

A NEW VISION FOR DEVELOPING WAKEFIELD DISTRICT

Draft Developer Contributions  
Supplementary Planning  
Document



# Local Development Framework

Draft Developer Contributions  
Supplementary Planning  
Document

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## **1.0 INTRODUCTION**

- 1.1 This document has been prepared to provide clarity on the Council's approach to Developer Contributions. A summary of the adopted Developer Contributions Supplementary Planning Document (SPD) will be prepared for more general use and made available on request.
- 1.2 The Developer Contributions Supplementary Planning Document (SPD) is being produced by the Council as part of the Local Development Framework (LDF) for Wakefield District. The Planning Act 2004 sets out the statutory basis for the preparation and adoption of the LDF. The LDF will be a portfolio of documents which will replace the Council's current development plan, the Unitary Development Plan First Alteration (2003) (UDP). Copies and details of these documents are available on the Council's website at [www.wakefield.gov.uk/ldf](http://www.wakefield.gov.uk/ldf).
- 1.3 The LDF and the UDP include policies necessary to guide land use and development, identify specific sites to provide new development and contain policies to protect and enhance the built and natural environment. These are all aimed at making Wakefield District a more attractive and prosperous place to live and work. This SPD supplements Policy R2 (Planning Obligations) of the UDP, complements regional and national policies where appropriate, and will be in general conformity with other parts of the LDF.
- 1.4 The Developer Contribution SPD sets out how benefits for the community, which reasonably arise from development proposals in the district, will be negotiated and delivered. This document provides greater certainty and transparency for all those affected by significant development proposals as well as those carrying out development. It clearly sets out the Council's approach to the use of planning obligations, and gives detailed advice on the use of obligations to ensure that developments make appropriate contributions towards:
- Affordable housing
  - The provision of open space
  - Education
  - Highways and transportation
  - Off site drainage and environmental works
  - Improvement of the public realm
  - Public art
  - Community and health facilities
  - Economic development and local skills
  - Refuse and waste disposal

- Air quality; and
- Sustainable construction.

1.5 The Draft Developer Contributions SPD has been subjected to an Sustainability Appraisal (SA), which has led to changes to this document. An SA is required to be undertaken in order to assess the environmental, social and economic implications of the SPD.

1.6 It is important that everyone has the opportunity to comment on the draft SPD and any comments made at this stage will be considered by the Council before the final document is finalised and adopted as Council Policy. If you have any comments on the SPD please:-

- Make comments online at <http://consult.wakefield.gov.uk/portal>
- Fill in the enclosed form and return it to Developer Contributions SPD, WMDC Spatial Policy Group, Planning and Property Services, PO Box 92, Newton Bar, Wakefield, WF1 1XS.
- Email your comments to [ldf@wakefield.gov.uk](mailto:ldf@wakefield.gov.uk)
- Use the comments form on the Council's website at [www.wakefield.gov.uk/ldf](http://www.wakefield.gov.uk/ldf)

All comments should reach the Council by 5.00pm on the 28<sup>th</sup> February 2008.

## **2.0 WHEN AND WHY ARE DEVELOPER CONTRIBUTIONS REQUIRED?**

2.1 The Town and Country Planning Act 1990 Section 106 (as amended by the Planning Compensation Act 1991 Section 12) sets the legal basis for a local planning authority and a developer to enter into a legal agreement to provide infrastructure and services on or off development sites where this could not normally be achieved by the use of planning conditions. This is usually known as a planning obligation or a Section 106 Agreement. Guidance on how the Government expect Section 106 Obligations to be pursued is set out in a Department of Communities and Local Government (DCLG) Circular 05/2005: Planning Obligations. This circular sets out the broad principle that any planning application must be considered on its own merits and its determination by the local planning authority must be based on whether the application accords with the relevant development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements they should be refused. However in some instances it may be possible to make development proposals acceptable through the use of conditions or, where this is not possible, through planning obligations. Where there is a choice between imposing planning conditions or seeking a planning obligation then the imposition of a condition is preferable. It is envisaged that planning obligations will only be used in a limited number of cases.

2.2 The test set out in the Circular 05/2005 is that a planning obligation must be:

- Relevant to planning;
- Necessary to make the proposed development acceptable in planning terms;
- Directly related to the proposed development;
- Fairly and reasonably related in scale and kind to the proposed development; and
- Reasonable in all other respects.

2.3 The use of planning obligations and developer contributions must be governed by the fundamental principle that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable developments to be allowed because of benefits offered by a developer which are not necessary to make the development acceptable in planning terms. Similarly, planning obligations should never be used purely as a means of securing for the local community a share in the profits of a development.

2.4 The Government has been considering a new system for planning obligations based on proposals for a "Planning Gain Supplement" (PGS), but, on the 9<sup>th</sup> October 2007, the Government announced that legislation implementing PGS would not now be made and instead they would introduce standardised tariffs combined with Section 106 Obligations in a Planning Reform Bill.

- 2.5 The Government proposes through the planning bill to introduce a Community Infrastructure Levy to fund infrastructure projects that are needed as a result of new development. This is the Government's alternative to proposed planning gain supplement. The levy is in effect a tax on the uplift in the land value following the granting of planning permission. The uplift would be based on the difference between the market value of the land following planning permission and the market value before planning permission is granted.
- 2.6 The proposed levy will operate alongside planning agreements, which will continue to be used to provide affordable housing and other requirements.

### **3.0 ENGAGEMENT AND CONSULTATION ARRANGEMENTS**

- 3.1 Early engagement was carried out for the last 18 months and a specific consultation exercise on the early engagement draft SPD was carried out between 17<sup>th</sup> November 2006 and 17<sup>th</sup> January 2007. Responses have been considered, have informed and where appropriate led to amendments to this document. Information regarding the consultation exercises is contained within the accompanying Statement of Consultation.

### **4.0 THE POLICY CONTEXT**

#### **4.1 National and Regional Policy**

The legislative framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act.

Planning Policy Statements (PPSs) and Planning Policy Guidance Notes (PPGs) set out government policy on a wide range of issues including developer contributions. A number of national policies (e.g PPS1, PPS3, PPG13 and PPS25) support the use of planning obligations to meet their objectives.

The Draft Revised Regional Spatial Strategy for Yorkshire and the Humber incorporating the Secretary of State's Proposed Changes supports contributions through Section.106 Agreements to assist with urban regeneration, protection of the natural environment and the creation of sustainable communities.

#### **4.2 Local Policies**

*Wakefield District Community Strategy 2006 – Developing Knowledge Communities*

In line with the Community Strategy, contributions sought from developers will seek to fulfil the priorities of this strategy through ensuring Wakefield is:

- Feeling and being safer
- Looking after ourselves
- A dynamic local economy
- Investing in our people
- Improving our places

This will be achieved through a number of measures including; tackling neighbourhood issues; providing quality housing; improving participation in sport and ensuring residents have the skills employers are looking for.

### *The Unitary Development Plan First Alteration*

The Council's LDF policies which will in the future, alongside national and regional policy, provide the underpinning for the seeking of developer contributions, are not currently in place. It is therefore necessary at this stage for this SPD to refer to the current development plan documents.

The Council's current Unitary Development Plan has the following policy (Policy R2) which states that:-

*“Depending on the circumstances of the application the Council will negotiate with an applicant to secure an agreement to provide/replace facilities, or to contribute to their provision/replacement, or to take action to mitigate or minimise the effects of the proposed development.”*

The supporting text for the policy states that where appropriate the Council will seek planning obligations on the following broad matters:-

- Facilities to enhance the sustainability of public transport, improved measures for cyclists/pedestrians and more efficient use of transport networks;
- The acceptable balance of uses in a mixed use development;
- Measures to offset the loss of or impact on a resource present on the site or nearby e.g. the loss of a wetland habitat or a site offset by opening up a culverted stream or river;
- On and/or off site measures to mitigate additional flood or surface water drainage impact such as by floodplain extension or runoff mitigation storage
- The protection of or reduction of harm to a protected species or site, acknowledged to be of importance;
- Social, education, recreation or sporting facilities;

- Affordable housing (see the Housing Section particularly Policy H4 for more detail);
- Matters other than those covered by a planning permission providing there is a direct relationship between the planning obligation and planning permission.

