

Planning Obligations - A Guide for Developers and Applicants

Supplementary Planning Document

Planning and Strategic Housing
November 2024

Contents

Introduction.....	3
Section 1 - Overview.....	4
Purpose of the Guide.....	4
South Derbyshire Local Plan.....	5
Pre-Application Stage.....	5
Viability.....	5
Legal Fees.....	6
Index Linking and Late Payment Interest Charging.....	6
Monitoring of Planning Obligations.....	6
Financial Contributions.....	9
Section 2 – Contribution Information.....	10
Affordable Housing.....	10
Biodiversity.....	10
Built Facilities.....	11
Education.....	11
Flooding and Drainage.....	12
Healthcare.....	13
National Forest.....	14
Open Space.....	14
Calculations for Off-site Provision.....	16
Cemeteries.....	17
Outdoor Sports Facilities.....	18
The Current National Standards.....	18
Pitch Development.....	18
Caveats.....	18
River Mease.....	19
Highways and Transport.....	20
Waste.....	20
Library Services.....	20
Appendix 1: Contribution Thresholds.....	21
Appendix 2: Contributions Summary.....	22
Appendix 3: Planning Obligations Procedure.....	24



Introduction

This Planning Obligations Supplementary Planning Document (SPD) brings together for easy reference for applicants and developers and other stakeholders the various policies and studies upon which the Local Planning Authority (LPA) will draw when considering the need for agreements under Section 106 of the Town and Country Planning Act 1990, as regulated by the Community Infrastructure Levy Regulations (as amended). These are commonly referred to as Section 106 (S106) agreements or planning obligations.

Planning obligations are used as part of the planning application process to address specific planning issues and to mitigate the impacts arising from a development proposal. These S106 agreements are normally agreed between the Council, landowners and developers and are intended to make acceptable a development that would otherwise be unacceptable in planning terms.



Section 1 - Overview

Purpose of the Guide

The purpose of this SPD is to cover the types of contributions the Council intends to seek from developments, to assist in mitigating the impact of proposed development and make it acceptable in planning terms.

It should be noted that this SPD is a guide to the likely scope and scale of infrastructure that may be sought; each development proposal will continue to be assessed on a case-by-case basis.

The National Planning Policy Framework (NPPF)¹ identifies that *Local Planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*

Planning obligations cannot be considered a reason to grant planning permission unless they meet the tests laid out in Regulation 122 of the Community Infrastructure Regulations 2010 (as amended)², that they are:

- a) necessary to make the development acceptable in planning terms
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

Further guidance on the use of planning obligations is set out within national Planning Practice Guidance (PPG)³

Planning obligations take the form of a legal agreement entered into by the applicant (and/or any other interested party) under Section 106 of the Town and County Planning Act 1990 (as amended). They are site specific, and can also:

- a) restrict the development or use of land in any specified way
- b) require specified operations or activities to be carried out in, on, under or over the land
- c) require the land to be used in a specified way
- d) require a sum or sums to be paid to the authority on a specified date or dates periodically.

A planning obligation is recorded as a land charge and the obligation runs with the land ownership until the obligation is fully complied with.

For infrastructure requirements that relate to functions which rest with Derbyshire County Council or Derby City Council, the relevant authority will normally be a party to negotiations. Responsibility for enforcement will fall to the relevant signatory named within the S106.

¹ [National Planning Policy Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/national-planning-policy-framework)

² [The Community Infrastructure Levy Regulations 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2010/2626/regs/122)

³ [Planning obligations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/planning-obligations)



South Derbyshire Local Plan

The South Derbyshire Local Plan Part 1, adopted in June 2016⁴, promotes the overall vision for accommodating strategic development across the District. The Local Plan expects new development to be appropriately supported and its effects mitigated sustainably. Local Plan Policy INF1: Infrastructure and Developer Contributions provides the justification for this SPD.

Policy INF1 states that: “New development that is otherwise in conformity with the Local Plan but generates a requirement for infrastructure will normally be permitted if the necessary on and off-site infrastructure required to support and mitigate the impact of that development is either:

- i. Already in place, or
- ii. There is a reliable mechanism in place to ensure that it will be delivered in the right place, at the right time and to the standard required by the Council and its partners.

Pre-Application Stage

The Council’s Statement of Community Involvement (September 2018)⁵ actively encourages pre-application discussions with developers.

The guidance within this SPD will be used by the Council as one of the considerations in the determination of planning applications. It is therefore advised that applicants have regard to this SPD when preparing applications for submission to the Council.

Further information on the pre-application advice that is offered can be found on the Council’s [website](#)⁶.

Viability

Planning obligations are a required cost of development. The PPG clarifies that it is the responsibility of site promoters to consider any costs including risks and profit expectations whilst ensuring the development proposal is policy compliant.

Viability assessments will not normally be required to accompany a policy compliant planning application as the cost of all the planning obligations should have been factored in at the earliest stage of the proposals. Nevertheless, where the need is justified by the applicant it should reflect the recommended approach within the PPG⁷. Applicants will be expected to bear the cost of the Council’s independent assessment of the viability assessment provided.

