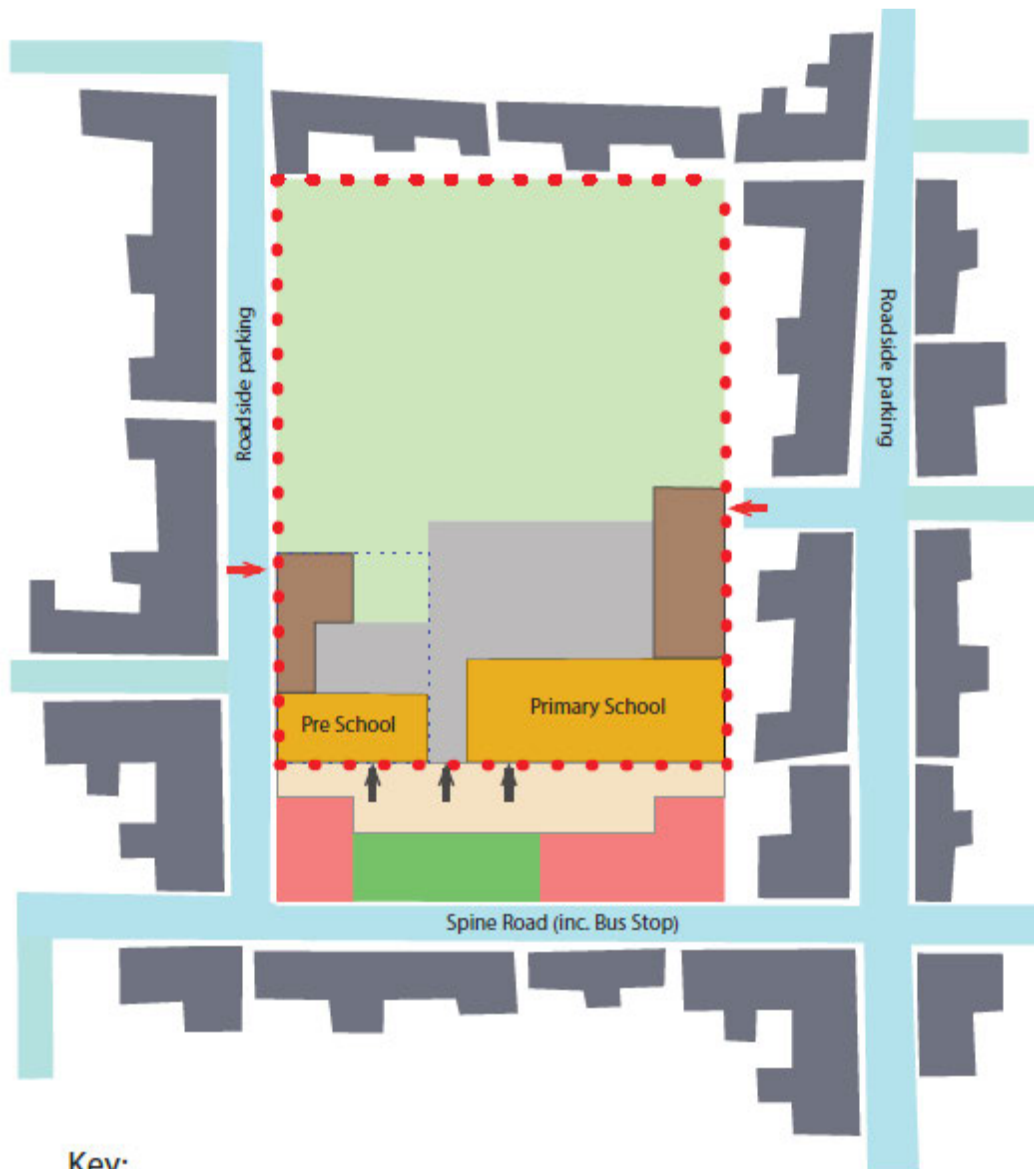
DATE:

### ***Supporting Information***

The developer is required to attach to the completed checklist a set of survey information listed below that have a transferable warranty that ESSEX COUNTY COUNCIL or our contractors can rely upon. It would be expected that the developer would already have much, if not all, of this information

- 1.** Ordnance Survey map or drawing and historical documents on previous use;
- 2.** Topographical Survey of area;
- 3.** Ground Conditions Study including local geology maps;
- 4.** Soil & Ground Water Contamination Study;
- 5.** Flood Risk Assessment, including Environment Agency flood zone designation;
- 6.** Habitat, Arboriculture and Ecology Study including site walkover report;
- 7.** Planning Policy documents including relevant planning history;
- 8.** Noise Assessment against criteria in DfE Building Bulletin 93 or equivalent;
- 9.** Air Quality Assessment including reference to Air Quality Management Areas;
- 10.** Partner organisation plans for area.

## Appendix D: Exemplar Layouts for Education and Community Facilities














### Key:

- |   |   |
|---|---|
|  Education Buildings             |  Pedestrian Entrances to Schools |
|  School Pitches                  |  Vehicular Entrances to Schools  |
|  Car Parking                     |  School Site Boundary            |
|  Hardstanding Outdoor Play Areas |  Pre-School Site Boundary        |
|  Housing                         |  Play Park                       |
|  Community/Mixed Use Buildings   |  Road Network                    |
|  Pedestrian Square               |   |

\*Not to scale



**Key:**

- |   |   |
|---|---|
|  Education Buildings             |  Pedestrian Entrances to Schools           |
|  School Pitches                  |  Vehicular Entrances to Schools            |
|  Car Parking                     |  School Site Boundary                      |
|  Hardstanding Outdoor Play Areas |  Pre-School + Primary School Site Boundary |
|  Housing                         |  Road Network                              |
|  Community/Mixed Use Buildings   |   |
|  Pedestrian Square               |   |

\*Not to scale

## Appendix E: Land Pre-Transfer Works

### *Pre Transfer Requirements*

<b>The site must provide suitable vehicular and pedestrian access for both construction and final use i.e.</b>
Access to all parts of the site for investigation purposes
Usable vehicular/plant access suitable for construction and commissioning purposes
Adopted public highway with suitable vehicular access to service buildings
Separate suitable vehicular access to service the playing field
Access to both ends of the site for emergency purposes
Direct pedestrian access to facilitate 'safe routes to school'
A safe pedestrian realm to which children can egress at the end of the school/pre-school day
Traffic calming or 20mph speed limits on surrounding roads
Three metre wide footways surrounding and on major routes to the facility
Safe and direct cycle routes usable by the population to be served by the new facility
Nearby links into the public transport network

<b>The development must provide suitable utility connections to the boundary including ...</b>
Water*
Electricity*
Gas*
Telecommunications and broadband*
Foul sewers
Surface water drainage

<b>The developer must include suitable boundary treatment including ...</b>
Fence*
Gates
Screening from overlooking
Planting



## Appendix F: Early Years & Childcare Facility Specification

Note : Rooms should be designed to enable potential providers to offer flexible childcare including out of school and holiday care