It is emphasised that this is not an exhaustive list and the circumstances of each application will be taken into account.

### Local Development Framework

The Core Strategy and Development Policies DPDs are to be submitted to the Secretary of State in January 2008 and will have a formal consultation period at the same time as this document. The Core Strategy sets out the district wide vision, objectives and spatial development strategy to deliver the Community Strategy. It provides strategic policies to guide the development of places, replacing policies in the UDP. The Development Policies DPD provides policies to manage development, again replacing policies in the UDP. Both documents contain references to the potential requirement for planning obligations which could include developer contributions where appropriate.

#### 4.3 General Conformity

The Draft SPD has been prepared in the light of existing UDP policies, the Regional Spatial Strategy, national planning policy and is considered to be in general conformity with emerging LDF documents.

## **5.0 DEVELOPER CONTRIBUTIONS**

5.1 Within the policy framework set out in Section 4 the Council will seek contributions from developers to offset the impacts of their proposals on local communities. The Council recognises that the carrying out of development in itself may have significant direct and indirect benefits for a locality and the social, economic and environmental impacts regeneration can bring are considerable. However, alongside undoubted benefits there are often significant adverse impacts for local communities. This section sets out the most common issues which the Council will seek to mitigate or those policy objectives which both local and central government accept can legitimately be the subject of Section 106 Obligations.

5.2 It should be noted that planning obligations can cover matters which are not financial. For example, they may relate to:

- Provision of affordable housing
- Phasing of development
- Agreements not to proceed with existing consents

- Local employment initiatives
- Public access to land
- Vehicle routing

- 5.3 The subjects covered above are not a comprehensive list and other matters may arise depending on the characteristics of the site or the proposed development.
- 5.4 There is no priority list of requirements that can be applied across the district and the priority in each case will depend upon need, site characteristics, impacts and characteristics of the development.
- 5.5 Circular 05/2005 advises that where the cumulative impact of a number of development proposals creates the need for additional infrastructure, facilities and/or service, or other mitigation, it may be reasonable to pool contributions from each of the developments. The scale of the contributions sought from each of the developments would be proportionate to the scale and impact of the development, thus ensuring that the contribution is secured in a fair and equitable manner.
- 5.6 In cases where a masterplan has been approved by the Council for significant regeneration in an area then contributions will be considered on a “pooled” basis to help deliver the community infrastructure and benefits set out in the masterplan.

## **6.0 PLANNING OBLIGATION MATTERS**

### **6.1 Affordable Housing**

#### **6.1.1 Policy Background**

The justification for requiring obligations in respect of affordable housing is set out in Planning Policy Statement 3 (PPS3) on Housing issued by Department of Communities and Local Government (DCLG), Policy H3 of The Draft Revised Regional Spatial Strategy incorporating the Secretary of State’s Proposed Changes, and Wakefield Metropolitan District Council’s UDP policy R2.

Planning Policy Statement 3 defines affordable housing as: -

*“Affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Affordable housing should:*

*– Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.*

*– Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the*

*subsidy to be recycled for alternative affordable housing provision”.*  
(PPS3; 25)

#### 6.1.2 Threshold for Obligations

PPS3 sets the threshold for affordable housing at developments of 15 dwellings or 0.5 hectares or more in area within a settlement of more than 3,000 people. The requirement will be for on-site provision of a minimum of 30% in line with the RSS Panel Findings<sup>1</sup> and LDF policies. However, in exceptional circumstances the Council will consider a commuted sum for special needs housing in the district or alternative provision in the locality of the site (within the same Ward or an adjacent Ward).

In rural areas, where the potential for delivering affordable housing is more limited, the aim is to deliver high quality housing that contributes to the maintenance of sustainable communities in market towns and villages (PPS3). On rural sites the threshold set by the draft LDF Development Control Policies Document is at developments of 6 or more dwellings or a site of 0.2 hectares or more within a settlement of 3,000 people or fewer.

#### 6.1.3 Basis of Calculation

A comprehensive review of housing needs information has been carried out (Housing Needs Survey 2007) which is updated annually by the Housing Needs Statement.

#### 6.1.4 Acquisition Prices

Registered Social Landlords (RSL's) are restricted in what they can pay to developers for new homes negotiated by the finance they can raise on the new home, and the associated long term costs of financing the purchase and the management and maintenance of the property. The maximum rents RSLs can charge must be affordable to local people, and the Council wants to avoid RSLs competing against each other to secure affordable homes from developers. For this reason, the Council will stipulate the maximum price payable by an RSL to a developer for various standard house types and sizes (the price is regardless of whether the dwellings are for affordable rent or an intermediate tenure such as shared ownership). 2007 acquisition prices are illustrated in the table below. These figures are not based on a discount of open market value.

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<sup>1</sup> The Examination in Public of draft RSS (EiP) was held during September and October 2006. The EiP was led by an independent Panel and provided an opportunity for many different interests to question and inform the preparation of draft RSS. The Panel Report was published on 4 May 2007 giving their conclusions and recommended changes to draft RSS.

Dwelling Type	Dwelling Size (M <sup>2</sup> )	RSL Price to Developer
1 Bed Flat	50	£46,000
2 Bed House/ 2 Bed Flat	70	£53,500
3 Bed House	90	£59,000
4 Bed House	110	£61,500

Prices will be revised annually and latest figures will be posted on the Wakefield District Council website at [www.wakefield.gov.uk](http://www.wakefield.gov.uk)

#### 6.1.5 Commuted Sum

The payment of commuted sums in lieu of on-site provision may be considered in certain circumstances, but only where the Council are satisfied that such payment will actually result in provision for affordable housing in the locality.

The overall percentage of affordable housing required will be 30% and tenure and size of dwellings will be negotiated on a site by site basis.

Therefore where a commuted sum is acceptable to the Council, the amount payable per dwelling will be the following;

***'a sum equal to the difference between the appropriate RSL price paid to a developer (acquisition price, see table above) and the open market value of an equivalent sized dwelling in the locality'.***

#### 6.1.6 Affordable Housing Types

##### *Social Rented*

A nominated RSL will purchase completed homes from the developer at specified prices. Current prices to developers for a range of standard house types are given below. These will vary according to the size of the dwelling. Prices will be revised annually and latest figures will be posted on the Wakefield Council website at [www.wakefield.gov.uk](http://www.wakefield.gov.uk)

##### *Intermediate Affordable Housing*

This includes both shared ownership and discounted home ownership. Both tenures are sold on completion to an RSL nominated by the Council, at the same purchase prices as for subsidised rented dwellings.

With discounted home ownership, dwellings are immediately 'sold' on a long leasehold basis, by the RSL to a local purchaser, at the purchase price below open market value, plus an amount to cover reasonable on-costs. The RSL retains rights that are intended to ensure that the discount on market value is preserved each time the dwelling is sold on.

With shared ownership, dwellings are offered on a part-rent, part-buy basis to local people. Whilst the RSL initially retains part ownership, occupiers may buy the dwelling outright

Regardless of which method is used to provide affordable housing, the key test is whether it will meet the needs of people on low incomes (i.e. it only qualifies as affordable if people on low incomes can afford to live there).

### Locational Factors

Location is an important consideration of site suitability. The Council is keen to promote mixed and inclusive communities and does not seek affordable housing merely in areas of existing public sector housing. Within development sites the Council will seek to disperse units throughout the scheme rather than concentrating them in one part of the site. Sites for affordable housing should be reasonably close to local services and facilities (e.g. primary schools, shops and community facilities) and should have good access to public transport. Most sites granted planning permission for housing development are expected to fulfil this requirement since they will need to have satisfied policies of the LDF which include the criteria governing the location of new housing

## **6.2 Public Open Space**

### **6.2.1 Policy Background**

Planning Policy Guidance 17 (PPG17) Planning for Open Space, Sport and Recreation (2002), The Wakefield Greenspace Strategy and UDP policy R2 provide the justification for requiring contributions for public open space. These documents recommend that the provision of 'Accessible Greenspace' should be a priority as high quality accessible greenspace provides benefits to health, regeneration, education and social cohesion. PPS3 emphasises the need to safeguard and provide public open space in respect of housing development.

Open space is also a legitimate requirement of commercial development.

