

Cheshire East Local Plan

# Developer Contributions Supplementary Planning Document

March 2024





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# 1 Introduction

**1.1** The delivery of Cheshire East Council's Local Plan Strategy (LPS) is underpinned by an Infrastructure Delivery Plan which sets out the physical, social, and green infrastructure needs associated with the Plan. Policies in the LPS and its sister document, the Site Allocations and Development Policies Document (SADPD), establish the overall approach to securing planning obligations (or developer contributions) toward a range of infrastructure and are an important source of funding to ensure that the infrastructure needs of the borough are met.

**1.2** This Supplementary Planning Document seeks to provide further guidance and clarity on how planning obligations will be negotiated in Cheshire East, that can act as a starting point for discussions to establish what obligations will be levied and where financial contributions are required, how they will be calculated. Whilst there are a variety of sources of funding for infrastructure (Community Infrastructure Levy, government grants, the Council's capital budget etc) funding from planning obligations is important to the delivery of infrastructure and since the adoption of the Local Plan Strategy in 2017, over £15 million has been spent on infrastructure projects, secured through S106 financial contributions related to mitigating impacts of development.

**1.3** S106 legal agreements are not limited to securing financial contributions and are often used to ensure that development takes place in a specified way, for example ensuring delivery of a design feature that incorporates footpaths in certain parts of a site. However, where funding is secured via S106, it is used to mitigate the impacts of development and improve infrastructure provision in multiple different ways, for example:

## **1.4 Managing homelessness (Congleton, £166, 215):**

- i. S106 funding used to purchase a temporary accommodation property in Congleton to provide a safe and suitable place for homeless individuals and families to live on a temporary basis whilst more long-term secure housing is found.

## **1.5 Education provision (Crewe, £802,000):**

- i. Expansion of the Mablins Lane Primary School in Crewe to accommodate a rise in the local area population.

## **1.6 Recreation and play space (Wilmslow, £70,000 S106 plus £47,000 CIL):**

- i. Play area improvements delivered at Little Lindow for new/relocated play area, new equipment, path, seating, planting and maintenance.

## **1.7 Highways improvements (Sandbach, £285,000):**

- i. Upgrade of an existing Zebra crossing on London Road, and new pedestrian crossing on Middlewich Road, alongside pedestrian crossing on Middlewich Road, and footway improvements to Elworth Primary School and provision of secure cycle storage at Sandbach Station.

## **1.8 Congleton Link Road (Congleton, £22million):**



- i. S106 funding secured from multiple local plan sites in Congleton to deliver improved connections to the M6, manage town centre congestion and enable development to the north of Congleton.

## What are Developer Contributions?

**1.9** Developer contributions, or planning obligations, can be required to mitigate the impacts of development and make a proposal acceptable in planning terms. Contributions are often secured through a section 106 legal agreement, which allows the Local Planning Authority to enter into a legal agreement with a developer to secure a commitment related to planning approval where it is necessary to mitigate the impact of development. This may relate to how development is carried out, or to secure the direct provision of infrastructure on site. Where on-site delivery is not possible, a financial contribution in lieu of on-site provision can be secured via S106 agreements. To be lawful, S106 agreements must meet certain tests set out in the CIL (Community Infrastructure Levy) regulations (see para.1.7 below).

**1.10** Contributions levied through legal agreements will set out specifically what funding should be secured and for what purpose that funding should be spent. Once agreed, funding must be spent in accordance with the agreement. However, S106 agreements may be varied where the applicant and Local Planning Authority (LPA) jointly agree the change, via a 'Section 73' planning application, or where a new planning application is submitted that would allow the renegotiation of the original S106 agreement.

**1.11** Where contributions are made via legal agreements, financial contributions are paid to the Council at trigger points, specified in the agreement, and may relate to the build out of development (for example, financial contributions to off-site affordable housing may be levied at the completion of the 100<sup>th</sup> house on a scheme), or be required prior to commencement of development.

**1.12** Where financial contributions are required and delivered to the Council at a specified trigger point, the Council will hold such funds until the requirements of the legal agreement can be met, and the specified project can be started.

**1.13** There are three main types of developer contributions:

- i. **Community Infrastructure Levy (CIL):** this is a fee, paid by the developer, which can vary dependent on the location of development, its use and floorspace. The fee is set out in the CIL charging schedule and does not vary. CIL is primarily used to fund infrastructure identified in the Council's Infrastructure Plan
- ii. **Highways Contributions:** often referred to as Section 278 agreements and are usually legal agreements to secure delivery of highways infrastructure or improvements (either directly by the developer, or via a third party).
- iii. **Section 106 agreements:** Section 106 (S106) agreements are legal agreements between the Council and a developer/landowner, that commit the developer to pay the Council a financial contribution toward measures that would mitigate the impact of development and make a proposal acceptable. S106 are usually written up to ensure a payment is received at the appropriate time in the development process.



**1.14** Developer contributions are a regulated area of planning practice, designed to mitigate specific impacts of development. In order for a S106 agreement to be lawful, it must meet the tests set out above and once the funds are received, the investment must be carried out in accordance with the terms of the legal agreements (the S106, or S278 agreement) under which they were agreed.

## Purpose of the Supplementary Planning Document

**1.15** Supplementary Planning Documents (“SPDs”) provide further guidance on how policies contained within the development plan will be implemented. SPDs do not form part of the adopted development plan but they are a material planning consideration in decision taking.

**1.16** This Planning Contributions SPD builds upon existing development plan policies found in the Cheshire East Local Plan Strategy (adopted July 2017) and the Site Allocations and Development Policies Document (adopted December 2022).

**1.17** The purpose of this SPD is to provide information about the provision of and/or contributions towards infrastructure, facilities and services for the plan area, and set out the circumstances where infrastructure provision, including financial contributions toward infrastructure, will be sought through planning obligations.

**1.18** This SPD updates, consolidates and sets out the Council's approach to developer contributions in a single SPD for the Borough . It provides guidance in relation to a range of policies that may require a contribution from development. It is designed to assist prospective developers and other stakeholders by establishing a single document that sets out the approach to determining likely contributions in Cheshire East, based on local evidence of need and in response to mitigating the impact of development. By providing this information upfront Cheshire East Council aims to minimise uncertainty in the development process and ensure negotiating obligations is based on a clear, transparent and consistent approach.

**1.19** This SPD:

- i. Explains the type of contributions the Council will seek, where and for what.
- ii. Identifies the national and local planning policies of relevance when considering planning obligations.
- iii. Sets out the likely scope and scale of planning obligations applicable to different types of development and outlines the Borough Council's general approach to securing them.

**1.20** It should be noted that requirements in relation to planning obligations are additional to the requirements of the Community Infrastructure Levy (“CIL”) which secures payments towards the broader infrastructure payments of the area. CIL is a charge on most types of development and designed to fund additional infrastructure to support the development of the area. Further details are available on the Council's website<sup>(1)</sup>.

## Status of the SPD

**1.21** This SPD relates to adopted policies held in both the Cheshire East Local Plan Strategy (CELPs) and the Site Allocations and Development Policies Document (SADPD).

1 [https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/making\\_a\\_planning\\_application/community-infrastructure-levy.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/community-infrastructure-levy.aspx)



**1.22** The SPD has been prepared in accordance with the Planning Act 2004 and the associated Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

**1.23** This SPD is a material consideration when determining planning applications and should be treated as a starting point for stakeholders to understand the approach the Local Planning Authority will take in regard to planning obligations. The weight to be attributed to the advice held in this document is a matter for the decision maker.

**1.24** This SPD replaces the Macclesfield Borough Council Supplementary Planning Guidance on s106 (Planning) Agreements (2004); and Congleton Borough Local Development Framework Interim Policy Note - Public Open Space Provision for New Residential Development (2008).



## 2 Planning Policy Framework

**2.1** Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise<sup>(2)</sup>. Material planning considerations include national planning policy and adopted supplementary planning guidance, where relevant.

### National Planning Policy Overview

#### Legislative Context

**2.2** The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended. Regulation 122 and 123 of the Community Infrastructure Levy (“CIL”) Regulations 2010 (as amended) and paragraph 54 to 57 of the National Planning Policy Framework (February 2019) set out the Government’s policy on planning obligations.

**2.3** Section 106 of the Town and Country Planning Act 1990 provides the mechanism for planning obligations to be secured from development. Section 106 allows anyone interested in land in the area of the planning authority to enter into planning obligations. Section 106 (1) allows a planning obligation to:

- i. Restrict development or use of land in a specified way.
- ii. Require specified operations or activities to be carried on, in or over the land.
- iii. Require the land to be used in any specified date or dates periodically.
- iv. Require a sum or sums of money to be paid to the local planning authority on a specified date or dates.

**2.4** Regulation 122 of the CIL Regulations defines that for a planning obligation to be taken into consideration in granting planning permission, it must meet the following three tests. A planning obligation must be:

- i. Necessary to make the development acceptable in planning terms;
- ii. Directly related to the development; and
- iii. Fairly and reasonably related in scale and kind to the development.

**2.5** Regulation 123 of the CIL Regulations previously placed limitations on the pooling of planning obligations. However, it was deleted by amendment regulations that came into force on 1 September 2019, and there are now no limits on pooling planning obligations.

#### National Policy Context

**2.6** The National Planning Policy Framework (“NPPF”) identifies that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. The NPPF highlights that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition (paragraph 55). The NPPF also restates the three statutory tests for planning obligations which are defined in CIL Regulations (paragraph 57).

<sup>2</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990





**2.7** The NPPF sets a presumption that up-to-date policies on planning obligations should apply and says that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision-maker, and such assessments should reflect the approach in national guidance and be made publicly available (paragraph 58).

## **2.8 National Planning Practice Guidance**

**2.9** The National Planning Practice Guidance (NPPG)

**2.10** Paragraph: 004 Reference ID: 23b-004-20190901: *'It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122. This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.'*

**2.11** Whilst the Council recognises the advice set out in the Planning Practice Guidance, this SPD has been prepared to be clear to applicants about the starting point from which the Council will establish the required financial contributions, based on the policy requirements set out in the Development Plan. Therefore, where formula based approaches are included in this SPD, they should be considered as a starting point to understand the likely costs of mitigating development, and be used to inform how S106 agreements will be established. It should also be noted that in some circumstances, formulaic approaches included here are not entirely within the remit of the Council and are instead a requirement of national advice, particularly in regard to education provision, biodiversity net gain and the application of the Sports England calculator in relation to pitches and recreational/leisure space/facilities. In recognition of the position of the Planning Practice Guidance, the Council will carefully consider the weight to be given to formulaic approaches highlighted in this SPD and considers the advice set out here to be a reasonable starting point in negotiations.

**2.12** The National Planning Practice Guidance also sets out a clear expectation that viability assessments should be made publicly available other than in exceptional circumstances. It also states that an “existing use value plus” (“EUV+”) approach should be taken to land value assumptions in viability assessments, which is based in the existing use value of the land plus a suitable premium for the landowner.

**2.13** In addition, the NPPG identifies that contributions for affordable housing should only be sought from developments comprising 10 or more dwellings, or on sites of 0.5 hectares or more. The guidance also identifies that in calculating the affordable housing contribution, a financial credit should be made where a vacant building will be brought back into use or is demolished to be replaced by a new building. The Council’s Housing SPD provides further information on these matters<sup>(3)</sup> specifically relating to Affordable Housing.

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3 <https://www.cheshireeast.gov.uk/pdf/planning/spatial-planning/spds/final-housing-spd.pdf>



## Local planning policy

**2.14** Relevant local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises of the Cheshire East Local Plan Strategy, adopted July 2017, and the Site Allocations and Development Policies Document (“SADPD”), adopted December 2022, saved policies from the Cheshire Waste Local Plan and saved policies from the Cheshire Minerals Local Plan. Neighbourhood Development Plans that have been successful at referendum and have subsequently been ‘made’ also form part of the statutory development plan.

**2.15** Development plan policies of relevance to planning contributions are summarised below. Consideration will also be given to other relevant planning policies within each plan, where appropriate to the planning application proposals.

## Cheshire East Local Plan Strategy

**2.16** The Cheshire East Local Plan Strategy (“LPS”) was adopted on the 21 July 2017, and this is the strategic plan for the borough. Policies relevant to the provision of infrastructure include but are not limited to the following:

- Policy IN 1: Infrastructure
- Policy IN 2: Developer Contributions
- Policy SE 6: Green Infrastructure
- Policy SE 7: The Historic Environment
- Policy SC 1: Leisure and Recreation
- Policy SC 2: Indoor and Outdoor Facilities
- Policy SC 3: Health and Well-Being
- Policy SC 5: Affordable Homes
- Policy SC 6: Rural Exceptions Housing for Local Needs
- Policy SE 3: Biodiversity and Geodiversity
- Policy SE 5: Trees, Hedgerows and Woodland
- Policy SE 6: Green Infrastructure
- Policy SE 12: Pollution, Contamination and Land Instability
- Policy SE 13: Flood Risk and Water Management.
- Policy CO 2: Enabling Business Growth Through Transport Infrastructure

## Cheshire East Site Allocations and Development Policies Document

**2.17** The Cheshire East Site Allocations and Development Policies Document (SADPD) was adopted 12th December 2022 and provides more detailed development management policies and smaller scale site allocations than the LPS. Relevant policies include but are not limited to the following:

- **GEN 4: Recovery of forward-funded infrastructure costs.** This policy seeks to recover costs associated with forward funded infrastructure from applicants that rely on this infrastructure to mitigate the effects of their development and make it acceptable in planning terms.
- **GEN 7: Recovery of planning obligations reduced on viability grounds.** This policy states that development proposals should meet all relevant planning obligations required



by local plan policy. It is up to the applicant to demonstrate to the Council whether particular circumstances justify the need for a viability assessment at the application stage.

- **ENV 1: Ecological Network.** This policy states that new development should seek proportionate opportunities to protect, conserve, restore and enhance the ecological network for the borough. Development in sustainable land use areas should enhance the wider environment by actively contributing to the integration and creation of appropriate green infrastructure and habitats.
- **ENV 2: Ecological Implementation.** This policy states development proposals must deliver an overall net gain for biodiversity. Major developments and developments affecting semi-natural habitats must be supported by a biodiversity metric calculation to ensure the delivery of a biodiversity measurable net gain.
- **ENV 6: Trees, hedgerows and woodland implementation.** This policy states replacement trees, woodlands and/or hedgerows must be integrated in development schemes as part of a comprehensive landscape scheme. Where it can be demonstrated that this is not practicable, contributions to off-site provision should be made, priorities in the locality of the development.
- **ENV 11: Proposals for battery energy storage systems.** This policy supports battery energy storage systems where they assist with the balancing of the electricity grid and support renewable energy sources (such as wind and solar). Planning conditions/legal obligations will be used to make sure that installations are removed when no longer in use and the land is restored to its previous condition.
- **RUR 4: Essential rural workers occupancy conditions.** This policy states where essential rural worker occupancy conditions are removed, planning conditions or legal obligations will be usually imposed to require the dwelling to remain as affordable housing, with occupancy restricted in perpetuity.
- **RUR 8: Visitor accommodation outside of settlement boundaries.** The policy states that where visitor accommodation is permitted in the open countryside that would be physically capable of forming a habitable dwelling, the Council will impose planning conditions or legal obligations to restrict occupancy of the accommodation to prevent unauthorised permanent access.
- **RET 10: Crewe town centre.** This policy seeks to support and implement a range of measures to improve pedestrian and cycle connectivity between the town centre and Grand Junction Retail Park, including through developer contributions, where justified.
- **RET 11: Macclesfield town centre and environs.** This policy states that where proposed new development would generate intensified use of the public realm in the town centre, or where necessary to provide a high-quality setting for new development and ensure its positive integration within the urban form, planning obligations may be used to secure the improvement of the town centre public realm.
- **Policy REC 2: Indoor sport and recreation implementation.** This policy states that developer contributions should be provided where new development will increase the demand for such facilities. Contributions should be directed to the nearest accessible facility to the development. Where there is no leisure centre provision nearby, say in more rural locations, the contribution will be directed to the nearest community facility (for example village hall) that provides recreational facilities.
- **Policy REC 3: Green space implementation.** This policy states that all areas of green space that are of strategic significance should be conveyed to the Council along with a commuted sum for a minimum provision of 20 years maintenance. The provision of, or



contribution, to outdoor playing pitch facilities will be informed by the Playing Pitch Strategy and Sports England Sport Pitch Calculator. Other outdoor sports provision not covered by the Playing Pitch Strategy will be sought on a site by site basis using 10sq.m per family home as a benchmark figure.

## Made Neighbourhood Development Plans

**2.18** As at the 31 March 2023, 37 Neighbourhood Development Plans (“NDP’s”) had been ‘made’ and now form part of the adopted development plan. Further details of these plans can be found on the Council’s website<sup>(4)</sup>.

## Supplementary Planning Documents

**2.19** The Council has adopted a number of Supplementary Planning Documents that provide guidance that may be relevant to establishing an approach to planning obligations on specific matters (affordable housing for example) and full details of these can be found on the Council’s website<sup>(5)</sup>

## Emerging plans

### **2.20 Cheshire East Minerals and Waste Development Plan Document**

**2.21** The Minerals and Waste Development Plan Document is currently in preparation. It will set out the Council's planning policies on minerals and waste.