If the viability assessment is accepted as showing development cannot proceed without revised obligations, the Council may agree to the provision of lowering the rates of contribution for the site, on the basis that the loss of planning obligations is not significant enough that the development is no longer acceptable in planning terms.

⁴ [Adopted Local Plan | South Derbyshire District Council](#)

⁵ [Statement of Community Involvement | South Derbyshire District Council](#)

⁶ [Pre-application advice | South Derbyshire District Council](#)

⁷ [Viability - GOV.UK \(www.gov.uk\)](#)



Legal Fees

For the creation of a S106 agreement or unilateral undertaking full legal fees that are incurred in the drafting and/or reviewing of the agreement or unilateral undertaking will have to be paid by the applicant or landowner prior to execution and completion of the agreement or undertaking.

Index Linking and Late Payment Interest Charging

All financial contributions will be index linked from the final Heads of Terms date. All contributions will be index linked using the Retail Price Index, unless otherwise specified within the S106 agreement, contributions payable to other organisations may use alternative indices.

A late payment interest charge will be due when any payment due under a S106 agreement is paid more than 28 days past the date on which the payment is due. This will be charged at 4% above the base lending rate of Barclays Bank, calculated from the date payment is due until the date of payment.

Monitoring of Planning Obligations

The Council has an established process for monitoring and managing S106 agreements efficiently. This process is complex and involves the monitoring of development progress against a variety of triggers, liaising with internal and external partners and the raising of invoices.

The introduction of mandatory reporting of S106 agreements through the production of an annual Infrastructure Funding Statement means that the Council, as a collecting authority, is required to provide data about contributions collected by South Derbyshire District Council. This includes the number of monies secured, amounts received and the expenditure within the previous financial year.

To help fund this work paragraph 2A has been inserted into Regulation 122 of the Community Infrastructure Regulations 2010 (as amended)⁸ with regard to the charging of monitoring fees:

- the monitoring fee should fairly and reasonably relate in scale and kind to the development; and
- should not exceed the authority's estimate of its cost of monitoring the development over the lifetime of that development.

Developers entering into a S106 agreement or unilateral undertaking will be required to pay a monitoring fee. The fee payable will be based upon the scale of development as determined by the table below, in order to cover the Council's costs incurred in the monitoring of the obligations.

⁸ [The Community Infrastructure Levy Regulations 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



Scale of Development	Monitoring Fee
A Up to 10 residential dwellings or up to 5,000 sq m of commercial floorspace, or to vary an existing Section 106 agreement.	£500
B Up to 50 residential dwellings or up to 10,000 sq m of commercial floorspace.	£1,000
C Up to 100 residential dwellings or over 10,000 sq m of commercial floorspace.	£2,000
D Over 100 residential dwellings	£2,500

It should be noted that:

- The fee payable is per S106 agreement and may be subject to Heads of Terms. The fee is in addition to the legal fees payable that are associated with drawing up and/or checking/amending emerging agreements.
 - For mixed use developments that include both a residential and commercial element, the relevant fee from both components would be payable. This follows the same principle used in the national fee regime for planning applications.
 - The monitoring fee will be payable upon commencement of development.
- If another LPA is also a signatory to the S106 agreement, they might also request a separate monitoring fee to be paid. This will cover their costs of monitoring the agreement and the obligations within it. The County Council sets out its requirements within their Developer Contributions Protocol
- Some S106 obligations, such as those which require payment of a contribution or delivery of on-site infrastructure, can be discharged once payment has been received by the Council or the infrastructure has been delivered to the satisfaction of the Council. An application can be made to the Council to confirm that some or all S106 obligations have been discharged for a development. There is a fee for this service. Each planning permission and deed of variation application can only cover one planning permission, plus any associated subsequent s73 permissions.



Additionally, where relevant (refer to Section 2), specific and proportionate monitoring requirements as part of Biodiversity Net Gain (BNG) planning conditions and obligations will be used to secure significant on-site and off-site habitat enhancements⁹. Due to the requirement to monitor obligations for a 30-year period, a monitoring and enforcement fee will be charged for all off-site biodiversity offsetting schemes to ensure the management of the land as per the agreed biodiversity enhancement and management plan (BEMP) supplied as part of the planning process.

The monitoring fee will be: (Based on £285 day rate)

Monitoring Fee Cost			
	Technical Difficulty:		
Size:	Low	Moderate	High
Small (0 to 10ha)	£3,508.85	£6,667.41	£10,242.80
Medium (10+ to 20ha)	£5,848.09	£9,198.10	£14,632.58
Large (20+ to 40ha)	£11,696.18	£15,768.18	£20,485.61

The enforcement fee will £2000 per site. For habitat bank registration, the set-up fee will be per £7000 biodiversity unit, accounting for Officer time to review information submitted by a habitat bank provider ahead of signing S106 or conservation covenant. An Insurance Fee is costed at 10% of the fee in addition to inflation (1.75%).