<b>56 place Day Nursery Facility Requirements</b>	<b>Places</b>	<b>M<sup>2</sup></b>
<b><u>Play Space for 0-2 year olds</u></b>	12	
Play Space (3.5m <sup>2</sup> of area per child)		42
Milk preparation area		6
1 child's assisted toilet + baby change area		9
Defined sleep area – 12m <sup>2</sup> included within play space allowance. This needs to be a flexible space that is conducive to sleep but does not have to be a separate room.		
<b><u>Play Space for 2-3 year olds</u></b>	20	
Play Space (2.5m <sup>2</sup> of area per child)		50
2 children's assisted toilets + baby change area		9
<b><u>Play Space for 3-4 year olds</u></b>	24	
Play Space (2.3m <sup>2</sup> of area per child)		55
2 children's assisted toilets		6
<b><u>Other facilities</u></b>		
Laundry room - incl. washing machine and tumble dryer. White goods to be provided by the provider but space and power points need to be included within the design		6
Kitchen area required. Provider to provide the white goods but power and drainage to be included in the design to enable meals to be prepared for 0-5's and after school children.		15
Staff room / 1 to 1 meeting room		12
Accessible WC		4
Staff toilet ( unisex). Additional toilets are not always required but are dependent upon the number of staff employed.		3
Reception area / drop in		15
Reception/Manager's office with additional hot desk space		10
General Store		10

<b>56 place Day Nursery Facility Requirements</b>	<b>Places</b>	<b>M<sup>2</sup></b>
Cleaner's Store		3
<b>SUB TOTAL</b>		<b>255</b>
Plant room @ 3% of Sub Total		8
Internal walls @ 4% of Sub Total		10
Circulation @ 15% of Sub Total		51
<b>GROSS INTERNAL FLOOR AREA</b>		<b>324</b>
Outside covered buggy park area		10
Outdoor play (5m <sup>2</sup> per child) – as natural as possible and with covered outside area preferably not north facing		280
Service area and parking - 10-15 spaces would be best practice plus safe drop-off points for parents		300
<b>OUTDOOR AREA</b>		<b>590</b>
<b>TOTAL SITE AREA REQUIRED</b>	<b>56</b>	<b>914</b>

## Appendix G: Example of Early Years and Childcare facility costing

Model Brief				
56 PLACE EARLY YEARS & CHILDCARE FACILITY - Costs at April 2019				
Description	Qty	Unit	Rate	Cost
<b><u>BUILDING</u></b>				
56 place Day Nursery new build	385	m <sup>2</sup>	£ 1,900	£ 731,500
<b><u>EXTERNAL WORKS</u></b>				
EY&C - Additional Car Parking / Service area	300	m <sup>2</sup>	£ 90	£ 27,000
EY&C - Separate Play Area	280	m <sup>2</sup>	£ 125	£ 35,000
Allowance for retaining hedgerow/protection etc	1	P Sum	£ 10,000	£ 10,000
Drainage- Foul/Surface water to buildings	385	m <sup>2</sup>	£ 10	£ 3,850
Drainage- Surface water to external hard areas	300	m <sup>2</sup>	£ 15	£ 4,500
Drainage- allowance for land drainage	1	P Sum	£ 10,000	£ 10,000
Fencing	1	P Sum	£ 15,000	£ 15,000
<b><u>INCOMING SERVICES</u></b>				
Allowance for sub-mains distribution of electricity, gas, water and BT from suitable connection points left by developers	1	P Sum	£ 100,000	£ 100,000
<b><u>CONTINGENCY</u></b>				
	10%			£94,000
<b><u>FEES</u></b>				
Design Team Fees on Works	10%			£ 103,100
Statutory Fees	1.5%			£ 15,465
Survey Fees	1.5%			£ 15,465

Project Management & CM	4%			£	41,240
QI Fees	2%			£	20,620
ESSEX COUNTY COUNCIL Project Management Fees	3%			£	30,930
E- Documents				£	2,500
<b>TOTAL ESTIMATED COST</b>				<b>£</b>	<b>1,307,880</b>
<b>Cost per Place</b>				<b>£</b>	<b>23,355</b>

### Assumptions

Cost/m2 rate based on benchmark data for standard single storey building

Contingency/Risk allowed is 10% to cover design/construction risks

### Exclusions:

- Abnormal costs unless included above
- VAT
- Site investigation works and additional works resulting therefrom
- Loose furniture/ FF&E (although this may be included in future)
- Removal of contaminated land
- Inflation after Q2 2019
- Upgrading incoming services

## Appendix H: Example of New Primary School costings.

Model Brief				
420 PLACE (2 form entry) PRIMARY SCHOOL - Costs at April 2019				
Description	Qty	Unit	Rate	Cost
<b><u>BUILDINGS</u></b>				
2FE primary school	2,072	m <sup>2</sup>	£ 1,900	£ 3,937,000
<b><u>EXTERNAL WORKS</u></b>				
Grass playing pitches	8,400	m <sup>2</sup>	£ 40	£ 336,000
Hard surface games courts	1,440	m <sup>2</sup>	£ 125	£ 180,000
Hard informal social areas	1,030	m <sup>2</sup>	£ 90	£ 92,700
Soft informal social areas	1,850	m <sup>2</sup>	£ 40	£ 74,000
Habitat area	620	m <sup>2</sup>	£ 20	£ 12,400
Float site area to balance with ESSEX COUNTY COUNCIL Model Brief likely minimum gross site area	1,830	m <sup>2</sup>	£ 90	£ 164,700
Allowance for retaining hedgerow/protection etc	1	P Sum	£ 10,000	£ 10,000
Drainage- Foul/Surface water to buildings	2,072	m <sup>2</sup>	£ 10	£ 20,720
Drainage- Surface water to external hard areas	4,300	m <sup>2</sup>	£ 15	£ 64,500
Drainage- allowance for land drainage	1	P Sum	£ 17,500	£ 17,500
Fencing	1	P Sum	£ 25,000	£ 25,000
<b><u>INCOMING SERVICES</u></b>				
Allowance for sub-mains distribution of electricity, gas, water and BT from suitable connection points left by developers	1	P Sum	£ 125,000	£ 125,000
<b><u>CONTINGENCY</u></b>				
	10%			£ 506,000
<b><u>FEES</u></b>				

Design Team Fees on Works	10%		£	556,600
Statutory Fees	1%		£	55,660
Survey Fees	1%		£	55,660
Project Management & CM	3%		£	166,980
QI Fees	2%		£	111,320
ESSEX COUNTY COUNCIL Project Management Fees	3%		£	166,980
E- Documents			£	2,500
Tender rice inflation for 2019			£	254,030
<b>TOTAL ESTIMATED COST</b>			<b>£</b>	<b>6,939,030</b>
<b>Cost per Place</b>			<b>£</b>	<b>16,521.50</b>

### Assumptions

Cost/m2 rate based on benchmark data for standard single storey primary school

Contingency/Risk allowed is 10% to cover design/construction risks

### Exclusions:

- Abnormal costs unless included above
- VAT
- Site investigation works and additional works resulting therefrom
- Loose furniture/FF&E (although this may be included in future)
- Removal of contaminated land
- Inflation after 1Q2019
- Upgrading incoming services



## **Appendix I: Statutory Duties Covered by the Youth Service in Essex**

Section 507B of the Education Act 1996 requires that a local authority in England must, 'so far as reasonably practicable, secure for qualifying young persons in the authority's area access to –

1. sufficient educational leisure-time activities which are for the improvement of their well-being, and sufficient facilities for such activities; and
2. sufficient recreational leisure-time activities which are for the improvement of their well-being, and sufficient facilities for such activities.