### **6.2.2 Threshold for Obligations**

Open Space Obligations will arise on residential developments of:-

- 15 or more units or larger than 0.5 hectares, in settlements of more than 3,000 people;
- 6 or more units or larger than 0.2 hectares, in settlements of 3,000 people or fewer.

The presumption will be that provision will be on site. In cases where supporting the Council's Greenspace Strategy would justify a contribution to the improvement of an existing adjacent off site facility, or the provision of a new adjacent facility. In these instances the payment of a commuted sum may be appropriate.

Equipped play areas will be required on developments larger than 8.5 hectares, to the specification of a Neighbourhood Equipped Area for Play (*NPFA Six Acre*

*Standard, 2001*). Unless by mutual agreement with the Council's Parks and Bereavement Services Manager, it is determined that a sum will be contributed by the developer to an equipped playspace off-site in a nearby park or some other appropriate recreational area. This may occur in accordance with the Greenspace Strategy, if:

- There is an existing play area within 480m of the furthest point of the development, or;
- The proposed development will house fewer than 150 children.

There is no need to provide play area near single bed/student/rest/nursing accommodation. Rest/nursing homes will only require private amenity space.

### 6.2.3 Basis for the calculation

#### Residential developments

If there is an existing and suitable public open space adjacent to or within 400 metres safe walking distance of the development site then with the agreement of the Parks & Bereavement Services Manager no on site public open space will be required. If it is agreed that no open space will be provided a sum will be required for the community area as per Table A.

If there are no open spaces or recreational areas in accordance with the above threshold level then the provision of onsite open space will be calculated as follows:

15-80 dwellings (1-2 hectares)	15 square metres of public open space per dwelling No equipped playspace required.
80+ dwellings (2 hectares +)	10% of site will be required for open space
8.5 hectares +	A portion shall be allocated to equipped play areas on the scale of a Neighbourhood Equipped Area for Play (NEAP) as above.

There are, however, minimum viable site sizes below which a monetary contribution would be more appropriate than a new site, e.g. natural areas of less than 2500 m sq, two playing fields, or less than 16,000 m sq total or amenity sites/green corridors of less than 1000 m sq.

A monetary contribution, where relevant will be required on the following basis in circumstances where no open space provision is made on site:

**Table A: Commuted Sums for Off-site Provision by Greenspace Type**

<b>Greenspace Category</b>	<b>1 bed = 1 person</b>	<b>1 bed = 2 people</b>	<b>2 (=3)</b>	<b>3 (=4)</b>	<b>4 (=5)</b>	<b>5+</b>
<b>Equipped Play</b>	0 (no children)	0 (no children)	384	461	538	538
<b>Informal Open Space</b>	118	236	354	473	591	709
<b>Formal Open Space</b>	367	734	1101	1468	1835	2202
<b>Total per residential unit</b>	<b>£485</b>	<b>£970</b>	<b>£1839</b>	<b>£2402</b>	<b>£2964</b>	<b>£3449</b>

Prices in Table A are correct at 01/06/2007. Greenspace categories are related to PPG17 categories in Appendix 1, which also provides a breakdown of rates per m2 and per person. Where provision of a PPG17 greenspace category occurs on site then no monetary contribution for that category will be required, (Appendix A provides a worked example of this).

### Commercial developments

Commercial developments (i.e. industrial; retail; hotel & leisure) can also add to the demands on the wider open space infrastructure of major parks, and recreational facilities.

For commercial developments of 2,500m<sup>2</sup> gross floor space or more a contribution towards offsite provision will normally be required in accordance with Table B unless onsite provision is agreed with the Parks & Bereavement Services Manager.

**Table B: Off site contributions from commercial developments:**

Commercial Units	
2500 to 6000m2	6,000M2 and above
£4,200	£16,800

The assessment will also consider whether existing non-public open space or sports pitches could be brought into public use.

#### 6.2.4 Maintenance

Maintenance will be the responsibility of the developer in perpetuity unless other arrangements have been secured and evidenced in writing to the satisfaction of the Council.

### **6.3 Education**

#### 6.3.1 Policy Background

The justification for seeking contributions in respect of education provision is set out in Planning Policy Statement 1 (PPS1): Delivering Sustainable Development (2005), Circular 2005/05 para (B15) and UDP policy R2.

Section 6 of the Childcare Act 2006 gives local authorities a duty to secure, so far as is reasonably practicable, the provision of childcare to a sufficient level to meet the requirements of parents in their area in order to enable them to work, undertake education or training that may lead to work. To fulfil this duty, local authorities will need to play a strategic role in facilitating the childcare market.

### 6.3.2 Threshold for Obligations

Schemes including dwellings of two bedrooms and above, whether flats, houses or some other form of accommodation will be expected to contribute if a need is established. All schemes with 15 or more units will be subject to consideration along with those schemes that fall under the categories below;

- new housing and/ or regeneration schemes for existing housing areas which will generate a need for statutory school, post 16 and early years places which cannot be met by existing schools or early years providers;
- any redevelopment or conversion scheme that potentially increases the pupil yield;
- any large industrial/business development which creates a demand on early years day care provision;
- In rural areas, of settlements of 3,000 people or fewer, contributions will be sought from developments at 6 or more dwellings or a site of 0.2 hectares to cover the impact of smaller developments on rural schools within the district;
- the condition of the buildings required investment beyond what can be provided through the local authority and delegated funding to the school

Contributions will not be sought from one bedroom units. Neither will contributions be sought from a) sheltered accommodation for the elderly b) other special needs housing and c) redevelopment or conversion schemes where there is no net increase in the number of residential units.

### 6.3.3 Basis of calculation

The standards used to assess education provision requirements are as follows:

Cost multipliers – derived from the Department for Education and Skills (DfES) and at March 2007 stand at:

<b>Primary</b>	£10,372
<b>Secondary</b>	£15, 848
<b>Post 16</b>	£17,013

\* These cost multipliers will be subject to change instigated by the Government and DfES and the following web link will indicate whether these cost multipliers are currently accurate:

<http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/designguidance/costinformation/>

Each authority has an indicated location factor that is applied to these cost multipliers. For Wakefield District this is 0.93. Details of the location factors can be found via the following link:

<http://www.teachernet.gov.uk/docbank/index.cfm?id=10463>

The **cost multipliers** that the Council will apply to any application that is required to contribute towards educational provision will be as follows:

<b>Primary</b>	£ 9,645 (i.e. £10,372 Cost Multiplier x 0.93 Location Factor)
<b>Secondary</b>	£ 14,738
<b>Post 16</b>	£ 15,822

School places will be calculated on the basis of 3 pupils per age group per 100 units.

#### **For example – A development of 100 houses**

A Primary School (3/5-11) has 7 age groups, Reception, Years 1,2,3,4,5 & 6. Therefore 7 age groups x 3 pupils = 21 pupils

$3 \text{ (Pupil Ratio)} / 100 \text{ (Housing Units)} \times 7 \text{ (Year Groups)} = 21 \text{ Pupil Places}$

#### *Basis of calculation – Early Years*

Calculations will be made based on 3 childcare places per year group / age band width for every 100 dwellings/employees. This is in line with the calculation for numbers of additional school places.

This factor will be multiplied by the DfES Cost Multiplier per primary school place.

#### **£ 9,645 (i.e. £10,372 Cost Multiplier x 0.93 Location Factor)**

Where employment or leisure development exceeds 1000m<sup>2</sup> then a developer will be expected to demonstrate that they are making pre-school provision within the site or providing a contribution for other pre-school provision for employees.

#### 6.3.4 Detailed Area of Data / Explanation of Process

The Council's Family Services will monitor existing registered number of childcare places against eligible number of children and levels of demand from parents and carers. New provision will only be sought where there is a proven demand for those services taking into account occupancy levels and waiting lists of existing childcare providers.

Where a Section 106 contribution is received for expanding existing provision or developing new provision that is not delivered by the Council the contribution will be retained centrally by the Council's Family Services and utilised to encourage private and voluntary childcare providers to develop new services as part of the commissioning process.

### 6.4 Highways and Transportation

#### 6.4.1 Policy Background

The justification for seeking obligations in respect of highways and transportation works is set out in Planning Policy Guidance Note 13 (PPG13) Transport (2001), and UDP policy R2

PPG13, PPG17, policy ENV15 in the current RSS, The Rights of Way Improvement Plan and the Adopted Unitary Development Plan Policies R2, T16 and L2 provide the justification for seeking appropriate facilities for cyclists, pedestrians and people with special needs.