Given BNG should be considered from the outset of a project, information that is proportionate to the proposal and stage of the project should be submitted with requests for pre-application advice. Equally, with Outline or Reserved Matters applications, the information provided should be relevant and proportionate to the matters for consideration.

The Council will ensure a suitably qualified and accredited ecologist will check/approve the application and interpretation of the Metric to enable consistent BNG delivery across the district. This may take the form of a screening process focusing on priority habitats and/or large losses and/or larger applications.

The Council does not currently charge for a pre-application advice service but does have consent to introduce a charge.

Contributions from BNG under the Environment Act provides that payments received for credits can only be used in three ways (see c.92(6), part 6, Env Act 2021): carrying out works, or securing the carrying out of works, for the purpose of habitat enhancement; or, purchasing interests in land with a view to carrying out works, or securing the carrying out of works for habitat enhancement; or, operating or administering the BNG credit arrangement.

The Council currently uses the recommended DEFRA figure for guidance priced at £25k/unit. Subject to a review operating under a full cost recovery principle, the cost per unit will be based on site specific costs. This is likely to increase the cost associated with BNG units, but this will maintain they are cost-effective for the Council and are relative to the predicted free market values. These site-specific costs will use detailed and bespoke cost estimation examples. As experience grows in the management of relevant sites, expenditure and therefore cost might have to be more realistic under changing circumstances and therefore the associated cost per unit may fluctuate.

⁹ [Biodiversity Net Gain | South Derbyshire District Council](#)



DEFRA have released the Statutory Unit Cost at a base of £42k/per unit for low distinctiveness habitats, this gives an indication of the upper price range for biodiversity units.

Financial Contributions

Section Two of this SPD outlines the types of contributions that may be sought within S106 agreements. The Council will seek contributions where existing facilities are insufficient to cope with the increased demand that arises from the proposed development. If the existing facilities and services can sufficiently absorb this demand, then the Council will not seek contributions. When determining contributions, the Council may also consider the cumulative effect from adjoining small developments or additional developments on the edge of previously developed sites. This includes where a development borders a neighbouring authority and in such instances the Council will work with neighbouring authorities to ensure that impacts are appropriately mitigated. Each planning application is judged on an individual basis.

The rates set out in this SPD will be used to guide the appropriate level of contributions from a proposed development site. If it can be demonstrated to the satisfaction of the Council that the development would have a lesser impact than expected, the rates can be adjusted accordingly, for example, where it is shown that there is some capacity in the existing infrastructure to meet part of the impact arising from the development. This ensures that the contributions collected are fair and reasonably related in scale and kind to the development.

Developing sites incrementally or sub-dividing a site to avoid contributions will not be acceptable. The needs generated by a site as a whole should be used as the basis on which to seek contributions. This ensures that the necessary contributions are divided fairly, including when a site is to be divided up between different developers and also so that the services and facilities that are required to mitigate the development can be delivered in a comprehensive manner.

Where financial contributions are sought, all S106 agreements will include triggers for the payment of financial contributions; timescales will also be specified for the spending of the contributions. Any contributions that remain unspent at the end of the period specified within the S106 will be repaid to the developer upon request.

The financial rates, set out in Appendix 2, will be updated every year on 1 April to reflect current costs due to inflation, as determined by the Retail Prices Index. Unless stated otherwise only the rates will be updated, the formulae for calculating the contributions will remain the same.



Section 2 - Contribution Information

Affordable Housing

One of the roles of the Council is to enable and coordinate the provision of housing, including affordable housing (as defined by the NPPF), to meet the needs of the local community.

Policy H21: Affordable Housing requires 30% affordable housing as defined within the NPPF on sites of over 15 dwellings.

The Council will have regard to up-to-date evidence when negotiating for affordable housing on sites, which includes:

- Local Housing Needs Assessment
- Information from the Council's housing waiting list
- Any local housing needs studies required for rural development
- Existing supply
- Derbyshire County Council studies on specialist housing need
- Evidence of affordable housing need in the locality of the site.

Please refer to the Council's [Affordable Housing SPD¹⁰](#) for further information and guidance.

Biodiversity

Policy BNE3 requires net gains to biodiversity to be delivered by planning applications, in accordance with the requirements of the NPPF. The Environment Act 2021 specifies that most development applications must deliver a biodiversity net gain (BNG) value of 10%, thereby supplementing mandatory obligations in addition to the existing requirements of Policy BNE3.

As of 12 February 2024, BNG will be mandatory for sites larger than 9 dwellings (or if the number of units is unknown, larger than 0.5 hectares). This will also apply to commercial development where floor space created exceeds 1,000 square metres. Small sites (9 dwellings or less) will be applicable to net gain requirements as of April 2024. Exemptions include householder applications and self-build and custom build applications (if fewer than 9 dwellings and the site area being 0.5 hectares or less).