Section 507B also requires that local authorities publicise information on positive activities and facilities in their area and that they keep this information up to date.

### ***Carers (Recognition and Services) Act 1995***

This Act puts a duty on the local authority to carry out a carer's assessment as part of its community care assessment, if the carer 'provides or intends to provide a substantial amount of care on a regular basis'. The youth service carries out this function for young carers.

## Appendix J: ADEPT guidance on maintenance costs

The ADEPT guidance document which dates from 2007, suggests a long term interest rate of 4.5% and a value for the RPI-X of 2.25% (that is RPI excluding mortgage payments) giving an effective annual interest rate of 2.2%.

The ADEPT guidance suggests “there should not be any requirement to calculate any ‘degree of benefit’ to the local authority in respect of commuted sums for Section 278 works, even where such works are considered to provide some benefit to the general public (e.g. an improved junction layout with enhanced pedestrian facilities being provided).”

### **Calculation of Commuted Sum**

The following formula should be used to calculate the sum payable. An Excel spreadsheet to aid in the calculation has been developed and is available for modification to specific situations.

**Commuted sum =  $\Sigma Mp / (1 + D/100)^T$** , where:

**Mp = Estimated periodic maintenance cost (£)**

Each asset type will have a number of different periodic maintenance activities, as well as periodic replacement where necessary. The current cost of each activity (or replacement) should be based on current contract rates, or historic information where more appropriate.

The cost should include elements for inspection, design of repair, supervision, and even relocation of the asset in some instances. The frequency of periodic maintenance (or replacement) should be in accordance with current Highway Authority policy.

**D = Discount rate (effective annual interest rate) (%)**

This is calculated to ensure that both the interest earned on the commuted sum, and the effects of inflation are taken into account. The calculation is:

All calculations here are based upon 15 years, 30 years or 60 years of maintenance depending on the asset going forward and are calculated for areas dedicated as Highway, maintainable at public expense, which ECC would use to pay various contractors, including the district councils, to maintain the appropriate assets. The intention would not be for Essex Highways to transfer land from ECC to the District Council.

Attached below is a standard worked example for one asset chosen at random. The method to calculate sums for other assets is identical: -

### **Infiltration Trenches**

Weed killing, cleansing & re-stoning / replacement = 80p every year + £6.64 every 10 years

(80p = 60p regular + 20p monitoring from Science Report 2007)

Discount rate (effective annual interest rate)  $D = (1.0337/1.023) - 1 = 1.0459\%$

where 1.0337 is the interest rate (3.37% based on November 2014 Public Work Loan Board (PWLB) current fixed long-term neutral base rate)

and 1.023 is the inflation rate (2.3% based on November 2014 RPI).

Future Values below =  $£0.80 / (1+D/100)^{NT}$

<b>Infiltration Trenches (annual maintenance)</b>				
<b>(per sq.m)</b>				
<b>Labour</b>				
<b>Price</b>	<b>n</b>	<b>NT</b>	<b>Future Value</b>	
0.80	1	1	0.79	2016
0.80	2	2	0.78	2017
0.80	3	3	0.78	2018
0.80	4	4	0.77	2019
0.80	5	5	0.76	2020
0.80	6	6	0.75	2021
0.80	7	7	0.74	2022
0.80	8	8	0.74	2023
0.80	9	9	0.73	2024
0.80	10	10	0.72	2025
0.80	11	11	0.71	2026
0.80	12	12	0.71	2027
0.80	13	13	0.70	2028
0.80	14	14	0.69	2029
0.80	15	15	0.68	2030
0.80	16	16	0.68	2031
0.80	17	17	0.67	2032
0.80	18	18	0.66	2033
0.80	19	19	0.66	2034
0.80	20	20	0.65	2035
0.80	21	21	0.64	2036
0.80	22	22	0.64	2037
0.80	23	23	0.63	2038
0.80	24	24	0.62	2039
0.80	25	25	0.62	2040
0.80	26	26	0.61	2041
0.80	27	27	0.60	2042
0.80	28	28	0.60	30 years
0.80	29	29	0.59	Total
0.80	30	30	0.59	<b>20.51</b>

Future Values below =  $£6.64 / (1+D/100)^{NT}$

## Infiltration Trenches

maintenance every 10 years

Price	n	NT	Future Value	
6.64	1	10	5.98	30 years
6.64	2	20	5.39	Total
6.64	3	30	4.86	16.24

Total for 30 years of Maintenance = 20.51 + 16.24 = 36.74 per square metre

## Appendix K: Standard Commuted Sums for Maintenance (April 2017)

Material or feature	Unit	Operation	Cost per cycle (£)
<b>Extra-over Areas</b>			
Extra-over areas not required for highway purposes (Project Engineer to determine)	Sq. m	1 weedkilling & sweep per year, 1/3rd replacement	25.51
<b>Roads</b>			
Granite setts to road hump, roundabout & speed control bend overrun areas	Sq. m	Replacement of individual blocks or kerbs at years 7 & 14	341.28
Tegular blocks to road hump / table	per linear metre (based on 1.8m length hump/table)	Replacement of individual blocks or kerbs at years 7 & 14	76.69
<b>Drainage</b>			
Permeable Paving Blocks (10% replacement at Year 30)	Sq. m	Weedkilling, cleansing, 10% replacement	40.35
Swales	Sq. m	Cutting, weedkilling & cleansing	15.26
Filter Drains / Infiltration Trenches	Sq. m	Weedkilling, cleansing & re-stoning / replacement	30.75
Other Sustainable Urban Drainage Systems (SUDS) or non-standard elements	Site-specific calculation		
Hydrobrake (evidence of replacement timescale required from developer)	Item	Maintenance - £62.72 cleanse every 2 years - replaced at year 30	2,626.06

