

SOUTH HAMS DISTRICT COUNCIL

SUPPLEMENTARY PLANNING GUIDANCE

**BUILDING COMMUNITIES:
INFRASTRUCTURE
TO SUPPORT
NEW DEVELOPMENT**

Consultation Draft

November 2001

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Summary

- i The provision of infrastructure including a wide range of physical and social infrastructure and facilities to support new development is an essential objective of the development process and is reflected in the Devon Structure Plan and the South Hams Local Plan. Government policy statements recognise that where existing infrastructure is inadequate to meet the needs of new development, it is reasonable to expect developers to contribute towards the financing of new or improved infrastructure directly related to those needs.*
- ii There is a range of services and facilities provided by the District Council, the County Council and external agencies that can be regarded as infrastructure. Therefore, it is necessary to establish a framework for ensuring a consistent and co-ordinated approach to securing developer contributions through development plan policies and in determining individual proposals to provide the new or improved infrastructure required to service a new development.*
- iii The approach set out in this document should also provide the necessary guidance to developers on how the infrastructure requirements likely to be required for their development will be assessed and sought. It is important that they are aware of what is needed from the outset so that they can incorporate the funding of provision in the development process.*
- iv A guide to those services where developer contributions may be sought either in the form of planning conditions or through planning agreements is included in the guidance. In many cases details of the methodologies for determining the scale and nature of any contribution to service needs are also set out in a range of Codes of Practice, which summarise the specific methods of assessment of the service needs.*
- v This document will be adopted as Supplementary Planning Guidance to provide more detailed advice to accompany the Structure Plan and the Local Plan.*

Introduction

1. In allocating land in plans or in determining planning applications, local planning authorities must take account of the infrastructure needed to support the proposal. The funding of that infrastructure should normally be provided by the development giving rise to the need for it. The Council will therefore seek developer contributions for appropriate development-related infrastructure provision through planning conditions or planning obligations, which are fairly and reasonably related in scale and kind to the development proposed. This document sets out the approach and should be read in conjunction with the Devon Structure Plan, the South Hams Local Plan, other Supplementary Planning Guidance published by the Council and Circular 1/97, 'Planning Obligations'.
2. The term 'infrastructure' in its broadest sense should be taken to embrace elements of physical, social, cultural, economic and environmental provisions, including:
 - travel and transport
 - parking provisions
 - public transport services
 - education and libraries
 - art in the community
 - social services and health care
 - fire and rescue facilities
 - waste management and recycling facilities
 - community buildings and facilities
 - leisure, recreation and open space
 - town centres
 - environmental protection and enhancement
 - community safety
 - utilities (including water and Environment Agency services)

Development Plan Policies

3. The Devon Structure Plan sets out the strategic policies for the development and use of land across the county up to the year 2011. The Plan provides a framework for Local Plans to develop more detailed and site-specific policies for their areas. An important purpose of the Structure and Local Plans is to co-ordinate new development with the provision of infrastructure.
4. The need to provide for the infrastructure requirements of development is set out in Devon Structure Plan Policy S6:

“Planning authorities should not provide for development unless the infrastructure which is directly required to service the development can be made available at the appropriate time. In determining the location of development, the adequacy of infrastructure will be taken into account. Provision for new development will be made where the infrastructure required to service it is in place or will be provided in phase with development in an environmentally acceptable way. Developers will be expected to contribute to, or bear the full cost of, such new or improved infrastructure and facilities where it is appropriate for them to do so.”

5. The South Hams Local Plan reinforces this position in Policy DEV5:

Development will only be permitted where provision is made, through the use of planning obligations or otherwise, to secure the necessary physical, social and economic infrastructure related to, and in phase with, that development and in accordance with the Council’s adopted Supplementary Planning Guidance. Developers will be required to bear the full cost of all infrastructure consequent upon or required for their developments.