The latest DEFRA biodiversity metric¹¹ is applicable to all development required to satisfy mandatory BNG. To quantify the changes in biodiversity value, a biodiversity gain plan is also to be required for all development applications subject to net gain requirements. It is expected that the mitigation hierarchy will be applied. The hierarchy states that biodiversity impacts should be minimised through site selection and layout, before mitigation measures such as on-site improvements are considered, with compensation measures being used as a final consideration, where unavoidable impacts are determined.

Where BNG is to be delivered offsite, the Council will require applications to be supported by the DEFRA biodiversity metric detailing the baseline biodiversity value of the site and proposed offsite gains. Where the applicant proposes to buy into the Council's biodiversity offsetting scheme the most recent cost per unit is available online in the Council's [Guidance¹²](#). Where off-site net gain is

¹⁰ [Supplementary Planning Documents | South Derbyshire District Council](#)

¹¹ [Calculate biodiversity value using the biodiversity metric - GOV.UK \(www.gov.uk\)](#)

¹² [Biodiversity Net Gain | South Derbyshire District Council](#)



proposed there may be requirement for an additional legal agreement such as a supplementary S106 or a Conservation Covenant.

It is noteworthy that developments that create, enhance or recover habitat in locations which are mapped in a local nature recovery strategy¹³ will receive a higher biodiversity value in the biodiversity metric than they would in other locations. This is because they are in a more strategic location for nature recovery, providing opportunities for more significant improvements.

In addition, please refer to the various materials published by the government¹⁴.

Built Facilities

Policy INF9: Open Space, Sport and Recreation identifies that the current provision of open space, sports and recreation facilities within South Derbyshire is not sufficient to meet the local need. In order to address this, the Council will work with partners to provide sufficient high quality green space and recreational facilities to meet the needs of the population.

To ensure built facilities within the district are sustainable the Council is promoting the development of multi-use facilities. Many of the existing community buildings are aging and require updating or upgrading to ensure that they are suitable and can accommodate additional demand from new development.

The cost calculations

The cost of the Built Facilities levy is based upon the likely cost that has been identified within Sport England's Facilities Cost Data (Q3 2022)¹⁵ for the major built facilities identified within South Derbyshire District Council's Open Space, Sport and Community Facilities Strategy¹⁶ that are required to service the predicted population by 2028, which is 130,973 residents.

Education

Derbyshire County Council, as the Local Education Authority (LEA), has a statutory duty to make education provision available for each young person and elects where possible to provide a school place for each child at their normal area school. This duty applies across all schools and includes Academies. Although a new school must be established as a Free School, and some existing schools have opted to become an Academy, the statutory duty to plan provision remains with the LEA. The provision of additional school places is required to ensure that proposed housing development is acceptable¹⁷.

Where the County Council's assessment concludes that the normal area schools would not have sufficient capacity to accommodate the pupils arising from the proposed development, the County Council will request financial contributions to provide additional capacity¹⁸.

Please refer to the Derbyshire County Council's Developer Contribution Protocol for further information on how Education contributions are calculated.

¹³ [Local nature recovery strategies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/local-nature-recovery-strategies)

¹⁴ [Understanding biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/understanding-biodiversity-net-gain)

¹⁵ [Facility cost guidance | Sport England](https://www.sportengland.org/facilities-cost-guidance)

¹⁶ [Active South Derbyshire | South Derbyshire District Council](https://www.derbyshire.gov.uk/active-south-derbyshire)

¹⁷ [Infrastructure planning - Derbyshire County Council](https://www.derbyshire.gov.uk/infrastructure-planning)

¹⁸ [Potential impact of housing development \(derbyshire.gov.uk\)](https://www.derbyshire.gov.uk/potential-impact-of-housing-development)



Flooding and Drainage

Policy SD2 Flood Risk: Development in areas that are identified as being at risk of flooding will be expected to a) be resilient to flooding through the design and layout b) incorporate appropriate mitigation measures, such as on-site flood defence works and/or a contribution towards or a commitment to undertake and/or maintain off-site measures.

Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure: The Council will work with Derbyshire County Council, Water Companies, Developers and other Authorities and relevant stakeholders to ensure that South Derbyshire's future water resource needs, wastewater treatment and drainage infrastructure are managed effectively and in a coordinated manner. This includes ensuring that adequate water supply, sewerage and drainage infrastructure need to service new development is delivered in tandem with identified growth.

The Council will look to ensure that development is appropriately flood resistant and resilient¹⁹. This includes where development is in areas at risk of flooding from any source; that appropriate mitigation is incorporated including contributing towards the maintenance, improvement and upgrading of flood defences as required in accordance with Policy SD2.

In accordance with South Derbyshire adopted **Local Plan Policy SD3D**, "*Surface water from new development will be expected to be managed using Sustainable Drainage Systems (SuDS); discharge to watercourse; or connection to surface water mains sewer*" to manage surface water run-off. All new developments in areas at risk of flooding should look to ensure that SuDS are incorporated within them, that the development follows the NPPF's drainage hierarchy for development, and that SuDS are built to the LLFAs adoptable standards. If adoption of SuDS is not achieved from the LLFA, then the management of the SuDS over its lifetime will need to be provided for as part of the S106.