Material or feature	Unit	Operation	Cost per cycle (£)
Soakaway	Item	Inspection, £94.09 cleanse every 2 years, re-stoning / replacement at year 30	4,950.02
Crate Soakaway (upto 2m deep)	Sq. m	Inspection, jet every 2 years & rejuvenate at year 30	211.34
Petrol & Oil Interceptors	Item	Inspection, specialised cleansing, disposal of contaminated waste, maintenance	2,777.67
Combined kerb & drainage systems - 'beany blocks'	Linear metre	Maintenance (enhanced cleansing regime required - every 8 months)	54.43
Oversize pipes	Linear metre	Cleaning over 15 years	388.32
<b>Pavements (footways, cycleways &amp; cycletracks)</b>			
Non standard Surface Dressing (note - in excess of footway rate)	Sq. m	Re-applying at year 12	49.13
Coloured asphalt	Sq. m	Re-applying at year 15	23.01
<b>Street Lighting (All columns must conform to ECC requirements under BSEN40, however embellishment kits are allowed to be attached to columns)</b>			
Non-standard Lanterns and/or painted columns	Site specific calculation	General maintenance, lantern changes, overhaul of switch gear & column repaint where appropriate	Contact Street Lighting Team on 01245 342711

Material or feature	Unit	Operation	Cost per cycle (£)
<b>Traffic Signals &amp; Controlled Crossings</b>			
Zebra crossing	per pair of Beacons	Cost of energy & maintenance (ensure surface course has high PSV to eliminate need for high friction surfacing)	4,733.60
Other signalised junctions & crossings	Site specific calculation	Inspection costs, general maintenance, energy consumption & communications costs	Contact ITS on 01245 342790
<b>Public Transport (ONLY UPON DEVELOPMENT)</b>			
Bus Shelters - Wooden Framed - standard 2 bay enclosed shelter	Item	Cleansing, maintenance & cost of energy	2,885.82
Bus Shelters - metal framed 2 bay	Item	Cleansing, maintenance & 1 replacement at Year 15	8,700.23
Bus Shelters - metal framed 3 bay	Item	Cleansing, maintenance & 1 replacement at Year 15	9,213.13
Bus shelter maintenance monies to be passed onto those who are maintaining feature which may be the Parish Council			
Real time passenger information, bus gates, VMS, CCTV	Site specific calculation	General maintenance & cost of energy	Contact Passenger Transport Team
RTI Display	Item	Maintenance and cost of energy + 1 replacement at 15 years	10,845.09
<b>Structures</b>			



Material or feature	Unit	Operation	Cost per cycle (£)
Extra-over or enhancements upon standard structure. Includes bridge, culvert, tunnel, retaining wall, headwall, high mast or barrier, gantry, canopy, basement or water attenuation structure	Site specific calculation	Inspection costs, general maintenance, energy consumption & communications costs for 60 years	Contact relevant Project Engineer
<b>Signs or Bollards</b>			
Extra-over or enhancements upon standard sign or bollard	Item	Cleansing, maintenance & 1 replacement	518.85
<b>Fencing</b>			
Knee rail, or timber post & 3 rail fencing	Linear metre	Replacement	65.69
Noise attenuation barrier	Sq.m	Replacement at 15 years	93.29
<b>Trees, Planting</b>			
Tree in soft landscaping	Item	General maintenance	356.02
Tree with grills, pit or watering system, generally in hard landscaping	Item	General maintenance & 1 replacement of grills	538.47
Shrub/ground cover planting (Landscaping) or plantation screening	Sq. m	General maintenance, £1.19 per year	16.43
Hedges	Linear metre	General maintenance, £1.98 per year	27.33
Grass Cutting	Sq.m		2.76
<b>Street Furniture</b>			
Enhanced cycle racks, street art if not licenced, etc.	Site specific calculation	Cleansing, maintenance & replacement	

Material or feature	Unit	Operation	Cost per cycle (£)
Grit Bins	Item	£48.66 of grit per year & replacement at year 15	827.31
MISC			
Brickwork.	Sq.m	Replacement at 15 years	33.87
Continuous line in yellow single	Linear m	Replacement at year 5,10 and 15	2.41
Continuous line in yellow double	Linear m	Replacement at year 5,10 and 15	4.89

## Appendix L: Smarter Travel for Essex Network

### *Travel Plan Accreditation Scheme*

Join other organisations within the Smarter Travel for Essex Network (STEN) to promote active and sustainable travel to your employees. We offer bespoke support at competitive prices to organisations, including:

- car park management issues
- making alternative travel modes an attractive option for employees
- entry into a National Accreditation Scheme

For more information contact the [travelplanteam@essex.gov.uk](mailto:travelplanteam@essex.gov.uk) or call 0345 743 0430.

## Appendix M: Protecting Biodiversity.

### *What is biodiversity offsetting?*

Biodiversity offsetting is where an offset provider delivers a quantifiable amount of biodiversity benefit to offset the loss of biodiversity resulting from a development. The losses and gains are measured in the same way, even if the habitats concerned are different. The measurement is done in 'biodiversity units', which are the product of the size of an area, the distinctiveness and condition of the habitat it comprises. The biodiversity units lost and gained can be calculated using the approach set out here. If they can, developers can provide an offset themselves, or they can commission someone else to do it for them.

If a developer chooses the latter, it is the units of biodiversity benefit that are sold. The developer is not buying the biodiversity itself, or the land that it stands on. This is not putting a price on biodiversity. The cost of providing an offset will be calculated by the offset provider, on a case-by-case basis, depending on the conservation action they are taking.

In a biodiversity offsetting trial in Essex, developers were required to provide compensation for biodiversity loss under planning policy and were given the option of delivering that compensation by using offsetting. If they decided against offsetting, they were required to deliver compensation to the LPA's satisfaction.

### *Offsetting and planning policy*

Good developments incorporate biodiversity considerations early in their design, but can still result in some biodiversity loss when there are unavoidable impacts, which can't be resolved by design or location, or mitigated by other measures.

Current planning policy for biodiversity is set out in the National Planning Policy Framework (NPPF) which came into force on 27 March 2012. For biodiversity offsetting, the relevant policies in the NPPF are:

"The planning system should contribute to and enhance the natural and local environment by .... minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures". (Para 109)

"When determining planning applications, if significant harm resulting from a development cannot be avoided (through locating on an alternate site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused." (para 118)

In pre-application discussions for a proposed development the LPA will ask the developer to decide whether it wishes to deliver any compensation required under planning policy for biodiversity loss through offsetting, or by using other existing processes.

## ***The benefits***

There are advantages to developers of using biodiversity offsetting:

- it simplifies discussion about how much compensation is needed: the impact of the development can be measured in units, and equivalent amount of compensation sourced.
- it is transparent: information about the amounts of loss involved, and compensation required, is open and available to all from the start of the process.
- developers can choose to use an offset provider to provide compensation on their behalf and take responsibility for managing that compensation:

A seven step process to calculate how many biodiversity units have to be compensated for.

**1. Step 1 – Apply the ‘avoid, mitigate, compensate’ hierarchy to understand residual biodiversity loss**

Biodiversity offsets come at the end of this ‘mitigation hierarchy’. The NPPF does not define these key terms, but generally accepted definitions are:

**Harm** – Any impact, direct or indirect, that may adversely affect biodiversity.

**Avoid** – Ensuring that negative impacts do not result from planning decisions by, eg, locating development away from areas of ecological interest.