6. These policies mean that developers know from the outset that they will be expected to make a contribution to providing new or improved infrastructure where there will be a requirement as a result of their development. This will enable the landowner/developer to take this cost into account in investment decisions as one of the costs of carrying out the development. Regard should also be paid to the cumulative impact on service provision of smaller sites. These should be incorporated in the process, especially where existing infrastructure is already operating at capacity.
7. The Local Plan also contains policies dealing with the provision of specific elements of social and community infrastructure, for example, housing and access for the elderly, disabled and other special needs groups and formal and informal open space provision. It also includes policy guidance for Area Centres and Local Centres to help establish the levels of need for various elements of infrastructure in each case and the contributions required.
8. Other Local Plan policies and proposals allocate land for particular development. The key infrastructure needs resulting from such allocations are identified in the relevant policy itself and amplified in a concept statement or development brief early in the planning process. Detailed assessments of infrastructure requirements will also be required when development proposals come forward which are not specifically identified in the Local Plan.
9. Implementation of proposals will necessitate close co-operation between developers, the District Council, the County Council and other agencies in assessing potential requirements. It is important that service providers make requirements clearly known, particularly for those areas where existing infrastructure is either overloaded or operating at capacity. Failure on the part of the service

provider to make such information available will hinder the achievement of these requirements. Codes of practice related to certain elements of infrastructure provision will also assist in assessing what infrastructure is required.

Development Control

10. The infrastructure required to support a development proposal and how it will be met is a material consideration in determining a planning application even when there is no directly related local plan policy in place.
11. The determining planning authority in consultation with the various service providers will establish the infrastructure requirements relating to an individual proposal for new development. The scope and nature of the works will vary according to the type, scale and location of the development proposed.
12. There are four stages in the development control process where infrastructure requirements need to be considered and where the local planning authority should involve service providers and the developer in negotiations:
 - **Concept Statement/Development Brief.**
Usually required for larger local plan allocations and windfall sites. It should give details of likely development capacities and therefore enable infrastructure requirements to be more accurately assessed.
 - **Pre-application negotiations.**
Service providers and landowners/developers should be involved at this stage so that the latter can be made aware of the potential impact of the proposal on infrastructure and the type of facilities that are likely to be sought.
 - **Determining the application.**
Service providers should provide information within an agreed timescale, justifying how any specific need has been assessed and how contributions attributable to the new development have been calculated.
 - **Appeal.**
Service providers should be prepared to fully support the relevant planning authority in any subsequent hearing or inquiry challenging the refusal of a planning application on grounds that include the inadequate availability of infrastructure.
13. If a development generates a need for facilities, however small the scheme, a contribution should be sought. It is important that the cumulative needs generated by small schemes are met. Even a single new dwelling can add to the need for support facilities and infrastructure.

Planning Conditions and Planning Obligations

14. The infrastructure necessary to serve a new development will normally be secured by imposing conditions on a planning permission and/or by the developer entering into a planning obligation.
15. Planning conditions may be attached to a permission requiring a developer to provide appropriate infrastructure either directly on-site or on other land within the developer's control. The condition may relate the timing of development to the timing of infrastructure provision. Where a proposal creates a need for infrastructure on land not controlled by the developer a condition should be attached requiring that development should not commence or be occupied until it is in place.
16. There may, however, be infrastructure needs that cannot be dealt with by conditioning a planning permission. In such cases, it may be possible for a proposal to be approved if developer contributions can be secured by way of a planning obligation being entered into. Planning obligations were introduced in the Planning and Compensation Act 1991 which amended Section 106 of the Town and Country Planning Act 1990. There are two types of planning obligations:
 - planning agreements
 - unilateral undertakingsThey are legally binding and enforceable by the local plan authorities.
17. Circular 1/97, published in January 1997, explains the Government's policy on the proper use of planning obligations. It advises that if a proposed development would generate a need for particular facilities, then it is appropriate to expect developers to contribute to the cost of their provision. It states in paragraph B9:

“In general, it will be reasonable to seek to take account of a planning obligation if what is sought or offered is:

 - a) Needed from a practical point of view to enable the development to go ahead and in the case of a financial payment, will meet or contribute towards the cost of providing such necessary facilities in the near future, or
 - b) Is necessary from a planning viewpoint and is so directly related to the proposal and to the use of land after its completion that the development ought not to be permitted without it.”
18. Paragraph B12 of the Circular goes on to advise that the extent of what is sought or offered should be fairly and reasonably related in scale and kind to the proposed development, as well as being reasonable in all other respects. Developers should not be expected to bear the costs of remedying existing infrastructure deficiencies, although an obligation might be acceptable where it would overcome an existing constraint which is materially exacerbated by a proposal.
19. Agreements will usually be made under Section 106 of the Town and Country Planning Act 1990, but can also be made under the Highways Act in respect of works to the highway and other legislation, as in the provision of drainage and sewerage facilities. It is important that legal representatives of the local planning authority and service providers are involved early on in negotiations. The developer will normally be expected to reimburse legal and administration expenses reasonably incurred by the relevant body.
20. The timing of the payment of financial contributions will be separately negotiated as part of the legal agreement. Normally such contributions would be paid on commencement of the development or on completion of the agreement so that the service providers may commence works

and the provision of facilities. In some cases, it may be possible to phase the payment of contributions as the development proceeds.

21. Payments received by service providers, as a result of agreements with developers, will be used for the purpose specified in the agreement. The payment and any net interest will be reimbursed if it cannot be spent as intended or in the time scale defined in the agreement.
22. For outline applications for residential or other development where the number and size of dwellings or number of employees/visitors is unknown, legal agreements should be drawn up to ensure that any required payment towards infrastructure provision will be assessed on the basis of subsequent details when the full implications of the development are known.
23. Occasionally, the viability of a development is marginal and a contribution to infrastructure costs may stop a developer proceeding with the development. In these circumstances, and following submission of audited or certified figures to substantiate this, the planning authority in consultation with service providers will consider whether the benefits from the development so outweigh the need to provide the infrastructure as to justify a departure from the development plan.
24. The planning obligation process is often regarded by the developer as sensitive until it is concluded. Terms for planning obligations should be recommended to the local planning authority by relevant service providers before the application is considered by Committee. This provides the opportunity for listing the proposed planning obligations for infrastructure investments and any associated correspondence as background papers to committee reports. When a planning permission is granted with a planning obligation, the public should have access to the heads of terms of that planning obligation. This should ensure that there is public confidence in the fair operation of the development control system.

Infrastructure Requirements

25. The range of infrastructure for which local authorities and other external bodies might seek developer contributions through planning conditions or planning obligations is amplified below. Where codes of practice are in place or being developed, these are referred to. The District Council has also published **Guidance and Requirements for Sustainable Development** which should be referred to alongside this guidance, setting out a range of sustainability requirements for infrastructure to support new development.

Travel & Transport, Parking Provisions and Public Transport

26. The need for contributions towards travel and transport infrastructure will include consideration of:

- travel and transport networks
- travel plans
- parking provisions, and
- public transport.

27. The travel and transport infrastructure needed to support new development likely to have significant transport implications will be identified in the Transport Assessment required to be submitted with the planning application and agreed with the Local Planning Authority.

28. Contributions may be required in relation to any or all of the following:

- (a) Accessibility. Measures to make the development site accessible to all modes of transport, including the provision of a Travel Plan and the delivery of the measures contained therein and/or the provision of new or altered highway to accommodate the traffic generated by the proposed development (e.g. footways, footpaths, cycleways, public transport routes and all purpose roads).
- (b) Travel and Transport Facilities. The provision of new or improved facilities (e.g. interchanges, traffic signals, pedestrian crossings, cycle racks, park and ride, bus station, railway station, lay-bys, transhipment depot, roadside services, etc.)
- (c) Structures As part of the development (e.g. gateways, planters, bridges, underpasses, bollards, bus shelters, stanchions, street furniture, etc.)
- (d) Traffic Calming. Within existing or proposed highway (e.g. chicanes, humps, tables, plateaux, platforms, gateways, signs, planters, landscaping, etc.)
- (e) Landscaping. Within or adjacent to an existing or proposed highway, subject to it being unlikely to cause structural or service main damage (e.g. trees, grass, shrubs, ground cover or hedging, etc.)
- (f) Public or Other Communal Vehicle Parking. With the introduction of maximum parking standards for non residential development, it is no longer appropriate to levy a commuted parking charge in lieu of reduced levels of parking provided. However, since adequate public parking should be available in the vicinity of the site and since the development site should be accessible to all modes of transport, it is appropriate to require the development to contribute to:-
 - the enhancement of public parking facilities that the development relies on;