Threshold

The provision and the detailed design of the SuDS scheme is generally secured through a planning condition. However, it may be that planning obligations will be sought to secure necessary SuDS management arrangements or off-site works for flood alleviation for which a subsequent application and S106 may be required. In these circumstances, each development will be looked at on a case-by case basis following advice from Derbyshire County Council as the Local Lead Flood Authority.

Management and Responsibility for SuDS within a development

As a way of ensuring the SuDS are maintained throughout their operative life to keep them working effectively, they are secured within the Section 106 agreement. The landowner and/or developer will have the option of either transferring ownership to Severn Trent or transferring ownership and responsibility for future maintenance to a management company.

Prior to the commencement of development, the developer will need to submit the information below to South Derbyshire District Council for approval:

- A SuDS plan, illustrating the location, size and layout of the SuDS within the development.
- Notification as to whether the developer elects Severn Trent to maintain the SuDS or for it to be transferred to a management company. If a management company is chosen, the following information will need to be supplied for approval within the SuDS management

¹⁹ NPPF paragraph 167



plan. This is to ensure that the development will remain in an acceptable condition in perpetuity.

- The management company’s corporate structure, directors and officers together with details of the proposed management company or other organisation.
- The mechanism of funding, including the details of any proposed service charge payable by the owners of the dwellings and justification for any amount proposed
- The arrangements that are in place, should the management company cease to operate or exist.

All SuDS should be delivered to the standard adoptable by Severn Trent or, if there is clear evidence that this would be inappropriate, to equivalent technical and functional standards.

Healthcare

The Council works with the Derby and Derbyshire Integrated Care Board (DDICB)) to facilitate improvements to meet the health needs of residents and improve health provision within the District through the delivery of the Derbyshire Health and Wellbeing Strategy²⁰.

Where a proposed development will produce extra demand on local healthcare provision, beyond the capacity of the existing provision, developer contributions may be sought to meet the arising need.

The DDICB will be consulted on all major planning applications that are submitted to the Council. When developer contributions are required towards improving healthcare, the DDICB generally only ask that financial developer contributions are made from schemes of 30 dwellings or more.

The formula for calculating a financial contribution towards healthcare infrastructure, as advised by the DDICB is set out below:

The calculation below provides an example for a 200-dwelling scheme:

(B) Additional patients to be accommodated (Number of dwellings x 2.5) 500	X	(D) Standard area m ² / person. 0.08m ²	X	(E) Cost of extension including fees £/m ² £4,500	=	Total cost (B) x (D) x (E) £180,000
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*District Valuer’s 2019 build cost estimate for Primary Care

The Derbyshire County Council Developer Contributions Protocol (2019)²¹ provides additional guidance and advice on ensuring that the potential impact on human health and population are considered within the early stages of planning proposals. This guidance also highlights the need to support the Derby and Derbyshire Integrated Care Board to deliver a shared approach in assessing the impact of proposed development on primary care services and health care facilities.

²⁰ [Health and wellbeing strategy - Derbyshire County Council](#)

²¹ [Infrastructure planning - Derbyshire County Council](#)



National Forest

Policy INF8 The National Forest and the National Forest Guide for Developers and Planners²² for development in the National Forest, requires planting in accordance with the table below.

National Forest Planting Requirements			
Housing sites under 0.5ha	Normal landscaping appropriate to the site's setting	Industrial, Commercial and Leisure Developments under 1ha	Normal landscaping appropriate to the site's setting.
Housing sites between 0.5ha - 10ha	20% of the development area to be woodland planting and landscaping	Industrial, Commercial and Leisure Developments over 1ha	20% of the development area to be woodland planting and landscaping.
Housing sites over 10ha	30% of the development area to be woodland planting and landscaping	Industrial, Commercial and Leisure Developments over 10 ha	30% of the development area to be woodland planting and landscaping.
New road schemes or improvements to existing routes		New road schemes should achieve well-wooded settings with planting adjoining the road and off-site. Appropriate landscaping should also accompany road improvements. In each scale the levels of planting will depend on the scale and impact of the development.	
Commuted sums		In exceptional circumstances where the planting guidelines cannot be met on or close to the site, then a financial contribution should be made in lieu. This contribution should reflect the most up-to-date guideline rate identified by the National Forest as set out in the Guide for Developers and Planners and is currently calculated at £35,000 per hectare (based on the size of the development site).	

Open Space

Good quality, accessible open space provides many benefits including health and well-being benefits, assisting with climate change adaption and mitigation, creating community cohesion, promoting active sustainable lifestyles and supporting biodiversity. The Council will look to work with its partners to ensure that high quality green space and recreation facilities are provided to meet the needs arising from the new residential development.

Open space covers a range of different typologies including parks and gardens, amenity green space, semi-natural green spaces, allotments and children's play areas.