**Mitigate** – Mitigation measures reduce negative impacts. Examples of mitigation measures include changes to project design, construction methods or the timing of work, or enhancing or restoring other interests or areas on a site so overall ecological value is retained.

**Compensate** – Measures which make up for loss or permanent damage to biodiversity. Where some harm to biodiversity is reduced through mitigation, compensation will represent the residual harm which cannot or may not be entirely mitigated. Compensation measures may be on or outside the development site.

*Apply this hierarchy to the action you will be taking on your development site.*

If you avoid biodiversity loss, or are able to take sufficient mitigation action on site, you will not need to provide compensation for residual biodiversity loss. If you do need to provide compensation, you can decide to use biodiversity offsetting to do this.

The decision whether a development needs to provide compensation for biodiversity loss is for the LPA to take, in line with planning policy.

Some very valuable habitats are very rare and difficult/impossible to recreate. Whilst development on these habitats would be unlikely, if an LPA did decide that development should go ahead on this type of habitat, any compensation would be

bespoke, and managed on a case by case basis. It would be for the LPA to decide if offsetting could be used.

**2. Step 2 – Map the habitat type(s) impacted by the development**

In biodiversity offsetting, habitats are assigned to one of three habitat type bands, based on their distinctiveness. Distinctiveness is a collective measure of biodiversity and with parameters such as species richness, diversity, rarity and the degree to which a habitat supports species rarely found in other habitats. The list of habitats and the corresponding distinctiveness bands can be found in Distinctiveness Bands for the Biodiversity Offsetting Pilot, which is available on Defra’s website<sup>4</sup>. Each band of habitat distinctiveness has a number associated with it as shown in Table 1 below.

This is the starting point for calculating the number of “units” of biodiversity per hectare you will need to compensate for.


- 5 and 7 Based on the paper “Biodiversity Offsets”, Treweek et al.
- 6 . Please note that you may need to scroll to the bottom of the internet page for the link to the manual

Table 1: Habitat distinctiveness	
High	6
Medium	4
Low	2

**3. Step 3 – Assess the baseline condition of each habitat.**

The methodology used is contained in the Farm Environment Plan handbook for the Higher Level Scheme, an Agri-environment scheme run by Defra/Natural England, to assess habitat condition. This can be found in the document “Higher Level Stewardship: Farm Environment Plan (FEP) Manual”<sup>6</sup>

If the condition is being assessed at a sub-optimal time of the year (e.g. grassland in autumn/winter) you may need to take a precautionary approach or wait until a more suitable time of year to carry out the ecological assessment.

An assessment of the habitat’s condition gives a weighting as shown in Table 2.

Table 2: Condition weighting Habitat Condition	
Good	3
Moderate	2
Poor	1

**4. Step 4 – Combine the habitat type and condition weighting to calculate an overall number of biodiversity units.**

The condition weighting is combined with the distinctiveness band to give an overall score expressed in biodiversity units per hectare, set out in Table 3 below.

<b>Table 3: Matrix showing how condition and distinctiveness are combined to give the number of biodiversity units per hectare</b>					
<b>Habitat distinctiveness</b>					
		<b>Low (2)</b>		<b>Medium (4)</b>	<b>High (6)</b>
<b>Condition</b>	<b>Good (3)</b>	6	12	18	
	<b>Moderate (2)</b>	4	8	12	
	<b>Poor (1)</b>	2	4	6	

8 Based on the paper “Biodiversity Offsets”, Treweek et al.

This calculation has to be done for each of the habitats impacted by a development. In many cases there will only be one habitat type, but in some big developments a number of different habitats may be involved. You now have one or more figures that represent the number of biodiversity units per hectare you need to provide as compensation.

**5. Step 5 – Work out if you have particular requirements for the type of offset you will need to provide**

If the habitat impacted is in the high distinctiveness band, the offset will usually need to be ‘like for like’ i.e. it will need to create/restore the same type of habitat. In other cases, the offset does not need to be like for like. For habitat of medium distinctiveness, the offset should be largely made up of habitat from the same distinctiveness band or higher (i.e. habitat from the medium or high distinctiveness band). Where the habitat lost was low distinctiveness, the offset project should involve a ‘trade up’ in distinctiveness (i.e. be largely made up of habitat from the medium or high distinctiveness band). This is summarised in Table 4. This approach reflects the guiding principle that offsetting should result in an improvement in the extent or condition of the ecological network.

<b>Table 4: Matching the habitat impacted with the offset project Distinctiveness of habitat lost</b>	<b>Distinctiveness of habitat provided by an offset</b>
<b>High</b>	High – and usually the same habitat type



<b>Table 4: Matching the habitat impacted with the offset project Distinctiveness of habitat lost</b>	<b>Distinctiveness of habitat provided by an offset</b>
<b>Medium</b>	Medium or high
<b>Low</b>	Medium or high

### 6. Step 6 – Managing hedgerows

Hedgerows are a very important feature of the English countryside. Their contribution, by area, to biodiversity in the landscape is far greater than even the most biodiversity rich habitats. They cannot be treated as another habitat.

If a development causes the loss of hedgerows, that loss has to be offset with like for like habitat – i.e. an offset involving hedgerows. Requirements relating to hedgerows are measured in metres, rather than biodiversity units. Only planting new hedges is appropriate as an offset project,. This is because of the complexity of defining restoration and assigning metres of offset requirement to hedge restoration work.

As with other habitats, use the FEP Manual mentioned above, to assess the quality of hedgerows lost. The condition of the hedgerow lost will affect the offset requirement, which is calculated by using a simple multiplier, as shown in Table 5 below.

<b>Table 5: Multiplier required for different conditions of offset provision Condition of hedgerow lost</b>	<b>Multiplier applied</b>
<b>Good</b>	3
<b>Moderate</b>	2
<b>Poor</b>	1

#### *Examples*

A development results in the loss of 100 metres of hedgerow in poor condition. As it's in poor condition, the multiplier is one. An offset will need to be 100 metres of newly planted hedgerow.

A different development results in the loss of 100 metres of hedgerow in good condition. As it's in good condition, the multiplier applied is 3. An offset will need to be 300 metres of newly planted hedgerow.

Although this describes how hedgerows should be dealt with when using biodiversity offsetting, the approach could apply to other linear features eg hedge banks, ditches and rows of trees.

### 7. Step 7: Decide how you want to provide compensation

You may want to provide the compensation yourself. If this is the case, please refer to the guidance for offset providers on Defra's website. This Guidance explains how to calculate how many biodiversity units an offset project can provide, and includes information on other issues offset providers need to consider, eg, how to manage delivery risks.

In some cases, conservation activity carried out on the development site itself may reduce the amount of compensation to be provided off-site through offsetting. Such on-site offsetting has to be consistent with the local offsetting strategy, and deliver something additional, beyond what might otherwise have happened. In these cases, as the developer will be providing an offset, they will therefore need to calculate the number of biodiversity units that the on-site works deliver, using the Guidance for offset providers. If their proposal is acceptable to the LPA, the number of biodiversity units will be subtracted from the overall number of biodiversity units that need to be delivered, in the absence of this activity.