## Cheshire East Local Plan Strategy Review

**2.22** In July 2022 the Council's Environment and Communities Committee<sup>(6)</sup> resolved to review the Local Plan Strategy and agreed that a new plan be undertaken.

**2.23** The preparation of a new Local Plan will be subject to processes defined by the government’s planning reform agenda which includes provision to implement ‘new style’ local plans. At the time of writing, secondary legislation that would provide clarity on process and timeframes is now yet available. Therefore, the Council is preparing to undertake early-stage preparatory work to engage communities across Cheshire East and to advance the evidence based that will be required to inform the development of a new Local Plan.

**2.24** In preparing a new Local Plan the approach to infrastructure provision, viability, the Community Infrastructure Levy, S106 and other mechanisms to secure infrastructure funding will also be reviewed.

4 <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-planning.aspx>

5 [https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire\\_east\\_local\\_plan/supplementary\\_plan\\_documents/supplementary\\_plan\\_documents.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire_east_local_plan/supplementary_plan_documents/supplementary_plan_documents.aspx)

6 <http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=962&MIId=9277&Ver=4>



## 3 Planning Obligations

### What are Planning Obligations?

**3.1** Planning obligations, also known as Section 106 Agreements (“s106 agreements”), are legally binding agreements entered into between a local authority and a developer. They provide the mechanism by which measures are secured to mitigate the impact of development on the local area.

**3.2** Unless it is stated otherwise, planning obligations apply to the land concerned, are applied in perpetuity and may be enforced against the owners, mortgagees and their successors. Planning obligations form part of the title deeds of the property and may only be secured through the following type of Deed:

- i. Section 106 agreements with mutual obligations between the Council and owners with interest in the application site;
- ii. Unilateral planning obligations, sometimes called unilateral undertakings, signed solely by owners with interests in the application site. Unilateral undertakings cannot impose obligations on the local planning authority.

**3.3** A planning obligation will be sought where a development would otherwise be unacceptable, and the objections cannot be overcome by conditions. They will be negotiated on a site-by-site basis. Obligations will typically address, but are not limited to, issues such as:

- i. Affordable housing
- ii. Public Open Space
- iii. Transport
- iv. Social infrastructure, including education and healthcare.

### What is the Community Infrastructure Levy (CIL)?

**3.4** The Community Infrastructure Levy (“CIL”) is a charge which is levied by local authorities on new development in their area. Cheshire East Council adopted a CIL charging schedule in February 2019. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area.

**3.5** Further details can be seen on the Council's website<sup>(7)</sup>.

### Relationship between CIL and Planning Obligations

**3.6** On 1<sup>st</sup> September 2019, changes came into effect in relation to the preparation of the Community Infrastructure Charging Schedule as well as relating to the process of securing developer contributions as part of the planning application process.

**3.7** Prior to the CIL Regulation changes coming in on the 1<sup>st</sup> of September 2019, s106 Obligations requiring payments were limited to site specific development impacts and not related to projects or types of infrastructure that will be funded by CIL. The CIL regulations

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7 [https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/making\\_a\\_planning\\_application/community-infrastructure-levy.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/community-infrastructure-levy.aspx)



required Councils to avoid “double dipping” and produce clear guidance of infrastructure needs and projects funded through s106 Obligations and the Community Infrastructure Levy. Changes to the CIL Regulations removed the Regulation 123 and this was replaced with a requirement to publish an annual Infrastructure Funding Statement. The Cheshire East Infrastructure Funding Statement provides information on the monetary (and non-monetary) contributions sought and received from developers for the provision of infrastructure to support development in Cheshire East and identifies infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used.

## Section 278 Agreements

**3.8** A Section 278 agreement allows developers to enter into a legal agreement with the Highway Authority to fund alterations or improvements to the public adopted highway network, having regard to the needs of the development. Examples of such works could include the construction of a new access; junction improvements on the highway; or safety related works such as traffic calming or improved facilities for pedestrians or cyclists.

**3.9** Requirements for s278 agreements will be negotiated separately, although an obligation may be imposed as part of a s106 agreement to enter into a s278 agreement.

## Planning Conditions

**3.10** Planning conditions are the most commonly used and simplest mechanism for securing the provision of on-site infrastructure e.g., roads, sewers, play areas etc. They can also be used to secure the delivery of on-site affordable housing.

**3.11** Planning conditions are imposed by the Council when granting planning permission, to ensure that certain actions or elements related to the development proposal are carried out. Paragraph 55 of the National Planning Policy Framework states that planning conditions should be:

- i. 'kept to a minimum and only imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects'.

**3.12** The NPPF also advises that conditions that are required to be discharged before development commences should be avoided, unless there is clear justification.

**3.13** No payment of money or other consideration can be positively required by a condition when granting planning permission. However, where the relevant tests are met, it may be possible to use a negatively worded condition to prohibit development or occupation until a specified action has been taken.

## Varying S106 agreements

**3.14** Contributions levied through legal agreements will set out specifically what funding should be secured and for what purpose that funding should be spent. Once agreed, funding must be spent in accordance with the agreement, however S106 agreements may be varied where the applicant and Local Planning Authority (LPA) agree the change, or where a 'Section



73' Planning Application is submitted, or a new planning application can be submitted and allow the renegotiation of the S106 agreement. However, reviewing or updating a S106 agreement is not dependent on the submission of a S73 application and applicants can request the LPA review agreements at any point via a Deed of Variation. It should be noted that the council would not ordinarily review or vary an agreement within five years of it being signed. In all cases the legal tests, referred to above, must be satisfied.

**3.15** The information the council requires in order to consider a deed of variation are set out on the Council's website. <sup>(8)</sup>

**3.16** S106 agreements can be drafted to be specific and ensure a particular issue is addressed in detail or can be drafted to allow flexibility depending on the circumstances of the site and application. For example, a S106 drafted to deliver a specific highway improvement, a roundabout for example, would mean that funding secured for that infrastructure is limited to investment in that specified infrastructure. In this instance, if the infrastructure is not delivered and the local needs change over time then a S73 application would need to be submitted to vary the S106. A S106 drafted to secure 'highway improvements' to mitigate cumulative impact from development, may be invested in a way which is less constrained but still meets the CIL tests, and may not require a S73 application to vary how funding is invested.

**3.17** To take account of external changes in circumstances, a change in national guidance or policy for example, the Council may consider including more flexibility in regard to the drafting of S106 agreements to accommodate such changes in circumstances.

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8 [Section 106 Agreements Planning \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/section-106-agreements-planning)



## 4 Procedures

### Pre-Application Discussions

**4.1** The Council recommends that pre-application advice is sought before making a planning application. This provides an opportunity to enter into discussions regarding planning obligation requirements with Council officers so that the nature of planning obligations that are likely to be required for a particular development are made known to the developer as early as possible in the decision-making process. Pre-application discussions can help to resolve potential problems and issues which may otherwise delay the determination of a planning application once validated.

**4.2** Neighbourhood plans often set out specific local requirements or infrastructure plans that may be relevant to applications. Applicants should review whether a neighbourhood plan is in place that may be relevant to their application and all neighbourhood plans can be viewed via the Council's website <sup>(9)</sup>. The Council also recommends early engagement with the local community as part of the pre-application process, particularly for major development proposals.

### Heads of Terms

**4.3** Where pre-application discussions have identified that developer contributions will be required, applicants should submit draft heads of terms with their planning application alongside title to the land which is the subject of the application. It will be essential that this information is submitted as part of the application, and as part of the validation process. Please be aware that failure to submit this will result in a delay in the planning application, as the application will not be validated.

**4.4** Details of the process for engaging with the Local Planning Authority at pre-application stage can be found on the Council's web page or by contacting the Development Management service.

**4.5** The process for negotiating planning obligations from the pre-application stage and standard templates for the legal agreements and Unilateral Undertakings can be found on the Council's webpage <sup>(10)</sup>.

**4.6** When submitting heads of terms applicants must use the templates available on the council's website. These documents are a standard form of s106 produced by Cheshire East Council. The Council will not ordinarily agree to changes to the definitions, or clauses 2-16 contained within this document.

### S106 Stages

**4.7** The following stages represent the S106 process from negotiation during the planning application process, to issuing of legal agreements and implementation of infrastructure delivery:

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<sup>9</sup> [Neighbourhood Planning \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/s106_agreements_planning.aspx)

<sup>10</sup> [https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/making\\_a\\_planning\\_application/s106\\_agreements\\_planning.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/s106_agreements_planning.aspx)





1. **Pre-application:** Applicant prepares application and ensures all required information is submitted. May involve pre-application discussions where key guidance on key policy matters is provided and likely S106 contributions identified.
2. **Planning Application Submission:** Applicant submits all required information in compliance with the Council's Validation Checklist. Where necessary this must include draft Heads of Terms setting out the basis for any S106 agreement that may be necessary.
3. **Validation:** submitted application is checked for compliance with requirements and to ensure all relevant information is submitted. Failure to provide required information, in the correct format is likely to result in a delay to determination. Once the application is validated, the time allowed to determine an application begins.
4. **Consultation:** Valid application is publicised for consultation.
5. **Planning application assessed and Heads of Terms agreed:** the planning officer will assess the application in detail and prepare a report and recommend refusal or approval. Within this part of the process the draft heads of terms will be scrutinised and provisionally agreed between the applicant and council officer.
6. **Planning applications decision:** the application will be decided either under delegated decision making or via one of the Council's planning committees.
7. **S106 legal agreement drafted:** The S106 will be drafted as set out in the approved heads of terms as established at planning committee, or if delegated, as set out in the officers decision report. Once determined, the Heads of Terms are used to finalise a legal agreement under S106.
8. **Decision notice issued:** Once the S106 is complete, a decision notice may be issued.
9. **Council update records:** The Council records the content of all S106 agreements, including the sums required, what is to be funded and relevant trigger points for payment. The S106 Monitoring Officer updates the Council's database accordingly.
10. **S106 delivery monitoring:** S106 Monitoring Officer will monitor S106 agreements and ensure they are delivered as agreed.

## Viability

**4.8** The NPPF (paragraph 58) states that it is the applicants responsibility to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.

**4.9** The Council will seek to secure a fair and reasonable developer contribution without adversely affecting the ability for new developments to take place. Viability testing of the CELPS and SADPD has confirmed that the policy requirements set out in these plans are viable.

**4.10** Planning harm can arise where contributions cannot be secured, and the failure to mitigate harmful impacts of development could be a reason for refusal of a development proposal. Therefore, where applicants believe that viability issues exist that would prevent compliance with relevant development plan policies, these issues should be discussed at an



early stage in the design process with the Council's Development Management Team. Where a financial viability appraisal is submitted to support the s106 agreement Head of Terms submission, then this should preferably be received at the validation stage of the application.

**4.11** Applicants will be expected to meet the costs, as specified by the Council, associated with reviewing financial viability appraisals. This will be secured in advance of any work being undertaken on the appraisal by means of a written agreement by the applicant to cover the Council's reasonable costs associated with the work, including an independent appraisal of the submitted financial viability assessment. Viability assessments should be undertaken on an 'open book' basis and the council must be able to publish assessments without restraint.

**4.12** Importantly, the national planning practice guidance ("PPG") provides further advice on planning obligations and viability<sup>(11)</sup>. At para 007 Reference ID: 10-007-20190509, PPG states:

**4.13** *Where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policy compliant in decision making means that the development fully complies with up to date plan policies.*

**4.14** However, at Paragraph: 004 Reference ID: 23b-004-20190901, the guidance states that: *'It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in [regulation 122](#). This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.'*

**4.15** This SPD includes a number of formula-based approaches related to Open Space/Recreation/Leisure, Education, and Health contributions (developed in consultation with the NHS). Of these formula-based calculations BNG and Education (for the most part, but not all) are established nationally, as are any contributions where the Sport England calculator is used. The formula for open space and recreation are based on the guidance held in the Macclesfield Borough Council Supplementary Planning Guidance on s106 (Planning) Agreements (2004), and the Congleton Borough Local Development Framework Interim Policy Note - Public Open Space Provision for New Residential Development (2008) as adjusted for inflation.

**4.16** As such, the guidance in the SPD can be considered to represent a starting point for discussions on how policy requirements can be translated into financial contributions and seeks to provide applicants with clarity on how the council will approach this in determining applications. Therefore, the SPD seeks to provide clarity, certainty and transparency up-front

11 <https://www.gov.uk/government/collections/planning-practice-guidance>



to stakeholders about the approach that will be employed, recognising the weight that can be given to the SPD is a matter for the decision maker and therefore, that the guidance provided here should be considered as a starting point in negotiations.

#### **4.17 Viability assessments**

**4.18** Viability assessment of the LPS was produced as part of the evidence base for the local plan and was updated in July 2020 to support the production of the SADPD<sup>(12)</sup>. In modelling the costs of development, the July 2020 update assumes that all modelled sites will contribute an average of £5,202 per unit towards CIL and S106. The 2020 viability update re-tested the costs of CELPS policy requirements and tested newly produced SADPD policy costs. Based on the assumption of £5,202 contribution per dwelling, appraisals concluded that residual land value remained high in high-value areas and more challenging in medium and low value areas with mixed results on mixed-use and brownfield sites.

**4.19** The conclusions of this assessment confirm that the Council must continue to engage with site promoters in regard to viability matters and should consider potentially accepting a lower level of affordable housing or lower provision of policy requirements in areas where viability is challenging. The Council will take a pragmatic approach to supporting the delivery of development and consider viability matters on a case-by-case basis where necessary.

**4.20** Given this variable viability environment, the information and approaches set out in this SPD are included to help applicants understand the Council's starting point when calculating financial contributions that may be required to mitigate the impact of development.

**4.21** Where developers expect sites are unviable in terms of delivering the full suite of policy obligations, they are invited to submit a viability assessment addressing those obligations and other matters relevant to the application, at their cost, and as part of their planning application. It is up to the applicant to demonstrate to the Council whether particular circumstances justify the need for a viability assessment, at the application stage. Policy GEN 7 of the SAPD sets out the Council's approach to the recovery of planning obligations reduced on viability grounds. Where this is relevant and applicable, any reduction in contributions will be subject to reassessment at specified future trigger points.

**4.22** The conclusions of the 2020 viability assessment are held in Chapters 8, 9 and 10 of the 2020 Viability Assessment Update. Chapter 10 of the Viability Assessment Update includes appraisals across a range of site typologies, assessing a variety of policy impacts and other scenarios. The key findings of the appraisal results are included at Appendix 2 of the Viability Assessment Update.

### **Cross Boundary Applications**

**4.23** In the case of development applications close to the boundary of Cheshire East, which may have implications for service delivery in adjoining authority areas, these authorities will be consulted and requests for contributions to services provided by those authorities will be duly considered. Similarly, if adjoining authorities receive applications which will have an impact on the delivery of services in Cheshire East, the Council will seek contributions accordingly.

12 <https://www.cheshireeast.gov.uk/planning-and-planning-cheshire-east-local-plan/leab/leab-and-policies-and-policies/developmental-documents/examination/layer62/cesadp/viabilityupdate.pdf>



## Security and Timing of Payment

**4.24** Where a financial obligation is necessary, payment would normally be required at a point that allows the council sufficient time to implement the required mitigation and make it effective, this may be on commencement, or on first occupation of a development. In the case of a large-scale development, it may be that the payments would be phased to meet the proportional impact of each phase. Trigger points for payments will be included in the legal agreement, as will the period in which any contribution will have to be spent.

## Index Linking

**4.25** All legal agreements that require financial contributions will be subject to indexation from the date of the agreement. The indexation period will therefore start with the date the agreement is signed and end with the date when each payment becomes due. The indices to be used are the Retail Prices index for non-housing related payments, the RICS Road Costs Engineering Index for highways related matters, and the House Prices Index (maintained by the land registry) for housing related payments.

**4.26** Whilst the contribution amounts set out in this SPD are not governed by the CIL Regulations, the indexation that will be used both to calculate the initial agreement amounts and any post-agreement changes prior to payment, will reflect the approach contained within the CIL regulations to ensure that obligations provide for the actual costs of the infrastructure for which they are levied.

**4.27** Regulation 40 of the Community Infrastructure Regulations 2010 required Local Authorities to obtain the All-in-Tender Price Index, as published by the Building Cost Information Service (BCIS) of the Royal Chartered Surveyors (RICS) on the 1st of November each year to calculate the proportionate increase in contribution rates for the following year.

**4.28** The Royal Institution of Chartered Surveyors has produced a bespoke index for the Levy, based on the Building Cost Information Service's (BCIS) All-in Tender Prices Index, known as the 'RICS CIL index'. This index is produced annually, made publicly available and does not change through the year.

**4.29** The September 2019 amendments to the Regulations require that the BCIS index applies to planning permissions granted before 1 January 2020 and the RICS CIL Index for the year in which it applies is calculated in the October of the previous year<sup>(13)</sup>.

**4.30** The BCIS index will reapply if for any reason the RICS CIL index is not produced in November of any preceding year.