²² [Partner with us: Developers & Planners | National Forest](#)



The Current National Standards

Fields in Trust recommends that a standard of 3.2ha per 1,000 population is applied for informal outdoor space, which includes parks and gardens; amenity green space, together with natural and semi-natural outdoor space. This equates to 32.0 m² per person. If the recommended standard for equipped / designated play areas is added at 0.25ha per 1,000 population, this gives a total of **3.45ha per 1,000 population**, equivalent to **34.5 m² per person**. This will be the standard required to ensure that the District does not fall behind the national standard.

Threshold for Provision Levels

Dwellings Provided	Requirement
5-20 dwellings	Commuted sum for formal open space & off-site provision of informal open space and children's play.
21-200 dwellings	Commuted sum for formal open space and also the requirement for the provision of a Locally Equipped Area for Play (LEAP).
201-500 dwellings	As for 21+ dwellings and also the requirement for the provision of a Locally Equipped Area for Play (LEAP) and contribution towards a Neighbourhood Equipped Area for Play (NEAP).
500+ dwellings	As for 201+ dwellings and also the requirement for a provision of a Neighbourhood Equipped Area for Play (NEAP) for children up to the age of 12.

Please refer to the The Fields in Trust Guidance for Outdoor Sport and Play (2020)²³ for further detail on the design standards that are required.

The Council does not accept Local Areas for Play (LAPs) as open space provision.

Management and Maintenance for Open Space

The landowner and/or developer will have the option of: electing to offer the open space to the Council, subject to receipt of a commuted sum; retaining ownership and responsibility for the open space themselves or; transferring ownership and responsibility for future maintenance to a management company. It is the Council's preference to be given first refusal of Open Space on a development.

Prior to the commencement of development, the developer will need to submit the information below to the Council for approval:

- An Open Space Plan. This should be drawn at an identifiable scale (ideally 1:500), show the north direction, the position of the open space in relation to the site boundaries and enable the open space to be clearly identifiable from the ground.
- Specification for the on-site open space and LEAP (if applicable). This should show the location, size, layout, and proposed landscaping of the open space within the proposed

²³ [Guidance-for-Outdoor-Sport-and-Play-England.pdf \(fieldsintrust.org\)](https://www.fieldsintrust.org/guidance-for-outdoor-sport-and-play-england.pdf)



development. It should also include information of any equipment that is to be installed for approval.

- Notification as to whether the developer elects for the Council to maintain the open space or for the maintenance responsibility to be transferred to a management company. If a management company is chosen, the following information will need to be supplied for approval within the open space management plan. This is to ensure that the development will remain in an acceptable standard in perpetuity.
 - The management company's corporate structure, directors and officers together with details of the proposed management company or other organisations.
 - The mechanism of funding, including the details of any proposed service charge payable by the owners of the dwellings and justification for any amount proposed
 - The arrangements that are in place, should the management company cease to operate or exist.

Calculations for Off-site Provision

Land Acquisition Costs

As of March 2023, the average land value across all land types was just under £8,000 per acre²⁴. Prime arable land stood at roughly £10,000 per acre and grade 3 arable at nearly £8,500.

However, it is acknowledged that in the majority of cases, land for informal outdoor space is often provided free of charge by the developer, meaning that land acquisition costs would not apply.

Construction Costs

A construction cost of **£21.36 per m²** is required for: land clearance and ground preparation; drainage; construction of pathways; installing fences and gates, lighting, supply of topsoil; planting of trees and shrubs; providing bins and benches, seeding and establishment of grassed areas and general landscaping. Providing 34.5 m² per person would therefore cost **£736.92 per person**.

Development of Equipped Play Areas

As a general principle, and in alignment with national standards, it is reasonable to justify that a new LEAP or a contribution to a new NEAP, will be required for every 1,000 of new resident population created by developments.

Currently, the market cost of creating a new LEAP is approximately £75,000, giving a notional cost of **£75.00 per person** to levy.

Calculations for Land Maintenance / Management

The Council applies a levy of £1.74 per m² per annum for maintenance of all public open space, which over 10 years equates to £17.40 per m². In line with Sport England's national guidance relating to maintenance costs, the proposal is to extend the maintenance period to 25 years equating to **£43.50 per m²**. This contribution will be towards the maintenance costs of all forms of open space.

The potential financial implications for developers, based on provision of **34.5 m² per person**, are as follows:

²⁴ [Savills UK | Rural land values](#)



Open Space Maintenance Levy	Maintenance Cost Per Person	New Play Area Cost Per Person	Construction Cost Per Person	Total Cost Per Person
10-year maintenance model	£600.30	£75.00	£736.92	£1,412.22
15-year maintenance model	£900.45	£75.00	£736.92	£1,712.37
20-year maintenance model	£1200.60	£75.00	£736.92	£2012.52
25-year maintenance model	£1500.75	£75.00	£736.92	£2312.67

In order to provide and maintain the green infrastructure required to service new developments and populations, the Council will levy suitable sums from developers, set at a rate balancing the cost of creating and maintaining informal green space with viability, as assessed on a case-by-case basis.

The 10-year maintenance period will be required as a minimum. Therefore, the levy based on the minimum recommended level is in the region of **£1,412.22 per person**.