Alternatively, you may wish to ask somebody else to provide the compensation for you.

### ***Finding an offset provider***

If you would like somebody else to provide the offset for you, you could:

Speak to the LPA who may know of people interested in providing offsets. In addition, they will also have a strategy for offsetting, which will set out what habitat types they would like created through offsetting, and where. This should be helpful for finding offset providers.

Speak to the Natural England offset adviser in the area. Natural England will be quality assuring offset providers and their projects and advising LPAs

Speak to any existing contacts you may have, with for example, local wildlife organisations or landowners, about the potential for them to provide an offset for you

Standards are important to ensure that the biodiversity benefits of offsetting are delivered. Standards are also important for giving developers, LPAs and the public confidence in the approach. Ensuring a certain level of quality is important, to ensure that biodiversity benefits are delivered, and to ensure that confidence in the approach is not undermined by poor quality projects.

Natural England assess the capability of offset providers to deliver offsetting projects, quality-assuring their Biodiversity Offset Management Plans, to advise LPAs. Plans will be assessed to decide if they are sufficiently robust and likely to deliver and maintain the proposed number of biodiversity units. The offset provider should have a management plan or agreement for the proposed offset project, which has been assessed by Natural England.

The cost of providing an offset, and therefore the price an offset provider will ask, will depend on a range of factors, eg, what habitats they can create or enhance, what type of conservation action is involved, the costs of managing the site at the required

condition in the long term, and how any risks to delivery of the biodiversity outcomes are managed. . Whether an offset proposal is an acceptable means of delivering required compensation is for the LPA to determine

## Appendix N: Site characteristics profile for housing for older people and adults with learning disabilities

Site characteristics profile for housing for older people and adults with learning disabilities.

Characteristic	Specialist housing with care for older people
Size (acres)	Dependent on no of units and storeys.
Building storey heights	Buildings over one storey will require lifts.
Location/ setting	Close to town centre. Ideally schemes would be in a large town or large village in close proximity to public transport links to access a larger urban centre.
Transport	Good access to transport
Local amenity	Good access to amenities
Green space	Communal private green space
Parking	Visitor parking
Security	By design
No of units	60 - 300
What	Self-contained flats or town houses. A blend of 1 and 2 bedroom units. All units to have en-suite bathroom, living room with sufficient space for a dining table, kitchen.
Other accommodation	Staff accommodation (sleeping quarters and lounge), space for overnight visitors, communal social facilities.

## Appendix O: Employment and Skills

### Appendix O1

Table providing Construction (Development) Phase Benchmarks.

Development value in £Millions	3.5 - 6	6- 10	10- 20	20- 30	30- 40	40- 50	50- 60	60- 70	70- 80	80- 90	90- 100
<b>Apprenticeships</b>	2	3	4	7	9	11	13	14	14	15	16
<b>School/College Engagements (No. of days)</b>	2	4	6	7	9	10	11	12	12	13	14
<b>Work Experience 16-18 (No. of people)</b>	5	8	8	13	14	16	17	18	19	19	21

### Appendix O2

Table outlining the rate and means of calculating, where accepted by ECC, a contribution in lieu provided for agreed obligation(s) that are not met.

Obligation – Construction Phase	Rate/means of calculation
<b>Apprenticeships: Provision of new construction apprenticeships for Essex residents aged 16-24.</b>	Shortfall against target number of apprenticeship starts X £26,000 <sup>5</sup> average net cost to employers in delivering an apprenticeship at Level 2 and 3
<b>School and College Engagement.</b> ECC will expect developers to engage with local schools and colleges and support them to promote the achievement of the skills and qualifications needed for employment in the construction and built environment sectors of the development phase.	Shortfall against target number of days activities X Average. cost of arranging 1 meaningful encounter. £1,472 <sup>6</sup>

<sup>5</sup> Hogarth, T., Gambin, L., Winterbotham, M., Koerbitz, C., Hasluck, C., Baldauf, B. (2012) Employer Investment in Apprenticeships and Workplace Learning: The Fifth Net Benefits to Employers Study, London: Department for Business Innovation and Skills, Research Report 67 - <https://www.gov.uk/government/publications/employer-investment-in-apprenticeships-and-workplacelearning-the-fifth-net-benefits-of-training-to-employers-study>

<sup>6</sup> PWC, Assessing Benchmarks of Good Practice in School Career Guidance (Appendix 3, using School B estimated costs as this best reflects the average profile of an Essex secondary school)

Obligation – Construction Phase	Rate/means of calculation
<p><b>Work Experience</b></p> <p>ECC expects developers, or their supply chains, to support local (Essex based) young people with real-life experiences of work by providing work experience of at least 1 week.</p>	<p>Shortfall against target number of placements</p> <p style="text-align: center;">X</p> <p>£8,272 average cost of a work experience placement</p>
Obligation – End-use	Rate/means of calculation
<p><b>Supported Employment</b></p> <p>Provision of employment opportunities which have appropriate support to make them suitable for long-term unemployed Essex residents</p>	<p>Shortfall against target number of supported employment opportunities (target: 1 paid job placement for every 2,500sqm of development)</p> <p style="text-align: center;">X</p> <p>£8,217 average cost per paid job outcome for employment support services for people with learning disabilities and/or mental health problems<sup>7</sup></p>
Obligation – Development Phase/End-use	Rate/means of calculation
<p><b>Pre-employment</b></p> <p>Provision for notification of job vacancies, arising from both the construction and end-use occupation, to the Council or any other agency nominated by the Council.</p> <p>Provision for delivery of bespoke pre-employment and skills training for Essex residents that will provide them with the skills to access the jobs that are being created.</p>	<p>The same method of calculation will be used for both obligations :</p> <p>Number of apprenticeships (Appendix O1) and jobs estimated to be created (outlined in Appendix O3) during construction and end-use phases during the first two years</p> <p style="text-align: center;">X</p> <p>79%<sup>8</sup> of Essex residents expected to be employed as part of the workforce</p> <p style="text-align: center;">X</p> <p>27.7% of Essex residents with qualifications equivalent to or less than NVQ1 requiring training and/or support</p> <p style="text-align: center;">X</p> <p>£2,000 average cost for Essex unemployed resident in terms of support and training to obtain access to a skilled job.</p>

<sup>7</sup> National Development Team for Inclusion. [The Cost Effectiveness of Employment Support for People with Disabilities](#)

<sup>8</sup> 2010 Census, Percentage of people who work in Essex also live in Essex.



## Appendix O3

Table of employment densities.