**4.31** Contributions for affordable housing will be calculated by using the rates set out in this, and the Cheshire East Housing SPD, adjusted as follows:

- i. Index linked for inflation/deflation between the year of adoption of this SPD (2023/24 = the base year) and the year an obligation relating to an application granted planning permission is signed; and
- ii. Index linked for inflation/deflation between the date the agreement is signed, and the payment is made towards the actual delivery.

13 <https://bcis.co.uk/#:~:text=The%20RICS%20CIL%20Index%20for%20the%20year%20in,calculated%20by%20BCIS%20in%20October%20of%20that%20year>



**4.32** For open space contributions, the amounts set out in this SPD will be:

- i. Index linked for inflation/deflation between the year of adoption of this SPD (2023/24 = the base year) and the year an obligation relating to an application granted planning permission is signed; and
- ii. Index linked appropriately to reflect increases in costs between the date the agreement is signed, and the payment is made towards the actual delivery date of the service or facility.

**4.33** For other types of infrastructure where there is no rate or amount pre-set in this SPD, contribution amounts will be set out in the S106 Agreement and clauses will be included to the effect that these will be index linked appropriately to reflect increases in costs between the date the agreement is signed, and the date the payment is made towards the actual delivery of the service or facility.

**4.34** Where appropriate, particularly where trigger points are required at extended intervals of time, clauses may be written into S106 agreements to revalue the contribution required. Penalty clauses will also be written into legal agreements as standard. Failure to pay in accordance with a legal agreement will result in the application of daily interest to the agreed payment, at 4% above the base rate.



## 5 Fees and Charges

### Legal Fees

**5.1** Applicants will be required to enter into an undertaking for costs prior to legal work being commenced and will be required to pay the Council's legal costs as well as their own, for drafting and checking legal agreements and unilateral undertakings. Details of relevant fees are published via the Council's website. Applicants should also be aware that a solicitor's undertaking and proof of title will be required in all instances and, because the Council cannot proceed to resolve S106 agreements until proof of title is received, submitting this as early in the process as possible will help ensure an efficient process for all parties.

### Monitoring and Enforcement

**5.2** Monitoring of obligations will be undertaken by the Council's S106 Monitoring Officer to ensure that all obligations entered into are complied with by both the developer and the Council.

**5.3** The amended Community Infrastructure Levy Regulations 2019 permit Local Planning Authorities to charge fees in respect of the cost of monitoring (including reporting under the CIL Regulations) in relation to the delivery of planning obligations. Fees will be reviewed annually and published on the Council's website.

### Other Fees

**5.4** Within S106 agreements the Council may require applicants to cover costs of administration, monitoring or additional technical assurance (for example analysis of a highway improvement) as applicable and relevant to the circumstances. All monitoring fees will be subject to indexation and payable on commencement of the development. The detailed charging schedule for s106 Monitoring Fees are set out on the Council's website<sup>(14)</sup>.

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14 [Section 106 Agreements Planning \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk)



## 6 Contributions and Requirements

**6.1** The following chapters set out more detailed advice and guidance on how S106 will be applied related to policies in the Development Plan.



## 7 Affordable Housing

### 7.1 Objective

**7.2** A key priority of the LPS, is to create and maintain sustainable communities by supporting the delivery of an appropriate mix of house types, sizes and tenures including affordable housing to meet the borough's needs. It also seeks to support vulnerable and older people to live independently, and for longer (LPS Strategic Priority 2, point 1 (ii & iii)).

**7.3** The Council has produced a Housing SPD (adopted July 2022), to provide additional policy guidance, focused on LPS policies SC4 (residential mix), SC5 (affordable homes) and SC6 (rural exceptions housing for local needs). This SPD aims to give greater clarity to developers, landowners and communities, focused primarily on affordable housing and specialist accommodation, including older persons accommodation.

**7.4** The Housing SPD includes information on how developer contributions to affordable housing should be calculated. The approach to financial contributions from the Housing SPD is included here. For full information on how the Council applies affordable housing policies and the Council's approach to planning obligations for affordable housing, , please refer to the Housing SPD 2022 available on the Council's Website<sup>(15)</sup>.

**7.5** The Council provides additional information on Affordable Housing Legal Agreements at para.6.54 of the Housing SPD. Applicants should refer to this document for further guidance.

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15 <https://www.cheshireeast.gov.uk/pdf/planning/spatial-planning/spds/final-housing-spd.pdf>





## 8 Cheshire Constabulary

### 8.1 Objective

**8.2** The Strategic policies of the CELPS set out the overall pattern of development in the borough, identifying specific large-scale development sites and setting out requirements for the provision of a variety of community facilities and design led approaches that in combination seek to ensure the delivery of sustainable development.

**8.3** The Council's objective is to ensure that new development designs in safety and that development protect existing community infrastructure in the interests of health and wellbeing.

### 8.4 Background

**8.5** Cheshire Constabulary delivers crime prevention and presence through response, neighbourhood and town centre teams, attendance and service lead at emergencies and non-emergencies (such as road traffic incidents, flooding etc.), counter terrorism and community reassurance. It also attends all incidents involving deaths, provide crowd and events policing, supports community safety and crime partnerships, and provides referral responses when there are expressed concerns about domestic abuse, the safety of children, the elderly and those with special needs. Whether residents are victims of crime, witnesses to it, or require the police for any other reason, the increase in population brought about by the proposed development will result in an increase in demand for these services.

**8.6** Para. 101 of the NPPF requires planning policies to promote public safety and states that: 'the layout and design of developments should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security'.

**8.7** LPS Policy SD1 'Sustainable Development cites that new development should, wherever possible, 'support the health, safety, social and cultural well-being of the residents of Cheshire East'. LPS Policy SC3 'Health and Well Being', requires that new development should employ 'sound safety standards' and protect existing community infrastructure 'ensuring the provision of a network of community facilities, providing essential public services together with private and voluntary sector facilities, to meet the needs of the local community'.

**8.8** The production of a Design and Access Statement is an important part of development proposals (see Policy SE 1 'Design') and should be used to demonstrate how policy requirements have been met. Developers should request Crime Impact Statements (CIS) from their relevant Police Crime Commissioner body (PCC) to assist with the completion of the 'safer communities' section of the Design and Access Statement and use the statement to inform their approach to community safety.

### 8.9 Required Contributions

**8.10** Where strategic, large-scale major development is proposed, the Council will consult with the Constabulary to further understand the policing requirements of development. The Constabulary will seek to deploy additional staffing and infrastructure at the same level that is required to deliver policing to the locality and in instances where a funding gap arises to



deliver this provision, due to the new development taking place, and where the contribution is demonstrably necessary in accordance with the CIL tests, a contribution may be sought toward infrastructure necessary to deliver community safety.

**8.11** When requesting policing contributions, the Council will liaise with the Cheshire Constabulary to provide the detailed justification that demonstrates how the need for additional contributions arises, the specific infrastructure investment (s) that are necessary in relation to the identified need and will require a detailed breakdown of how the financial contribution has been calculated.

### **8.12 S106 Agreement**

**8.13** Where contributions are levied, they will be secured through S106 agreements which will include relevant trigger points and will set out the specific infrastructure measures that will be invested in.



## 9 Climate Change

### 9.1 Objective

**9.2** The Climate Change Act 2008 introduced a legally binding target for the UK to reduce greenhouse gases by 80% by 2050, against a 1990 baseline. In June 2019, the UK committed to cut emissions to a net zero target by 2050 (relative to the 1990 baseline). The Council, in May 2019, committed to be carbon neutral by 2025 and has prepared an Environment Strategy as part of a package of measures to detail how this commitment will be met.

**9.3** The Council encourages all businesses, residents and organisations in Cheshire East to reduce their carbon footprint by reducing energy consumption and by promoting healthy lifestyles.

### 9.4 Background

**9.5** The planning system has a critical role to play in addressing climate change, in terms of both mitigating its effects and shaping places to cope with its impacts.

**9.6** SADPD Policy ENV7 Climate Change builds on policies in the LPS and the content of the Environment Strategy and, in combination with other policies in the plan, is designed to make sure that development and use of land in the borough contributes to the mitigation of, and adaptation to, climate change impacts.

**9.7** Climate change mitigation measures can also add to the sense of place and the design quality of development. The policy is consistent with the government's commitment to a more sustainable construction sector in the Industrial Strategy Construction Sector Deal (2018), including its mission to at least halve the energy use of new buildings by 2030.

**9.8** In line with LPS Policy SE 8 'Renewable and low carbon energy', the Council will look favourably upon development that follows the principles of the Energy Hierarchy, and seeks to achieve a high rating under schemes such as BREEAM (for non-residential development), CEEQUAL (for public-realm development) and Building for a Healthy Life (or as updated).

### 9.9 Required Contributions

**9.10** A suite of climate related mitigation measures are required of development, many of which are required to be designed into the fabric of the proposal. For example, the provision of SUDS should be considered at an early stage, landscaping schemes should include species that are resilient to climate change and Biodiversity Net Gain will be secured to enhance habitats. In addition, Part L of the Building Regulations requires improved efficiency in energy performance of buildings with delivery regulated outside of the planning consent process.

**9.11** Non-residential development over 1,000 sqm will be expected to secure the minimum standards set out in Criterion 2 of LPS Policy SE 9 'Energy efficient development and all 'major' residential development schemes should provide for at least 10% of their energy needs from renewable or low carbon energy generation on site unless the applicant can clearly demonstrate that having regard to the type of development and its design, this is not feasible or viable.



**9.12** Climate change related measures and contributions will normally be secured through the design process, and the use of planning conditions, rather than developer contributions. Therefore, early engagement with the Council on the implications of climate change policies in the site context, is recommended.

**9.13** However, there may be instances where delivery of energy generation is secured by S106, or contributions to the delivery of offsite clean energy are required in order meet the relevant policy tests and make development acceptable in planning terms.



## 10 Design and Public Realm

### 10.1 Objective

**10.2** Cheshire East has a unique character and sense of place and it is important that new development responds to this context. The delivery of high-quality design is expected in all developments and should be considered at the earliest stage of forming proposals. Development proposals should, therefore, consider the wider character of an area, as well as that of the site, and its immediate context, to ensure high quality design is employed which reinforces the qualities and character of the area in which the site is located.

**10.3** This means that the architectural, urban and landscape design of a scheme must demonstrate their performance in regard to high quality design principles.

**10.4** Additionally, it is recognised that where new development is proposed in locations where occupiers will be likely to utilise town centres, this intensifies use of town centre public realm, increasing the need for facilities such as seating, waste bins, cycle racks, safe pedestrian routes etc., and the impact on long-term maintenance costs.

### 10.5 Background

**10.6** The NPPF sets out that the creation of ‘high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve’ (para.131) and Cheshire East’s Development Plan supports this aim through policy SE1: Design, of the LPS and policy GEN1: Design Principles, of the SADPD. Expectations in regard to how these policies should be interpreted are set out through the Cheshire East Design Guide SPD.

**10.7** The NPPF also sets out that local authorities should ‘support the role that town centres play at the heart of local communities, by taking a positive approach to their growth management and adaptation’ (para.90).

**10.8** The LPS contains multiple policies related to design matters and public realm, including Policy SE1: Design and Policy EG5: Promoting a Town Centre First Approach to Retail and Commerce.

**10.9** Policy Strategic Location LPS1: Central Crewe establishes multiple design led ambitions for the town centre and central area of Crewe, with policy RET 10 ‘Crewe Town Centre’ of the SADPD providing further detail. Similarly, Strategic Location LPS12: Central Macclesfield and SADPD policy RET 11 ‘Macclesfield Town Centre and Environs’ does the same for the central area of Macclesfield. Further, a Strategic Regeneration Framework<sup>(16)</sup> has been adopted by the Council which articulates the Council's preferred approach to design across this area.

**10.10** In seeking to deliver this aim of creating high quality places and supporting our town centres, Cheshire East Council has adopted a series of Town Centre Vitality Plans<sup>(17)</sup> that set out guidelines for development in town centres across the borough, these should be referred to where appropriate.

16 [https://www.cheshireeast.gov.uk/business/major\\_regeneration\\_projects/town\\_centre\\_vision/macclesfield-town-centre-regeneration.aspx](https://www.cheshireeast.gov.uk/business/major_regeneration_projects/town_centre_vision/macclesfield-town-centre-regeneration.aspx)  
17 [https://www.cheshireeast.gov.uk/business/major\\_regeneration\\_projects/town-centre-vitality-plans.aspx](https://www.cheshireeast.gov.uk/business/major_regeneration_projects/town-centre-vitality-plans.aspx)



## 10.11 Required Contributions

**10.12** High-quality public realm will normally be secured through the design process, and the use of planning conditions, rather than developer contributions. Therefore, early engagement with the Council on what high quality design means in the site context, is recommended.

**10.13** In order to secure delivery of high-quality places, the Council support the inclusion of public art in the landscape and urban design of schemes. This provision can be undertaken in several ways, for example through the use of public seating designed by local artists, ornamental brise-soleil, or murals that feature on gable walls. In such instances, whilst the provision may be secured by condition, a S106 agreement be used to secure the funding for on-going maintenance.

**10.14** For development delivered in phased consents, or for development within town centres, it may be appropriate to use S106 agreements to ensure the delivery of space that functions as public realm for latter phases of the development, or to ensure that the scheme connects with other areas of existing or proposed public realm outside of the development boundary.

**10.15** New residential development can support and generate additional local expenditure for town centres which can positively impact on the vitality and viability of centres nearby, however, as set out above, intensification of use may also increase pressure on basic town centre services and require a contribution to maintenance costs. For development that has a reliance on, or connection with, a town centre, and it can be demonstrated that the proposal will have an impact on the town centre that requires mitigation, contributions may be sought for specific projects or for measures set out in the Council's Town Centre Vitality Plans, Strategic Regeneration Frameworks, or other adopted policy documents.



## 11 Ecology

**11.1** 12.1 The Council is developing a Biodiversity Net Gain SPD which can be accessed via the Council's website<sup>(18)</sup>.

**11.2** Local Plan Strategy Policy SE 3 'Biodiversity and Geodiversity', seeks to make sure that there is no overall loss of biodiversity and geodiversity and seeks to utilise avoidance, mitigation, compensation, and offsetting strategies to achieve this. The policy makes clear the Council's commitment to increasing the total area of valuable habitat in the borough, through linking up of existing habitats and the creation of ecological steppingstones and wildlife corridors.

**11.3** SADPD Policy ENV1 'Ecological Network' and ENV2 'Ecological Implementation' provide additional detail about how this will be achieved by making sure that all development proposals contribute positively to the conservation of biodiversity and geodiversity.

**11.4** Overall, the Council's objective is to seek ecological mitigation and enhancement on site, and where that is not possible, seek contributions to offsite in order to ensure that development in Cheshire East positively contributes to the conservation and enhancement of biodiversity.

### 11.5 Background

**11.6** NPPF para.180 (d) requires that 'Planning policies and decisions should contribute to and enhance the natural and local environment by:

- i. (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

**11.7** NPPF Para. 185 (b) requires that:

- i. To protect and enhance biodiversity and geodiversity, plans should:

(1) (b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

**11.8** Biodiversity Net Gain is a concept introduced by the Environment Act and is a statutory obligation from 2024 onwards. The Council does not have a specific Biodiversity Net Gain policy in the development plan for Cheshire East, but, through CELPS policy SE3 'Biodiversity and Geodiversity', does seek to ensure that development will 'positively contribute to the conservation and enhancement of biodiversity' and policies ENV1 and ENV2 of the SADPD provide further detail on this approach.

**11.9** Policy SE3 of the LPS identifies areas of high biodiversity or geodiversity and emerging policy ENV1 of the SADPD sets out the extent of the Ecological Network in Cheshire East. The Ecological Network is the extent of known ecological assets which incorporates existing

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18 [https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire\\_east\\_local\\_plan/supplementary\\_plan\\_documents/supplementary\\_plan\\_documents.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire_east_local_plan/supplementary_plan_documents/supplementary_plan_documents.aspx)



protected sites and priority habitats, and it identifies areas to restore and buffer the network. Policy ENV2 'Ecological Implementation' sets out that proposals should achieve a biodiversity net gain and be supported by a biodiversity metric calculation.

**11.10** The policy also requires applicants to apply the mitigation hierarchy in their approach to site design by firstly avoiding harm, then, if impacts cannot be avoided, successfully mitigating such impacts; and if mitigation is not possible, or fully possible, providing compensation measures. The expectation is that enhancement and mitigation is delivered on-site, and it is only where this is demonstrably not possible that offsite compensation will be considered.

**11.11** Advice on fulfilling the requirements related to Biodiversity Net Gain is set out in the Government's Planning Practice Guidance <sup>(19)</sup> and further local advice will be established via the Council's Biodiversity Net Gain SPD.

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19 [Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk)





## 12 Education

### Objective

**12.1** The Councils objective is to secure excellent educational facilities to meet the needs of the current and future population of all ages, to improve educational attainment and provide a wide skills base (Strategic Priority 1).

**12.2** All our children and young people deserve to be happy, healthy, and safe and to enjoy a life which is filled with fun and opportunities to learn and develop. Their interests are at the heart of everything we do. We want to ensure our children and young people leave school with the best skills and qualifications they can achieve and the life skills they need to thrive into adulthood. Schools are pivotal in contributing to the educational and qualification achievement within the borough, providing social and economic opportunities for local people and making Cheshire East a great place to live and learn.