- the provision of public parking spaces where the development will otherwise cause there to be a shortfall.

In order to make optimum use of development land it may be appropriate for development to provide for parking in a shared/communal/public vehicle parking area and for its management.

- (g) Routing of Development Traffic. Where there is or could be an adequate transport route to a development site, but other routes are recognised as unsatisfactory, it is possible to have a pre-planning consent agreement with the Highway Authority to restrict the development traffic routing.
- (h) Highway Diversion or Stopping Up Order. When it is essential for the achievement of development to stop up or divert a public highway the prospective new highway would be dealt with through a planning obligation.
- (i) Traffic Regulation Orders. The impact of the development traffic on the transportation network may necessitate the provision of a Traffic Regulation Order by the Local Highway Authority at the expense of the development. (e.g. residential parking orders, weight limits, on street parking restrictions, clearway creation, 20 mph zones, cycleway orders, etc.)

29. In some circumstances a capital contribution will be appropriate or necessary. For example, to provide for future maintenance of landscaping a commuted maintenance sum may be secured through a planning obligation. A public transport service might also be created or enhanced, to improve the accessibility of a development site, by securing an annual charge for, say, up to 5 years through a planning obligation.

30. Pre-planning consent agreements that involve works, structures, etc. need to include for inspections as the work progresses and final inspections upon completion. It is usual for pre planning consent agreement to be supported by a security performance bond that needs to be in place before the works commence.

31. Where works are constructed on lands that, upon satisfactory completion of the works, are to be taken over by an Authority, agreements need to include provision for adoption of the land by that authority (and conveyance of the lands to the respective authority where required). Where the precise extent of the lands to be adopted is unknown the conveyance or adoption procedure would be separate and later than the consent.

Education and Libraries

32. The assessment of the need for contributions towards the development of additional education and libraries provision will be made by Devon County Council. **A Code of Practice for Education provision has been adopted by the County and District Councils.** Development will be expected to contribute towards the provision of new or enlarged secondary and primary schools and other life long learning needs in the area.

Art in the Community

33. Public art can embrace a variety of artistic concepts including art installations and exhibitions, sculpture trails, workshops and studios and the provision of craft features reflecting local culture and distinctiveness. All new development will be expected to contribute towards the 'arts'. **The**

District Council has an adopted Arts Strategy and Public Art Policy which will act as a guide.
In due course specific Supplementary Planning Guidance will also be produced.

Social Services and Health Care

34. Health and Social Care services are provided by a combination of statutory agencies and the independent sector. The statutory agencies, following an assessment process, generally act as a gateway to the provision of services, whether this is via the statutory agencies themselves or the independent structure.
35. The nature, size and location of the development will be a key factor in determining ease of access to a range of Health and Social Care services for those moving in, whether this is a result of geographic location or the ability of existing services to cope with the additional demand created by the new development.
36. Consideration must be given to the potential health and social care needs of the new households in relation to the availability of existing local services. This could include GP Practices, dental surgeries, day centres and residential homes. Developers will be expected to provide land and financial support for those facilities required to support the needs of new development.
37. Developers may be required to assist in the provision of services ranging from drop-in or day facilities to the provision of specialist transport to allow for transportation of handicapped people to existing centres outside the immediate development area. Additional costs arising from the development should be met by the developer.