	Use Class	Use Type	Area per FTE (m <sup>2</sup> )	Floor Area Basis	Comment on potential variation
<b>Industrial</b>					
1	B2	General	36	GIA	Range of 18 - 60 m <sup>2</sup>
2	B1(c)	Light Industry (Business Park)	47	NIA	
<b>Warehouse &amp; Distribution</b>					
3	B8	General	70	GEA	Range of 25 - 115 m <sup>2</sup> The higher the capital intensity of the business, the lower the employment density Wide variations exist arising from scale and storage duration
4	B8	Large Scale and High Bay Warehousing	80	GEA	
<b>Office</b>					
5	B1(a)	General Office	12	NIA	Includes HQ, Admin and 'Client Facing' office types
6	B1(a)	Call Centres	8	NIA	
7	B1(a)	IT/ Data Centres	47	NIA	A blended rate of the above B1(a) uses where they are found in out of town business park locations Densities within separately let units are c.7 m <sup>2</sup> per workstation but 30% of a facility's total NIA for shared services reduces the overall density
8	B1(a)	Business Park	10	NIA	
9	B1(a)	Serviced Office	10	NIA	
<b>Retail</b>					
10	A1	High Street	19	NIA	Town/ City Centre
11	A1	Food Superstores	17	NIA	
12	A1	Other Superstores/ Retail Warehouses	90	NIA	Includes the back office function area as well as the customer facing areas Range of 10 - 30 m <sup>2</sup>
13	A2	Financial & Professional Services	16	NIA	
14	A3	Restaurants & Cafes	18	NIA	
<b>Leisure &amp; Visitor Attractions</b>					
15	C1	Budget Hotels	1 employee per 3 bedrooms plus casual staff		
16	C1	General Hotels (3 star)	1 employee per 2 bedrooms		
17	C1	4/ 5 Star Hotels	1 employee per 1.25 bedrooms		
18	D1	Cultural Attractions	36	GIA	Very wide range exists, so use with caution. Excludes external areas Range of 90 - 120 m <sup>2</sup>
19	D2	Cinemas	90	GIA	
20	D2*	Amusement & Entertainment Centres	70	GIA	Range of 40 - 100 m <sup>2</sup> - excludes external areas
21	D2	Sports centres and Private Clubs	65	GIA	Range of 30 - 100 m <sup>2</sup>

\*some 'Sui Generis' Use Classes are applicable for this Use Type. See Appendix 5 for a list of Sui Generis uses.

## Appendix O4

Example of monetary calculation for B1 office space commercial development

- B1 (net) Gross Internal Area (GIA) / 12sqm per full-time equivalent job (based on standard general office density)  
X
- 79% of Essex residents expected to be employed as part of the workforce  
X
- 27.7% of Essex residents with qualifications equivalent to or less than NVQ1 requiring training and/or support  
X
- £2,000 average cost for an out-of-work Essex resident in terms of support and training to obtain access to a skilled job.



## **Appendix P: Additional Guidance for Developers on Passenger transport requirements**

### ***Introduction***

1. This Guide Appendix is intended to demonstrate the requirements for road passenger transport provision in new developments in the County. It is intended for use by officers of Essex County and other councils, commercial passenger transport service operators and developers.
2. All development plans will be expected to include provision for the sustainable transport needs of the sites users or residents, in accordance with the Essex and Southend on Sea Replacement Structure Plan (RSP) and the Essex Local Transport Plan (LTP). In the case of any but the smallest proposals, account should be taken of the impact of the development on the area around the site.
3. The County Council will normally look to secure the provision of the required services and facilities through a financial contribution, under the provisions of Section 106 of the Town and Country Planning Act 1990.
4. It is important that those using this document are aware that the conditions applied to any particular development may vary from the general guidance it contains. Essex County Council will exercise judgement based on predicted demands, plus the relative performance of local public transport networks and the outline below represents only the typical requirements for schemes requiring dedicated provision.
5. NB. All planning decisions, consents and conditions are subject to the adopted plans of the relevant authorities, legislation and planning guidance current at the time.

### ***General Provisions***

#### **Service Support**

1. Where considered necessary a clause will be incorporated into the conditions of planning consent requiring the developer to secure the provision and effective operation of public passenger transport services to meet the transportation needs of the development. This will stipulate the minimum operating periods, frequency and destinations of service(s) to be provided, and the period during which the developer will be responsible for this provision.
2. Where the provision of the 1985, 2000 and 2008 Transport Acts and the Buses Act 2017 allow and with the proviso that the service(s) provided meet(s) the required standards (as outlined below), the developer may be asked to :
  - Undertake to provide such service(s) directly by agreement with a local transport operator or;

- Make an agreed financial contribution to the County Council to allow it to provide the service(s) concerned
3. Developers should be aware that the 1985 Transport Act ( as amended) requires the County Council in contracting for Local Bus Services to “have regard to the interests of the public and of persons providing public passenger transport services in their area.” (1985 Transport Act, page 99, clause 92). This is interpreted as including taking into account the commercial interest of bus operators and not undermining the economic viability of their services.
  4. Similarly, competition legislation prevents commercial operators from acting in any way likely to limit competition between them. It may not therefore be possible to enter into arrangements on service timetables, routes, land-use restrictions, fares or ticketing that include or exclude specific operators. ECC will provide advice on this issue.
  5. Where providing local bus services for the new development through the County Council appears likely to contravene the 1985 act, (for example, in a case where more than one operator undertakes services in the development area and the award of a contract to one party could affect the competitiveness of the others services) the developer will be required to negotiate with all relevant operators in the area and to fund services directly.
  6. If contracted County Council services are the only ones operating to a development the Developer shall negotiate with the County Council’s local bus service contracting arm as it would with any operator.
  7. Where the County is one of a number of potential service providers for a scheme the developer shall negotiate with the County Council’s local bus service contracting arm, as with any other service provider, but the final arrangement shall not contravene the regulations of the 1985 Act.
  8. Where it considers it appropriate the County Council may require the Developer to provide services or contributions for services, as part of a Quality Bus Partnership and enter into negotiations with operators of services on this basis.  
Infrastructure
  9. Plans for all new developments or road schemes must include passenger transport infrastructure as an integral part of the design. Schemes which do not do so will not meet the requirements of the RSP and LTP and if necessary, ECC will recommend the refusal of planning consent in these cases.
  10. The position of bus stops and other transport related infrastructure should be agreed at an early stage in the planning of developments. Advice on siting can be provided on request by the County Council.
  11. Highway works must be carried out to the adoption standards laid down by ECC and completed to the satisfaction of the County Council. The standards should comply with the guidelines set out in the Essex Design Guide.

12. Where there are revenue funding requirements or capital funding and works requirements for passenger transport provision that extends over more than three months, Developers will be required to make a commuted payment, or to provide a bond or other suitable form of indemnity. This must provide that the works will be completed and / or the service provided in full accordance with the agreement, without liability to ECC or any other authority, in the event of failure of the developer and / or any of his contractors to fulfil any of its terms for any reason.
13. In respect of the need to secure the longer term maintenance requirement of the infrastructure on any scheme, the developer will be required to provide a 'commuted maintenance sum' to ECC in respect of any new installations to offset the ongoing maintenance costs for a period of 10 years from the date of acceptance and take over of passenger transport infrastructure by ECC. The value of this sum will be calculated having regard to the costs to ECC of maintaining the infrastructure and energy costs.