### 12.3 Background

**12.4** As the Strategic Commissioner of school places, Cheshire East Council (CEC) has a statutory duty to ensure a sufficiency of school places for children resident in its area who wish to attend a publicly funded school. This includes local authority-maintained schools, academies and free schools providing mainstream provision and special educational provision for pupils who have special educational needs.

**12.5** One of the core principles of the National Planning Policy Framework (NPPF) is that planning should 'proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places that the country needs.

**12.6** Sufficient appropriate infrastructure is crucial to the well-being of any society. The timely provision of education infrastructure to mitigate the impact of new residential development is essential to deliver high quality school places associated with the need which arises directly as a consequence of new housing. It is important to ensure that all developments are adequately supported by appropriate education infrastructure.

**12.7** The Department for Education (DfE) expects the local authority to secure funding towards school places that are created to meet the need arising from housing development. The Department for Education guidance, Securing Developer Contributions for Education, November 2019 states that:-

**12.8** "The government is committed to ensuring that there are enough good new school places to meet local needs, while also driving forward an ambitious housing agenda to increase housing delivery, home ownership and the creation of new garden communities"

**12.9** S106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, sets in place the statutory basis for obtaining funding from developers through planning obligations to meet their obligations to the local community.

**12.10** In parallel with the existing S106 planning regime is the Community Infrastructure Levy (CIL). It is a levy which Local planning Authorities (LPAs) in England and Wales can choose to charge on new developments in their area. It is a funding mechanism intended to



help fund major infrastructure to support the development of a wider area, rather than to make individual planning applications acceptable in planning terms. The 2019 CIL Regulations enable local authorities to use funds from both CIL and S106 obligations to pay for the same piece of infrastructure, and future responses to planning applications will reflect this change.

**12.11** The education department uses a combination of CIL and S106 for financial contributions for infrastructure from new development, with a focus on S106 for education. This allows mitigation for site specific impacts arising from new developments. Education projects identified in the CIL 2019 charging schedule can be found on the Council's website<sup>(20)</sup>.

## **12.12 Education Forecasting and Methodology General Principles**

**12.13** 5.1 Forecasts are produced at school and planning area level, in line with national DfE guidance.

**12.14** The basis for the primary pupil forecasts is the October school census data. This provides the number on roll which is projected forward over the forecasting period for year groups 1-6. Reception forecasts are produced by using a weighted average of the last 3 years actual intake figures. In addition, birth data is used as a control figure and an average over 3 years is applied to take account of pupil migration based on actual intakes. CEC is traditionally an “importer” of pupils from neighbouring local authorities and therefore a percentage of non-Cheshire residents will be factored in based on the average intake over the last 3 years.

**12.15** The basis for the secondary pupil forecasts is the October school census data. This provides the number on roll which is projected forward over the forecasting period for year groups 8 -11. Year 7 forecasts are arrived at by calculating the percentage feeder rate for each of the primary schools transferring to secondary schools based on a 3-year average. This percentage average is then applied to the actual numbers on roll in the primaries as at the October census. CEC is traditionally an “importer” of pupils from neighbouring local authorities and therefore a percentage of non-Cheshire residents will be factored in based on the average intake over the last 3 years.

**12.16** The basis for the sixth form pupil forecasts is the October school census data. This provides the number on roll. Sixth form forecasts are arrived at by calculating the percentage transfer rates to years 12 and 13 from years 11 and 12 based on a 3-year average. This percentage average is then applied to the actual numbers on roll at the school for each of the year groups as at October census. In addition, the school has a published admission number for external pupils and a 3-year average of the actual intake will be factored into forecasts.

**12.17** The above forecasting methodology creates the basic need forecasts. In addition to these basic need forecasts additional anticipated pupils from new housing developments are then added.

**12.18** The education department currently assesses schools identified within a 2-mile safe walking distance for primary or 3 mile safe walking distance for secondary.

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20 <https://www.cheshireeast.gov.uk/pdf/planning/spatial-planning/cil-charging-schedule-feb-19.pdf>



**12.19** At present forecast SEN pupil numbers are based on current percentage of children with an Education Health Care Plan (EHCP) against the number of children resident in Cheshire East.

### **12.20 Process for Assessing need – General Principles**

**12.21** Following notification of a planning application submission, the education department will undertake an assessment of the application using the criteria as outlined in this policy and respond as necessary to Cheshire East's planning service.

**12.22** All residential planning applications of 11 dwellings (2 bedroom +) or more will be assessed against impact on education.

**12.23** Specialist accommodation such as student accommodation, elderly accommodation, assisted living accommodation and 1 bedroom dwellings are exempt from assessment as it is assumed no children would reside there.

**12.24** Where the education department has built school provision/infrastructure in anticipation of forthcoming local plan sites, the education department will require a proportionate share of a retrospective contribution where the development is directly relatable to the project.

**12.25** The Community Infrastructure Levy (CIL) Regulations (as amended in September 2019) no longer impose a pooling restriction on the use of the planning obligations to fund the same type of infrastructure or infrastructure project.

**12.26** Due to increasing changes to schools and academies making changes to their capacity, admission arrangements, catchment areas etc, it is essential that the education department has the flexibility to use the S106 contributions at the most appropriate school at the time of implementing the additional infrastructure requirements.

### **12.27 Process for assessing need – Mainstream Education**

**12.28** Before assessment takes place Schools Organisation will calculate the anticipated pupil numbers using the latest DfE pupil yield data.

**12.29** When assessing a proposed residential development (also known as a housing impact assessment), state funded mainstream primary schools that fall into the 2-mile safe walking (and/or catchment\*) for primary needs are assessed collectively for capacity, and measured against the 5-year primary forecasts, primary children expected from approved housing and the children expected from the proposed development.

**12.30** The education department currently assesses primary schools identified within a 2-mile safe walking distance unless there are no schools within that radius, in these circumstances the catchment school will be used for assessment.

**12.31** When assessing a proposed residential development, state funded mainstream secondary schools that fall into the 3-mile safe walking (and/or catchment) for secondary needs are assessed collectively for capacity, and measured against the 7-year secondary forecasts, secondary children expected from approved housing and the children expected from the proposed development.



**12.32** There may be occasion where no primary or secondary schools are within the safe walking distance and the catchment school that will be used is more than the 2- or 3-mile distance. This is more likely in rural developments. If the school within 2 or 3 miles is another borough then we would need to find our nearest school.

**12.33** The education department currently assesses secondary schools identified within a 3-mile safe walking distance.

**12.34** A housing impact assessment is carried out to determine whether there would be a surplus or deficit of school places against a proposed development and therefore whether a developer contribution is required. This assessment is provided as part of every education consultation response to a proposed development.

**12.35** Any known changes in school capacity are reflected in housing impact assessments.

**12.36** A developer contribution will be sought if there is a shortfall of school places at any point in the forecasting period, as a result of the pupils expected from a proposed development.

**12.37** Where the education department has built school provision in anticipation of forthcoming local plan sites, the education department will require a proportionate share of a retrospective contribution where the development is directly relatable to the project.

**12.38** Children forecast from approved development, where there is a negotiated S106, are reflected in the housing impact assessment as additional capacity.

**12.39** It is assumed that the years beyond the forecasting period remain constant, as birth rates and other data needed to create predictions is unavailable.

**12.40** Forecasts are used to estimate the future need for school places: taking into account existing school capacity and parental preference outcomes. Future need is not therefore a direct comparison with current or previous numbers on roll, or what percentage lives in the catchment area of the school or otherwise what percentage are siblings, as it is highly unlikely that the same ratios will exist in the future. The methodology used is to estimate future need based on school census data, but also taking into account live birth data, parent choice through admission process and trends. Approved housing is factored into the forecasts based on the Cheshire East build rate.

**12.41** Approved housing, for which no S106 contribution in relation to education was received, will take up surplus school places. If such developments have been approved for a particular area, the outcome of a housing impact assessment may fluctuate.

**12.42** Education will seek contributions from developers towards early years, primary, secondary, further education, SEN, and school transport where a proposed development creates a need for any of those types of educational provision.

**12.43** Education will seek contributions for SEN infrastructure until data shows that SEN children from new development can be educated within Cheshire East sustainably. Current SEN Guidance is in Section 19.

**12.44 Site mitigation**



**12.45** All schools in the borough have been assessed to review site constraints in relation to possible future school expansion, within the extent of the current school site. If a contribution is requested for school(s) that will have a shortfall of playing field provision, and a new school site is not available, then the cost of site mitigation will be required in the form of purchasing additional land or an all-weather synthetic sport pitch. In the event that additional land is available for a school, education will decide the most suitable option in accommodating the additional children.

**12.46** The size and cost of an all-weather pitch will be provided within the consultation response, where required, where land is not available to purchase.

**12.47** The cost for additional land or an all-weather pitch will be in addition to the costs for school buildings. Current costs can be found in Section 17.

#### **12.48 Where the need for a new primary school has been identified**

**12.49** Where development sites in an area trigger the need for additional primary school places, a new primary school and provision of land will be required when the need is for at least 1 form of entry (30 places per year group plus nursery provision). The developer will be required to fund the construction of the new school and provide the necessary land, access and relevant services. This is in line with the DfE expectation of minimum school size to be viable published in the DfE guidance.

**12.50** If more than one development site is expected to be contributing to the overall need for a new primary school, each developer will be required to pay the relevant amount towards the overall total construction cost and the cost of the necessary land, access and relevant services.

**12.51** While many early years settings fall within the private, voluntary, and independent (PVI) sector, local authorities have a duty to ensure early years childcare provision within the terms set out in the Childcare Acts 2006 and 2016. DfE has scaled up state-funded early years places since 2010, including the introduction of funding for eligible 2-year olds and the 30 hours funded childcare offer for 3-4 year olds. Expanded early years entitlements for children aged nine months to three years old become available from 2024. The take-up of funded childcare entitlements is high, increasing demand for early years provision. All new primary schools are now expected to include a nursery.

#### **12.52 Where the need for a new secondary school has been identified**

**12.53** Where development sites in an area trigger the need for additional secondary school places, a new secondary school and provision of land will be required when the need is for at least 4 form of entry (120 places per year group). The developer will be required to fund the construction of the new school and provide the necessary land, access and relevant services. This is in line with the DfE expectation of minimum school size to be viable published in the DfE guidance.

**12.54** If more than one development site is expected to be contributing to the overall need for a new secondary school, each developer will be required to pay the relevant amount towards the overall total construction cost and the cost of the necessary land, access and relevant services.



## **12.55 New School Sites and Transfer of Land**

**12.56** In some instances, it may not be feasible to extend a local school due to site constraints or there may not be sufficient pupil places in the local area to cope with the increase in numbers. In this instance a new school will be required to cater for new development and the education department will expect the developer to provide a level, clear, uncontaminated, fully serviced and accessible site free of charge, in addition to the full build cost. New schools, land and buildings will be based on the Department for Education recommendations, which is currently Building Bulletin 103 Building Framework for primary and secondary schools and 104 for SEN Schools.

**12.57** When there is a determined need for a new primary school, DfE guidance is that “all new primary schools are expected to include a nursery”.

**12.58** Where additional land is needed to facilitate infrastructure improvements to accommodate the pupils generated by a development, the developer may be required to either provide land on site and transfer to CEC at nil cost or provide sufficient funding to acquire alternative land for a school site. Any additional land required to facilitate expansion will need to be in accordance with standard form of entry increases in pupil admission numbers and set against the relevant building bulletin.

**12.59** In some cases developers may be able to provide the required infrastructure on the site themselves, instead of paying the required contributions sum to Cheshire East Council. In this instance a building specification and monitoring charter will be agreed.

**12.60** Where the development is not large enough on its own to warrant a new school but is of sufficient size to trigger the need for a new school because existing schools cannot satisfactorily accommodate the pupils from the development, then the developer will be expected to provide a level, cleared, fully serviced and accessible site, plus a proportionate share of the new build costs. For example, if the development generated 50% of the pupils, then a 50% contribution will be sought toward the cost of a new school.

**12.61** If a new school opens below its full capacity while it awaits pupils moving to new housing within the developments, this does not represent an available surplus for other developments when assessing their own impact and mitigation. Only when we receive confirmation that the planned developments delivering the new school are not providing the total number of dwellings in the associated planning application will this be considered.

**12.62** Section 14 contains current new school project costs. These have been calculated based on DfE BB103 guidance for size/space requirements and using cost detailed in the DfE Pupil score cards, A regional weighting factor is also applied, which are updated annually. Developers need to be aware that these costs may vary on a site-specific basis, as the cost of a school is dependent on many variable factors (including but not restricted to relevant building standards requirements, highway mitigation and issues relating to the proposed site itself) and cannot be applied uniformly.

**12.63** When necessary, additional contributions will also be sought “to ensure that all education needs are properly addressed, including temporary education needs where relevant, such as temporary school provision and any associated school transport costs before a permanent new school opens within a development site”.



## 12.64 New School Site Specification

**12.65** Where a developer is required to provide land to accommodate school provision, Cheshire East Council will require that the site include the following:

- i. The site should be in the heart of the community, encouraging walking or other environmentally friendly means of pupils going to and from school (e.g. providing access to public transport and safe routes to school – i.e. pupils do not have to cross a major road) Proximity to other local community facilities (which pupils can visit as part of their learning and development) and associated parking areas (separate from staff car parking) are vital.
- ii. School security is important. For example a school in a rural or remote area is vulnerable because it is not overlooked by neighbours.
- iii. Land should be flat, at level with surrounding areas, rectangular in shape, fully serviced (water, gas, electric, foul/storm), free draining and with at least 30cm of clean topsoil. Note: Fully serviced is fully serviced to permit the site to operate at a capacity to allow the school and its associated infrastructure to function and operate
- iv. Land should not be crossed by public right of way or access, not liable to flooding, not crossed by or bounded by power lines, not crossed by and sufficiently distant from gas mains and outside the cordon sanitaire of any sewage plant.
- v. Land should be free of items or structures of archaeological interest, protected species or habitats, or part of a conservation area or planning restrictions.
- vi. Land should be free from buildings and other surface structures, trees and abutting trees, pipes and underground cables, spoil, land fill and fly tipping and void spaces such as wells, sumps and pits.
- vii. Land and the surrounding site should be free from contamination, radiation, ground gasses and vapours or invasive plants such as Japanese Knotweed.
- viii. Land and the surrounding site should be outside any current or proposed 57dBA Leq noise contour and not affected by potential sources of noise, air or light pollution.
- ix. The land should be sufficiently distant from any site that may cause public anxiety, such as chemical or petrol chemical production or storage, the storing or handling of live viruses, facilities housing or treating people with a history of violence or a threat to children, incinerators, current or previous landfills, prisons or facilities for persons with a history of offending, phone or radio mast transmitters, high voltage power lines and premises housing dangerous animals, birds, reptiles or insects.
- x. Land must be available and accessible for investigation purposes. Vehicular access must be suitable for construction and commissioning purposes. Adopted public highway must be provided to ensure suitable vehicular access for building maintenance (not a cul-de-sac). A separate suitable vehicular access to service the playing field must be provided.
- xi. Traffic calming or 20mph speed limits must be implemented on surrounding roads to the site.
- xii. Notification of site transfer and school opening will be at the discretion of The Council and will be determined upon the timing for the need of school places. If delays occur beyond The Council's control, The Council will seek costs associated with transporting pupils to neighbouring schools, whether that is in neighbouring towns or authorities.
- xiii. If the school location is not within the immediate area of the initial house build phase, then appropriate highway infrastructure must be installed to allow safe access for vehicles and pedestrians upon the opening of the school.



## 12.66 Education: Pupil Yields

12.67 The Council applies the following yields:

- i. 29 x primary children per every 100 dwellings
- ii. 14 x secondary children per every 100 dwellings
- iii. 2 x SEN pupil per every 100 dwellings (see section 15 for details regarding this).
- iv. 13 x EYFS children per every 100 dwellings – currently the early years’ service are developing a policy for claims/yields for EYFS
- v. 4 x further education pupils per every 100 dwellings – currently the education Service is developing a policy for claims/yields for FE pupils.

12.68 The yields are derived from the DfE’s updated securing developer contributions for education guidance, published in August 2023. The DfE calculated yields uses data from Ordnance Survey, Valuation Office Agency, Office of National Statistics, DfE, and the National Pupil Database.

12.69 To date, Cheshire East Council does not claim infrastructure costs for EYFS and Further Education, however if a deficit of infrastructure is identified and forecast to be exacerbated as a result of further development, then this policy may change throughout the life of the local plan, as the provision is need driven. Currently the education service is developing a policy for claims/yields for EYFS, FE Pupils and transport costs. The latest DfE guidance does not have a complete analysis for EYFS or FE therefore the figures used at Cheshire East’s last analysis have been used. Once analysis is completed, this will be updated and consulted on at a later date.

12.70 The SEN yield reflects SEN need for all through ages for EYFS (0.13), Primary (0.29), Secondary (0.14) and Further Education (0.04) with a total of 0.60. 2022/2023 statistics show that 4.7% of the borough’s children have an EHCP.

12.71 Please note that the education department frequently review the pupil yield, this policy will be amended if the makeup of yields changes. Furthermore, the percentage of SEN children in the borough will vary year on year and this will be updated annually to reflect this.