PPG17 states "Rights of Way are an important recreational facility, which local authorities should protect and enhance. Local Authorities should seek opportunities to provide better facilities for walkers, cyclists and horse riders, for example by adding links to existing right of way networks".

The Council has produced a Rights of Way Improvement Plan (2007) ([www.wakefield.gov.uk](http://www.wakefield.gov.uk)), which considers the extent to which public rights of way meet present and likely future need.

#### 6.4.2 Threshold for Obligations

Unless achieved through Section 278 or Section 38 Agreements under the Highways Act or other binding mechanisms to the satisfaction of the Local Planning Authority obligations for highway or transportation infrastructure works will be required where the development proposed results in a requirement to improve existing, or construct new, highway infrastructure in order to access or facilitate the development in a safe and appropriate manner. There is no specific scale of development which may trigger a highway or transportation based obligation.

Wakefield may also seek contributions, as set out in the list below. These will be targeted at both hard and soft transport interventions as set out in Wakefield's

Transport Strategy, (<http://www.wakefield.gov.uk>) which was adopted in April 2007.

In considering such issues, the Council will liaise closely with the Passenger Transport Executive (PTE) to maximise the benefits through the Local Transport Plan.

A planning obligation in these circumstances could relate to (this is not an exhaustive list):

- Off site highways works
- Payment of a sum at a time set out in the obligation
- Phasing of a development
- Bus facilities
- Metro passes
- Travel plans monitoring/review
- Facilities or services related to public transport facilities
- Park and ride in future (if sites identified by WMDC and approved as Council policy)
- Public Rights of Way works
- Contribution to car club
- Cycle and pedestrian facilities
- Car parking controls and pricing

#### 6.4.3 Basis of Calculation

The size of the monetary contribution for highway and transportation works, and services will be determined through negotiations on a case by case basis between the developer and the Council, and will be dependent on the such factors as the nature, scale and location of the development.

### 6.5 On and Off Site Surface Water Drainage and Environmental Works

#### 6.5.1 Policy Background

The justification for seeking obligations in respect of on and/or off site surface water drainage and environmental works is contained in Policies R2 and E65 of Wakefield UDP as well as draft LDF policies and DCLG Planning for Biodiversity and Conservation – a Good Practice Guide.

Where on and/or off site surface water drainage works are essential to facilitating any development this will often be controlled by a grampian planning condition (i.e. a condition requiring work to be done or facilities provided before development reaches a specified level). Where some development may be possible but contributions are needed for third party works to surface water drainage or other environmental works, then a commuted contribution may be required.

Subject to topography, on site surface water drainage mitigation or floodplain works should in the first instance always be located within or adjacent to public open space (POS). The area up to the 10 year climate change storm event will not be considered as part of the POS. Permanent water will be a requirement of features such as balancing ponds and wetlands. The works will need to be designed to the Council's standards including safe side slopes for adoption to proceed.

#### 6.5.2 Threshold for Obligations

No specific thresholds are set in relation to seeking contributions; they will be sought on a site by site basis.

#### 6.5.3 Basis of Calculation

The contributions sought will be scheme dependent.

### 6.6 Public Realm

Public realm refers to the spaces and places between buildings in the natural and built environment that the public can readily view and visit. This includes streets, squares and rights of ways. They are usually the responsibility of the Council.

#### 6.6.1 Policy Background

A focus for the renaissance of the district of Wakefield was established in "Wakefield: A strategic framework for the district". The document identified the following key area: -

- Reducing the dominance of the car;
- Repairing and reconnecting the presently fractured and discontinuous pedestrian realms of many towns and cities in the district;
- Generally enriching and strengthening the public realm of towns and cities.

Wakefield's Community Strategy, Developing Knowledge Communities, has as one of its principles "Improving our Places" by "*creating and maintaining quality environments that are clean, safe, healthy, accessible and pleasant – places*

*where we live, visit and enjoy, that everyone can be proud and feel ownership of”.*

Policy E36 of the Wakefield UDP promotes and encourages good design throughout the district, supports the retention and creation of urban spaces and squares and recommends the use of high quality street furniture and materials. The Central Wakefield Area Action Plan policies for development in the vicinity of the Emerald Ring and financial contributions to public realm will provide the policy justification for requiring obligations toward public realm improvements.

The themes and principles contained in Yorkshire Forward’s “Wakefield: Developing the Vision” and Gehl’s “Wakefield Strategy Plan” for the public realm have been developed further for the City of Wakefield. The Wakefield City Centre Streetstyle Design Guide has been adopted to provide a clear strategy and guidance for enhancing the streets and public spaces. This has established overarching principles (people orientated sense of identity and a hierarchy of spaces) with a particular focus on achieving a high standard and quality of design. Priorities for improvements have been established through the Public Realm Implementation Plan and the Highways Improvement Plan that will guide the use of Section 106 contributions within the city. For the other urban centres, local priorities will be established responding to local need and opportunities.

Planning Policy Statement 1, Planning Policy Statement 3 and Planning Policy Statement 6 (PPS6) Planning for Town Centres (2005), Wakefield Community Strategy, Wakefield City Centre Streetstyle Design Guide, Public Realm Implementation Plan and the Highways Improvement Plan, and UDP Policies R2 and E36 provide the justification for seeking developer contributions towards the public realm.

#### 6.6.2 Threshold for Obligations

The benefits of a high quality public realm is multi faceted, and can range from attracting new investment, to lowering crime and the perception of crime within the district. As development is increasingly being focused on the defined centres, the roles of the centres are changing to places where people live, work and visit. However, this presents new challenges, and places increasing pressure on the existing spaces and public realm infrastructure.

The public realm is often the most immediate way in which people experience towns and cities and therefore the cumulative effect of investment in this area will benefit all.

It is expected that all development proposals within the defined centre will make a contribution towards the public realm, subject to the thresholds indicated below and specific local priorities.

The area covered by the Central Wakefield Area Action Plan will be used as the broad boundary for the trigger for obligations towards the public realm (See Appendix 2). Developments within the boundary or immediately adjacent will be expected to contribute towards public realm improvement. The boundary should also be overlaid with a zone 800m in radius from the centre of the city, this

equates to a 10 minute walk for pedestrians. All sites within this area will be expected to contribute subject to thresholds and specific local priorities.

It is suggested that for each of the other urban centres, existing locally defined boundaries are used again in conjunction with the 800m radius / 10-minute walk zone.

A minimum threshold level is suggested for all developments below which no contribution to public realm would be expected.

### 6.6.3 Basis of calculation

The values indicated below are based on the estimated rental values. A multiplier factor for each of the existing centres outside Wakefield is to be used in order to compensate for the varying markets in each of the areas. An annual review of the scale of contributions and the multipliers will be undertaken each year in order to reflect any changes in the market conditions.

Use Class Order	Land Use Description	Size of Scheme	Scale of contribution (£ per sq.m.)
A1	Retail	Threshold of 200 sq.m. Gross	35
A2	Financial & Professional Services	Threshold of 200 sq.m. Gross	35
A3	Restaurants & Cafes	Threshold of 200 sq.m. Gross	35
A4	Public houses & bars- primary purpose consumption of alcohol	Threshold of 200sq.m. Gross	35
A5	Takeaway & fast food premises	Threshold of 150 sq.m. Gross	35
B1 (a)	Offices	Threshold of 200 sq.m. Gross	30
B1 (b)	Research	Threshold of 200 sq.m. Gross	30
B1 (c)	Light Industrial- workshops	Threshold of 200 sq.m. Gross	20
C1	Hotel & guest house	Threshold of 200 sq.m. Gross	35
C2	Residential institutions	Threshold of 200 sq.m. Gross	35
C3	Residential	All schemes of 15 units or more	See Table A in Appendix 1
C3	Affordable Housing		<i>Not Applicable</i>
D1	Non-residential Institutions	Threshold of 200 sq.m. Gross	35
D2	Assembly and leisure	Threshold of 200 sq.m. Gross	35
Car Parking	Private non-residential	Threshold of 200 sq.m. Gross	25
Sui generis	Theatres, nightclubs, retail, warehouses, club etc	Threshold of 200 sq.m. Gross	35

In order to establish an appropriate scale of contribution a certain number of parameters have been considered. This includes suitable city comparisons and local development examples.