### ***Passenger Transport Services***

#### Duties of the Developer towards Service Provision

1. Developers must conduct substantive discussions with the County Council and/or existing providers of passenger transport services in the locality of the site to:
  - Agree the nature of proposals, the anticipated travel demands and the timing of development.
  - Consult on optimal layout and design to assist the operation of services.
  - Encourage participation of the operators in marketing their services to occupiers of the development, including funding incentive schemes for new residents to choose public transport such as free or reduced cost travel for an agreed fixed period.
  - Facilitating the provision of additional passenger transport services to widen travel options and encourage modal shift from cars
  - Service Providers other than local bus services are to be included in such consideration.
2. This requirement extends to the operators of all types of passenger transport service including taxi and taxi-bus operators. These may be especially important to small or exclusive residential developments.
3. Other development related service providers include:
  - Social Care transport for sheltered housing
  - Coach and tour operators for visitor attractions
  - School transport for residential and school developments

## ***Breadth of Discussions***

1. There is no restriction on the type of operator discussions can be held with and no requirement that existing service providers should be the sole providers of any new or enhanced services. ECC will facilitate initial discussions if requested.
2. Under the provision of the Transport Acts bus operators may register services to operate (with small exceptions) along any route. Outside of services covered by formal quality bus partnerships or franchises as set out in the Bus Services Act 2017, no agreement with any one bus operator can prevent another from running additional or alternative services along the same route. Where developers allow an operator access to private property, it is expected that the same access will be granted to other operators to, on, or around the development.
3. Where a development is thought to require a particular standard of bus service discussions should be held with ECC regarding the possibility of the County Council making or joining a Quality Bus Partnership scheme or franchise arrangement.
4. Note: A developer will not be required to hold discussions with service operators where the proposal is for:
  - Residential development of fewer than 10 dwellings
  - Retail development of less than 300 M2
  - Business, industrial or warehousing development employing fewer than 20 people (including those working remotely, but based at the site)
  - In other cases, where total person movements (i.e. one person arriving at or departing from the site) are expected to be fewer than 100 on the busiest day of the week when the development is fully completed.
5. However: where the proposal comprises multiple elements, or where another proposal is current within 500m of any part of the site, the developer will be required to carry out such negotiations even if the individual development falls into one of the categories outlined above. ECC will facilitate joint discussions involving more than one developer and / or proposal if required.

## ***Developments to be Assessed Individually to Determine Transport Needs***

1. Each development will be individually assessed to determine the level of additional transportation needed according to the following considerations:
  - The nature and scale of the development
  - The anticipated numbers and movement patterns of users / employees / residents, during and after completion
  - Its relative location and access to existing public transport services

- Its likely impact on local and regional roads, traffic, safety and environment (through, where relevant its formal transport impact assessment)
- Any requirement to affect a modal shift towards passenger transport, either for the development alone or in the locality generally

### ***Guidance on Expected Service Levels***

1. As noted above each case will be considered on its merits, however as a guide a moderately sized residential or commercial development would require a minimum of a Monday to Saturday service, at a 15 minute frequency between 07:00 and 23:00. This should link it to the nearest appropriate transport nexus, e.g. a bus station and / or a major railway station and allow as far as possible direct access to key amenity services.
2. Similarly, provision will be required for Sunday services as appropriate to the type and scale of development. Residential developments will generally be expected to have a minimum of an hourly service between 09:00 to 23:00 on Sundays
3. Service periods and frequencies for other types of development will be dependent on hours of operation and will need to take account of staff movements as well as customers.
4. Provision shall be included within the agreement for the developer to undertake or fund marketing and promotion of passenger transport services including promotional fares covering up to the first year of operation.

### ***Service Commencement and Duration***

1. Services are required to start operation on occupation of the first unit on the site. In the case of retail developments, this will mean occupation by staff, not opening to customers.
2. Where phased development is carried out, it will be acceptable for the service to be progressively extended into the development as it proceeds, provided that no occupied property is further than 400m from an adequately served bus stop at any time.
3. In the case of larger developments, passenger transport provision may additionally be required for construction workers prior to occupation, which need not be available to the general public. However, in these cases, ECC will negotiate service frequency with the developer, in light of the level of occupancy or probable journey generation.
4. The minimum period for which any new or enhanced service should be run is five years from the date of completion of the development. For very large developments not expected to be completed within 5 years of first occupation, ECC may require a longer-term commitment

5. An exit strategy must be agreed with the Council to continue the service(s) after this period without any ECC financial support. Failure to agree may be regarded as a breach of the conditions of planning consent. Progress towards this should be jointly reviewed not less than one year before expiry of the original period for securing the service(s).

### ***Obtaining Advice on how to Proceed***

1. Developers can secure the provision and operation of services in several ways, including contracting through competitive tendering and by direct negotiation with operators. The most appropriate method will depend on circumstances and as noted above, care should be taken not to damage other commercially provided or subsidised services operating in the area.
2. Advice should be sought from ECC, before entering into detailed negotiations or tendering for service provision. The Council procures most of its passenger transport needs, including subsidised public transport and home to school transport, and can therefore also offer this expertise to developers if required, charged on a cost-recovery basis.

### ***Service Access to Developments***

#### Service Routes

1. Access for Passenger Transport Services in a new development should be considered as an integral part of the planning of the highway provision and not be determined after the road layout has already been decided, as this will lead to costly re-working of plans.
2. 2 Passenger Transport routes through development sites should:
  - Be designed for through route operation avoiding 'cul-de-sac' operations, where services return along the same road
  - Link appropriately to the bus network outside the site, without requiring buses to by-pass other important traffic objectives.
  - Offer access for all areas, with a maximum distance between any unit and a bus stop of 400m (less if significant gradients involved)
  - Allow stops to be sited close to the entrances of all key buildings
  - Provide routes that will not be adversely affected by other traffic in the site; e.g. queues for car parks, manoeuvring delivery vehicles, or illegal waiting by cars picking up goods or people (especially at work finishing times)
  - Provide priority measures for Passenger Transport over other traffic, both within the site and at access / egress points, to give quicker journeys than other traffic

- Provide turning and waiting facilities with sufficient capacity to accommodate relevant services

### ***Width of Roads on Bus Routes***

1. Roads expected to be used by buses should be built with a standard lane width of 4m. On straight sections of road in residential areas this may be reduced by agreement with ECC to a minimum of 3.65m, where necessary to reduce the road's dominance of the streetscape. Access for Smaller Developments
2. For some smaller developments where all parts of a site are already within 400m of an existing bus route, buses will not required to enter the site. However, all areas of the site should have a clearly marked foot route to suitable waiting and boarding facilities. Provision for other types of passenger transport may still be required.