## 12.72 Expansion Costs

12.73 \*Cheshire East weighting applied at: 1.08695622

Table 12.1

Age Range	Cost per Pupil	Evidence
EYFS	£17,268.00	As per basic primary cost
Primary	£19,425.00	DfE Guidance Securing Developer Contributions for Education and Local Authority Score Cards
Secondary	£26,717.00	DfE Guidance Securing Developer Contributions for Education and Local Authority Score Cards
Post 16	£23,775.00	As per basic secondary cost





SEN (2-19)	£74,920.00	National School Delivery Cost Benchmarking Study
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**12.74** School expansion costs are provided by region via the DfE Pupil score cards. A regional weighting factor is also applied.

**12.75** Please note that due to the ongoing cost increases the figures (£) detailed in section 13 will be reviewed and be updated on an annual basis

**12.76 Education: New School Cost**

**12.77** \*Cheshire East weighting applied at: 1.08695622

Table 12.2

Age Range	Cost per Pupil	Evidence
EYFS	£20,508.00	As per basic primary cost
Primary	£23,192.00	DfE Guidance Securing Developer Contributions for Education and Local Authority Score Cards
Secondary	£28,096.00	DfE Guidance Securing Developer Contributions for Education and Local Authority Score Cards
Post 16	£24,929.00	As per basic secondary cost
SEN (2-19)	£85,539.00	National School Delivery Cost Benchmarking Study

**12.78** New School costs are provided by region via the DfE pupil score cards. A regional weighting factor is also applied.

**12.79** Please note that due to the ongoing cost increases the figures (£) detailed in section 14 and 15 will be reviewed and updated periodically.

**12.80** No. of dwellings x pupil yield x DFE cost per place figure/regional weighting (1.08695622)

**12.81** SEN = No. of dwellings x pupil yield x 0.047 x DFE cost per place figure/regional weighting (1.08695622)

**12.82** Pupil Yield formulae

**12.83** Anticipated mainstream pupil yield:  $A_y = D * M_y$

**12.84** Anticipated SEN pupil yield:  $S_y = D * S_y * P$

**12.85** Monetary Contribution formulae

**12.86** Mainstream:  $A_y * C$  divided by R

**12.87** SEN:  $A_{S_y} * C$  Divided by R



**12.88 Key:**

**12.89 D** = Number of 2+ bedrooms in the development

**12.90 My** = pupil yield for primary/secondary places, as set out in the latest published DfE guidance/scorecard

**12.91 Sy** = SEN pupil yield as set out at paragraph 13.73

**12.92 ASy** = Anticipated pupil yield, calculated using yield stated at paragraph 13.73 and the number of 2+ dwellings in the development

**12.93 P** = the percentage of Cheshire East children with an EHCP

**12.94 C** = Cost per place as set out in the latest published DfE guidance/scorecard

**12.95 R** = The regional weighting as set out in the latest published scorecard

**12.96** All contributions must be index linked as the amount calculated at the time a planning application is made may be significantly devalued by build cost inflation by the time the development begins, and the contribution is paid. The index used is the building cost information service (BCIS) all in tender price index.

**12.97** Forecast SEN pupils will be discounted from forecast preschool, primary, secondary and further education, where applicable to prevent double counting.

**12.98** All yields are rounded to the nearest whole number.

**12.99** Please note that due to the ongoing cost increases the figures (£) detailed in section 15 will be reviewed and be updated on an annual basis.

**12.100** Example based on school expansion figures

**12.101** 400 2 bed + dwellings would expect to generate 52 EYFS children (400 x 0.13), primary children (400 x 0.29) 56 secondary children (400 x 0.14) and 16 further education children. The development would be anticipated to result in 11 pupils requiring an SEN school place (of which 2 child is of EYFS age, 3 children are of primary age, 2 child of secondary age and 2 child of Further Education age).

**12.102**  $116 (-3 \text{ SEN}) \times \text{£}19,425.00 / 1.08695622 = \text{£} 2,019,423.56$  primary contribution

**12.103**  $56 (-2 \text{ SEN}) \times \text{£}26,717.00 / 1.08695622 = \text{£} 1,327,300.93$  secondary contribution

**12.104**  $11 \times \text{£}74,920.00 / 1.08695622 = \text{£}758,190.61$  SEN contribution

**12.105** Total education contribution = £4,104,915.10

**12.106** Please note that due to the ongoing cost increases the figures (£) detailed in section 16 will be reviewed and be updated on an annual basis

**12.107 Synthetic pitch costs**



**12.108** £114.23 per M2 of synthetic sports pitch

**12.109** Please note that due to the ongoing cost increases the figures (£) detailed in section 17 will be reviewed and be updated on an annual basis.

### **12.110 School Transport Costs**

**12.111** Where necessary, a home to school transport contribution would be required from developers where the development sits outside of the 2 or 3 miles safe walking distance of nearby schools based on the following formula:

- i. Primary: (No of dwellings X pupil yield) X £1,422.00 X 7
- ii. Secondary: (No of dwellings X pupil yield) X £1,422.00 X 5
- iii. SEN: (No of dwellings X pupil yield X 0.047)/100 X % of children with EHCP who receive transport X £8,164.00 X No of years in school"

### **12.112 SEN Guidance**

**12.113** The English national percentage of children with an Education, Health & Care Plan (EHCP) or a statement of educational need identified in 2022 was 4.3%, as published on GOV.UK. The current percentage for Cheshire East is slightly higher than this at 4.7% of school age children within the borough.

**12.114** Cheshire East identified that 9.9% of children in the borough required SEN support but no statement (i.e., school action and school action plus). These pupils attend mainstream schools and are funded through central government through school's budgets. These children are included in the mainstream yields and are not part of the SEN yield.

### **12.115 SEN Requirements**

**12.116** An EHCP or a statement of SEN is individual to each child's needs. Difficulties within education can range from mild to severe and can include physical disabilities, learning disabilities, mental and behavioural. SEN children who attend a SEN school will have been statemented with one or more of the below:

- i. Autistic spectrum disorder
- ii. Behavioural, emotional & social difficulties
- iii. Moderate learning difficulty
- iv. Profound & multiple learning difficulty
- v. Severe learning difficulty

**12.117** Sometimes pupils with physical disabilities require additional space requirements for the use of equipment such as standing frames, motorised wheelchairs, or horizontal learning stations etc. They may require access to personal care facilities and additional storage for their equipment. Pupils with social, emotional, and mental health difficulties require personal space and areas that allow them to withdraw from groups. Pupils with mobility and communication difficulties usually require specialist equipment and smaller break off rooms for additional support. Taught groups are usually smaller to accommodate individual needs, for example children with autism require low sensory stimulus, whereas children with profound learning difficulties require intensive stimulation. Disabled pupils require space for physiotherapy, which may require room for specialist equipment, such as a hoist.



## 12.118 SEN Capacity

**12.119** As stated in the DfE Building Bulletin 104 (2015), Pupils are taught in smaller groups, averaging between 8 – 12 children/young adults, however based on pupil's individual needs, this can fall as low as 4-6 children/young adults.

Table 12.3

Ambulant Pupil SEN need	Pupils per Class base	Non Ambulant Pupil SEN need	Pupils per Class Base
Moderate Learning Difficulty	8 - 12	Moderate Learning Difficulty	4 - 6
Severe Learning Difficulty	8 - 12	Severe Learning Difficulty	4 - 6
Autistic Spectrum Disorder	6 - 8	Autistic Spectrum Disorder	4 - 6
Behavioural, Emotional and Social Difficulties	6 - 8	Profound and Multiple	4 - 6

**12.120** Against the DfE Building Bulletin BB104 (December 2015) a special school, which caters for a variety of complex needs, has a minimum and maximum of sized class bases to accommodate a minimum and maximum number of children, which is based on the severity of the child's individual need. To allow for changes to need an element of flexibility needs to be allowed for.

Table 12.4

SEN Need	Ambulant / non ambulant pupil	EYFS / Primary / Secondary	Min M2	Min Pupils	Max M2	Max Pupils
Hearing impairment	Ambulant	primary / secondary	30m2	4	56 m2	12
Visual impairment	Ambulant	primary / secondary	30m2	4	56 m2	12
Behavioural, emotional and social difficulties	Ambulant	primary / secondary	30-38m2	4	56 - 66m2	12
Moderate learning difficulty / severe	Ambulant	EYFS	30-38m2	4	56 - 66m2	12



learning difficulty / autism						
Autistic spectrum disorder	Ambulant	All	38-46m2	4	66 -78 m2	12
Severe learning difficulty / profound and multiple learning difficulty	Non-ambulant	All	50-58m2	4	86 - 94 m2	12
Physical disability / severe learning difficulty / profound and multiple learning difficulty	Non-ambulant	All	58m2	4	94m2	12

**12.121** SEN class bases accommodate fewer children compared to mainstream class bases due to the nature of the pupil's learning environment requirements. SEN schools are likely to have additional rooms such as sensory bases, changing facilities, therapy rooms and smaller break out rooms where children can go to withdraw.

**12.122** Some mainstream schools have specially resourced provisions and designated special need provision, which accommodates SEN pupils. The SEN pupils who utilise this provision are on roll at the mainstream schools. The accommodation used for this provision still falls within the guidelines above for SEN pupils.

### **12.123 SEN Forecasting Need**

**12.124** Cheshire East Council has published its Sufficiency Statement<sup>(21)</sup> for children & young people with special educational needs, this document has identified that CEC needs to increase its specialist provision as children have to be placed in schools outside of Cheshire East.

21 <https://www.cheshireeast.gov.uk/pdf/livewell/sen/send-sufficiency-final-for-website.pdf>



**12.125** The education department acknowledges that there is an existing shortfall of Special School places, however using the borough’s current 4.7% of expected SEN pupils, live birth data, and additional children expected from the Local plan and speculative development will further exacerbate this.

**12.126 SEN Infrastructure Costs**

**12.127** Expansion Costs: \*Cheshire East weighting applied at: 1.08695622

Table 12.5

Age Range	Cost per Pupil	Evidence
SEN (2-19)	£76,184.00	National School Delivery Cost Benchmarking Study

**12.128** New School Costs: \*Cheshire East weighting applied at: 1.08695622

Table 12.6

Age Range	Cost per Pupil	Evidence
SEN (2-19)	£83,413.00	National School Delivery Cost Benchmarking Study

**12.129 SEN Projects**

**12.130** At present, The Council intends to create additional places by expanding existing schools and creating new provision within the Borough. This is further defined within The Council SEN Sufficiency Statement<sup>(22)</sup>.

**12.131** The pupil yields expected from housing developments are factored into the pupil projections year on year. The education department is expected to accurately forecast pupil projections in line with DfE tolerances, which in turn formulates the Borough’s entire capital programme based on forecast need. The education department continuously and actively studies, evaluates, and researches best practice and strives to improve accuracy, efficiency, and value for money; therefore, the flexibility to alter formulas is vital due to the nature of the data, which can vary year on year.

**12.132** The need for flexibility further extends to build costs. The education department has a Statutory Duty to provide school places and is measured on cost per place provided by the DfE. Economic factors beyond the education department’s control may impact the cost per place, restricting infrastructure from money sought.

**12.133** The principal of the methodology is unlikely to change, however the data and costs per place that makeup the formulas may fluctuate throughout the life of the Borough’s Local plan. Furthermore, The Council would likely be minded to adopt any future alterations to guidance as advised by National Government.

**12.134 Education: EYFS**

22 <https://www.cheshireeast.gov.uk/pdf/livewell/sen/send-sufficiency-final-for-website.pdf>



**12.135** Contributions will be sought to fund statutory early education entitlements for children aged 9 months to 4 years where additional early years places for children aged 0-4 are required due to the development, whether these are attached to schools or delivered as separate settings.

At present, the Council intends to create additional places by expanding existing provision and creating new provision within the borough. Contributions will be sought on the basis of the need identified in the Council's Child Care Sufficiency Statement <sup>(23)</sup>, and the impact of a site on provision within the local area. Contributions may be pooled and delivered at trigger points identified in S106 agreements; this approach is especially relevant in locations where large-scale strategic site allocations, identified in the local plan have been made and the provision of a new facility is required.

### **12.136 Further Education**

**12.137** Cheshire East currently does not claim an education contribution for FE age group. This element to the policy is currently being developed and is expected to be claimed in the future subject to consultation.

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23 <https://www.cheshireeast.gov.uk/level-care-and-support-for-child-early-years-and-child-care/info-provides-business-information-for-child-care-providers-child-care-providers-child-care-sufficiency.aspx>



## 13 Highways and Transport

### 13.1 .Objective

**13.2** The Council's objective is to secure delivery of strategic infrastructure that ensures the safe and efficient operation of the highways and transport network (including the Public Rights of Way Network) and prioritises measures that positively encourage sustainable transport and focusing on walking and cycling.

**13.3** New development should also contribute to delivering a safe, sustainable, high quality, integrated transport system that encourages a modal shift away from car travel to public transport, cycling and walking through employing active travel principles <sup>(24)</sup>.

**13.4** Accordingly, Travel Plans or Transport Plans will be required to identify the relevant highway impacts and required mitigation and off-site contributions will be sought to mitigate the impacts of travel needs arising from new development, including Strategic Schemes.

**13.5** CIL contributions will be used for strategic projects identified in the Council's Medium Term Financial Strategy, with S106 / S278 agreements applied on a case-by-case basis to address needs arising directly from development.

### 13.6 Background

**13.7** The Cheshire East Local Plan Strategy (CELPS) identifies strategic highways infrastructure, and site-specific transport requirements necessary to enable development, including any parking requirements.

**13.8** Policies CO1: 'Sustainable Travel and Transport', CO2: 'Enabling Business Growth Through Transport Infrastructure' and CO4: 'Travel Plans and Transport Assessments' set out the key requirements that applicants should consider when preparing planning applications.

**13.9** The CELPS also identifies a series of site-specific requirements related directly to a variety of major site allocations across the borough. The Council's major infrastructure projects are also listed in the Infrastructure Delivery Plan.

**13.10** The Local Transport Plan identifies other transport projects necessary to achieve the objectives of the CELPS and the detail of local schemes is set out through a series of Local Transport Development Plans. <sup>(25)</sup>

**13.11** Neighbourhood plans may also set out a locally specific approach to travel and transport infrastructure and, where relevant, should be referred to in Travel Plans, Transport Assessments and Transport Statements.

### 13.12 Travel Assessments and Travel Plans

**13.13** For major development and large-scale development sites, applications must be accompanied by a Travel Assessment.

<sup>24</sup> [Active travel: local authority toolkit - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/active-travel-local-authority-toolkit)

<sup>25</sup> [Local Transport Plan \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/transport/local-transport-plan)





**13.14** A Travel Assessment should identify the travel implications arising from the development and set out the measures that will be undertaken to mitigate these impacts, including any contributions to strategic infrastructure identified in the Local Plan. The Travel Assessment will be used as the basis to establish S106 or S278 payments and will be subject to agreement during the planning application process.

**13.15** Smaller schemes should be accompanied by a travel plan or travel statement which sets out the travel and movement implications of the development and identifies how they will be addressed through design and, where necessary, contributions to local transport infrastructure.

### **13.16 Required Contributions**

**13.17** All development should ensure safe access and good connectivity which may mean direct mitigation is necessary within and in the vicinity of a site (for example provision of footways, upgraded bus stops, or cycling infrastructure etc) secured via S278 and S106 agreements.

### **13.18 Parking**

**13.19** Appendix C of the Local Plan Strategy (reproduced at appendix 2 of this document) sets out Parking Standards for Cheshire East which should be referred to when establishing parking needs <sup>(26)</sup>.

### **13.20 Off-Site Contributions**

**13.21** For major development, a Travel Assessment will be used to establish whether off-site contributions are required to improve the strategic and local highways and transport networks and mitigate the impact of development. Where transport modelling is required and identifies an impact on the local or strategic highways network, mitigation will be required and will form the basis of S106 and/or S278 agreements.

**13.22** Where modelling identifies a significant impact on the highways and transport network, contributions will be required. Such contributions will be calculated proportionately and based on the percentage impact that the scheme has on the capacity of key receptors in the network, and the costs of delivering improvements that ensure the continued safe and efficient operation of the whole highways and transport network.

### **13.23 Strategic Infrastructure**

**13.24** Where appropriate, development sites will be required to contribute to the delivery of identified strategic infrastructure on a proportionate basis.

**13.25** This will normally be secured through a S278 agreement on a tariff style basis, related to identified infrastructure needs. Sites that rely on existing highways infrastructure capacity, provided through one of the following schemes listed below, will be required to contribute to the delivery of the scheme on a proportionate basis, based on the percentage

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26 [local-plan-strategy-web-version-1 \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/local-plan-strategy-web-version-1)



capacity the scheme will rely on. For example, if a new roundabout costs £1,000,000 and a scheme is expected to rely on 20% of the roundabout capacity, the financial contribution required would be 20% of £1,000,000 (i.e., £200,000).