## **6.7 Public Art**

### **6.7.1 Policy Background**

The Council has adopted public art commissioning guidelines to ensure there is a co-ordinated and consistent approach to the commissioning, design and maintenance of public art throughout the district. The provision of public art improves and enhances the quality of the environment, particularly in town and city centre developments and within major developments. Well designed, high quality public art has a significant impact on the public's perception and experience of the public realm

The policy justification is set out in Policies R2, and E64 of the Wakefield UDP. Policy E64 sets out the appropriate cases when the Council will require the provision of works of art in public places and as part of major development proposals. In addition, the LDF and the Wakefield City Centre Streetstyle Design Guide both recognise the importance of public art in the renaissance of Wakefield.

### **6.7.2 Threshold for Obligations**

Provision of public art will be encouraged within the following types of development:

- Residential development containing 15 or more dwellings or on sites of greater than 0.5 ha in size
- Commercial development of over 1000m<sup>2</sup> of industrial, retail, hotel or leisure uses
- Significant public building and community facilities

Developers will be required to comply with the Council's Public Art Commissioning Guidelines. The planning authority will encourage developers to enter into pre-application discussion in relation to public art provision, therefore allowing public art proposals to be submitted upfront with any planning application. Their implementation will be secured through a planning obligation.

### **6.7.3 Basis of Calculation**

The Wakefield City Centre Streetstyle Design Guide indicates that as a general rule the budget for public art commissions within a project should be between 1% and 2% of the total construction costs. This figure is used as a starting point and ensures that there is always a minimum expenditure on public art within a scheme and its value and scale is directly related to the size of the project. Contributions will also be expected towards the long term maintenance of any

commissions, this is usually set at 5% of the commissioning budget or £500, whichever is the larger amount.

## **6.8 Community/Health Facilities**

### **6.8.1 Policy Background**

The justification for seeking contributions towards the provision of community and health facilities is contained in Circular 05/2005 (para B15), and Policy R2 within the UDP. The Wakefield Primary Care Trust has developed a methodology to assess developer contributions for primary health care facilities.

### **6.8.2 Threshold for Obligations**

Residential developments of 15 or more dwellings

### **6.8.3 Basis of Calculation**

The use of nationally accepted figures within the National Health Service<sup>2</sup> (NHS) have been used to bring a consistent approach to new developments.

The formula is:

Additional area required for each additional General Practitioners (GPs)/ Practitioner x NHS building costs (£m<sup>2</sup>) x doctor to patient ratio x number of people per household.

The additional area required for each additional GP/ Practitioner averages out at 100.7m<sup>2</sup>. NHS build costs are £2000m<sup>2</sup>. The average doctor to patient ratio is 1 doctor for every 1600 patients. Based on there being 2.5 persons per household.

Based on the formula, the developer contribution is as follows:

$$100.7 \times £2000 \times 1/1600 \times 2.5 = £314.69 \text{ per house.}$$

### **6.8.4 Community Facilities**

Relevant contributions will be sought to assist in delivering local improved facilities. The Local Planning Authority will consult with the Parish and Town Councils in order to assess the need for community facilities and hold a list of proposals for reference.

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<sup>2</sup> The Document is the NHS Estates Statements of Fees and Allowances: Revision of Schedule Cost Limits and Building Cost Location Factors. This is commonly called 'the Red Book'. This has been superseded by NHS ( General Medical Services – Premises Costs ) (England) Directions 2004. The 'Red Book' is widely referred to by the District Valuer and Architects.

### 6.8.5 Threshold for Obligations

There is no set threshold for community facilities, however new development which would result in additional demand for community facilities, by virtue of their scale, or cumulative effect with other surrounding developments would normally be expected to make a contribution. Where existing facilities do not have the necessary capacity and require further investment to meet the additional demand generated by the development, the developer will be expected to contribute to new facilities or contribute towards the improvement of existing facilities. Equally, if a development would result in the loss of a recognised community facility/facilities, planning permission will only be granted where acceptable alternative provision is provided.

Where developer contributions towards community and health facilities are made, they will be held by the local planning authority and forwarded when required for a specific scheme.

## 6.9 Cultural and Sport Facilities

### 6.9.1 Policy Background

Culture and sport have been identified as a key strategic priority for the Council and culture is one of three cross cutting challenges highlighted in the Community Strategy. The Cultural Strategy has identified the links between culture and the Council's other priorities and the contribution that culture and sport makes to quality of life, health, aspirations, economic prospects, environment and safer and stronger communities within the district.

The level of satisfaction with cultural and sport facilities within the district is lower generally than other districts within the Yorkshire and Humber region. The development of a sustainable network of high quality sport, recreation and fitness facilities is a key aim of the Council's recently adopted Sports Strategy.

Culture and sport make a significant contribution to the quality of life of all who live, work or visit the district.

The policy justification for seeking developer contributions towards cultural and sport facilities is set out within PPG17, Council's Community Strategy, Greenspace Strategy, Playing Pitch Plan, Cultural Strategy, and Policy R2 within the UDP.

### 6.9.2 Threshold for Obligations

Provision of cultural and/ or sport facilities will apply to the following types of development:

- Residential development comprising of 15 or more dwellings or on sites of greater than 0.5 ha in size
- Commercial development of over 1000m<sup>2</sup> of industrial, retail, hotel or leisure uses

For rural sites i.e. (those less than 0.2 hectares but involving the construction of six or more dwellings) the developer will be expected to contribute to the provision or enhancement of cultural or sport facilities in the local area where there is an identified need.

### 6.9.2 Basis of Calculation

The Council accepts that many sites will not be of sufficient size to accommodate cultural or sporting facilities, and in some cases, it may be inappropriate to locate the facilities on site. In such situations, the Council may accept payment of a commuted sum in lieu of on site provision. The commuted sum will be levied at a rate based on the table in section 6.6, or on the basis of the open space requirement for dwellings set out in paragraph 6.2.

The commuted sum must be spent to benefit residents of the development. The money can be spent on capital costs but not revenue costs. Sums should be used according to the following criteria:

- Used to meet a particular need or on a specific site if identified through the planning process;
- Proximity to the development;
- Council policy on Culture and Sport and Active Lifestyles and the identified needs of the local community.

Examples of use could include:

- Provision of new library books;
- Provision of new sports equipment;
- Improvement works to the nearest library, cultural or sports facility to the development.

Maintenance of any facilities on the site will be the responsibility of the developer in perpetuity unless other arrangements have been secured and evidenced in writing. It is recognised that there could be an overlap between the need for public open space in section 6.2 and this section.

## 6.10 Economic Development and Local Skills

### 6.10.1 Policy Background

The policy justification for requiring contributions towards economic development is contained in Policy R2 of the Wakefield UDP and policies contained in the LDF Core Strategy.

### 6.10.2 Threshold for Obligations

There is no threshold below which economic contributions will not be sought. All development will be encouraged to contribute either financially or in kind and these contributions can take a number of forms e.g.

- use of local labour during construction phase;
- setting up of a training and employment initiative to enable local residents to receive appropriate training and gain the skills necessary to obtain employment within the development.

In terms of the larger developments .i.e. those which involve 50 persons employed in the construction phase and end user employment levels of 30 persons +, these situations will require an explicit contribution either to partnering a locally based training or employment programme or making financial contributions in lieu

### 6.10.3 Basis of Calculation

The level of contribution will be scheme specific. An agreed mechanism (The Wakefield Homebuilder Partnership) exists in Wakefield to broker construction training and employment opportunities, which has the support and participation of a number of local partners. The Wakefield Housebuilder Partnership was created in 2004 in partnership between Groundwork Wakefield, Wakefield Council and a number other organisations. The scheme is targeted at filling the construction skills shortage in the district. Wakefield Homebuilder provides training and support to long term unemployed and offers employment opportunities to meet the industry's needs. Further information about the scheme is available at <http://www.groundwork-wakefield.org.uk>.