This charge will be expected when the amount of Open Space to be provided on site does not meet the required standards.

Caveats

There may be certain circumstances when the Council considers a lower level of levy in respect of informal open space. These are:

- Where a site is in a Sub-Area which already has a sufficient supply of informal open space to meet the likely demand created by the projected increased population. However, open space provision across the District is currently lower than the aspirational levels, and population projections indicate that all Sub-Areas will have a shortage of open space by 2028.
- Where it has been demonstrated that the viability of a scheme is reduced, for example because of high remediation costs due to abnormal ground conditions. The Council's decision will be made at Planning Committee.
- The Council will adopt open space following consultation and approval from both the Operations and Cultural Services Team. The only exception being SuDs and SWALEs that Severn Trent Water should adopt.

Cemeteries

Construction Costs

In order for the Council to provide and maintain burial space to service the new developments a construction cost of **£21.36 per m²** is considered adequate for: land clearance and ground preparation; drainage; construction of pathways; installing fences and gates, supply of topsoil;



planting of trees and shrubs; providing bins and benches, seeding and establishment of grassed areas and general landscaping. Using the previous rational of 5 m² per person it would therefore cost **£128.16 per person**.

Outdoor Sports Facilities

The Council recognises the importance of outdoor sports facilities to provide formal and informal opportunities for everyone to take part in sport and be physically active in order to provide health and well-being benefits.

The Current National Standards

The Fields in Trust Guidance for Outdoor Sport and Play (2020)²⁵ recommend that a standard average of **1.60ha per 1,000 population** is applied for all outdoor sports. This includes playing pitches. This equates to **16.0 m² per person**. The guidance specifies additional recommendations for typologies including playing pitches, MUGAs and equipped/designated play areas (LAPs, LEAPs and NEAPs).

Pitch Development

The pitch development costs comprise the cost of the land and the costs associated with constructing pitches, with prime arable being valued at £24,700 and grade 3 arable land at £21,000 which equate to **£2.47 and £2.10 per m² respectively**.

The minimum and maximum figures for the respective maintenance periods above represent between **25.1% - 49.0%** uplift over the existing 10 year-based levy, and **122.3% - 146.1%** uplift over the existing levy.

A minimum 10-year maintenance period will be sought, with a levy based on the minimum recommended level – i.e., **in the region of £384.56 per person**.

Caveats

There may be certain circumstances whereby the Council may wish to consider a lower level of levy in respect of Outdoor Sports Facilities. These are:

- Where a site is in a Sub-Area which already has a sufficient supply of grass pitches to meet the likely demand created by the projected increased population, the Council may wish to consider levying a smaller sum towards grass pitch provision. Currently, all Sub-Areas do have a requirement for some addition pitch provision, which varies from sport to sport. This will change over time, as new developments come on-stream, and new green infrastructure is developed. The greatest concentration of grass pitches is currently within the Central Sub-Area, but this reflects the fact that the Sub-Area also contains the largest percentage of the population.
- The economic viability of a development will be the key driver in negotiations regarding section 106 contributions.

²⁵ [Guidance-for-Outdoor-Sport-and-Play-England.pdf \(fieldsintrust.org\)](https://www.fieldsintrust.org/guidance-for-outdoor-sport-and-play-england.pdf)



The (upcoming) 2024 SDDC Playing Pitch Assessment and Sport England Playing Pitch Demand calculator may also be used to inform contribution requirements for major applications, along with advice from Sport England.

River Mease

To address high concentration levels of phosphorous in the River Mease Special Area of Conservation (SAC), ongoing work pump out treated foul flows from two key Sewage Treatment Works at Packington and Measham in the Mease catchment is underway and is anticipated to be complete by 2027.

Natural England has advised that new development within the catchment comprising overnight accommodation can cause adverse impacts to nutrient pollution. Such development includes, but is not limited to:

- New homes,
- Student accommodation,
- Care homes,
- Tourism attractions,
- Tourist accommodation.

And:

- Permitted development (which gives rise to new overnight accommodation) under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended),
- Any development not involving overnight accommodation, but which may have non-sewerage water quality implications.

Natural England have confirmed that development in the catchment cannot proceed if it increases levels of nutrients or results in eutrophication. Development can now only be approved if it is 'nutrient neutral'. Historically such mitigation work has been achieved through developer contribution schemes, known as DCS1 and DCS2. These developer contribution schemes are now finished.

This new 2027 deadline has been agreed by Severn Trent Water, following discussions with the Environment Agency, who aim to assess the likely effect of the transfer of treated effluent on downstream river flows prior to construction works commencing. Development in Overseal, Netherseal, Lullington, Smisby and a small area in Boundary (near Woodville) could be affected. However, the Council is seeking to identify a number of 'bespoke' projects to remove phosphate from the River Mease SAC and its tributaries.

However, in contributing to these works, developers will be able to ensure that the effects of their development on the SAC are fully mitigated by removing an amount of phosphate from the river equivalent to that which will be generated by their development and will allow for continued growth.