### **13.26 Strategic and Major Schemes:**

1. Crewe Green Roundabout
2. Sydney Road Bridge
3. Middlewich Eastern Bypass
4. Congleton Link Road
5. A500 Scheme
6. Poynton Relief Road
7. North West Crewe Highway Package
8. The 'Flowerpot' Junction (Congleton Road, Oxford Road, Park Lane)

**13.27** Sites allocated in the CELPS, and other sites that rely on schemes that have been forward funded and have already been built out (or have funding secured), will also be required to contribute, retrospectively to the above infrastructure schemes.

**13.28** The approach the Council will use as a starting point for calculating contributions to the schemes listed above is based on establishing proportionate contributions per residential unit and/or employment floorspace and is set out in SADPD Policy GEN4 'Recovery of Forward Funded Infrastructure'.

**13.29** The policy requires that the overall amount to be recovered for each scheme is divided by the overall number of homes/employments floorspace.

**13.30** Stage payments will be agreed and linked to onsite housing or employment floorspace completions and included as part of the legal agreement. Recoverable costs for the Council will include any administrative, legal, technical assessment and financing costs associated with both providing the infrastructure, and its subsequent recovery through the planning obligations process.

### **13.31 Public Transport**

**13.32** Multiple policies in the LPS and SADPD make reference to the need to plan and make provision for public transport. Development is required to improve public transport and public transport service levels (see policy CO1 of the LPS) and therefore where relevant, proposals should be accompanied by a Travel Plan or Transport assessment that specifies how this will be achieved.

### **13.33 Bus Service Contributions**

**13.34** Where contributions to the operation of public transport are justified, commuted sums will be calculated based on the predicted cost of charging and passenger infrastructure required to accommodate the new patronage forecast from the proposed development.

**13.35** Charging infrastructure may include (but is not limited to) Smart Charging Solutions, DC Fast Charging Solutions; Dynamic Charging Technology.



**13.36** Passenger infrastructure may include (but is not limited to) Coach stations, bus stops and shelters, ticketing systems, passenger information displays, waiting areas and amenities.

**13.37** In some circumstances, particularly for large scale development or to mitigate the cumulative impact of smaller development in an area, contributions will be required to support provision of bus services and should be provided at an early stage in the development process.

**13.38** This approach may be used to pump-prime routes to initiate or enhance specific bus routes where such routes may not be commercially viable initially but can become sustainable once the development is occupied (or part occupied), at which point S106 funding would expire and the route can become self-sustaining. This may include restoring lost services where a provision has ceased, or supporting new services based on community needs linked to the development proposal.

**13.39** In such circumstances contributions will be based on passenger forecasts arising from the development and the difference in price between farebox revenue and operating costs across a specified period.

**13.40** To allow the Council to plan and procure suitable public transport provision for the site and allow maximum opportunity to influence travel behaviour, Bus Service Contributions should be made available from first occupation unless agreed with the Local Planning Authority.

#### **13.41 PROW / Transport network etc**

**13.42** Policy INF1 of the SADPD requires that development proposals seek to provide links to national cycle routes, long distance footpaths, canal towpaths and rights of way network. Contributions may be sought to ensure that development successfully connects into such infrastructure.

**13.43** Public Rights of Way (PROW) are an essential network of connections that enable healthy and active lifestyles and reduce the need to travel by private car, therefore reducing impact on the wider network. In order to identify weaknesses in the local PROW network, and the 'walking and wheeling' network, opportunities to improve, enhance and expand these networks should be explored early in the design process. Through the design of the scheme or through contributions toward the wider PROW network, interventions may then be specifically targeted to secure improvements to the function and connectivity of the network.

**13.44** It should be noted that the canal network and its towpaths paths are an important part of the network of connections that enable healthy and active lifestyles and reduce the need to travel by private car. This network makes an important contribution to wider walking and cycling routes and any direct impact arising from a proposed development near a waterway should be appropriately mitigated where existing infrastructure is inadequate to meet the demands generated by it.

#### **13.45 Strategic Highways Network**



**13.46** Where the need to mitigate impacts related to the Strategic Highways Network arise through development, applicants should refer to the advice held in DfT Circular 01/2022 <sup>(27)</sup> and National Highways: Planning for the Future <sup>(28)</sup>. In circumstances where proposals impact the Strategic Highways Network, conditions will be required to ensure mitigation measures are delivered and these would usually require the use of S278 powers to ensure that necessary highway mitigation is funded and constructed.

### **13.47 S278 Agreements**

**13.48** Section 278 Agreements are entered into between the Local Highways Authority (Cheshire East Council) and the site developer and apply to both residential and non-residential schemes.

**13.49** Such agreements set out the works to be carried out in relation to the adopted highway. Identified works will either be undertaken directly by the Council at the developer's expense or directly by the developer themselves.

**13.50** S278 agreements will normally be secured through securing of a planning condition which requires agreement with the Council on:

- i. Design of the works to be carried out
- ii. Funding arrangements
- iii. Trigger point at which the works may commence

**13.51** It should be noted that the Technical Approval Assessment process for the design of a scheme is separate to the planning approval process and therefore it is important to clarify that applicants cannot rely on the planning processes as an assumed technical approval of any proposal. It is the responsibility of the applicant to demonstrate that highways, and transport solutions are technically sound and can be implemented to the required technical standards current at the time of the planning application.

### **13.52 S106 Agreements**

**13.53** Contributions to other transport related projects that mitigate the impact of travel arising from the development will normally be secured through S106 contributions or on-site provision of infrastructure, secured by condition.

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<sup>27</sup> [Strategic road network and the delivery of sustainable development - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/103442/Strategic-road-network-and-the-delivery-of-sustainable-development-01-2022.pdf)  
<sup>28</sup> [Planning for the future - A guide to working with National Highways on planning matters](#)



## 14 Indoor and Outdoor Sports Facilities, Public Open Space, Play Space and Green Infrastructure

### 14.1 Objective

**14.2** Publicly accessible open space, play and sports facilities all have a vital role to play in helping to promote health and wellbeing. Existing facilities represent important assets serving communities across Cheshire East and the Council's objective is provide appropriate facilities by protecting existing facilities and to support development of new facilities by ensuring all major residential development contributes toward the new or improved facilities.

**14.3** Green Infrastructure (GI) is the term that refers to the network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities across Cheshire East.

**14.4** Green infrastructure is a natural capital asset that provides multiple benefits, at a range of scales. For communities, these benefits can include enhanced wellbeing, outdoor recreation and access, enhanced biodiversity and landscapes, food and energy production, urban cooling, and the management of flood risk. These benefits are also known as ecosystem services.

**14.5** This section clarifies the Council's approach to the negotiation and implementation of green infrastructure in new developments, particularly in relation to green space standards, on-site maintenance costs and off-site developer contributions and maintenance costs.

### 14.6 Background

**14.7** The CELPS sets out a series of policies that establish how the provision, maintenance and management of open space, indoor and outdoor sport facilities, and green infrastructure will be required in accordance with policy requirements, and how development can be made acceptable in planning terms. Such agreements will often be secured through Section 106. The relevant policies of the CELPS are:

**14.8** SC1 Leisure and Recreation

**14.9** SC2 Indoor and Outdoor Sports Facilities and

**14.10** SE6 'Green Infrastructure'

**14.11** and SADPD policies

**14.12** REC 1 'Open space Protection'

**14.13** REC 2 'Indoor Sport and Recreation Implementation'

**14.14** REC 3 'Open Space Implementation'.

**14.15** The provision, maintenance and management of these green infrastructure elements; children's play space, amenity open space, allotments, outdoor sports facilities and green infrastructure connectivity, will be required in accordance with policy requirements and to make the development acceptable in planning terms will be secured through Section 106.



**14.16** Open space in the context of this document includes children’s play space, amenity open space, often referred to as green space, incidental amenity or open space, community gardening and allotments as referred to in SE6.

**14.17 Commuted Sums**

**14.18** Policy SE6 'Green Infrastructure' of the Local Plan Strategy includes a requirement for development to contribute to sport and playing fields, open space and recreation facilities and to provide adequate open space, which is outlined in table 13.1 of the LPS. For ease of reference, table 13.1 is replicated below:

Table 14.1

	Children's Play Space	Amenity Green Space	Allotments	Outdoor Facilities	Green Infrastructure Connectivity
Quantity (per 1,000 population)	0.8ha	0.8ha	0.2ha	Developer Contribution	0.8ha
Quantity (per family home)	20m <sup>2</sup>	20m <sup>2</sup>	5m <sup>2</sup>	Developer Contribution	20m <sup>2</sup>

**14.19** To date, when calculating commuted sums, the Council has used a formula approach based on the costs of provision and calculated the contribution on a pro rata basis per population arising from the proposed development site. For example the play element was based on the costs of provision of Local Equipment Area for Play (LEAP), taking full account of the various costs involved in such provision (fencing, furnishing, surfacing, informal social play area, maintenance etc).

**14.20** The costs for the development of community sports facilities are based on providing good quality sports facilities and Facilities Costs are updated on the Sport England website every quarter. These rounded costs are based on schemes most recently funded through the Lottery (and therefore based on economies of scale), updated to reflect current forecast price indices provided by the Building Cost Information Service (BCIS), prepared by Technical Team Lead of Sport England.

**14.21 Sports England Calculator**

**14.22** The Sports England Calculator will be used where proposals exceed 300 dwellings or meet other requirements/thresholds that mean Sport England must be consulted.

**14.23** 'The Sports Facility Calculator (SFC) can help quantify the additional demand for key community sports facilities. It's designed to estimate the demand for sports facilities created by a new community as part of a residential development. It helps to answer questions such as: "How much additional demand for swimming will the population of a new development area generate?", "What would the cost be to meet this new demand at today's values?"



**14.24** The calculator clearly links the growth in population as a result of new development, and the demand for outdoor and indoor sports that arise from that, with the current provision, supply and demand. It also identifies what should be provided and where in line with the Council's adopted Sports Strategies.

**14.25** Sports England also employ a Playing Pitch Calculator (in addition to the Sports Facility Calculator) which helps local authorities estimate the demand that may be generated for the use of playing pitches by a new population. This should also be used, alongside the Council's Playing Pitch Strategy <sup>(29)</sup> to establish the necessary monies for outdoor sports provision.

#### **14.26 How will the commuted sum for maintenance be calculated?**

**14.27** The commuted sums for maintenance of land being transferred to the council will be calculated on the actual costs of maintaining the facility over the life of the commuted sum. This will include all annual scheduled maintenance and the life costs over the 20 years, e.g. path top ups in year 3, 7, and resurface in year 10 / fence paint in year 10 etc. A detailed schedule for the 20 years will be produced in line with the Council's current maintenance standards based on the detailed designs for the facility.

**14.28** On capital commuted sums for off site provision in lieu of onsite provision, commuted sums will be calculated on the average costs of maintaining a play area, amenity open space, sports pitch etc and calculated pro rata.

#### **14.29 Required Contributions**

**14.30** Planning obligations relating to open space, outdoor sport and green infrastructure connectivity will be sought for residential and non-residential developments of 10 units or more, or where the site has an area of 0.5hectares or more or for commercial developments where the floorspace is over 1,000sqm or site area more than 1ha.

**14.31** Open space, outdoor sport and green infrastructure will, unless otherwise agreed, be provided on site. If agreed, off-site provision of part or all of the requirements will be provided by means of a commuted sum to the Council.

**14.32** Where the provision of open space, outdoor sport and green infrastructure is on site, management and maintenance in perpetuity will need to be demonstrated and will be secured via S106.

**14.33** Where all or some of the open space, outdoor sport and green infrastructure is to be provided off site via a commuted sum, it will be accompanied by a commuted sum for maintenance.

**14.34** Where the offsite provision of open space or green infrastructure connectivity is countryside, or contains countryside elements, a commuted sum for maintenance will also be required.

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29 [Playing Pitch Strategy \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk)



**14.35** Where provision is of strategic significance, it should be conveyed to the Council with a commuted sum for maintenance of a minimum of 20years. The Council may work with third party organisations to undertake long term management and maintenance.

**14.36** Planning obligations relating to indoor sport will be sought for residential units of 10 or more, or where the site has an area of 0.5hectares or more. Indoor sport will be secured by means of a commuted sum to the Council for off-site provision.

**14.37** Major development developments of 300 dwellings or more will require a specific Sports Needs Assessment and sometimes in combination with indoor, outdoor and other provisions for health and wellbeing. Where smaller developments below this threshold have been identified in the LPS as requiring provision on site or where developments will have an impact on existing sports facilities, a Sports Needs Assessment will be required.

**14.38** Where provision is made on site, the Council will take a pragmatic approach to provision of public open space, play space and green infrastructure and will consider 'stacking' (multifunctional uses) where each separate requirement can successfully be met. It should be noted that 'stacking' is not always appropriate as required uses may conflict with one another. For example, space for habit provision may not be compatible with public open space for recreation due to the disturbance to species that can arise from human activity.

**14.39** Where provision is not required on-site, or the Council considers a commuted sum in lieu of on-site provision is acceptable, the following calculations will apply:

Table 14.2

Provision Category	Threshold	Amount / units	Notes
Open space: Residential Development	Major development of 10 or more units or site more than 0.5ha	40m <sup>2</sup> per family home or 20m <sup>2</sup> per bedroom	Contributions for offsite provision will be accompanied by a commuted sum for maintenance. Offsite provision may include land purchase as well as projects to expand existing facilities
		Or financial contribution of £4,500 per family home	
		£2,250 per bed space in apartments [to a maximum of £4,500 per apartment]	
		Residential homes / supported living / sheltered housing 20m <sup>2</sup> per bed space	Residential homes / supported living / sheltered housing or similar will be expected to provide amenity open space consistent with the requirements of the development and/or as appropriate to location, size and scale of development where offsite opportunities exist.
		Or financial contribution of £1,125 per bed space or as negotiated for specific offsite opportunities	





Open space: Commercial Development	Major development floorspace more than 1,000sqm or site area more than 1ha	No set level for onsite provision	Presumption is that most commercial developments will not be required to provide onsite children’s play. On site amenity elements and green links will be desirable. These will be negotiated as appropriate to type, location, size and scale of development. Contributions for offsite provision will be accompanied by a commuted sum for maintenance.
		Class A1 Shops Food £32.15 per m <sup>2</sup>	
		Shops non-food £22.50 per m <sup>2</sup>	
		Class A3/A4 food and drink restaurants £20 per m <sup>2</sup>	
		A5 food and drink fast food / drive through £13 per m <sup>2</sup>	
		Class B1 offices £15 per m <sup>2</sup>	
		Class B2 and B8 General industry, storage and distribution £10 per m <sup>2</sup>	
		Class C1 Hotels £450 per bedroom	
Recreation and outdoor sport: Residential Development	Major development of 10 or more units or site more than 0.5ha	40m <sup>2</sup> per family bedroom; Or financial contribution of £1,500 per family home / £750 per bed space in apartments	Contributions for offsite provision will be accompanied by a commuted sum for maintenance.
			The Sports England Sports Pitch Calculator, CEBC Playing Pitch Strategy and CEBC Indoor Facilities Strategy, neighbourhood plans, and other local plan policy / strategy documents will inform the requirement for provision.
Recreation and outdoor sport: Commercial Development	Commercial development over 1,000m <sup>2</sup> of floor space or site area more than 1ha	On site provision negotiated as appropriate	Contributions for offsite provision will be accompanied by a commuted sum for maintenance. The Sports England Sports Pitch Calculator, CEBC Playing Pitch Strategy and CEBC Indoor Facilities Strategy, neighbourhood plans, and other local plan policy / strategy documents will inform the requirement for provision.
		Or	
		Class A1 Shops Food £32.15 per m <sup>2</sup>	
		Shops non-food £22.50 per m <sup>2</sup>	



		Class A3/A4 food and drink restaurants £20 per m <sup>2</sup>	Presumption is that most commercial developments will not be required to provide onsite Recreation and Outdoor Sport. On site facilities may be desirable and will be negotiated as appropriate to type, location, size and scale of development.
		A5 food and drink fast food / drive through £13 per m <sup>2</sup>	
		Class B1 offices £15 per m <sup>2</sup>	
		Class B2 and B8 General industry, storage and distribution £10 per m <sup>2</sup>	
		Class C1 Hotels £450 per bedroom	
Allotments / growing space / community gardens	Major development of 10 or more units or site more than 0.5ha	5m <sup>2</sup> per family home	On site provision may include land set aside for future development along with commuted sum to enable at later date in line with community development.
		Or	Offsite provision may include land purchase as well as projects to expand existing or introduce new opportunities.
		Financial contribution of £562.50 per family home / £281.25 per apartment	Contributions for offsite provision will be accompanied by a commuted sum for maintenance.
Allotments / growing space / community gardens	Commercial development over 1,000m <sup>2</sup> of floor space or site area more than 1ha	Requirement will be identified as appropriate to location, size and scale of development and local need and opportunity	Presumption is most commercial developments will not be required to contribute to offsite provision. On site facilities on occasion may be appropriate. These will be negotiated as appropriate to type, location, size and scale of development.
Green Infrastructure (Residential Development)	Major development of 10 or more units or site more than 0.5ha	20m <sup>2</sup> per family home	Presumption is most major developments will provide Green Infrastructure on site unless significant opportunities or need exists in locality of the proposal.