Fire and Rescue

38. Fire and rescue service provision will be required and contributions will be sought in scale with proposed developments.

Waste Management and Recycling

39. Contributions based on the scale of the proposal, and arising from the direct consequences of the development will be required in relation to any or all of the following:
 - a) Provision of or contribution to civic amenity site facilities.
 - b) Provision for a community recycling and compost site on an area designated for waste management facilities.
 - c) Provision for a "bring site" consisting of bottle bank/paper bank/textile bank/can bank, perhaps in the form of a pavilion; depending on whether or not the District Council collects these separated materials in their kerbside collection.
40. To facilitate effective waste management, and encourage recycling the following actions are encouraged:
 - a) Good access to housing for waste collection vehicles.
 - b) Space within individual curtilages should be provided specifically for the appropriate waste collection bins i.e. dustbin, recyclable bins, organic waste bin.

- c) Provision of a compost bin and a water butt for each property, integrated into the design of the development.
- d) Improved kitchen design would facilitate easier storage of the dry recyclables and organic waste, i.e. enough space in the kitchen to store these materials.
- e) Provision of solar panels as an energy source and other energy saving devices.

Community Buildings and Facilities

- 41. Village and community halls are used for a wide variety of purposes and by a wide range of local people and organisations. South Hams has over 60 such halls, managed, in the main, by voluntary committees, many of which are registered charities. Where there are identified deficiencies and where increased demand from new development would intensify the current deficiency, then it would be reasonable to seek contributions from developers that would offer a remedy or alleviation. The District Council or Community Council of Devon may be able to offer advice on what is needed. Marginal contributions or the recognition that a further source of funding has been made available is often enough to unlock or lever in funding from other agencies.
- 42. A wide range of community social support services exists. Some are formally and professionally provided through local authority social or community education services; others are provided by voluntary mechanisms. Support for social facilities such as nurseries, play groups, out-of-school clubs, youth advice centres, family centres, luncheon clubs etc. could be proposed as part of a development. Revenue support is generally the form of assistance most needed. However, there may be difficulties in assessing the amount and manner in which the contribution is to be conveyed, and contributions towards physical elements or one-off payments held by the authority and distributed on a phased basis may be more appropriate. For a planning obligation to be equitable, the planning authority would have to be able to demonstrate that the projected increase in demand attributable to new development would result in additional costs to the providers.
- 43. A planning obligation may be an appropriate means of supporting a parish council or other local group in undertaking a community appraisal or preparing a village design statement as part of an outline permission.
- 44. In those places where a community development trust or regeneration partnership scheme operates, then assistance for such an organisation or towards its objectives could provide the basis for a planning obligation.
- 45. Assistance with the improvement of facilities to improve community information services could form the basis for a planning obligation. Needs can range from help for traditional forms of information media, such as village newsletters, to more sophisticated forms such as parish websites and other initiative designed (e.g. 'Intracom') to help establish 'digital communities'.
- 46. Community recycling or composting initiatives could be embodied with a planning obligation. The focus on more sustainable approaches to development creates a link between new development and the promotion of waste reduction, re-use and recycling opportunities.

Leisure, Recreation and Open Space

- 47. **The District Council has prepared and is consulting on codes of practice establishing requirements for the provision of public sports pitches, open space and outdoor play space in association with new development**, based on the National Playing Fields Association's guidelines.

Woodlands and Informal Open Space

48. The creation of new woodlands or informal open space and/or the management of existing woodlands and open areas may be necessary to assist in assimilating development or for mitigation after loss elsewhere. Such works may be on-site or off-site and a planning obligation will secure future maintenance and management arrangements including public access. A contribution will be required to ensure that the works are carried out properly, and to cover long-term maintenance, where the land is proposed to be transferred to the Local Planning Authority.