## 6.11 Refuse and Waste Disposal

### 6.11.1 Policy Background

The justification for requiring contributions in relation to refuse and waste disposal is contained in Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management (2005), the current RSS (Policies R6-R11), Policy R2 within the UDP, and The Wakefield Municipal Waste Management Strategy. This document is available to view at <http://www.wakefield.gov.uk/Environment/WasteServices/WasteStrategy>

### 6.11.2 Threshold for Obligations

All new developments (including subdivision/conversion of existing dwellings to create apartments) will be expected to incorporate facilities of an appropriate scale and design to store waste and support recycling.

In residential proposals, provision should be made to avoid wheelie bin storage in prominent locations unless a suitably designed store is incorporated within the

scheme. Where a significant new housing/ commercial development is proposed, an area for a communal mini recycling centre must be provided.

### 6.11.3 Basis of calculation

The level of contribution will be scheme specific.

## 6.12 Air Quality

### 6.12.1 Policy Background

The policy justification for requiring contributions in relation to air quality issues is set out in Planning Policy Statement 23 (PPG23), Planning and Pollution Control (2004), Policies R2 and E46 of the UDP, and draft LDF Development Policies document.

Government Local Air Quality Management Guidance (LAQM PG.03) notes states that 'where it is not appropriate to use planning conditions to address the impact of a proposed development, or where a development is planned in or near to an area of existing sources of pollution, it may be appropriate for the parties to agree a 'planning obligation.' This guidance has been amended by LAQM PGA05 to allow planning obligations to be used to support some or all of those measures identified in the West Yorkshire Local Transport Plan 2 and the updated Air Quality Action Plan.

### 6.12.2 Threshold for Obligations

Development within an existing Air Quality Management Area (AQMA) or where the development will result in an AQMA being declared and where planning permission would potentially conflict with or render unworkable an element of an Air Quality Action Plan. These situations will include:

1. Where the development is proposed within an existing or proposed AQMA and meets one of more of the criteria in Appendix 3 of the draft Supplementary Air Quality and Planning Guidance.
2. Where the development is within 500m of the boundary of an existing or proposed AQMA and meets one or more of the criteria in Appendix 3 of the draft Supplementary Air Quality and Planning Guidance.
3. Where the proposed development falls within the Town and Country Planning (Environmental Impact Assessment Regulations) 1999.
4. Where the proposed development falls within the Pollution Prevention and Control (England and Wales) Regulations 2000.
5. Where the proposed development, in the opinion of the appropriate officer, the granting of planning permission would conflict with, or render unworkable, elements of a local authorities strategies policies and action plans.

6. Where the proposed development is required to produce a transport assessment.
7. Where the proposed development is designated FOOD RETAIL and greater than 1000m sq in gross floor space.
8. Where the proposed development is designated NON FOOD RETAIL and greater than 1000m sq in gross floor space.
9. Where the proposed development is designated OFFICE (B1) and greater than 2500m sq in gross floor space.
10. Where the proposed development is designated INDUSTRY (B2/B3) and greater than 5000m sq in gross floor space.
11. Where the proposed development is designated HOUSING with greater than 50 units.
12. Where the proposed development is designated OTHER and include more than 50 vehicle movements per hour.

#### 6.12.3 Basis of Calculation

If such developments result in a deterioration of air quality then the developer will be expected to implement wherever possible mitigation measures and/ or planning obligations to the satisfaction of the local planning authority.

Calculations will be scheme specific but could include:

- Promotion of public transport and other suitable transport modes
- Reallocation of road space e.g. bus and cycle lanes
- Travel Plans
- Promoting more sustainable fuel use
- Car Clubs/share
- Emissions testing
- Encouraging cleaner technologies.

#### 6.13 Sustainable Construction

The sustainability of construction techniques and materials is an important part of addressing the effects of climate change. To a degree this will be addressed by building regulations but where higher standards or specific approaches are needed (such as joint use of facilities or power sources) then a Section 106 obligation could have a role. This is a developing area for the future.

#### **6.14 Other Matters**

Section 5.3 states that subjects covered within this SPD do not constitute a comprehensive list and other matters may arise depending on the characteristics of the site or the proposed development.

Such matters may arise from time to time based on the nature of the development proposed. One example which has been raised by West Yorkshire Policy Authority is where development gives rise to need for additional police resources and infrastructure requirements.

## **7.0 ABNORMAL COSTS**

The Council is anxious not to jeopardise the viability of development schemes by seeking too greater a contribution from developers. It is also mindful that when assessing the appropriate level of contributions allowance should only be made for genuine abnormal development costs.

The Council will assume that any costs associated with developing a particular site have been taken into account when land has been purchased and therefore allowance will usually only be made where applicants can demonstrate genuine, post-purchase abnormal costs. In these instances there may be a case for reducing the proportion of contributions sought after taking account of site development costs.

## **8.0 PRE-APPLICATION NEGOTIATION**

An applicant should fully consider the impacts of the proposed development and any planning obligations to mitigate those impacts prior to submitting a planning application.

This process of consideration should be demonstrated and incorporated within the Design and Access Statement submitted with the formal planning application as directed by Circular 01/2006 Guidance on Changes to the Development Control System.

The Council will welcome pre-application discussions and encourage obligations to be at least in draft form when applications are submitted.

## **9.0 INVOLVEMENT OF MEMBERS AND THE COMMUNITY**

Local Councillors are a source of considerable local knowledge. As part of the pre-application consultation for design and access statement, applicants are encouraged to consult with local Councillors on all large development proposals

The Council will seek views from district Councillors and Town/ Parish Councils on what they see as priorities for community spending in their area. This will help inform early discussions on schemes with developers. The Council cannot guarantee that suggestions put forward will secure Section 106 contributions.

Consultation on all planning applications will be carried out in line with the Council's Statement of Community Involvement (SCI). Wakefield Council undertakes the statutory advertising of planning applications including site notices, notification of neighbours via letter as well as press advertisements. The public can comment on any planning application including planning obligations.

## **10.0 NEGOTIATION**

Obligations will be negotiated on a site by site basis and the priority given to the relevant matters will be at the discretion of the Council. The justification behind priorities will be set out in the planning officers report and will be a result of a balanced judgement, arrived at by taking into consideration a range of policy

issues, site characteristics, government guidance and representations received during consideration of the development proposal.

## **11.0 DRAFTING OF OBLIGATIONS**

Planning obligations can be considered in the form of a unilateral undertaking prepared by the developer, with the developer carrying the costs of the documentation. Where this occurs, the Council will expect to be consulted and involved in the drafting and finalisation of such unilateral obligations.

Where the Council prepares an obligation then the legal costs incurred by the Council in the preparation of that agreement will be born by the developer.

A model section 106 agreement has been prepared by the Law Society's Planning and Environmental Law Committee, for use by all parties involved in the planning obligations process. It can be downloaded from <http://www.communities.gov.uk/index.asp?id=1500832>

A basic form of Section 106 Agreement and a draft Unilateral Undertaking are attached to this document in Appendix 3 and 4 respectively. If these are used then they should be amended to the circumstances of the application.

## **12.0 INFLATION PROVISION**

Payments will be expected to be index linked from the date of the obligation to an appropriate indexation e.g. for affordable housing to the Halifax or Nationwide House Price Index or similar and apply up to the date the actual payment is made.

## **13.0 MONITORING OBLIGATIONS**

Developers will be expected to monitor obligations as part of their project management and comply with the detailed payments/ actions set out in the obligation. Financial contributions will normally be expected to be paid upon commencement of development or at various stages during the development process, (e.g. when the n<sup>th</sup> house is completed.) Trigger dates for the payment of financial contributions will be included in the planning agreement.

The overall monitoring of planning obligations and receiving payments at the due date will be carried out by the planning service. Where a sum is identified for a specific use the planning service will liaise with the other Council services and arrange to transfer the money and responsibility for appropriate spend to other services.

The staff and administration costs of monitoring the receipt and discharge of contributions will be met via a monitoring "fee" which will reflect as far as is possible, the actual costs incurred. The fee will equate to 2 % of the value of the payment in the obligation. This is in addition to the monies paid through the agreement.

## **14.0 MONITORING THE SPD**

A cross Council group has been established to regularly monitor completed Section 106 Agreements to ensure that obligations are met.