		Or	Shortfalls in on site will require payment of com sum for offsite provision and will be accompanied by a commuted sum for maintenance.
		Financial contribution of £1,125 per family home / £562.50 per apartment	
Green Infrastructure	Commercial development over 1,000m <sup>2</sup> of floor space or site area more than 1ha	Any shortfall in on site provision or preferred opportunity offsite will be identified as appropriate to location, size and scale of development and as identified through Green Space Strategy and other policy documents. Offsite provision will be based on actual cost of provision.	Presumption is that most commercial development will provide Green Infrastructure on site unless significant opportunities or need exists in the locality of the proposal.
			Shortfalls in on-site provision will require payment of commuted sum for offsite provision and will be accompanied by a commuted sum for maintenance .

**14.40 S106 Agreements**

**14.41** S106 Agreements will be used to secure commuted sums for provision, enhancement and maintenance as appropriate as well as any on site provision and the triggers for these.

**14.42** S106 agreements will identify the triggers for payment of commuted sums, normally;

- i. on or prior to commencement for the payment of commuted sums for offsite provision
- ii. At point of transfer of open space or strategic sites for maintenance com sums



## 15 Public Health and Health Infrastructure

### 15.1 Objective

**15.2** The Strategic policies of the CELPS set out the overall pattern of development in the borough, identifying specific large-scale development sites and setting out requirements for the provision of a variety of community facilities including public health provision.

**15.3** The Council's objective is to provide opportunities for healthier lifestyles through provision of leisure and recreation facilities but also to make sure that local health and social care facilities are provided to meet the needs of the community (Strategic Priority 2).

**15.4** In major development the Council require submission of a Health Impact Assessment (HIA) that should lead the approach to public health by highlighting the particular localised issues that exist and may be impacted on by new development. HIA should be used to inform design solutions and also inform the extent to which contributions to new or enhanced health or social care facilities (including care homes) is necessary where development results in a shortfall or worsening of provision.

**15.5** In consultation with healthcare authorities the Council will seek contributions where a funding gap in relation to capital costs can be demonstrated, linked to the additional capacity generated by new development.

### 15.6 Background

**15.7** In drawing up the Local Plan, there was consultation with the NHS and Integrated Care Boards (ICBs) at all stages; and specific discussion with the ICBs about the planned level of growth and proposed housing allocations and the impacts on the health services the ICBs provide and the capacity to accommodate the sites and growth planned.

**15.8** The NPPF requires that strategic policies should make provision for community facilities such as health facilities (NPPF para.20 (c)) and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs (NPPF para.97(c)).

**15.9** Recognising that new major residential development will introduce new populations with various health care needs into an area, the LPS addresses this issue at a local level via LPS Policy SC3 Health and Wellbeing. This policy requires that all major applications submit a screening report to determine if a full health impact assessment will be required. Where increased demand on local health services can be demonstrated, the Council will seek contributions towards health and social care provision.

**15.10** In addition, all major development should refer to the Joint Strategic Needs Assessment and the identified health indicators that are relevant to the location of their proposed development. These matters should be actively addressed within the proposed design and contributions may be sought to mitigate impacts in relation to the identified health needs of the location.

**15.11** An example screening assessment is set out at Appendix 1 and should be submitted with all major development applications.



## **15.12 Consultation with Integrated Care Boards**

**15.13** NHS Cheshire and Merseyside Integrated Care Board (ICB) commissions, plans, designs and purchases the majority of health services that local population of Cheshire East Council use, including medicines, hospital care, urgent and emergency services, mental health care, GP and community services. The ICB also has responsibility of other areas of commissioning that previously resided with NHS England, such as dentistry, community pharmacy and general ophthalmology (eye care) services.

**15.14** There is a well-established connection between planning and health. Developments including residential and nursing/care facilities have an impact on local health infrastructure, and as a result, there is often a need to seek a financial contribution from new developments to offset this impact.

**15.15** Planning permission should only be granted where appropriate infrastructure investment is available to meet health needs. Where a gap in provision related to capital infrastructure costs, or a need to increase healthcare infrastructure capacity arises due to new development, contributions may be sought for additional healthcare provision, to ensure that the development contributes toward, or delivers new healthcare provision (through additional investment in existing facilities or contributions towards provision of a new facility) where the need can be identified, and the contribution is demonstrably necessary.

## **15.16 Infrastructure Delivery and Funding**

**15.17** The National Planning Policy Framework recognises the importance of sustainable development, and that sufficient provision of healthcare infrastructure should be made. The Cheshire East Council local plan supports this approach, by emphasising that the Council will work with its health and wellbeing partners to promote public health principles, maximise opportunities for people to lead healthy and active lifestyles, and reduce health inequalities for residents within the Borough.

**15.18** The Council will seek to work proactively with the NHS and other partners to deliver the infrastructure required to support changes in the needs of local populations, arising from new development, including the provision of additional healthcare infrastructure where appropriate and necessary.

## **15.19 Summary of Contribution Requirements**

**15.20** There are two purposes of planning obligations relating to health provision. Firstly, to offset the impact of any residential or nursing development on the existing level of health infrastructure provision in the area; and secondly, where there is the need to secure a new health facility as part of a large-scale development of a strategic nature.

**15.21** Preparation of a Health Impact Assessment should be used to establish the likely effect of a proposed development on health infrastructure. Where there is insufficient capacity to meet the needs of the projected increase or change in population generated by the development, contributions will be sought to secure delivery of appropriate enhancements to existing health facilities or new provision.

**15.22** Based on the assessed impact of a proposal, the Council may seek contributions towards health to:



- i. Enhance existing facilities to create capacity; or
- ii. For strategic development where redevelopment of existing, or the provision of new facilities is required.

**15.23** When requesting healthcare contributions, the Council will liaise with healthcare authorities to provide justification in relation to the need for the contribution and how the contribution has been calculated. Healthcare Authorities will use the following approach to establish appropriate contributions.

**15.24** The total costs of developing new health care facilities to meet NHS requirements are calculated using the baseline build cost per m<sup>2</sup>; this is subsequently adjusted to ensure the total cost of provision is fully costed and may include professional fees, fit out and contingency.

### **15.25 Example**

**15.26** Any planning permission received is assessed based upon the impact of new dwellings on the local health services. Where a contribution toward health infrastructure is required, a proportionate developer contribution will be sought that distinguishes between the needs generated by the existing population within the area and new population that will be generated by the development.

**15.27** The current model of primary care provision generally focuses on a shift away from smaller GP practices to larger scale premises that accommodate a range of healthcare services. To meet NHS objectives, an operationally efficient primary healthcare facility should accommodate a minimum of 7,000 registered patients. This equates to approximately four full-time GPs serving 1,750 patients each.

**15.28** In Cheshire East, based on census data, the average household size is 2.3 people. This means that an average primary healthcare facility serving 7,000 patients would provide for the equivalent of 3,043 housing units.

**15.29** The Department of Health and Social Care (DHSC) publishes Health Building Notes (HBNs) that provide best practice guidance on the design and planning of new healthcare buildings and the adaptation or extension of existing facilities. Health Building Note 11-01: Facilities for Primary and Community Care, indicates a modern four GP practice would typically have a floorspace requirement of 600sqm (an allowance of 150sqm Gross Internal Area (GIA) per 1,750 patients).

**15.30** Where existing premises are in the right location and have the potential for improvement, NHS partners preference is generally for extension and refurbishment of existing facilities to meet the needs arising from new development.

**15.31** NHS bodies have provided relevant build costs for extension and refurbishment for use in the calculation below. The approach below will be used as a starting point to understand the approach to health infrastructure contributions.

**15.32** Where healthcare contributions are required for larger and strategic developments (see section below), this may involve alternative build costs depending on the mitigation project(s) identified.



**15.33** Based on the above factors, the starting point to establish a contribution per dwelling is calculated as follows:

**15.34** Population served by surgery = 7,000

**15.35** Equivalent number of dwellings (at an average of 2.3 persons per dwelling) = 3,043

**15.36** Total cost of required primary care floorspace = £2,752,367

**15.37** Contribution cost per dwelling = £904

**15.38** This contribution per dwelling will contribute to the capital cost of primary healthcare provision. The approach has been reviewed in dialogue with NHS partners and ensures the financial contribution sought is directly, fairly and reasonably related in scale and kind to the development proposed.

**15.39** Contributions will relate only to the capital cost of health provision and will be index linked. In order to ensure compliance with CIL Regulations the Council, working with its NHS partners, will identify a specific health project(s) for which the contribution will be used.

#### **15.40 Larger and Strategic Development Requirements.**

**15.41** For larger development sites or areas, these will be dealt with on a case-by-case basis and the Council will work closely with NHS partners to identify appropriate mitigation measures and developer contributions.

**15.42** An assessment will first be made as to whether existing facilities in the surrounding area can accommodate the increase in patients arising from the development. Where a development proposal is of such magnitude that it would result in an increase in population that cannot be accommodated by existing health provision, developer contributions will be sought. This may include works such as refurbishment, reconfiguration or an extension to existing health facilities, or in some instances may justify the delivery of a new health facility. The Council will seek to secure the land at zero cost and then seek contributions towards the delivery of a health centre.



## 16 Recovery of Forward Funded Infrastructure

### 16.1 Objective

**16.2** Delivery of infrastructure is essential to achieving the aspirations of the LPS and is necessary to both facilitate new growth and address existing deficiencies across the borough. The delivery of the full range of infrastructure needs of existing and new communities is dependent on partnership working between a variety of public and private sector agencies, drawing from a range of funding sources.

**16.3** Strategic infrastructure requirements are set out in the Local Plan Strategy and in the Infrastructure Delivery Plan. Whilst particular infrastructure needs have been identified, it is recognised that there needs to be flexibility to allow the Council to seek developer contributions through Section 106 agreements, CIL contributions and other mechanisms for infrastructure needs that emerge during the plan period.

**16.4** The objective of the LPS, as set out in LPS policy IN1 Infrastructure and IN2 Developer contributions is to ensure the comprehensive provision of the social, physical and green infrastructure necessary to support development in Cheshire East. Where new development creates a need for new or improved infrastructure, contributions from developers will be sought to make the development acceptable on the impact on local services.

### 16.5 Background

**16.6** SADPD Policy GEN4 'Recovery of Forward Funded Infrastructure Costs' provides greater detail to assist in implementing LPS Policy IN 1 'Infrastructure' and LPS Policy IN 2 'Developer contributions'. Policy GEN4 is intended to help facilitate development in the borough as detailed in the LPS where it is necessary or desirable for infrastructure to be provided in advance of planned development. For example, this need may arise because a new road is needed to open up parcels of land to enable development or because it enables the provision of important infrastructure at an earlier stage than would otherwise have been possible and helps to bring forward individual schemes that would not otherwise be able to progress on their own.

**16.7** Policy GEN 4 applies only to infrastructure schemes funded by the Council or its partners where the funding approval was made on the basis that all or part of the costs incurred will be subsequently recovered from developers benefiting from it i.e., where the Council has borrowed; used its reserves; or diverted funding from other budgets in the short term to help bring forward development on the understanding that it will be repaid. These infrastructure schemes are derived from the Council's LPS, including its supporting Infrastructure Delivery Plan, and are identified in Table 3.1 of SADPD Policy GEN4. The schemes are reproduced in this SPD at paragraph 8.22.

**16.8** The approach to calculating contributions to forward funded infrastructure is set out in Policy GEN4 of the SADPD. Applicants should refer to this policy for guidance on this matter.





**16.9** The mechanism to be used for proportionately calculating the cost of contributions from applicants seeking development on sites linked to strategic infrastructure projects is calculated by dividing the overall amount to be recovered for the scheme, by the overall number of residential units, employment floorspace, or combination of both, likely to be developed.

**16.10** The sites linked to each infrastructure scheme are set out at table 3.1 of the SADPD and the estimated cost of each infrastructure scheme is set out at table 3.2 of the SADPD. The costs in the table are estimates only and therefore contributions will be calculated based on the actual costs of infrastructure delivery.

### **16.11 S106 Agreements**

**16.12** The recovery of infrastructure costs will be secured in accordance with Policy GEN4 of the SADPD, primarily via S106 agreements which will include relevant trigger points.

**16.13** Each planning application will agree a payment profile based upon the cash-flow specific to that planning application. Recovery fund trigger points could be agreed by house sales, occupations, and prior to occupation or post occupation or any other agreed trigger. However, these are to be negotiated during the planning application process for a particular development site.

**16.14** The recovery of infrastructure costs will be monitored by relevant CEC officers. Recovered funds will be held by CEC in perpetuity and used to support infrastructure delivery to unlock or accelerate development identified in the Council's plans and strategies.

**16.15** For both S106 and S278 agreements, commuted sums will be required for infrastructure costs and the cost of on-going maintenance.

**16.16** The use of planning obligations to secure funding from developments is preferable to CEC because of the enforcement powers and security afforded by a planning obligation agreement. Planning obligations run with the land and therefore offer CEC greater security as the obligation to pay a financial contribution would be enforceable against future occupiers of the land bound by the agreement.

**16.17** However, CEC is aware that there are limitations on what constitutes a planning obligation and that to enforce the planning obligation, it will need to meet the CIL tests. In the event that it is determined that the proposed obligation does not meet the CIL tests, CEC intends to use other general powers available to it to secure funds from development sites for this purpose. Those obligations would be contractual obligations, contained within a planning agreement but not themselves planning obligations, and would be enforceable by CEC against the person giving the covenant as a contractual obligation. Where this approach is employed, it will be raised at an early stage in the application process.



## 17 Other Matters

### Heritage

**17.1** Many of the potential impacts of development on heritage assets can be addressed through scheme design and by conditions attached to a planning permission, for example the need to carry out surveys or excavation and recording.

**17.2** Circumstances where the objectives of heritage protection may not be satisfactorily controlled by a condition, for example where impacts or public benefits are off-site, or involve a particularly sensitive or complex programme of works, involving phasing, the Council may require implementation of these measures through a Section 106 Agreement. By way of example these could include, but would not be limited to, the following:

- i. securing the investigation and protection of archaeological remains in advance of development;
- ii. recording, removing, storing, displaying and maintaining specifically identified artefacts or remnants from demolition as part of a new development or in another location;
- iii. drawing up of a conservation management plan;
- iv. providing and implementing a restoration scheme for historic buildings and features to a set timescale and an agreed specification;
- v. reinstating and/or repairing historic features in the public realm (such as streetlights, bollards and surfaces) directly affected by the development and its construction impacts
- vi. undertaking and completing specified works to a heritage asset at risk prior to the construction or occupation of any enabling development.
- vii. enabling development to secure the repair, restoration and maintenance of a heritage asset.
- viii. Repairing, restoring or maintaining a heritage asset identified as being at risk
- ix. Increased public access and improved signage;
- x. Measures for preservation or investigation, recovery and interpretation of archaeological remains and sites.
- xi. Works critical to the principal of the scheme being granted consent e.g., to securing the investigation and protection of archaeological remains, secure the public benefits which justify harm or in the case of enabling development works, to secure the repair, restoration and maintenance of a heritage asset will be considered as a priority.

### Public Rights of Way

**17.3** New housing and commercial developments within the Borough may have a direct impact on the PRow network in a number of ways: requiring existing routes to be moved; requiring existing routes to be improved or given additional rights; creating the need for new routes; and improving route infrastructure including lighting. Where development is likely to have an impact, the Council may seek to negotiate a planning obligation to ensure that public rights of way and access are appropriate to accommodate the increased usage new residents will generate or to provide safe connectivity of the network.

**17.4** Improvements required on existing routes can include widening of a public right of way to reflect increased use or sealing the surface to provide an all-weather surface. Where appropriate, a development may necessitate a route status being upgraded to accommodate



multi-use, such as equestrian and cycling use. Improvements to the existing PRow network required as a result of a development may also necessitate provision of new routes linking to national cycle routes, long-distance footpaths, canal towpaths and rights of way networks. Contributions may also be sought for any towpath works necessary to mitigate the direct impact of new development in close proximity to canals.

**17.5** The measures in each case will be assessed on a case-by-case basis and determined in relation to the scale and location of development, securing opportunities for modal shift, and ensuring an appropriate access strategy to strategic facilities including green infrastructure. Any contribution sought will be proportionate, reasonable and in support of relevant Council strategies, including The Rights of Way improvement Plan, Cycling Strategy and Local Transport Plan.

**17.6** The level of any financial contribution will be based on the cost of carrying out works, which will be calculated via either quotes obtained from contractors or estimate of cost using recent quote prices for similar jobs. There may be a degree of overlap with regards to contributions towards transportation improvements, particularly in urban areas (see 'Highways and Transport' section). Where an overlap does occur, this will be taken into account when finalising S106 agreement in order to avoid the risk of double counting.

**17.7** Information is available on the Cheshire East Council website<sup>(30)</sup> for applicants whose schemes are likely to impact on a public right of way. This includes details of the legal process required for diversions, or temporary / long-term closures. The legal process required is in addition to the planning consent process, with applications made to the Local Planning Authority. The granting of planning permission in itself does not authorise the alteration of a public right of way. The most common forms of public path orders include public path diversion orders, public path extinguishment orders or public path creation orders.

## Flood Risk and SUDS

**17.8** LPS Policy SE13 Flood Risk and Water Management seeks to ensure that development integrate measures for sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity within the borough and provide opportunities to enhance biodiversity, health and recreation. SADPD Policy ENV16 Surface Water Management and Flood Risk introduces a requirement to incorporate surface water SUDS on site.