Additional information on the River Mease SAC including the projects being undertaken to improve the condition of the River can be found at the River Mease Partnership website²⁶ as well as the Council's relevant webpage²⁷

Natural England's Nutrient Budget Calculator Guidance Document²⁸ as well as the Nutrient Neutrality Generic Methodology provide detailed information regarding development requirements.

Highways and Transport

Derbyshire County Council, as Highway Authority, may seek contributions towards highway improvements, cycle routes/greenways, public transport, low emission vehicle infrastructure and / or towards a travel plan. This will be on a site-by-site basis. Please refer to the Derbyshire County Council's Developer Contribution Protocol for further information. Where needed, contributions toward off-highway cycle route/greenway infrastructure will be sought by the District Council on a site-by-site basis.

Waste

Please refer to Derbyshire County Council's Developer Contribution Protocol for any proposals for developer contributions towards Household Waste Recycling Centres.

Library Services

Please refer to Derbyshire County Council's Developer Contribution Protocol for any proposals for developer contributions towards library services.

It should be noted however that each development is different and therefore not all the contributions identified within the County Council's Developer Contributions Protocol would apply to every development.

²⁶ [River Mease Partnership](#)

²⁷ [River Mease update | South Derbyshire District Council](#)

²⁸ [Nutrient budget calculator guidance.pdf \(nwleics.gov.uk\)](#)



Appendix 1: Contribution Thresholds

Thresholds for development contributions²⁹.

Development Type	Thresholds for Residential Development				Industrial / Commercial	Leisure
	All	10 units	15 units	30 units +		
Affordable Housing (Policy H21)	N	N	Y	Y	N	N
Biodiversity (Policy BNE3; INF7)	Y	Y	Y	Y	Y	Y
Built Facilities (S1; INF8; INF9; BNE1; Built Facilities Strategy)	N	Y	Y	Y	N	N
Education	N	Y	Y	Y	N	N
Healthcare	N	N	N	Y	N	N
Library Services	N	N	N	Y	N	N
Monitoring Fee	Y	Y	Y	Y	Y	Y
National Forest (Policy S1; INF8; BNE1; BNE7)	Please refer to the table in Section 2 – National Forest					
Open Space (S1; INF8; INF9; BNE1; Open Space Strategy) The Council will seek onsite provision where possible	N	Y	Y	Y	N	N
Outdoor Sports	N	Y	Y	Y	N	N
River Mease (SD2 ;SD3) ³⁰	Y	Y	Y	Y	Y	Y
Highways and Transport	Depending on the individual development					
Waste	N	Depending on the individual development				

²⁹ As a general rule the Council will seek this infrastructure provision at the above thresholds, however there may be schemes where a lower threshold or different infrastructure provision might be sought.

³⁰ This is required if the development is located within the River Mease Catchment



Appendix 2: Contributions Summary

The table below sets out a summary of the developer contributions that could be required for new developments in South Derbyshire. The rates will be updated on an annual basis using the latest costs and RPI figures that are available at the start of each financial year.

Type of Contribution	Requirement (see below for further detail)
Affordable Housing	30% of development on a site-by-site basis
Biodiversity	A DEFRA metric will be requested where applicable for 10% net gain. Refer to Section Two for further information.
Built Facilities	£145.02 per person
Cemeteries	£128.16 per person
Education	Please refer to Derbyshire County Council's Developer Contribution Protocol
Healthcare	Refer to Section Two for the formula for calculation.
Monitoring Fees	Refer to Section One for the calculation
National Forest	Refer to Section Two for further information
Open Space	Onsite provision on 34.5m ² will be sought in preference alternatively a contribution of £1,412.22 per person will be sought.
Outdoor Sports Facilities	£384.56 per person. The (upcoming) 2024 SDDC Playing Pitch Assessment and Sport England Playing Pitch Demand calculator may also be used to inform contribution requirements for major applications.
River Mease	Refer to Section Two for information
Highways and Transport	This will be on a site-by-site basis. Please refer to Derbyshire County Council's Developer Contribution Protocol
Waste	This will be on a site-by-site basis. Please refer to Derbyshire County Council's Developer Contribution Protocol
Libraries	This will be on a site-by-site basis. Please refer to Derbyshire County Council's Developer Contribution Protocol
Broadband	The County Council will not expect fibre-based broadband to be provided to make a development acceptable in planning terms, however developers should look to provide for NGA broadband infrastructure services as an integral part of the development scheme at the outset. This will support the Government's targets for the availability of full fibre and 5G networks. Please refer to Derbyshire County Council's Developer Contribution Protocol



Other contributions	In some cases, development may result in a need for other mitigating actions, and these will be assessed on a case-by-case basis. Such requirements may relate but not be limited to Flood and Water Management, Biodiversity, Heritage Assets, Landscape Character improvements, Canals and Waterways, Country Parks, Community infrastructure inc. village halls, key and local Cycle Networks and contributions to maintenance of existing infrastructure.
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Appendix 3: Planning Obligations Procedure