Town Centres

49. Contributions may be sought towards:

- a) Financial contributions to offset the impact of a major development on existing established centres. This is mainly applicable to retail developments and the consequent impact on viability and vitality of existing centres. Financial contributions might be used towards environmental enhancements including re-paving works; street furniture; restoration of buildings; improved signing, interpretation and other information facilities; CCTV, street lighting and other security arrangements; public art, etc
- b) Integration of new development with existing centre. Action may be needed to help the existing centre to cope with disruption during the development; the relocation of businesses; shifts in retail patterns and changes in pedestrian and other flows. etc. Financial and other contributions may be sought towards changes and improvements to signing, information, town centre management etc.
- c) Contributions towards shared facilities. Where a new development causes the expansion of a centre it may be desirable for it to contribute towards the expansion and maintenance of existing facilities provided in the centre which it will benefit from. Contributions in cash and kind to town centre management, CCTV monitoring, information services etc might be called for. The new development might be required to provide a facility the centre needs but does not have in exchange for the benefits it receives from the facilities the centre already offers.

Environmental Protection and Enhancement

50. Contributions may be sought towards:

- a) Renovation and bringing into use of historic buildings and structures. Restoration of an historic building shall be required if affected by development. Funding might also be required for restoration of a building off site if its setting is affected by development. The obligation would include protection while development proceeds and restoration in accordance with an agreed schedule of works.
- b) Landscaping and Biodiversity. A landscape plan/strategy will be required as an integral part of any development proposal. This should establish the pattern of strategic landscape zones within and around development. The aim will not only be to improve the visual setting and screen development, but also to establish distinctive landscape character. Such plans would be expected to address wildlife habitat and biodiversity requirements in order to retain key habitats but also address habitat loss as a result of development. The implementation of such plans may require both on-site and off-site works. A planning obligation securing

contributions towards implementation may be needed and to secure future maintenance and management arrangements including public access to such areas.

- c) Archaeological Features. It may be appropriate to require the preservation either in situ, or public presentation and interpretation, or enhancement of an archaeological site or area of historic landscape importance, a standing earthwork, building or other structure of archaeological or historic importance. This can be sought through planning condition or obligation. When considering such options, the developer or the developer's archaeological or environmental consultant and the Local Planning Authority, should involve the appropriate archaeological authority - English Heritage and/or its own archaeological advisor. The local authority may seek a contribution towards the cost of providing and maintaining the necessary facilities to ensure that the material is accessible and is not allowed to deteriorate or be destroyed.
- d) Access to Archaeological Features. Arrangements may be needed to ensure that the public or archaeological specialists have access to archaeological/historical features retained on the site.
- e) Environment/Landscape Fund. The Council will adopt relevant management proposals as SPG for the Statutory AONB Management Plans. Proposals will include specific projects and works targeted at minimising wider scale landscape and wildlife impact of development and encouraging better public access, enjoyment and understanding of the local environment. An Environment/Landscape fund is being established so that sums from new development can contribute towards funding the AONB Management Plan Proposals. Where development takes place and there is inadequate opportunity to undertake appropriate environmental mitigation or compensation works on or adjacent to the site funds will be sought for the general Environment/Landscape Fund.

Community Safety

51. Contributions may be sought towards:

- a) Neighbourhood watch schemes.
- b) Cycle and pedestrian network mirroring 100% of road network and where possible providing more direct access.
- c) 100% 'Secured by design' approval for all buildings.
- d) 20MPH 'Home zones' for all new and adjacent residential areas through design.
- e) Safe pedestrian crossing points on roads and pedestrian priority in new and adjacent residential areas.
- f) Provision of Police services.
- g) CCTV, automatic domestic sprinklers and other design features to improve safety.

Utility Services, including Water and Environment Agency Services

52. The protection of water resources, water supply, foul and surface water drainage, electricity and gas supply and telecommunications provisions are essential aspects of the development process. The

Environment Agency produces a variety of guidance - for example, concerning Sustainable Urban Drainage Systems (SUDS) - which should be fully taken into account.

53. Contributions will be sought to secure a satisfactory level of services for a full range of available utilities.
54. Sharing of facilities such as satellite receivers and other TV aerials or cable will be required in major new developments and encouraged in all development of more than 20 dwellings.