**17.9** The Council's Strategic Flood Risk Assessment (SFRA) 2013 draws on Environment Agency Flood Zone and Surface Water mapping data and data on local sources of flood risk supplied by the Council's Flood Risk Team and United Utilities.

**17.10** CELPS Policy SE13: Flood Risk and Water Management requires that new development does not result in increased flood risk from any source or other drainage problems, either on the development site or elsewhere, and that where mitigation is required to make any identified impacts acceptable, these will be secured through conditions and/or legal agreement, including where necessary through planning contributions.

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30 [https://www.cheshireeast.gov.uk/leisure\\_culture\\_and\\_tourism/public\\_rights\\_of\\_way/public\\_rights\\_of\\_way.aspx](https://www.cheshireeast.gov.uk/leisure_culture_and_tourism/public_rights_of_way/public_rights_of_way.aspx)



**17.11** Management of 'local' flood risk<sup>(31)</sup> and land drainage is a function of Cheshire East Council in its role as Lead Local Flood Authority (LLFA). The LLFA investigates and publishes the results of incidents of significant flooding; it designates assets which have a significant effect on flood risk; it maintains a register of flood risk assets; it provides consent for works on ordinary watercourses and is a statutory consultee in the planning application process.

**17.12** When consulted on planning applications, CEC will provide an assessment of the proposed developments potential impacts on the drainage network with regard to surface water discharge rates and volume, design standards and the continued safe operation and maintenance of the surface water drainage network to ensure that flood risk is appropriately managed.

**17.13** Central government funding for flood risk management comes from various sources, including DEFRA Support Grant, conventional capital settlements and the Local Growth Fund (Growth Deal). Typically, these funding sources do not address the specific impacts of individual new development. Instead, funds are directed at inherited drainage problems resulting from economic progress and previous development activity, or at large scale projects designed to deliver growth.

**17.14** Conditions or developer contributions may therefore be requested by CEC or exceptionally the Environment Agency or United Utilities, to address flooding, drainage or water quality issues.

**17.15** It is envisaged that any such requirements would be identified on a site-by-site and scheme specific basis and further guidance on how to achieve acceptable solutions is set out in the Councils SuDS SPD<sup>(32)</sup>.

## Trees and Hedgerows

**17.16** LPS Policy SE5, 'Trees, Hedgerows and Woodland' seeks to retain established trees and where this is not possible sets out that replacement will be necessary. The policy also requires provision, management and maintenance of trees in new development.

**17.17** SADPD Policy ENV6, 'Trees, Hedgerow and Woodland Implementation', addresses a variety of matters related to delivery and includes a requirement for replacement planting where necessary, a requirement to ensure long term management and maintenance is in place for newly planted trees, and a requirement that veteran trees are subject to a management plan.

**17.18** In instances where tree are present on site, an appropriate arboriculture assessment must be submitted in order for the application to be validated. Contributions to off-site replacement trees will be calculated using an appropriate cost equivalent replacement calculation agreed with the council, such as capital asset valuation of amenity trees (CAVAT). Compensation for the loss of woodland due to the impact of development shall be calculated in accordance with the most up to date DEFRA biodiversity offsetting metric.

**17.19** The provisions of measures set out in policies relevant to trees, including provision of maintenance funding, will be secured either through planning condition or S106 agreements.

<sup>31</sup> [https://www.cheshireeast.gov.uk/planning/spatial-planning/research\\_and\\_evidence/strategic\\_flood\\_risk\\_assmnt/strategic\\_flood\\_risk\\_assmnt.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/research_and_evidence/strategic_flood_risk_assmnt/strategic_flood_risk_assmnt.aspx)  
<sup>32</sup> [Supplementary Planning Documents \(cheshireeast.gov.uk\)](#)



## 18 Glossary

Table 18.1

### Affordable Housing

Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

a) Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

b) Starter homes: is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.

c) Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

d) Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent



	<p>to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.</p>
Amenity	<p>A positive element or elements that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them.</p>
Authority Monitoring Report	<p>An annual report prepared by Cheshire East Council to assess progress and effectiveness of a Local Plan.</p>
Building for Life 12	<p>The industry standard endorsed by government for designing new homes in England, based on 12 key criteria.</p>
Catchment school/s	<p>School/s allocated to serve a specific area of a community</p>
Cheshire Home Choice	<p>A partnership between the Council and registered providers who advertise properties and manage the housing need register and allocation policy.</p>
Community Infrastructure Levy	<p>A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.</p>
Custom and Self-Build Dwellings	<p>As defined by the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).</p>
Development	<p>Defined by the Town and Country Planning Act 1990 as “the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change of use of any building or other land.” Most forms of development require planning permission, unless expressly granted planning permission via a development order.</p>
Development Plan	<p>This includes adopted Local Plans and Neighbourhood Plans and is defined in Section 38 of the Planning and Compulsory Planning Act 2004.</p>
DfE	<p>Department for Education</p>



Entry Level Exception Sites	As defined in the NPPF, entry level exception sites are suitable for first time buyers or those looking to rent their first home. The NPPF provides more details.
EYFS	Early Years Foundation Stage (nursery, pre-school, and reception)
Family Housing	Domestic dwellings with 2 bedrooms or more
FE	Further Education (6 <sup>th</sup> form and colleges)
First Homes	First Homes are a specific kind of discounted market sale housing and should be considered to meet the definition of 'affordable housing' for planning purposes.
Green Infrastructure	A network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.
Habitats Assessment	Regulations The process that competent authorities must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a European site designated for its nature conservation interest.
Housing Impact Assessment	The process to determine the need for a developer contribution from new development against current education infrastructure.
Local Plan	The plan for the development of the local area, drawn up by the local planning authority in consultation with the community.  In law this is described as the Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.  Current core strategies or other planning policies, which under the regulations would be considered to be Development Plan Documents, form part of the Local Plan. This term includes old policies which have been saved under the 2004 Act.
Local Plan Strategy	Development Plan Document setting out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy.



Local Planning Authority	The local authority or Council that is empowered by law to exercise planning functions. In the case of this SPD, the Local Planning Authority is Cheshire East Council.
National Described Space Standards	The nationally described space standard is not a building regulation and remains solely within the planning system as a new form of technical planning standard if supported by a local plan policy. It deals with internal space standards within new dwellings and is suitable for application across all tenures
Neighbourhood Plan	A plan prepared by a parish Council or neighbourhood forum for a particular neighbourhood area (made under the Planning & Compulsory Purchase Act 2004).
Open Space	Open space of public value, including public landscaped areas, playing fields, parks and play areas, and areas of water such as rivers, canals, Open Space lakes and reservoirs, which may offer opportunities for sport and recreation or act as a visual amenity and a haven for wildlife.
Planning area	School(s) designated to an area for the purposes of pupil place planning.
Playing Field	The whole of a site which encompasses at least one playing pitch as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
Playing Pitch	A delineated area which, together with any run-off area, is of 0.2 hectares or more, and which is used for association football, American football, rugby, cricket, hockey, lacrosse, rounders, baseball, softball, Australian football, Gaelic football, shinty, hurling, polo or cycle polo.
Rural Exception Sites	Small sites used for affordable housing in perpetuity where sites would not normally be use for housing. Rural exception sites seek to address the needs of the local community by accommodating householders who are either current residents or have an existing family or employment connection.
Site Allocations and Development Policies Document	Part of the Local Plan which will contain land allocations and detailed policies and proposals to deliver and guide the future use of that land.
SEN	Special Educational Needs





Supplementary Document	Planning	A Local Development Document that may cover a range of issues, thematic or site specific, and provides further detail of policies and proposals in a 'parent' Development Plan Documents.
Sustainability Appraisal		An appraisal of the economic, environmental and social effects of a plan from the outset of the preparation process to allow decisions to be made that accord with sustainable development.
Strategic Appraisal	Environmental	SEA is a process and a tool for evaluating the effects of proposed policies, plans and programmes on natural resources, social, cultural and economic conditions and the institutional environment in which decisions are made.
Viability Study		A report, including a financial appraisal, to establish the profit or loss arising from a proposed development. It will usually provide an analysis of both the figures inputted and output results together with other matters of relevance. An assessment will normally provide a judgement as to the profitability, or loss, of a development.
Walking Distance		Walking route distance of 2 miles from dwelling to school for Primary, walking route distance of 3 miles from dwelling to school for Secondary, in reference to DfE walking distances and Cheshire East School Transport Policy. Please note that for the purpose of Section 106 Developer Claims Cheshire East uses the 2 mile distance for Primary Age Pupils.



# 19 Appendices

## 19.1 Appendix 1: Health Impact Screening Assessment

Table 19.1

Assessment Criteria	Relevant?	Details / Evidence	Outcome	Recommended mitigation or enhancement actions
Does the proposal address the ten Healthy Streets indicators?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal prioritise and encourage walking, for example through the use of shared spaces?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal prioritise and encourage cycling, for example by providing secure cycle parking, showers and cycle lanes?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal connect public realm and internal routes to local and strategic cycle and walking networks?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include traffic management and calming measures to help reduce and minimise road injuries?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal well connected to public transport, local services and facilities?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include an appropriate level of parking in accordance with CELPS Parking Standards (Appendix 3)?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal allow people with mobility problems or a disability to access buildings and places?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal incorporate elements to help design out crime?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal incorporate design techniques to help people feel secure and avoid creating 'gated communities'?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include attractive, multi-use public spaces and buildings?	Yes		Positive	
	No		Negative	
	N/A		Neutral	



			Uncertain	
Has engagement and consultation been carried out with the local community and voluntary sector?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal facilitate the supply of local food, for example allotments, community farms and farmers' markets?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Is there a range of retail uses, including food stores and smaller affordable shops for social enterprises?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal avoid contributing towards an over-concentration of hot food takeaways in the local area?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal provide access to local employment and training opportunities, including temporary construction and permanent 'end-use' jobs?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal provide childcare facilities?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include managed and affordable workspace for local businesses?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include opportunities for work for local people via local procurement arrangements?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal consider health inequalities by addressing local needs through community engagement?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal connect with existing communities? I.e includes layout and movement which avoids physical barriers, severance, land	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include a mix of uses and a range of community facilities?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal provide opportunities for the voluntary and community sectors?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	



Does the proposal take into account issues and principles of inclusive and age-friendly design?	Yes		Positive
	No		Negative
	N/A		Neutral
			Uncertain
Does the proposal make best use of existing land?	Yes		Positive
	No		Negative
	N/A		Neutral
			Uncertain
Does the proposal encourage recycling, including building materials?	Yes		Positive
	No		Negative
	N/A		Neutral
			Uncertain
Does the proposal incorporate sustainable design and construction techniques?	Yes		Positive
	No		Negative
	N/A		Neutral
			Uncertain
Does the proposal incorporate renewable energy?	Yes		Positive
	No		Negative
	N/A		Neutral
			Uncertain
Does the proposal ensure that buildings and public spaces are designed to respond to winter and summer temperatures, for example through ventilation, shading and landscaping?	Yes		Positive
	No		Negative
	N/A		Neutral
			Uncertain
Does the proposal maintain or enhance biodiversity?	Yes		Positive
	No		Negative
	N/A		Neutral
			Uncertain
Does the proposal incorporate sustainable urban drainage techniques?	Yes		Positive
	No		Negative
	N/A		Neutral
			Uncertain

## 19.2 Appendix 2: CE Car Parking Standards

Table 19.2

Car Parking Standards		
A1	Food Retail	1 per 14m <sup>2</sup>
	on Food Retail	1 per 20m <sup>2</sup>
	Open Air Markets	3 spaces per vendor
	DIY Store	1 car space per 25 m <sup>2</sup> / 1 lorry space per 500m <sup>2</sup>
	Retail Parks	Individual assessment based against use-classes and location
A2	Financial and Professional Services	1 per 30m
A3	Restaurants	1 per 5m <sup>2</sup> per Public Floor Area (PFA)
A4	Pubs	1 per 5m <sup>2</sup> per PFA
A5	Fast Food Drive Through	1 per 7.5m <sup>2</sup>
B1	Office / Light Industry	1 per 30m <sup>2</sup>
B2	General Industry	First 235m <sup>2</sup> - 1 per 30m <sup>2</sup> , then 1 per 50m <sup>2</sup>



B8	Storage and Distribution	Warehouse Storage -1 per 80m <sup>2</sup> and 1 lorry space per 200m <sup>2</sup> Warehouse Distribution - 1 per 60m <sup>2</sup> and 1 lorry space per 200m
		Warehouse Distribution - 1 per 60m <sup>2</sup> and 1 lorry space per 200m
C1	Hotels and Motels	1 per bedroom
C2	Hospitals	1 per 2 resident staff and 1 per 3 beds
	Sheltered Accommodation	Residents - 0.5 per unit and 1 per 3 units (for visitors) Staff - 1 per resident staff and 1 per 2 non-resident staff
	Extra Care	Residents - 0.5 per unit and 1 per 3 units (for visitors) Staff - 1 per resident staff and 1 per 2 non-resident staff Facilities (open to non residents) 1 per 4m <sup>2</sup> of floor space used for this purpose
	Residential Homes and Nursing Homes	Residents - 1 per 3 beds Staff - 1 per resident staff and 1 per 2 non resident staff
	Purpose built student accommodation	Residents - 1 space per 3 bedrooms Staff - 1 per resident staff and 1 per 2 non resident staff
C3/C4	Dwelling Houses and Houses in Multiple Occupation	Principal Towns and Key Service Centres: for 1 bedroom - 1 space per dwelling; for 2 bedrooms - 2 spaces per dwelling; for 3+ bedrooms - 2 spaces per dwelling Remainder of borough: for 1 bedroom - 1 space per dwelling; for 2/3 bedrooms - 2 spaces per dwelling; for 4/5+ bedrooms - 3 spaces per dwelling
D1	Medical and Health Facilities	1 per 2 staff and 4 per consulting room
	Creche, Day Nursery, Day Centre, Primary / Junior School	1 per staff and 3 additional spaces for visitors and safe picking up/ dropping off point
	Secondary Schools	1 per 2 staff and 5 spaces (less than 1200 students) or 10 spaces (more than 1200 students) and 1 per 10 sixth form students and safe picking up / dropping off point. Consider bus facilities, drop off / pick up
	Higher and Further Education	1 per 2 staff and 1 per 15 students
	Art Galleries, Museums and Libraries	1 per staff and 1 per 30m <sup>2</sup> (PFA) or 1 per staff and 1 per 15m <sup>2</sup> up to 300m <sup>2</sup> (PFA) and 1 per 50m <sup>2</sup> over 300m <sup>2</sup> (PFA)
	Public or Exhibition Hall	1 per staff and 1 per 4m <sup>2</sup> PFA
	Places of worship	1 per 5 seats
D2	Leisure	Individual assessment based on use - See Cheshire East Parking Standards Guidance Note for details and recommended standards for a variety of land uses
	Cinema	1 per staff and 2 for buses / coaches and 1 per 3 seats
Sui Generis	For example theatres	Individual assessment based on use - See Cheshire East Parking Standards Guidance Note for details and recommended standards for a variety of land uses
Disabled Parking Requirements		



B1, B2, B8	Employment	Min 1 space or 2% of overall requirement, whichever is greater.
	Shopping, recreation, education, health and leisure, hotels, community halls and advice centres	Min 1 space or 6% of total capacity up to a total of 200 bays (whichever is greater) plus 4% of capacity above 200 bays. Allow spaces for larger special needs transport as appropriate. An additional 4-5% of provision of enlarged spaces to meet future needs at health / medical locations. Parent / infant parking to be provided at 6% of total capacity.
	Railway and other public car parks	Min 1 space per 55 of capacity up to 200 spaces plus 4% of spaces above 200 bays
	Places of worship, crematoria and cemetery chapels	Min of 2 spaces or 6% of total as close as possible to the entrance. Larger bays to be provided for special needs transport.
	Housing	1 wider space for every dwelling provided to wheelchair standard. 1 wider space for every 10 spaces provided in parking areas separate from dwellings.
	Sheltered accommodation	Up to 10 spaces or garages 3 wider spaces or garages to be provided. Thereafter, 1 wider space or garage to be provided for every 4 additional spaces or garages.
<b>Cycle Parking Requirements</b>		
A1	Convenience retail	1 space per 125m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
A2	Comparison retail	1 space per 300m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
A3	Financial and Professional Services	1 space per 125m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
A4	Restaurants and Cafes	1 space per 18 covers
A5	Pubs, wine bars and private clubs	1 space per 100m <sup>2</sup> drinking area
B1	Offices / Flexible business uses	1 space per 250m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
B2 /B8	Industry and warehouses	1 space per 500m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
C1	Hotels and guesthouses	Provision based on expected staff requirements
C2	Purpose built student accommodation	1 space per 4 bedrooms
	Sheltered residential accommodation	1 space per 10 units
	Hospitals	1 space per 10 staff
C3/C4	Flats and apartments	1 space per unit
D1	Higher and further education and schools	1 space per 10 staff and students
	Doctors dentists and health centres	1 space per consulting room
D2	Cinema, concert halls and conference centres	1 space per 50 seats



**Cheshire East Council**

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