Following adoption of the SPD the benefits secured through Section 106 Agreements will be recorded and the impact of the document reviewed after 2 years. A review may also occur when the government finalises its intentions regarding standardised tariffs or levy currently proposed.

## **15.0 TIMING**

Planning obligations do not have to be linked to a specific planning application although in practice they are usually linked. Sometimes a planning condition will be used e.g. for affordable housing or an education provision which needs to be discharged before a development can commence. One possible way of discharging the condition is by producing a planning obligation.

## **16.0 NEXT STEPS**

Comments on this Draft Developer Contributions Supplementary Planning Document are sought in writing by 5.00 pm on the 28<sup>th</sup> February 2008 . All comments will be considered by the Council and any appropriate adjustments will be made to the SPD before it put before the Council for adoption.

The target date for adoption is Spring 2008.

A summary of all responses received to this consultation and the actions proposed will be prepared for public information.

Queries should be directed to Spatial Policy Team: 01924 306698.

## 17.0 GLOSSARY

### Affordable Housing

The terms 'affordable housing' and 'affordable homes' are used to encompass both low cost market and subsidised housing (irrespective of tenure, ownership – whether exclusive or shared – or financial arrangements) that will be available to people who cannot afford to rent or buy houses generally available on the open market.

### Conditions

Planning permission is usually subject to certain conditions. These conditions need to be met in order for development to be allowed to proceed.

### Local Development Framework

The Local Development Framework is replacing the previous development plan system and contains detailed policies and proposals to guide development in Wakefield.

### ODPM Circular 05/2005 Planning Obligations

Office of the Deputy Prime Minister advice to local planning authorities on the use of planning obligations.

### Planning Obligations or S106 Agreements

A legal document binding developers and the District Council into carrying out specific works or payments that are necessary to allow the development to go ahead. This does not mean that planning obligations are a way of 'buying' planning permission. Development that has significant negative impacts will not be approved, irrespective of planning obligations. Planning obligations can also be known as 'planning agreements' and 'planning contributions.' Section 46 and 47 of the Planning and Compulsory Purchase Act 2004 give the Secretary of State the power to make regulations to replace S106, but the Secretary of State has not yet taken these powers.

### Supplementary Planning Document (SPD)

A document that supports and elaborates on policies and proposals in development plan documents.

### Abbreviations

DCLG	Department for Communities and Local Government
DPD	Development Plan Document
LDF	Local Development Framework
LDS	Local Development Scheme
LEA	Local Education Authority
LPA	Local Planning Authority
ODPM	Office of the Deputy Prime Minister
S106	Section 106
SCI	Statement of Community Involvement
SPD	Supplementary Planning Document
UDP	Unitary Development Plan

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## Appendix 1: Developer Contributions to Public Open Space

The table below shows how rates in Section 6.2 Table A are built up from costs of different categories of greenspace provision, taken from examples of construction schemes in Yorkshire. It also relates Table A greenspace categories to those given in PPG 17.

Provision Rates for Greenspace by PPG 17 category and Table A category

Table A	PPG17	£/m2	m2/person	1 bed = 1 person	1 bed = 2 people	2 (=3)	3 (=4)	4 (=5)	5+
Equipped Play	Equipped Play	N/A	8	0 (no children)	0 (no children)	384	461	538	538
Informal Open Space	Natural Areas	1.5	20	30	60	90	120	150	180
Informal Open Space	Amenity Sites & Green Corridors	4.9	18	88.2	176.4	264.6	352.8	441	529.2
Formal Open Space	Parks & Formal Gardens	18	8	144	288	432	576	720	864
Formal Open Space	Outdoor Sport	8.2	16	131.2	262.4	393.6	524.8	656	787.2
Formal Open Space	Allotments	5.2	4	20.8	41.6	62.4	83.2	104	124.8
Formal Open Space	Cemeteries	14.2	5	71	142	213	284	355	426
<b>Total per residential unit</b>				<b>£485.20</b>	<b>£970.40</b>	<b>£1839.60</b>	<b>£2401.80</b>	<b>£2964</b>	<b>£3449.20</b>

Where provision of a greenspace category occurs on site then no monetary contribution for that category will be required. The most likely form of onsite provision is amenity due to its low minimum size (1000m<sup>2</sup>). To give an example, in the instance of both Amenity and Equipped Play being provided on site, a monetary contribution towards wider provision would be required based on the Table below:

### EXAMPLE:

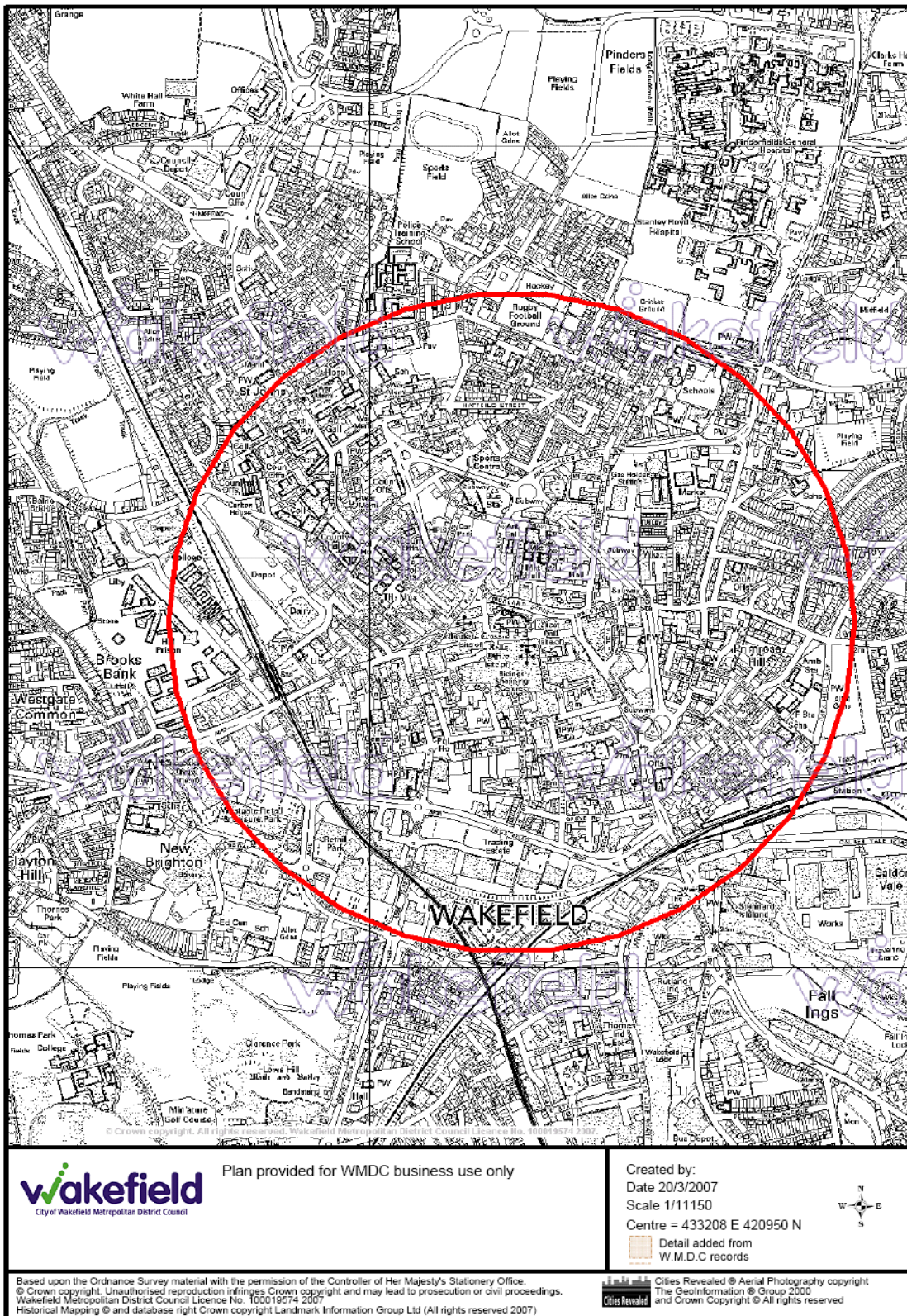
Wider infrastructure costs if onsite Amenity and Play

PPG17	£/m2	m2/person	1 bed = 1 person	1 bed = 2 people	2 (=3)	3 (=4)	4 (=5)	5+
Equipped Play	5.7	8	0	0	0	0	0	0
Natural Areas	1.5	20	30	60	90	120	150	180
Amenity/Green Corridor	4.9	18	0	0	0	0	0	0
Outdoor Sport	8.2	16	131.2	262.4	393.6	524.8	656	787.2
Park/Formal Garden	18	8	144	288	432	576	720	864
Allotments	5.2	4	20.8	41.6	62.4	83.2	104	124.8
Cemeteries	14.2	5	71	142	213	284	355	426
<b>Contribution £</b>			<b>397</b>	<b>794</b>	<b>1191</b>	<b>1588</b>	<b>1985</b>	<b>2382</b>

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## Appendix 2

Map showing 'ten minute walk' boundary for public realm contributions



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## **Appendix 3**

DATED

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THE COUNCIL OF THE CITY OF WAKEFIELD

AND

### **PLANNING OBLIGATION BY AGREEMENT**

relating to land at  
West Yorkshire

J A Pepperell  
Head of Legal and Democratic  
Services  
County Hall  
Wakefield  
WF1 2QW

L//

THIS DEED is made the \_\_\_\_\_ day of

## **BETWEEN**

1. The Council of the City of Wakefield ("The Council") of County Hall Wakefield WF1 2QW
2.   A   ("The Owner")
3.   B   ("The Mortgagee")<sup>2</sup>

## **RECITALS**

1. The Council is the Local Planning Authority for the purposes of this Deed for the area within which the land described in the First Schedule ("the Land") is situated and by whom the obligations contained in this Deed are enforceable.
2. The Owner is the owner in fee simple in possession [free from incumbrances]\* of the Land.
3. The Mortgagee is mortgagee of the Land under a legal charge/mortgage by demise\* dated   C   and made between   D  .
4. The owner has by application/by its agents\* dated   E   under reference   F   ("the Planning Application") applied to the Council for permission to develop the Land in the manner and for the uses set out in the Planning Application and in the plans specifications and particulars deposited with the Council and forming part of the Planning Application ("the Development").
5. The Council has decided to grant planning permission ("the Permission") for the Development in accordance with the Planning Application subject to the making of this Agreement without which planning permission for the development would not have been granted   G  .

NOW THIS DEED is made in pursuance of section 106 of the Town and Country Planning Act 1990 ("the Act") and is a planning obligation for the purposes of that section and WITNESSES as follows:-

1. The Owner covenants with the Council to observe the [restrictions to perform the obligations or activities] (H) specified the Second Schedule.

2. The Mortgagee hereby consents to the execution of this Deed and acknowledges that subject as herein provided the land shall be bound by the restrictions and obligations contained in the Second Schedule.
3. It is agreed and declared as follows:-
- 3.1 The expressions “the Council”, “the Owner”/and “the Mortgagee”\* shall include their successors in title and assigns.
- 3.2 No person shall be liable for breach of a covenant contained in this Agreement after he shall have parted with all interest in the Land but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.
- 3.3 The covenants contained in this Agreement shall take effect only upon the date specified by the Owner in a written notice served upon the Council as the date upon which the Development is to be commenced or if no such notice is served the actual date on which the Development is begun within the meaning of section 56 of the Town and Country Planning Act 1990.
- 3.4 If the permission granted pursuant to the Planning Application shall expire before the Development is begun as defined above or shall at any time be revoked this Agreement shall forthwith determine and cease to have effect.
- 3.5 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than one relating to the Development as specified in the Planning Application) granted (whether or not on appeal) after the date of this Agreement.
- 3.6 This Agreement shall not restrict the exercise by the Council of any power or duty exercisable by it under the Act and shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been at any time issued by the Council.

3.7 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

3.8 The Owner shall pay to the Council on or before execution of this Agreement the reasonable legal costs of the Council incurred in connection with this Agreement.

3.9 This Agreement is a local land charge and shall be registered as such.

IN WITNESS whereof these presents have been duly executed as a Deed by the parties hereto the day and year first before written.

**FIRST SCHEDULE**

***The Land***

*I*

SECOND SCHEDULE

***The Obligations***

*J*

***THE COMMON SEAL of the COUNCIL*** }

***OF THE CITY OF WAKEFIELD was*** }

***hereunto affixed in the*** }

***presence of  
Democratic***

}

***Head of Legal and  
Services***

**THE COMMON SEAL OF** } or **SIGNED AS A DEED BY A**

**A was affixed to this Deed in the** } **in the presence of**  
**in the presence of** }

**THE COMMON SEAL OF** }

**B was affixed to Deed in the** } or **SIGNED AS A DEED BY B**  
**presence of** } **acting by:**

***\*Delete where inappropriate***

- Insert:***                      ***A***                                      ***- Name and address of owner***
- mortgagee***                      ***B***                                      ***- Name and address of***
- Mortgagee***                      ***C***                                      ***- Date of Mortgage***
- Mortgagee***                      ***D***                                      ***- Name of Mortgagor /***
- Mortgagee***                      ***E***                                      ***- Date of planning application***
- F*** - Reference of planning application
- G*** - Insert polices / reasons for Agreement
- H*** - Insert / delete as appropriate
- I***                                      ***- Description of land***
- J***                                      ***- Restrictions on development***  
***and use of land and Obligations to be performed.***

**Appendix 4**

**DATED**

**[   ]**

**TO**

**WAKEFIELD METROPOLITAN DISTRICT COUNCIL**

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**SECTION 106**

**TOWN AND COUNTRY PLANNING ACT 1990 (As Amended)**

**UNILATERAL UNDERTAKING**

***Relating to land at***

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This **UNILATERAL UNDERTAKING** is made the                      day of  
by of (“the Owner”) to **CITY OF WAKEFIELD METROPOLITAN DISTRICT**  
**COUNCIL** of County Hall, Wakefield WF1 2QW (“the Council”)

**1. DEFINITIONS**

In this **UNILATERAL UNDERTAKING** the following words shall have the meaning set out below:-

- “the Development”                      means the development of the Land pursuant to the Permission;
- “the Permission”                      means a planning permission to be granted pursuant to the Planning Application;
- “the Land”                      means the land at [ ] as described in the Planning Application and edged in red on the plan annexed hereto (“the Plan”);
- “the 1990 Act”                      means the Town and Country Planning Act 1990 (as amended);

**2. RECITALS**

- 2.1     The Owner holds the freehold interest free from encumbrances in the Land [under the Land Registry title number                      ]
- 2.2     The Owner has submitted to the Council the Planning Application.
- 2.3     The Council has not determined the Planning Application and the Owner enters into this obligation to the intent that any objections by the

Council to the grant of the Permission pursuant to the Planning Application are overcome.

- 2.4 The Owner agrees to enter into this Unilateral Undertaking so as to create planning obligations pursuant to Section 106 of the 1990 Act to the Council and to be bound by and observe and perform the covenants hereinafter contained.

### **OPERATIVE PROVISIONS**

- 3.1 This Unilateral Undertaking is a planning obligation for the purposes of Section 106 of the 1990 Act.
- 3.2 The Council is the Local Planning Authority by whom the provisions of this Unilateral Undertaking are enforceable.
- 3.3 The Owner hereby covenants to the Council -
- 3.3.1

### **IT IS HEREBY AGREED AND DECLARED AS FOLLOWS**

- 4.1 In this Unilateral Undertaking the expressions “the Council” and “the Owner” shall where the context so admits be deemed to include their respective successors in title.
- 4.2 Nothing in this Unilateral Undertaking shall prohibit or limit the right to develop any part or parts of the Land in accordance with a planning permission (other than the Permission) granted after the date of this Unilateral Undertaking
- 4.3 In the event that at any time the Permission expires before the commencement of the Development or is quashed or revoked then this Unilateral Undertaking shall forthwith cease to have effect.

4.4 The planning obligations hereby created by this Unilateral Undertaking shall be capable of being registered as a Local Land Charge.

4.5 A person who is not a party to this Unilateral Undertaking (save for the avoidance of doubt the Council) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this Unilateral Undertaking.

SIGNED

AS A DEED BY

[            ]

in the presence of:

Witness sign

Address:

Occupation: