

Public Document Pack

Executive Member Decisions

Friday, 24th November, 2023
10.00 am

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Date Published: Friday 24th November 2023
Denise Park, Chief Executive

EXECUTIVE MEMBER DECISION



BLACKBURN
with
DARWEN
BOROUGH COUNCIL

REPORT OF: Executive Member for Children, Young People and Education, Executive Member for Finance and Governance, Executive Member for Growth and Development

LEAD OFFICERS: Strategic Director of Growth & Development

DATE: 24th November 2023

PORTFOLIO(S) AFFECTED: Growth and Development

WARD/S AFFECTED: Blackburn South East;

KEY DECISION: N

SUBJECT:

Demolition of the old Longshaw Nursery building following relocation of Nursery to new building adjacent to Longshaw Infant School

1. EXECUTIVE SUMMARY

- 1.1 The current Longshaw Nursery is located off Crosby Road a short distance from Longshaw Infant School with the two sites being separated by the site of the former and now demolished Longshaw Home for Older Persons (HOP) (see Appendix A).
- 1.2 Between 2020 and 2022, a number of reports were presented to the Executive Board highlighting the poor condition of the current Longshaw nursery building and its unsuitability in providing a modern, safe and welcoming environment for children.
- 1.3 Due to the very poor state of the building, inadequate classrooms and substandard facilities it was reported that the building was not fit for purpose. An assessment was undertaken to consider remodelling and extending the building but due to the presence of asbestos and irregular construction of the building this was deemed too expensive. The only way to improve and expand the facility would be by constructing a new nursery building.
- 1.4 Recommendation was made to the Executive Board to approve funding for the construction of a modern new nursery facility adjacent to the Longshaw Infant School. This would allow for the current nursery to continue providing a valuable service to children whilst the new building was completed.
- 1.5 During 2022, approval was secured for the new building, which has now been completed for the September 2023 intake. The current nursery is planned to be declared surplus, in September 2023, when it is vacated and the nursery provision is fully transferred to the new nursery building.
- 1.6 The Council wants to demolish the current building when vacated to deter anti-social behaviour, fly-tipping and illegal access into the building. Leaving the building standing would

be a hazard to local residents and attract criminality which would add security and management costs to the public purse

1.7 The Council has successfully secured One Public Estate (OPE) grant funding to carry out asbestos removal and demolition of the building. The grant is provided on condition that the Council dispose of the cleared land to a Registered Provider, at residual value, for the provision of new affordable homes.

2 RECOMMENDATIONS

That the Executive Members:

- 2.1 Note that the existing nursery building is in a state of disrepair, contains “high risk” asbestos, is known to have a concealed concrete roof deck which could potentially be RAAC construction and as such will be declared surplus when it becomes vacant;
- 2.2 Note the Council’s plans to demolish the existing nursery building;
- 2.3 Authorise officers to finalise the boundary changes required to regularise the site of the new nursery building.
- 2.4 Authorise officers to seek and obtain all relevant Secretary of State consents to enable the actions proposed in this report.
- 2.5 Authorise officers to negotiate the terms of disposal of the cleared site shown in Appendix B to a Registered Provider for affordable homes provision.
- 2.6 Delegate authority to conclude any matters pertaining to the disposal including terms of any land sale and contracts to the Growth Programme Director in consultation with the Executive Member for Growth and Development.
- 2.7 Authorise the Deputy Director, Legal & Governance (Monitoring Officer) to complete the necessary legal formalities.
- 2.8 Authorise the Strategic Director Growth and Development to appropriate the land at Crosby Road shown edged red on the attached plan, (Appendix A, site A), from the Resources and Childrens portfolios to the Growth & Development department for planning purposes pursuant to s226 Town and Country Planning Act 1990.
- 2.9 Noting that some of the land could be construed as open space in character then such appropriation must also comply with s122(2A) of the Local Government Act 1972 and hence authorise the Deputy Director, Legal & Governance (Monitoring Officer) to advertise the proposal to appropriate accordingly
- 2.10 Authorise the Deputy Director, Legal & Governance (Monitoring Officer) to advertise the proposal to dispose of ‘open space’ in accordance with the statutory process under Section 123(2A) of the Local Government Act 1972
- 2.11 Note that in authorising the commencement of the appropriation process of the land off Crosby Road, the Council has considered the provisions of the Equalities Act 2010 and the Human Rights Act 1998 as set out in this report.
- 2.12 Authorise the Strategic Director Growth and Development for the consideration of any objections to both the appropriation proposal and ‘open space’ disposal.

- 2.13 Note the Council's powers under s.203 – 206 of the Housing and Planning Act 2016 to override any third party rights and easements on the land once planning permission for the planning purpose has been obtained and so where necessary to enable the planning purpose to be achieved, authorise the Strategic Director Growth and Development to override any said third party rights or easements.
- 2.14 If the appropriation for planning purposes is approved and any third party rights and easements have been overridden, authorise the negotiation and payment of any compensation claims potentially emerging from the appropriation.

3 BACKGROUND

- 3.1 The existing Longshaw Nursery building, is of a post-war construction (circa 1950s-1960s). It is a single storey building with a basement housing the boiler house which has had the asbestos encapsulated in to the boiler walls, floors and ceiling.

The building's roof has seen significant alterations over time with the original concrete deck with asphalt roof finish being 'over- roofed' by a timber 'cut- roof' system with a concrete tile finish. Given the age of the building there is a potential risk of Reinforced Autoclaved Aerated Concrete (RAAC) which has the potential for catastrophic failure with little or no warning. Whilst a visual inspection has been undertaken this was inconclusive and a further intrusive investigation would be required by a suitably qualified specialist if the building was to be retained.

The external walls are constructed with as a masonry cavity wall, given the build date and lack of any evidence of retro-fit works having been undertaken since original construction it is expected to perform poorly. Equally, the floor slab will be uninsulated and the roof is partially insulated add to the energy inefficiency of the building. Whilst the building will comply with the Regulations at the time of construction it is significantly adrift for the current regulations and Energy Efficiency Standards including MEES.

- 3.2 There is a conservatory lean-to extension to the nursery for additional space. The lean-to is constructed from polycarbonate roof sheets and fully glazed. This is proving to be too hot in summer and too cold in winter. There is inadequate ventilation to the property.

Classroom sizes in the existing building were deemed too small and not fit for purpose in respect of the layout of the premises in order to deliver continuous provision as detailed by the Early Years Foundation Stage Curriculum. The internal walls are typically load bearing solid masonry walls and would require major structural steelwork to facility larger room areas.

- 3.3 Due to the construction material of the building there were concerns around proposals for remodelling and structural alterations of the building to enlarge the teaching areas including altering the entrance / reception area. As such a recommendation was made to build a new nursery building to provide the modern, fit for purpose facility required and to demolish the old building which would be a potential health hazard, too costly to modernise and likely to attract anti-social behaviour and criminality.

- 3.4 A report was presented to and approved by the Council's Executive Board in March 2020 which advised of a planned programme to relocate Longshaw Nursey School from its current site and co-locate it with Longshaw Infant School. It was reported that the existing Nursery School premises was in a poor state of repair and no longer fit for purpose.

- 3.5 A subsequent report was taken to the Council's Executive Board in 2021 – *Titled: Schools capital programme variation to support the creation of new school places (dated 14.01.2021)*

outlining that Early Years provision in the Longshaw and Highercroft areas was in low supply, and existing provision within these areas had limited capacity to expand. It is anticipated that the planned local housing growth would attract families with younger children and create increased demand for Early Years provision in the area.

The planned new nursery-building would allow for increased capacity of places to meet anticipated demand, and create a fit for purpose environment that secures qualitative early years provision in the area. The cost of the project, and variation, was requested to be provided in the Council's 2020/21 capital programme with supplementary funding to be used from the Schools Basic Need budget and the 2 year old Capital budget. This report did not identify any budget to carry out any asbestos removal or to demolish the existing building.

- 3.6 The Department for Education (DfE) maintains strict controls around the disposal of school playing field land. It is not the government or the DfE that instigates the disposal of school playing fields. It is local authorities, or the academies and maintained schools themselves, that propose to dispose of these often surplus or unused fields in order to invest the proceeds in school sport or education. Consultation must take place widely prior to making an application.
- 3.7 Schedule 14 of the Education Act 2011, extends the requirement to ask for Secretary of State consent to dispose of community school land to include all land in which a freehold or leasehold interest is held by the local authority and which has been used for any school (including any academy) in the last 8 years.
- 3.8 The boundary of the site of the new build nursery has had minor amendments and the latest site area is reflected in Appendix A, area coloured purple. Appendix A shows the existing location of the Longshaw Nursery (site A), the site of the former Longshaw HOP (site B), the existing Longshaw Infant School (site C) and the location of the new nursery building (area coloured Purple).
- 3.9 The existing Longshaw Nursery site is located on a site of approximately 0.28 hectares. The new nursery building now occupies a site with an area approximately 0.23 hectares with no loss of amenity space. The new building is a modern facility offering quality premises for pupils and is located adjacent to Longshaw Infant School.
- 3.10 During late 2022, Council officers identified an opportunity to bid for grant through the One Public Estate (OPE) Brownfield Land Release Fund ("BLRF"). A bid was submitted which successfully secured grant to fund the demolition of the building and site clearance. The bid was conditional on the cleared nursery site and the former Longshaw HOP site being developed for the provision of affordable homes by a Registered Provider.

4 KEY ISSUES & RISKS

- 4.1 On a borough-wide basis, there are sufficient places to meet the demand for Early Years Education (EBD November 2020, Childcare Sufficiency Assessment). However, there are some areas of Blackburn, where supply does not currently meet demand. The Borough's planned housing growth is also expected to result in increased demand.

Early Years provision in the Longshaw and Highercroft areas is currently in low supply, and existing provision within these areas has limited capacity to expand.

- 4.2 A paper presented to and approved by Executive Board in March 2020 advised of a planned programme to relocate Longshaw Nursey School from its current site and co-locate it with

Longshaw Infant School. The current Nursery School building is in a poor state of repair and no longer fit for purpose.

The planned new building will allow for increased capacity of places to meet anticipated demand, and create a fit for purpose environment that secures qualitative early years provision in the area.

The relocation will secure longer term financial sustainability and protect the future provision of a Maintained Nursery School in the Borough which compliments the provision of education for infants at the Longshaw Infant School next door.

- 4.3 During the delivery of the scheme, the land required for the new nursery building has been increased to provide a modern facility with a suitable amount of space for Childrens play to be incorporated.
- 4.4 The DfE has the existing nursery site listed as an education asset, as noted in 3.5 above, DfE expect local authorities to carry out wide consultation to gauge interest in any educational establishment wishing to use the surplus building prior to any other use being considered. However, due to the very poor condition of the building which has asbestos present, it is deemed a health risk for anyone to consider continued use of the building. Any repairs or upgrades required to make the building safe would be too costly and would still only result in an old, unsuitable building being available.
- 4.5 The Council wishes to demolish the building as soon as practical to deter anti-social behaviour, fly-tipping and illegal access into the building. Leaving the building standing would be a hazard to local residents and be a beacon to attract criminality. Tackling such issues would add security and management costs to the public purse and additional strain on emergency response services such as the police and fire brigade.
- 4.6 Independent valuation advice has valued the land of the former nursery site as being £165,000. Demolition and site clearance costs are estimated at £145,000. This represents a net value of the site as being approximately £20,000
- 4.7 The Council has successfully secured OPE grant funding for the asbestos removal and demolition of the building. A key condition of the grant is for the land to be sold to a Registered Provider (on a residual value basis) for the provision of new affordable housing. Failure to spend the grant would result in repayment of grant to OPE and loss of around 15 much needed new homes for affordable rent.

This report proposes that the land is to be sold to a Registered Provider for affordable housing based on a residual value basis, which may result in a sale of the land at Nil value.

Appropriation

- 4.5 The Council can appropriate land for any proper purpose and this is described in the Legal Implications below. However, it is worth noting here that the Council should only resolve to appropriate land for another purpose if it is satisfied that the land is not required for the purpose for which it is currently held. The land at Crosby Road is identified as suitable for housing development in the Council's adopted Local Plan. The site is included in the Council's Growth programme to provide residential dwellings, the proposed appropriation will bring the site forward to deliver new homes in line with the site designation and the Council's growth programme. Any proper objection on the proposed appropriation will need to be formally considered by a subsequent formal decision. This will be in the form of an executive member approval

4.6 The Council considers there could be a small chance of some informal private rights of way and other informal easements having accrued over time over the development site due to the site being 'open' for a considerable period. Where land is appropriated for planning purposes and planning permission for the planning purpose has been achieved, the Council may rely upon the provisions of Section 203 of the Housing and Planning Act 2016. The Council has this statutory power to override easements or rights of way affecting land.

Disposal of Open Space

4.9 As the land at Crosby Road (site of the Longshaw HOP) may be considered to have been reasonably open to the public for use, it considers that it is best to act cautiously and deem this site suitable as one to which ought to be considered as 'open space' and the process of dealing with this is set out in the legal implications.

4.10 It is recommended that the council delegate authority to the Strategic Director Growth and Development, in consultation with the Executive Members for Finance and Governance and Growth and Development. To consider any objections or comments raised to the proposed disposal of 'open space' at Crosby Road and if appropriate approve the proposed disposal of 'open space' at Crosby Road for the proposed housing development.

5 POLICY IMPLICATIONS

5.1 The demolition of the old nursery buildings will remove an old building unsuitable for continued use, containing asbestos and in disrepair. The cleared site will be redeveloped for affordable housing.

5.2 The proposed residential development would support delivery of new affordable homes to meet local and boroughwide demand. Development proposals will be in line with the Local Plan and the Council's Corporate Plan.

5.3 Disposal of the site is in accordance with the Council's Disposal Policy.

6 FINANCIAL IMPLICATIONS

6.1 No new funding is required to carry out the demolition; demolition of the old nursery building and site clearance will be funded by OPE BLRF grant, which has been secured. The cleared site is proposed to be redeveloped for affordable homes

6.2 Site valuation for housing will be based on a residual valuation based on a scheme of affordable homes, this may result in a nil capital receipt.

6.3 All new homes will contribute to the Council's MTFs by way of Council Tax income and New Homes Bonus if the scheme is still active at the time.

7 LEGAL IMPLICATIONS

7.1 The disposal of the site is in line with the Council's Disposal

7.2 The National Planning Policy Framework has replaced the National Planning Policy on Housing (PPS3). However, requirements still remain with the Council to demonstrate the provision of an adequate mix of housing developments and setting of targets for affordable

housing. As any future proposed disposal is likely to be for the freehold of the land or a very long lease, then various aspects of S123 of the Local Government Act 1972 (“the Act”) shall apply.

- 7.3 Firstly, the Council should be seeking to achieve best consideration reasonably obtainable for the site, unless the Council can apply the exemptions permitted by Government Circular. Although the Council has a general power of competence pursuant to s1 of the Localism Act 2011 to do anything that individuals can legally do, the Local Government Act 1972 and General Disposal Consent (England) 2003 to seek Best Consideration still applies and so this must be minded when the Council makes any decision to sell via any process, including an informal tender process.
- 7.4 Secondly, to the extent that the land to be disposed of is considered to be “open space” then s123 (2A) of the Act shall apply. This requires the Council to advertise the proposal twice over two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.
- 7.5 “open space” is defined in section 336(1) of the Town and Country Planning Act 1990 as: “means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground” (emphasis added) And it is the conclusion in the body of the report that much of the site is reasonably likely to fall into that category to the extent that it would be prudent for the Council to treat it as such. While there is case law on such matters, it may be sufficient to only look at the plain English language meaning of the phrase in this case.
- 7.6 Section 122(1) of the 1972 Act states: “Subject to the following provisions of this section, a principal Council may appropriate for any purpose for which the Council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation; but the appropriation of land by a Council by virtue of this sub-section shall be subject to the rights of other persons in, over or in respect of the land concerned.”
- 7.7 The Council’s powers to appropriate land for planning purposes is contained in s226 of the Town and Country Planning Act 1990. It is also clarified here for the avoidance of doubt that in this case the Council thinks:
- the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land (*section 226(1)(a)*); and
 - the proposed development and improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or part of the Borough (*section 226(1)(a) and (1A)*).
- 7.8 The Council should only resolve to appropriate land for another purpose if it is satisfied that the land is not required for the purpose for which it is currently held. The land at Crosby Road is identified as suitable for housing development in the Council’s adopted Local Plan. The site is included in the Council’s Growth programme to provide residential dwellings, the proposed appropriation will bring the site forward to deliver new homes in line with the site designation and the Council’s growth programme. Any proper objection on the proposed appropriation will need to be formally considered by a subsequent formal decision. This will be in the form of an executive member approval.
- 7.9 This appropriation process is a helpful avenue for the Council where agreement cannot be reached or the beneficiaries of any (possible) rights are unknown. Section 203 authorises the overriding of any private rights affecting the use of land which is held for planning purposes where development is carried out in accordance with planning permission. The power extends not only to development by the local planning authority itself but also to any person authorised

by that authority. The ability to interfere with these (possible) rights is important in the context of enabling any development to proceed. The power to override such rights does not prevent such rights being compensated.

7.10 Section 122(2) of the 1972 Act requires the Council, prior to any appropriation of land comprising open space, to advertise the proposal twice over two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them.

7.11 The Council will need to progress its application with the DFE as soon as possible.

8 RESOURCE IMPLICATIONS

8.1 The Growth & Development team will lead on managing the demolition and detailed negotiations for the redevelopment of the site. Legal resources will be required to support the land transfer.

8.2 Additional external support may be required to carry out a scheme assessment, a viability appraisal and preparation of Heads of Terms.

9 EQUALITY AND HEALTH IMPLICATIONS

9.1 Provisions of the Human Rights Act 1998 ('HRA') which are relevant in relation to the proposed appropriation are:

- (1) The European Convention on Human Rights (the Convention) is an international treaty signed under the auspices of the Council of Europe.
- (2) The HRA still does not incorporate the Convention into UK law but what it does is to enable individuals to invoke Convention rights for certain purposes and for certain effects.
- (3) The main article of the Convention, which is of importance in circumstances where the Council is considering appropriating land is Article 1 of Protocol 1 – the protection of property.
- (4) In appropriating land, an authority must show that the appropriation is justified in the public interest.

9.2 Article 1 of Protocol 1 provides that:

- (1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions.
- (2) No one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law.
- (3) However, the above rules shall not prevent a State enforcing such laws, as it deems necessary to control the use of property in accordance with the general interest.
- (4) The Council must decide in relation to Article 1 whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The right to compensation is a relevant factor in considering the balance.
- (5) With regard to Article 1 of Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with

the works particularly taking into account the fact that there is a legal right to compensation for the interference with rights arising from the appropriation.

9.3 In addition to the HRA, the Council is required to comply with the Equalities Act 2010. Section 149 of the Equalities Act 2010 requires the Council to have due regard to the need to:

- (1) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

9.4 The Council has carried out an equality impact analysis checklist. This first of all assessed from a relevance perspective whether a full impact assessment was needed. This assessment concluded that the proposed appropriation would not negatively impact on any particular group in a disproportionate way. As such no full assessment was required. The Council considers that it has complied with its duty under the Equalities Act 2010.

Please select one of the options below.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision.

10 CONSULTATIONS

The Council has carried out a Housing and Economic Needs Assessment for the Borough and has an adopted Local Plan which is currently being refreshed.

These have outlined housing demand and type; further consultation will be carried out with local residents during the planning process for the developments.

11 STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12 DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

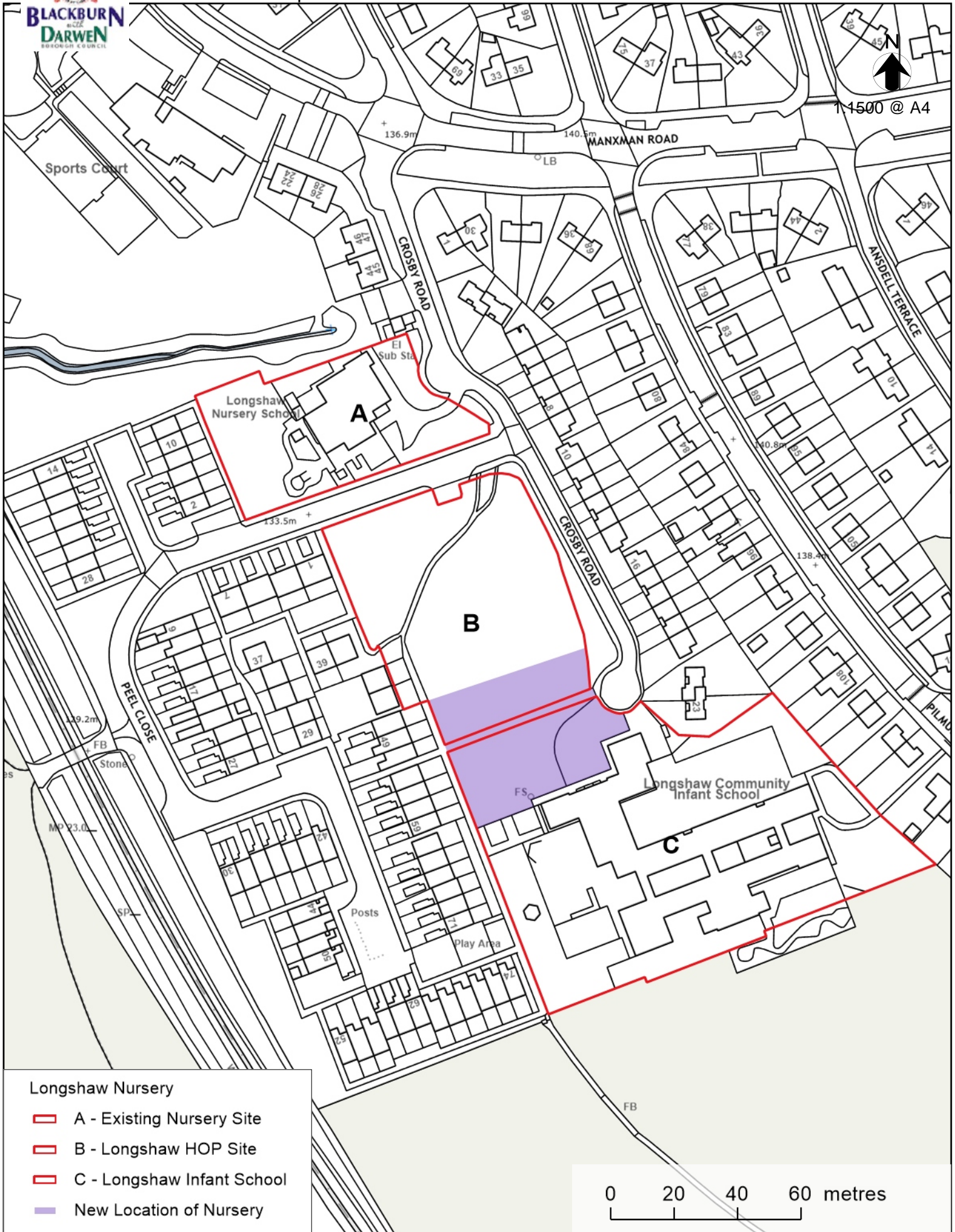
CONTACT OFFICER:	Subhan Ali, Subhan.ali@blackburn.gov.uk
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DATE:	19 th September 2023
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BACKGROUND PAPER:	EBD March 2020, Variation to the 2021/22 schools capital programme EBD November 2020, Childcare Sufficiency Assessment EBD January 2021, Schools capital programme variation to support the creation of new school places
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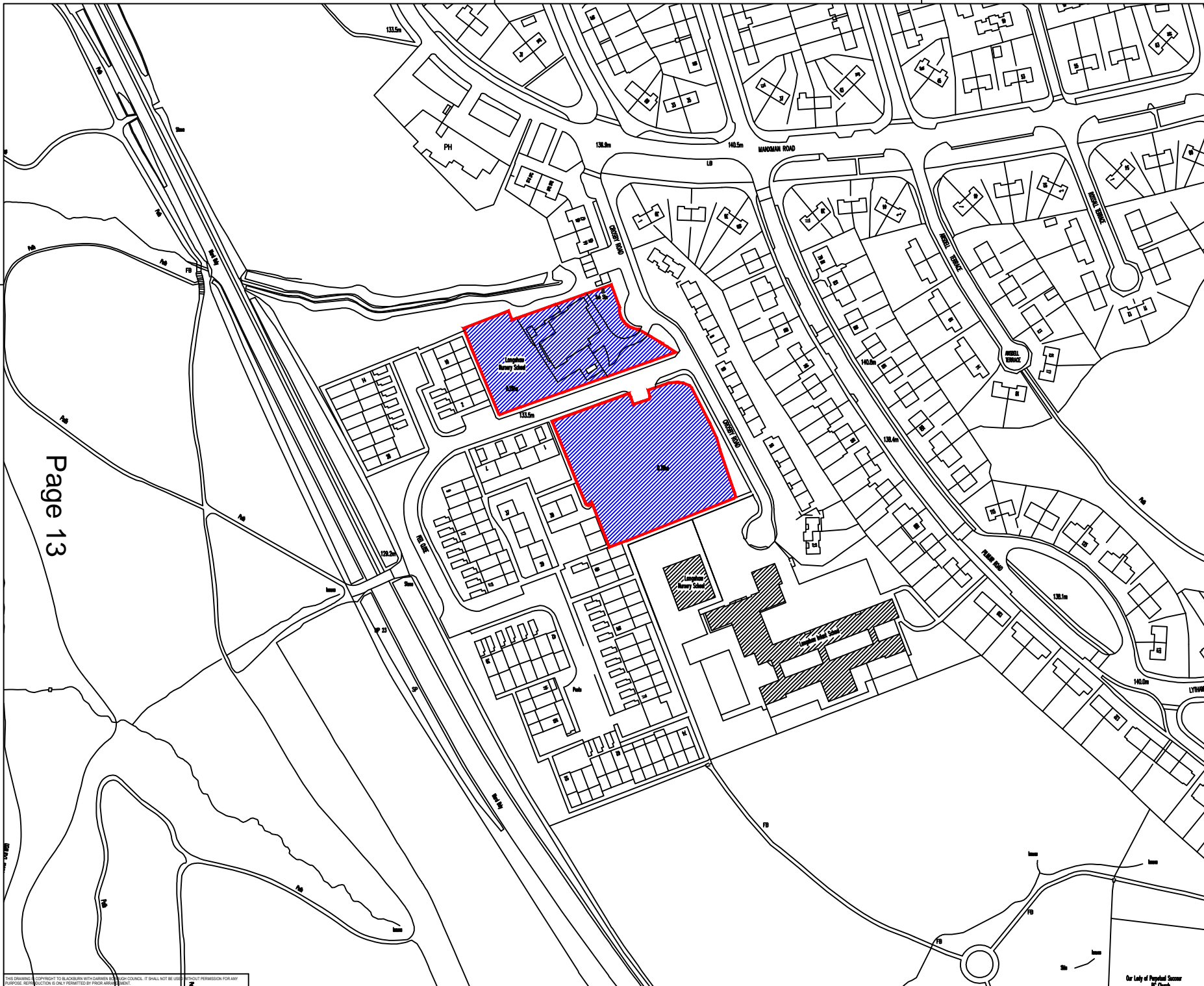


BLACKBURN
with
DARWEN
BOROUGH COUNCIL




- Longshaw Nursery
- A - Existing Nursery Site
 - B - Longshaw HOP Site
 - C - Longshaw Infant School
 - New Location of Nursery

0 20 40 60 metres



NOTES:-

REV	DESCRIPTION	ISSUED	CHK	APP	DATE
 <p>BLACKBURN with DARWEN BOROUGH COUNCIL</p>					
PRELIMINARY					
Client: BLACKBURN & DARWEN BOROUGH COUNCIL TOWN HALL BLACKBURN BB1 7DY					
Project Site: Longshaw Development Site					
Drawing Title: Appendix B					
Project No.: CS/					
Issue @ M: NTS	Designed by: WDP	Checked by: WDP	Approved by: SA	Date: 26.06.23	
Drawing No.: WDP LONGSHAW 002					
Do Not Scale From This Drawing					

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Our Lady of Perpetual Succour
R.C. Church



EXECUTIVE MEMBER DECISION

REPORT OF:	Executive Member for Environment & Operations
LEAD OFFICERS:	Strategic Director of Environment & Operations
DATE:	24 November 2023

PORTFOLIO/S AFFECTED:	Environment & Operations
WARD/S AFFECTED:	(All Wards);

SUBJECT: Hackney Carriage Fare Increase

1. EXECUTIVE SUMMARY

- 1.1 Blackburn Hackney Carriage Association have submitted a request on behalf of the trade for an increase in the fares for hackney carriage journeys. The last increase was in 2022.
- 1.2 Increases in fares are only triggered by requests made from the trade and have to be agreed by the Executive member.
- 1.3 If the request is granted a public consultation will take place. If there are no objections to the request the increase will take effect. Any objections will be considered.

2. RECOMMENDATIONS

That the Executive Member:

- 2.1 Agrees the increase in fares with effect from 18 December 2023 subject to public consultation.
- 2.2 Instructs the Licensing Team to undertake the statutory 14 day public consultation by placing a notice in the Lancashire Telegraph.

3. BACKGROUND

- 3.1 An application from the Blackburn Hackney Carriage Association has been received for an increase in hackney carriage fares. Appendix 1 shows the current fares and Appendix 2 the proposed fares.
- 3.2 Increases in fares are only triggered by requests made from the trade. The last increase was in 2022.

4. KEY ISSUES & RISKS

4.1 A table of hackney carriage fares for all local authorities in the UK is published on the internet. The table can be found in the following link <https://www.phtm.co.uk/newspaper/taxi-fares-league-tables>

4.2 Currently Blackburn with Darwen fares rank 180 out of 344 listed authorities. The fare for a 2 mile journey on Tariff 1 is currently £6.77.

4.3 Where other authorities have changed fares in 2023, for a 2 mile journey on Tariff 1 the fares range from £6.00 to £14.20.

4.4 The proposal for Blackburn with Darwen is to keep the current fare for shorter journeys. However where journeys are longer than 672 meters (735 yards) to reduce the number of additional meters travelled for 10p. The impact of the change will only be seen in longer journeys – approximately 10 miles and above.

4.4 The proposal is to also re-instate a Tariff 2 fare (higher charge) for Sundays and Bank Holidays. This was removed in 2022. The valet fee if a vehicle is fouled by a customer to also be increased from £20 to £50. This will more realistically cover the costs of cleaning and loss of work time whilst a vehicle is being cleaned.

4.5 There are no risks to the Council from this decision.

5. POLICY IMPLICATIONS

5.1 The fares set by the Executive Member will become the policy on fares for hackney carriages licensed by Blackburn with Darwen Borough Council.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications for the council apart from the fee for the advert. There is an opportunity for increased financial rewards to the hackney carriage trade. Users of hackney carriages would incur an increase in the cost of each journey undertaken.

7. LEGAL IMPLICATIONS

7.1 In accordance with Section 65(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976, when a district council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district, a notice setting out the table of fares, or the variation thereof, and specifying the period, which shall be not less than fourteen days from the date of the first publication of the notice, within which, and the manner in which objections to the table of fares or variation can be made.

7.2 If no objection to a table of fares or variation is duly made within a specified period specified in the notice, or if all objections are withdrawn, the table of fares or variations shall come into operation on the date specified in the advert.

7.3 If an objection is duly made and is not withdrawn, the council will set a further date on which the table of fares will come into force with or without modifications as decided by them after consideration of the objections.

8. RESOURCE IMPLICATIONS

8.1 Existing staff in the public protection service will undertake the associated work in this request.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

10.1 The statutory public consultation will take place if the decision is made to accept the application for the fare increase.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	Denise Andrews
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DATE:	7 November 2023
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BACKGROUND PAPER:	None
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BLACKBURN WITH DARWEN BOROUGH COUNCIL

LICENSED HACKNEY CARRIAGE FARES w.e.f. 10/12/22

For Hiring between 6.00 am and 10.00pm Monday to Sunday		Waiting period for each period of 55 seconds or uncompleted part thereof	10p
If the distance does not exceed 672 metres (735 yards) for the whole thereof	£3.50		
		Additional charges	
If the distance exceeds 672 metres (735 yards) for the first 672metres	£3.50	a) Articles of luggage conveyed outside the passenger compartment of the Hackney Carriage	Free
For each subsequent 77.7 metres (85 yards) or lesser portion thereof	10p	b) For the first person in excess of one conveyed	Free
For Hiring between 10.00 pm and 6.00 am Monday to Sunday		For each subsequent person conveyed	Free
		Wheelchairs for disabled persons	Free
If the distance does not exceed 634 metres (693 yards) for the whole thereof	£3.50	Assistance dogs	Free
		Pets, Dogs and Cats	£1
If the distance exceeds 634 metres (693yards) for the first 634 metres	£3.50	Valet fee if vehicle fouled	£20
For each subsequent 68.5metres (75 yards) or lesser portion thereof	10p		

**For Hiring between 10.00 pm 24th December and 6.00 am 27th December
and between 6.00 pm 31st December and 6.00 am 2nd January**

If the distance does not exceed 603 metres (660 yards) for the whole thereof	£3.75
If the distance exceed 603 metres (660 yards) for the first 731 metres	£3.75
For each subsequent 92 metres (101yards) or lesser portion thereof	15p

NO OTHER CHARGES MAY BE MADE

Distance - The above fares apply throughout the whole of the Borough of Blackburn with Darwen Borough Council

UP-FRONT PAYMENTS

Drivers may ask you to pay an estimated fare or deposit up-front.

IF YOU DO NOT AGREE YOU MAY BE REFUSED TRAVEL

COMPLAINTS

In case of complaint please contact the Public Protection Service, White Dove Office, Daveyfield Road, Blackburn. BB1 2LX (Telephone: 01254 267666) giving the number of the Hackney Carriage Licence and full details

BLACKBURN WITH DARWEN BOROUGH COUNCIL

LICENSED HACKNEY CARRIAGE FARES proposed from 18/12/2023

For Hiring between 6.00 am and 10.00pm Monday to Saturday (excluding bank holidays)		Waiting period for each period of 55 seconds or uncompleted part thereof	10p
If the distance does not exceed 672 metres (735 yards) for the whole thereof	£3.50	Additional charges	
If the distance exceeds 672 metres (735 yards) for the first 672metres	£3.50	a) Articles of luggage conveyed outside the passenger compartment of the Hackney Carriage	Free
For each subsequent 68.5 metres (75 yards) or lesser portion thereof	10p	b) For the first person in excess of one conveyed	Free
For Hiring between 10.00 pm and 6.00 am Monday to Saturday, all day Sunday and bank holidays		For each subsequent person conveyed	Free
		Wheelchairs for disabled persons	Free
If the distance does not exceed 634 metres (693 yards) for the whole thereof	£3.50	Assistance dogs	Free
		Pets, Dogs and Cats	£1
If the distance exceeds 634 metres (693yards) for the first 634 metres	£3.50	Valet fee if vehicle fouled	£50
For each subsequent 59.4 metres (65 yards) or lesser portion thereof	10p		
For Hiring between 10.00 pm 24th December and 6.00 am 27th December and between 6.00 pm 31st December and 6.00 am 2nd January			
If the distance does not exceed 603 metres (660 yards) for the whole thereof			£3.75
If the distance exceed 603 metres (660 yards) for the first 731 metres			£3.75
For each subsequent 92 metres (101yards) or lesser portion thereof			15p

NO OTHER CHARGES MAY BE MADE

**Distance - The above fares apply throughout the
whole of the Borough of Blackburn with Darwen Borough Council**

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Hackney Carriage Licence and full details

EXECUTIVE MEMBER DECISION



REPORT OF:	Executive Member for Growth and Development
LEAD OFFICERS:	Strategic Director of Growth & Development
DATE:	24 November 2023

PORTFOLIO/S AFFECTED:	Growth and Development
WARD/S AFFECTED:	All

SUBJECT: Developer Contributions and Affordable Housing SPD Consultation approval

1. EXECUTIVE SUMMARY

Developer contributions are secured in order to mitigate the impact of new development. Typical examples include the provision of green space, school places and transport improvements.

The draft Developer Contributions and Affordable Housing SPD provides detailed guidance on the application of a number of policies within the emerging Blackburn with Darwen (BwD) new Local Plan (2021-2037) which have implications for developer contributions, in particular Policy CP12: Infrastructure & Delivery. The SPD provides information on how Policy CP12 and other policies requiring affordable housing or specific infrastructure will be interpreted and applied. This will assist planning officers, applicants, service providers, Councillors, and members of the public through the planning application process, ensuring that the process is fair and transparent and is applied consistently.

Once adopted, the SPD will sit alongside the emerging BwD Local Plan (2021-2037) which is due to be adopted in January 2024 and will be a material consideration in planning decisions.

Prior to its adoption, the Council is required to undertake public consultation on SPDs by the Town and Country Planning (Local Planning) (England) Regulations 2012. As such, this report is requesting approval to publish the SPD for a 6 week public consultation, commencing in December. Following the close of consultation, the Council will consider all representations received and determine whether any amendments to the draft SPD are needed. The final version SPD will be taken to Executive Board recommended for adoption in Spring 2024.

2. RECOMMENDATIONS

That the Executive Member:

- Approves the draft Developer Contributions and Affordable Housing Supplementary Planning Document (SPD) for public consultation.

- Notes that the outcome of the consultation and final version of the SPD will be reported at a meeting of the Executive Board for consideration.

3. BACKGROUND

Developments that include a net increase of new housing (for instance) can impact on their physical, social and environmental surroundings due to the increased demand for services and increased use of facilities as a result of the additional population that they will typically support. By securing obligations to provide financial contributions from developers, these impacts can be mitigated and, where possible, bring positive benefits for the local area.

The Developer Contributions and Affordable Housing SPD provides detailed guidance on the application of a number of policies within the emerging new Local Plan (2021-2037) which have implications for developer contributions, in particular Policy CP12: Infrastructure & Delivery which is the policy for seeking planning contributions. It is intended to provide information on how Policy CP12 and other policies requiring affordable housing or specific infrastructure will be interpreted and applied. This will assist planning officers, applicants, service providers, Councillors, and members of the public through the planning application process, ensuring that the process is fair and transparent and is applied consistently. The SPD does not introduce new policy, it just clarifies the implementation of existing policy set out in the emerging new Local Plan.

The SPD provides further guidance on the Council's approach to seeking contributions towards the following 'appropriate matters', as set out in Local Plan Policy CP12:

- Affordable housing;
- Education provision;
- Transport and travel improvements;
- Highways infrastructure;
- Health infrastructure;
- Open space, public realm and leisure; and
- Biodiversity net gain and environmental improvements

The SPD will ensure clarity in regard to the main types of developer contributions that will be sought, why they are needed, and the monetary formula used to calculate the contributions (where relevant). Decisions on the required developer contributions will be determined on a case by case basis based on the available evidence and will relate to one of the 'appropriate matters' set out in Policy CP12. Once adopted, the SPD will be a material consideration in the determination of planning applications in Blackburn with Darwen.

Consultation on the draft SPD will be undertaken in line with the Council's adopted Statement of Community Involvement as follows:

- The draft SPD will be available to view on the Council's planning consultation website, with links from the Planning Policy webpage;
- Printed copies of the draft SPD will be available to view at Blackburn and Darwen Town Halls, libraries and The Barlow Institute in Edgworth;
- The Council's Planning Service maintains a database of those interested in preparation of the Local Plan and other planning documents. They will be notified by email of the consultation;
- Notification will also be sent to any relevant stakeholders identified whose details are not currently held on the consultation database;

- The Council's Planning webpages will be updated to provide details of the consultation and how to provide comments.

Subject to approval, it is proposed to undertake public consultation over a six-week period commencing in December 2023. The exact dates are to be confirmed. The Council is bringing forward consultation on the draft SPD in advance of adoption of the new Local Plan to ensure that the SPD is in place as soon as possible following adoption of the new Plan in early 2024.

Following consultation, any comments received will be considered in producing the final SPD and a consultation feedback report prepared detailing main issues raised and how these have been addressed. A further report will be brought to Executive Board in Spring 2024 seeking adoption of the SPD.

4. KEY ISSUES & RISKS

The SPD sets out the process through which the Council will seek contributions from developers towards mitigating the impacts of development. Specifically, it:

- Provides clear guidance to mitigate the impacts of future development proposals and to ensure that any gaps in provision of social and community facilities arising from new housing (for instance) are provided for by the developer; unless there are clearly substantiated and justified reasons as to why a developer could not viably fund such planning contributions; and
- Establishes the requirements for on-site or off-site contributions, or financial contributions in lieu, provided via s106 planning obligations to mitigate impacts arising from the development.

Taking forward the document will provide useful guidance to applicants, helping speed up the planning process by minimising amendments or negotiations, often necessary following submission of planning applications. Subsequent adoption of the SPD will ensure that the document has weight in planning decision-making and enable the Council to refuse non-compliant planning applications. This will give more certainty for the community and prospective developers on the Council's approach to developer contributions and affordable housing.

5. POLICY IMPLICATIONS

There are no direct policy implications, as the requirement for the Developer Contributions and Affordable Housing SPD is set by the emerging Local Plan (2021-2037) and Policy CP12: Infrastructure and Delivery. Policy CP12 sets out the commitment to produce a Developer Contributions and Affordable Housing SPD, and any failure to do so would fall foul of the proposed policy requirements.

6. FINANCIAL IMPLICATIONS

The costs associated with consulting on the draft SPD will be contained within the approved revenue budget for the Service.

7. LEGAL IMPLICATIONS

The Council are required to undertake public consultation on an SPD by the Town and Country Planning (Local Planning) (England) Regulations 2012, and in accordance with the Council's Statement of Community Involvement.

Approving the Developer Contributions and Affordable Housing SPD for consultation will ensure the Council is continuing to meet its legal requirements.

8. RESOURCE IMPLICATIONS

As identified under financial implications, no additional budget will be required to complete and adopt the SPD.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

This report seeks approval to undertake public consultation on the Developer Contributions and Affordable Housing SPD, in accordance with all legal and Council requirements. A variety of methods will be used to publicise the consultation. In accordance with statutory requirements (which requires a minimum 4 week consultation period), the consultation period will be for 6 weeks. The Council is bringing forward consultation on the draft SPD in advance of adoption of the new Local Plan to ensure that the SPD is in place as soon as possible following adoption of the new Plan in early 2024.

Following the close of consultation, the Council will consider all representations it receives and determine whether any amendments to the draft SPD are needed. The final version of the SPD, alongside a consultation statement summarising the feedback and any resultant changes to the SPD will then be published, before the SPD is recommended for adoption by the Council's Executive Board.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	PMO Growth
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DATE:	9/11/23
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BACKGROUND PAPER:	Developer Contributions and Affordable Housing SPD (draft)
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Blackburn with Darwen Borough Council

Developer Contributions and Affordable Housing Supplementary Planning Document (SPD)

Consultation Draft December 2023

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Draft SPD Consultation

In accordance with Regulation 12 and 13 of the Town and Country Planning (Local Planning) (England) Regulations 2012, a Local Planning Authority must publicly consult on an SPD before it can consider its adoption.

Consultation on the draft SPD will take place between **9am 4th December 2023 and 5pm 15th January 2024**. A series of questions can be found within the document, but you may comment on any aspect of it.

Consultation documents can be viewed at:

- Online at www.blackburn.gov.uk/SPDconsultation
- Blackburn and Darwen Town Halls
- Libraries: Blackburn Central Library, Darwen Library, Cherry Tree Library, Mill Hill Library, Roman Road Library – details on opening hours can be found on the [Council webpage](#).
- Barlow Institute, Edgworth

Give us your views

Comments should be submitted to forwardplanning@blackburn.gov.uk

Or by post to: Strategic Planning Team, Growth and Development, 5th Floor, 10 Duke Street, Blackburn, BB2 1DH

Next stages

Following the close of consultation, the Council will consider all representations it receives and decide whether any amendments to the draft SPD are needed. The final version of the SPD, alongside a consultation statement summarising the feedback and any resultant changes to the SPD will then be published, before the SPD is recommended for adoption by the Council's Executive Board.

Once adopted, the SPD will be a material consideration in the determination of planning applications in Blackburn with Darwen.

1. Introduction

- 1.1 This Supplementary Planning Document (SPD) sets out the Council's approach to determining and securing developer contributions for new development across the borough. It will sit alongside the Blackburn with Darwen (BwD) Local Plan (2021-2037) which is scheduled to be adopted in January 2024, subject to the Planning Inspectors' Final Report.
- 1.2 SPDs are documents which add further details to policies contained in a Local Plan but do not have their formal statutory 'Development Plan' status. They are, however, a material consideration when a Local Planning Authority is determining whether to approve or refuse a planning application.
- 1.3 This SPD provides detailed guidance on the application of a number of policies within the BwD Local Plan which have implications for developer contributions, in particular Policy CP12: Infrastructure & Delivery which is the policy for seeking planning contributions. It is intended to provide information on how Policy CP12 and other policies requiring affordable housing or specific infrastructure will be interpreted and applied. This will assist planning officers, applicants, service providers, Councillors, and members of the public through the planning application process, ensuring that the process is fair and transparent and is applied consistently.
- 1.4 Developments that include a net increase of new housing can impact on their physical, social and environmental surroundings due to the increased demand for services and increased use of facilities as a result of the additional population that they will typically support. By securing obligations to provide financial contributions from developers, these impacts can be mitigated and, where possible, bring positive benefits for the local area.
- 1.5 The SPD provides further guidance on the Council's approach to seeking contributions towards the following 'appropriate matters', as set out in Local Plan Policy CP12:
 - Affordable housing;
 - Education provision;
 - Transport and travel improvements;
 - Highways infrastructure;
 - Health infrastructure;
 - Open space, public realm and leisure; and
 - Biodiversity net gain and environmental improvements
- 1.6 This document will ensure clarity in regard to the main types of developer contributions that will be sought, why they are needed, and the monetary formula used to calculate the contributions (where relevant). It may be that in some circumstances, developer contributions are requested for alternative infrastructure provision, for example community facilities, flood defence and water management, environmental improvements, carbon reduction (including decentralised energy) and digital infrastructure. Decisions on the required developer contributions will be determined on a case by case basis based on the available evidence and will relate to one of the 'appropriate matters' set out in Policy CP12.
- 1.7 All contributions required, in compliance with national or local policy, will be set out as a basis for assessment at pre-application or planning application stage. There may be

circumstances where the total of all contributions sought might render the proposed development un-viable and therefore sufficient contributions cannot be made to mitigate the impact of development. As developer contributions are considered necessary in order to make the development acceptable in planning terms, the Council may then decide to refuse the application and in these circumstances viability is not considered a valid justification.

- 1.8 It may, however, be the case that some developments are not able to viably make contributions towards all of the infrastructure that is required but that the benefits of development are considered by the Council to outweigh the failure to provide policy compliant obligations. In such cases, where there are viability issues, contributions may be prioritised by the Council, who will seek to achieve a well-balanced package of contributions to best address mitigation.
- 1.9 The Infrastructure Delivery Plan (IDP) sets out current provision of infrastructure across the borough and the infrastructure requirements necessary over the plan period (to 2037) to deliver the levels of growth identified in the Local Plan. The IDP is an iterative document and will support this SPD by providing a regular review and update of infrastructure requirements.

2. Policy context

National policy

- 2.1 The key purpose of the planning system is to promote sustainable development. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. The NPPF highlights the importance of setting out the levels and type of contributions expected from development, including affordable housing and other supporting infrastructure such as education, health, transport and digital infrastructure.
- 2.2 Further guidance is provided by the National Planning Practice Guidance (PPG) on Planning Obligations and the Use of Planning Conditions. Amongst other matters, PPG also outlines the importance of identifying infrastructure that an authority intends to fund, the different sources of funding proposed and recording this information in an up to date Infrastructure Delivery Plan (IDP). An Infrastructure Funding Statement (IFS) is also prepared annually to set out income and expenditure relating to developer contributions. The IDP and IFS can be found on the Council's website at [Planning policies, strategies and guides | Blackburn with Darwen Borough Council](#).

Blackburn with Darwen (BwD) Local Plan (2021-2037)

- 2.3 The BwD Local Plan is scheduled to be adopted in January 2024, subject to the Inspectors' Final Report, and will help to meet development needs and provide a planning framework for determining planning applications up to 2037. New development as set out and supported by the Local Plan can place a strain on existing infrastructure, but also has the potential to provide or help provide new infrastructure or improve existing infrastructure and services.
- 2.4 Where appropriate (i.e. where it is necessary to make the development acceptable in planning terms, including by mitigating impacts), the Local Plan policies state that developers will be required to provide the necessary infrastructure or make financial

contributions towards its provision through Section 106 agreements (or Section 278 conditions for delivery of offsite highway works).

- 2.5 The Local Plan sets out that planning contributions will be sought where development creates a requirement for additional or improved services and infrastructure and/or to address the off-site impact of development so as to satisfy other policy requirements. Infrastructure can be provided directly by developers or by way of financial contributions to be used by other bodies to pay for or contribute towards the cost of new or improved infrastructure.

Draft

3. Infrastructure Requirements

Identifying Infrastructure Requirements

- 3.1 The known infrastructure requirements to support the specific allocations in the Local Plan are identified both within the individual site allocation policies and in other policies which set out specific provision standards which planning applications must have regard to. Revised infrastructure requirements may result as the detail of schemes is developed over time.
- 3.2 For windfall developments that are supported by the Local Plan, infrastructure requirements and any associated contributions required will need to be assessed as schemes are drawn up on a site-by-site basis. There are a number of strategies and studies that identify and inform infrastructure requirements and standards in relation to planning contributions. The key documents are outlined below.

The Infrastructure Delivery Plan (IDP)

- 3.3 An IDP was prepared to support the Local Plan. The IDP reviews and evaluates the social, environmental and economic infrastructure that will be required to support the development and growth set out in the Plan. It includes an Infrastructure Schedule which identifies the projects required to support planned development providing details such as indicative costs and timeframes for delivery, any committed funding and funding gaps.
- 3.4 The IDP is a 'living document' which will be updated periodically. The most recent version was published in July 2022 and is available to view on the Council's [webpage](#). As part of the Local Plan submission, an update to the [Highways](#) and [Sustainable Transport](#) Infrastructure Schedule lists have subsequently been prepared and these will be incorporated into the next version of the report when it is produced.
- 3.5 The IDP is populated from a wide range of supporting documents, some prepared directly by the Council in support of the new Local Plan, others prepared by third parties or external organisations to the Council. Some of these key documents, and their findings in terms of key infrastructure requirements, are summarised below.

Playing Pitch & Outdoor Sports Strategy (PPOSS) & Built Facilities Strategy

- 3.6 The PPOSS has been developed in accordance with Sport England's approved methodology and was prepared jointly with Hyndburn Borough Council. It analyses the current level of pitch provision and identifies the demand for pitches within the two boroughs. The key objectives of the strategy are to protect the existing supply of sports facilities where it is needed for meeting current and future needs; to enhance outdoor sports facilities through improving quality and management of sites; and to provide new outdoor sports facilities where there is current or future demand.
- 3.7 The PPOSS has developed a priority list of deliverable projects which will help to provide for future demands and inform wider infrastructure planning work. The PPOSS will assist with efficient management and maintenance of playing pitch provision in line with budgetary constraints.

Open Space Audit

- 3.8 Green open space in new development is of vital importance in enhancing local amenity, helping to promote better health and well-being and fostering community cohesion, as well as providing essential green infrastructure, establishing habitats and networks of ecological and wildlife value and contributing greatly to the character and appearance of the Borough.
- 3.9 The Council's Open Space Audit provides a robust assessment of needs and deficiencies of open space in order to establish local provision standards and create an up to date evidence base which can be used to inform decision making on planning applications. In particular, it:
- Identifies those neighbourhood areas with a surplus or deficit of a particular open space typology compared to the Borough-wide average provision rates;
 - Identifies areas of the Borough that do not meet local accessibility thresholds; and
 - Assesses the quality of open spaces.
- 3.10 The information contained within the Open Space Audit will be used to determine the most appropriate means of providing open space for residents – whether that be for onsite provision to address the increased need for open space as a result of the development or as a commuted sum to improve the quality and/or accessibility of nearby open spaces.

Pupil Forecasting Work

- 3.11 Edge Analytics undertook Pupil Forecasting work on behalf of the Council in November 2021 to evaluate the long term impacts of planned housing development contained within the Blackburn with Darwen Local Plan upon primary and secondary school pupil numbers in the borough.
- 3.12 These forecasts used the latest available data on the resident pre-school population, local schools and their pupils, together with assumptions on the potential impacts of planned local housing development on pupil numbers over the plan period to 2037. This identified a number of potential future shortfalls in both primary and secondary school places across the borough set out below. The figures ensure a 10% surplus capacity is maintained in order to provide some flexibility across each planning area.
- 3.13 Education data identifies a significant transfer between Blackburn South, Blackburn West and Blackburn East Neighbourhood Areas in relation to where pupils reside and the location of the schools they attend. As a result, it is considered the most appropriate approach is to combine these areas when planning for additional primary school places.
- 3.14 It should be noted that as relatively long-term forecasts, the data inputs can vary over time and will therefore be reviewed during the plan period. Such reviews will be informed by the Council's annual school capacity survey (SCAP) return. In summary, current long-term forecasts indicate:
- There is a forecast need over the plan period to 2037 for an additional 88 primary school places in Blackburn North planning area;
 - Combined, there is a forecast need over the plan period to 2037 for an additional 268 primary school places across the Blackburn South, Blackburn West and Blackburn East planning areas;

- There is a forecast need for an additional 181 primary school places in Darwen between 2026/27 and 2036/37;
 - There is a forecast need for an additional 810 secondary school places in the Borough over the plan period to 2037.
- 3.15 The Council has prepared a [Position Statement](#) which sets out how the Council will aim to meet these shortfalls over the plan period to 2037, with contributions expected from developers.
- 3.16 Edge Analytics undertook a further assessment on behalf of the Council in 2022 to identify SEND forecasts for Blackburn with Darwen in light of planned future housing growth. It concludes that there will be a continued growth in the total number of SEND pupils over the forecast period. By 2031-32, the total number of SEND pupils is estimated to be +335 higher than its 2021-22 total. Contributions will therefore be requested from new residential development to fund additional SEND school places generated as a result of the new homes.

DfE's Pupil Yield Dashboard and Local Authority School Places Scorecard

- 3.17 The DfE [Pupil Yield Dashboard](#) has been produced to improve baseline evidence of pupil yield from housing development and identifies the pupil yield for each authority in the country. Blackburn with Darwen Council will use these figures to calculate s106 contributions to meet the increased demand for additional school places in the borough from new development.
- 3.18 In addition, the [Local Authority School Places Scorecard](#) includes information on the cost of providing school places which have been adjusted for regional location factors which will also be used to calculate the required s106 contributions for the provision of additional school places.
- 3.19 It is important to note that both the pupil yield and cost per place figures are subject to change. The Council will use the most up to date figures in their calculations.

Local Cycling and Walking Infrastructure Plan (LCWIP)

- 3.20 Local Cycling and Walking Infrastructure Plans (LCWIPs), as set out in the Government's Cycling and Walking Investment Strategy (CWIS), are a new, strategic approach to identifying cycling and walking improvements required at the local level. They enable a long-term approach to developing local cycling and walking networks, typically over a 10-year period, and form a vital part of the Government's strategy to increase the number of trips made on foot or by cycle.
- 3.21 The Blackburn with Darwen Borough Council LCWIP has been prepared with walking and cycling network maps and a programme of prioritised improvements to take forward in the short, medium and long term. The LCWIP is currently in draft awaiting stakeholder feedback.
- 3.22 As part of Phase 3 'Development of Network Priorities' of the LCWIP preparation, the Leeds & Liverpool Canal corridor and a Southeast Blackburn Active Travel Network have been identified as early priorities for further development as part of the LCWIP development proposals. The Southeast Blackburn Active Travel Network has committed funding through the Levelling Up Fund and several elements of the Leeds &

Liverpool Canal Corridor are being progressed thanks to Active Travel Fund 4 scheme development funding.

Bus Service Improvement Plan (BSIP)

- 3.23 The National Bus Strategy (“the Strategy”) sets out an ambitious vision to dramatically improve bus services in England outside London through greater local leadership, to reverse the recent shift in journeys away from public transport and encourage passengers back to bus.
- 3.24 As the Strategy explains, there can be no return to a situation where services are planned on a purely commercial basis with little or no engagement with, or support from, Local Transport Authorities (LTAs). Bus Service Improvement Plans (BSIPs) are how LTAs, working closely with their local bus operators and local communities, address this – by setting out a vision for delivering the step-change in bus services that is required by the Strategy. A BSIP is the essential first step as it will be the extent of the ambition, delivered through an Enhanced Partnership or franchising.¹
- 3.25 Blackburn with Darwen Council working with Lancashire County Council and bus operators recently prepared their Bus Service Improvement Plan (BSIP) which outlines how buses could be made the transport mode of choice for many more people. The plan sets out how public transport could be revolutionised through service and infrastructure improvements along with simpler, cheaper ticketing across the area. Further details on the BSIP can be accessed at [Bus Service Improvement Plans | Blackburn with Darwen Connect \(bwdconnect.org.uk\)](https://www.bwdconnect.org.uk)

Local Plan Transport Studies

- 3.26 The potential impacts of development on both the strategic and local transport networks have been assessed thoroughly through several different transportation studies as part of the Local Plan preparation. These have all been completed by WSP consultants and therefore have a consistency of approach:
- [Local Plan Transport Study: Assessment and Mitigation Report](#) (2021);
 - [Local Plan Transport Study Addendum Technical Note](#) (2021);
 - [M65 Junction 5 Strategic Employment Site Transport Study](#) (2021); and
 - [M65 Junction 6 and 7 Study](#) (2022).
- 3.27 A further study focusing on potential mitigation options for [Southeast Blackburn](#) was also prepared by Systra. This looks specifically at mitigation options to help reduce traffic congestion on key local routes and increase the range of non-car transport options available to residents. This is referred to as the Southeast Blackburn Transport Strategy. Details on how these studies will inform decisions on s106 contributions are set out in Section 6.

¹ [National Bus Strategy: Bus Service Improvement Plans Guidance to local authorities and bus operators](#) (May 2021)

QUESTION 1: Do you have any comments to make on the evidence base studies used to inform s106 contributions?

QUESTION 2: Are there any additional studies that should be included?

Draft

4. Means of Securing Infrastructure

Conditions

- 4.1 Planning conditions are the most commonly used and simplest mechanism for securing the provision of on-site infrastructure e.g. roads, sewers, play areas; and ensuring a site is well-designed and appropriate for its intended use.
- 4.2 The long-term maintenance of on-site infrastructure is usually secured through adoption agreements between the developer and a suitable organisation; for example roads and street lighting with the highway authority (BwD); sewers with the utility provider; communal areas and open spaces with a residents' management company.
- 4.3 Section 70(1)(a) of the Town and Country Planning Act 1990 enables the local planning authority in granting planning permission to impose "such conditions as they think fit". Paragraph 55 of the NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions".
- 4.4 The NPPF states at paragraph 56 that planning conditions should only be imposed where they are 'necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects'.
- 4.5 Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body, will normally fail the tests of reasonableness and enforceability, unless the land or specified action in question is within the control of a local authority and there is clear evidence that it is enforceable within the time limit imposed by the permission.

Section 106 Agreements

- 4.6 S106 Agreements are made under the provisions of Section 106 (S106) of the Town and Country Planning Act 1990. The NPPF and the NPPG set out national planning policy and guidance and define planning obligations as being "*A legal agreement entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.*" S106 Agreements can require a developer to provide affordable housing or other specific item(s) of infrastructure on or off-site e.g. a new school or road improvement. Section 106 Agreements are signed before the grant of planning permission and are legally binding.
- 4.7 Planning obligations can only be sought where they are necessary to make a development acceptable in planning terms. A local planning authority must ensure that the obligation meets the relevant tests for planning obligations (para 57 of the NPPF), i.e. they are:
 - necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 4.8 Planning obligations may only constitute a reason for granting planning permission if they meet the above tests.

- 4.9 The NPPG states that policy for seeking planning obligations should be grounded in an understanding of development viability through the plan making process. Local Plan Policy CP12 relates to infrastructure and planning contributions. Viability evidence underpinned the production of the Local Plan and this should be used as a starting point when determining viability.
- 4.10 Applicants do not have to agree to a proposed planning obligation however, this is likely to lead to a refusal of planning permission as an adverse impact of a development would not be mitigated.
- 4.11 The Act provides that a planning obligation may:
- be unconditional or subject to conditions;
 - impose any restriction or requirement for an indefinite or specified period; and
 - provide for payments of money to be made, either of a specific amount or by reference to a formula, and require periodical payments to be paid indefinitely or for a specified period.
- 4.12 Legal agreements and the obligations contained therein run with the land in the same way that a planning permission does. This means that, once the permission is implemented, they are enforceable against the developer who originally entered into the agreement and any subsequent person acquiring an interest in that land. These legal agreements must be registered as a land charge and will form part of the planning register, available for public inspection. Where a planning permission expires, the planning obligation can be removed.

Section 278 Highway Agreements

- 4.13 Blackburn with Darwen Council as the local highway authority may, if it is satisfied it will be of benefit to the public, enter into a legal agreement with a developer under Section 278 of the Highways Act 1980 where a development requires works to be carried out on or to the highway.
- 4.14 This agreement can be either for the Council to carry out the works at the developer's expense, or allow the developer to provide the works directly, subject to an approval and inspection process. A condition would be attached to the planning permission requiring the works to be agreed and carried out.
- 4.15 These agreements are prepared separately from any Section 106 Agreement. Works associated with any planning permission are not permitted within the limits of the publicly maintained highway until the agreement is completed and the bond (if applicable) is secured. National Highways has similar powers in relation to the Strategic Road Network.

Community Infrastructure Levy (CIL)

- 4.16 The CIL Regulations came into force on the 6th April 2010 and is a planning charge used by local authorities to deliver infrastructure. Blackburn with Darwen Council has chosen not to implement CIL, and so will rely on developer contributions from the mechanism identified above to enhance or create suitable infrastructure as needed for new developments. S106 is considered to be most appropriate for Blackburn with Darwen due to the flexibility it allows.

QUESTION 3: Do you have any comments to make on the identified means of securing infrastructure?

5. Viability, indexation and triggers

Viability

- 5.1 All contributions required by, or to achieve compliance with, local or national policies will be assessed during the consideration of the planning application. There may be instances where due to viability considerations, all contributions sought cannot be afforded if the otherwise plan compliant development is to go ahead.
- 5.2 For certain matters, the adopted Plan specifically allows flexibility in its requirements to recognise viability challenges on a site by site basis. In such cases, contributions may be prioritised and/or waived. The waiving of certain contributions on viability grounds would not necessarily be considered to make the development unacceptable in planning terms, but there would also be instances where it would do so. For example, where contributions are considered entirely necessary to make the scheme acceptable in planning terms such that its absence would be wholly unsatisfactory, and the applicant is unwilling to agree to these, viability will not be relevant and an application will be refused. In these cases, such infrastructure is described as necessary and critical.
- 5.3 Applicants should ensure that development proposals adhere to Local Plan and Neighbourhood Plan² policies and that these requirements are factored into land value. The Local Plan should be treated as the starting point, with the underlying viability evidence demonstrating overall viability.
- 5.4 This reflects NPPG, which states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is therefore up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage and where needed, provide evidence of what has changed since then. Overpayment for land will not be accepted as a reason for reducing contributions.
- 5.5 A viability appraisal should cover and consider whether viability enhancements could improve the situation, for example deferring triggers for contribution payments. It should be an 'open book' assessment which should include information covering (but not necessarily limited to) the following:
 - Existing use values;
 - Proposed use values (sales and rental);
 - Demolition and construction costs;
 - Finance and marketing costs;
 - Assumed yield;
 - Construction site abnormalities;
 - Development phasing/timetable.

² At the time of writing there are no Neighbourhood Plans adopted by the Council, however some may come into play during the lifetime of the Local Plan and/or this SPD.

- 5.6 A viability appraisal should be submitted at application stage for any planning application where viability is a factor in determining the application. The viability appraisal will be independently assessed by consultants acting on behalf of the Council and the cost of this will be covered by the applicant. A viability appraisal summary will be included within committee reports where relevant.
- 5.7 A revised viability appraisal will be required where material changes are made following the submission of the planning application, or where there are delays where issues have not been resolved within the timescales originally envisaged.
- 5.8 NPPG provides further information on the expected requirements in relation to viability appraisals, including but not limited to: assessment of land value, inputs and assumptions as well as an open book approach and ensuring accountability. The viability assessment summary made available on the Council's online planning register in line with national policy.
- 5.9 A [Local Plan Viability Assessment](#) was undertaken by Keppie Massie in 2021 to inform the Blackburn with Darwen Local Plan. Outputs from this assessment will be used to determine the appropriate s106 requirements for non-allocated sites that come forward for development in the borough.
- 5.10 Table 1 below provides an indication of the expected minimum levels of planning contributions that proposals for new residential development will be expected to be able to bear on non-allocated sites where infrastructure/mitigation is required. In order to take into account the potential increase in costs of infrastructure throughout the lifetime of a planning permission, the level of contributions (excluding affordable housing contributions) will be adjusted and modified in line with an index of inflation. Further details on indexation are provided below.
- 5.11 Figures set out in the table are in addition to the specific policy requirements set out elsewhere in the Local Plan that will have direct cost implications on new development (for example, affordable housing provision at 20%, water efficiency measures, SuDS, onsite open space and play, playing pitch contributions, biodiversity net gain and provision of electric vehicle charging points). They are based on cost and density assumptions set out in the Local Plan Viability Study and therefore represent indicative minimums only. Where these assumptions vary to specific proposals coming forward then any s106 requirements will also vary.
- 5.12 Contributions are split by the following site typologies as defined in the Local Plan Viability Assessment:
- **Primary** sites are predominantly greenfield sites in higher value areas, many of which are located on or close to the existing settlement boundary. These sites are likely to be developed at a density of around 30 dwellings per net developable hectare, and will provide a range of house types including detached dwellings and a number of larger 4 and possibly 5 bed houses;
 - **Secondary** sites are, in the majority, brownfield sites although there are also a small number of greenfield sites. The sites are mainly infill sites within the existing settlement areas and in some cases may be situated in slightly lower value areas in comparison with the primary sites. Development will typically take place at a slightly higher density of 35 dwellings per net developable hectare; and

- **Tertiary** sites are brownfield sites situated in the older, inner urban areas of the borough and will be developed at a higher density of around 45 dwellings per hectare with a greater number of smaller dwellings.

5.13 Outputs from the Viability Study (and presented in Table 1 below) highlights that the majority of sites within the primary typology (greenfield) are viable and able to support additional s106 contributions over and above the sum of £2,000 per dwelling already built into the testing. For sites comprising 50-99 units, the Viability Study indicates a more marginal viability position which may require a limited adjustment in policy requirement to achieve the target viability position. Results for the brownfield typologies show a lower level of viability in comparison to the greenfield sites due to the additional abnormal development costs included in the cost assessments.

5.14 In relation to secondary typology sites (greenfield), viability is more marginal and some adjustment of the planning contributions may be required for developments comprising between 10-24 and 50-149 dwellings. For brownfield secondary typologies, results show that it may be difficult to achieve the full plan policy requirements.

5.15 Overall the results from the testing of the tertiary typologies show that it would be difficult to achieve substantive plan policy requirements in all but the higher value locations.

Table 1: Indicative minimum planning contributions new development is expected to be capable of providing

Site Type	Greenfield	Brownfield
Primary (30dph)	10-49 units (£1,200/dwelling ³) 50-99 units (£0/dwelling ⁴) 100-149 units (£3,300/dwelling) 150-249 units (£3,400/dwelling) 250-499 units (£5,800/dwelling) 500-749 units (£8,600/dwelling) 750+ units (£9,000/dwelling)	10-249 units (£0/dwelling) 250+ units (£2,400/dwelling)
Secondary (35dph)	10-24 units (£0/dwelling) 25-49 units (£1,500/dwelling) 50-149 units (£0/dwelling) 150+ units (£2,600/dwelling)	£0/dwelling
Tertiary (45dph)	n/a	£0/dwelling

QUESTION 4: Do you have any comments to make on the Council's proposed approach to viability in new developments?

³ Based on the [Local Plan Viability Study](#) Table 7.1b, Scheme 1

⁴ Based on the [Local Plan Viability Study](#) Table 7.1b, Schemes 2 and 3 – contribution is lower due to LAP provision requirement on site. Equivalent contribution will be sought if not provided on site

QUESTION 5: Do you have any comments to make on the indicative minimum planning contributions identified for new developments?

Pre-Application Discussions

- 5.16 The Council encourages developers to engage in pre application discussions, to ensure that the likely developer contributions are determined at an early stage in the planning process. It is preferable that negotiations and open discussions are conducted as soon as possible regarding new developments. This minimises chance of delay and helps to ensure the viability of the project.

Indexation

- 5.17 To allow for the fluctuation in prices between the date the s106 agreement is signed and the date payment is made, the level of contributions (excluding affordable housing contributions) will be adjusted and modified in line with an index of inflation. This is calculated based on the indexation adjustment of the relevant index, from the date the s106 agreement is signed to the expected date of payment. The additional amount paid on top of the financial contribution adjusts the contribution in accordance with inflation. Financial contributions will normally be linked to the Royal Institute of Chartered Surveyors (RICS) Building Cost Information Service (BCIS) indices.
- 5.18 Further details will be included on the Council's Developer Contributions webpage at [Developer contributions | Blackburn with Darwen Borough Council](#).

QUESTION 6: Do you have any comments on the Council's proposal to adjust the level of contributions in line with an index of inflation?

Timing and triggers for action or payment

- 5.19 S106 monies are usually paid in instalments at key stages during the construction of a development. The stages at which payments are due are known as 'Trigger Points'. For example S106 contributions could be payable by instalments with 50% paid upon commencement of development and the remaining 50% paid upon completion of a development. As developers have three years to commence a development once planning permission is granted, it can therefore take a number of years before S106 contributions are received by the Council from the time permission was originally granted. Where a development does not commence at all, the S106 will expire.

Forward funding of projects

- 5.20 An important consideration that may apply across s106 typologies, is the requirement for 'forward funding'. The Council may need to spend money in advance of receiving s106 funding in order to meet demand at a specific time. Accordingly, the s106 may provide for contributions due under the agreement to be spent in advance if required for the purposes set out in the s106 before the trigger in the s106 is reached to pay the money to the Council.

6. Contribution types

Affordable housing

Justification

- 6.1 Meeting the shortage of affordable housing has been identified as a major priority by the Government. The NPPF sets out that the Government's objective is to significantly boost the supply of homes and that the need of groups with specific housing requirements are met. It states that the:

"...size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies" and "where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on site unless; off-site provision or an appropriate financial contribution in lieu can be robustly justified: and the agreed approach contribute to the objective of creating mixed and balanced communities⁵."

- 6.2 The Council is committed to providing for a full range of housing to meet the Borough's future housing requirements. This means ensuring that suitable housing is available for people on low incomes. A specific aim in the Borough's Local Plan is a requirement for developers of new housing to make provision for an element of affordable housing.
- 6.3 Planning obligations for affordable housing will only be sought for residential developments that are major developments. For residential development, major development is defined in the NPPF as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. However, in designated rural areas local planning authorities can choose to set their own lower threshold in plans and seek affordable housing from developments above that threshold. Local Plan Policy DM05 sets out how the Council would assess planning applications for rural exception sites which may come forward over the plan period. Further details on this are included below.

Types of affordable housing

- 6.4 A simple definition of affordable housing is rented housing or low cost market housing which people entering the housing market could reasonably be expected to afford. A full definition of affordable housing is included within the [NPPF](#) Glossary, and also in Appendix A of the new Local Plan.
- 6.5 Affordable housing includes social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Affordable housing should:
- meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices; and
 - include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

⁵ Paras 62 & 63 NPPF

First Homes

6.6 In May 2021, a [Written Ministerial Statement](#) and update to the Planning Practice Guidance were issued to introduce a specific kind of discounted market sale housing called 'First Homes'. First Homes have been identified as the government's preferred discounted market tenure that should:

- Be discounted by a minimum 30% against the market value;
- Be sold to those who meet the First Homes eligibility criteria;
- On their first sale, will have a restriction registered on the title of the property at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and
- After the discount has been applied, the first sale must be at a price no higher than £250,000.

6.7 This is the minimum criteria a First Home must meet and would be considered to meet the definition of 'affordable housing' for planning purposes.

6.8 Through Local Plan Policy CP4: Housing Development, the Council requires the provision of at least 25% of all affordable housing units on a development site to be First Homes.

Eligibility criteria

6.9 The national eligibility criteria for purchasers of First Homes includes the following:

- A purchaser (or, if a joint purchase, all the purchasers) of a First Home should be a first-time buyer as defined in [paragraph 6 of schedule 6ZA of the Finance Act 2003](#) for the purposes of Stamp Duty Relief for first-time buyers;
- Purchasers of First Homes, whether individuals, couples or group purchasers, should have a combined annual household income not exceeding £80,000 (or £90,000 in Greater London) in the tax year immediately preceding the year of purchase;
- A purchaser of a First Home should have a mortgage or home purchase plan (if required to comply with Islamic law) to fund a minimum of 50% of the discounted purchase price.

6.10 These national standard criteria will also apply at all future sales of a First Home.

6.11 As part of planning obligations secured through s106 agreements, local authorities can apply local eligibility criteria to First Homes in addition to the national criteria. These criteria are set out below:

- **Lower income caps** – the income cap for those eligible to access First Homes can be lowered if it can be justified with reference to local average first time buyers' income. Any locally set income caps should be considered with reference to mortgage requirements and loan-to-income ratios for appropriate homes for the area's identified target market for First Homes. Income caps should not be set at a level which would prevent a borrower from obtaining a 95% loan-to-value mortgage for the discounted price of suitable properties.

- **A local connection test** can be applied which may include but is not limited to, current residency employment requirements, family connections or special circumstances. The application of these discretions should be administered carefully and ensure that they do not limit the eligible consumer base to the point that homes become difficult to sell.
- **Criteria based on employment status** can also be introduced based on employment status so that key/essential workers are able to access affordable housing. The definition of keyworker should be determined locally and could be any person who works in any profession that is considered essential for the functioning of a local area.

Local eligibility criteria

- 6.12 In Blackburn with Darwen, additional local criteria to ensure eligible applicants have a local connection to the borough will apply to all First Homes on initial sales and resales for a period of 3 months from when a home is first marketed. A local connection will be assessed based on the following criteria:
- The person is ordinarily a resident who has lived in Blackburn with Darwen for 36 consecutive months; or
 - Has a requirement to live within Blackburn with Darwen due to their employment as a keyworker/essential worker (meaning a person employed or with a confirmed job offer in health and social care; or education and child care; or public safety and national security).
- 6.13 A summary of the eligibility criteria the Council will use to assess applications for First Homes (and other discounted market options) is included within Appendix A.
- 6.14 In accordance with national Planning Practice Guidance, if a suitable buyer has not reserved a home after 3 months, the eligibility criteria (including income caps) will revert to the national criteria set out above, to widen the consumer base. Furthermore, the local eligibility criteria will be disapplied for all active members of the Armed Forces, divorced/separated spouses or civil partners of current members of the Armed Forces, spouses or civil partners of a deceased member of the armed forces (if their death was wholly or partly caused by their services) and veterans within 5 years of leaving the armed forces.

QUESTION 7: Do you have any comments to make on the proposed eligibility criteria for First Homes and other discounted market options set out in Appendix A?

QUESTION 8: Should there be any additional local eligibility criteria included?

Securing s106 agreements for First Homes

- 6.15 Section 106 agreements should be entered into that secures the delivery of First Homes and ensures that a legal restriction is registered onto a First Homes' title on its first sale. The government has [published a template planning obligation](#) for this purpose, which the Council will use as a basis for agreements prepared locally.
- 6.16 When a First Home is sold by the developer to the first owner, a restriction is to be entered onto the title register identifying the unit as a First Home. This restriction should

ensure that the title cannot be transferred to another owner unless the relevant local authority certifies to HM Land Registry that the First Homes criteria and eligibility criteria have been met, including the discounted sale price.

Rural Exception sites

6.17 The NPPF describes rural exception sites as follows:

'In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this'.

6.18 Local Plan Policy DM05: Rural Exception Sites allows for affordable housing development on rural sites that would not normally be released for housing development. To enable this exception, it needs to be demonstrated that there is a proven need for the number and type of dwellings proposed. In accordance with national policy, all new homes on these sites will remain affordable in perpetuity to people in housing need who have a local connection with the parish or appropriate adjoining parishes. Sites will be well-related to the existing built-up areas of towns and villages. Where family homes are proposed priority will be given to locations within a reasonable walking distance of a primary school.

6.19 Where it can be clearly demonstrated from a viability perspective through evidence that the site cannot support a scheme comprising 100% affordable housing, the Council will consider an element of open market housing, limited to that required to facilitate scheme viability to a maximum of 50% of the overall scheme, provided that the housing is to meet local needs justified by the best available evidence.

6.20 As outlined in the supporting text for Local Plan Policy DM05, all rural affordable housing proposals submitted under this policy must be accompanied by a local housing need survey. This will provide information on the number of households that are currently and likely to be in housing need in the next five years, their incomes and the type of accommodation required to meet their housing need. When a proportion of market housing is proposed on a rural exception site, the local housing needs survey must identify the type of market housing that is required. If a survey of local housing need supporting an application has been conducted more than four years prior to a planning application being submitted, the Council will require the housing need and affordability data to be updated.

QUESTION 9: Do you have any comments to make on the proposed approach to Rural Exception Sites?

Local Needs

6.21 A full assessment of affordable housing need was carried out in the [2018 Housing and Economic Needs Assessment \(HENA\)](#) report to identify requirements for the Borough over the Plan period. The methodology used follows the national PPG to consider the key variables that need to be accounted for to accurately assess current and future supply and demand. The analysis also takes account of the local housing costs and estimates of household income.

6.22 The 2018 HENA report considers the short-term need for affordable homes over the next 5 years to be 108 homes per annum; however, the study does note that this should not be taken directly as a target. In order to ensure this requirement is met, Local Plan Policy CP4: Housing Development requires residential developments of 10 or more dwellings to provide 20% affordable units. This is based on the maximum level of contributions that can viably be provided, demonstrated through the [Local Plan Viability Study](#) which summarises the findings of testing 20% affordable housing provision in the most viable 'Primary' typology, greenfield sites.

Viability considerations

6.23 The Plan Viability Study has considered the full policy requirements of 20% affordable housing. In light of the Covid-19 pandemic there is a degree of uncertainty with regard to the property market so additional sensitivity testing was undertaken to 'stress test' the financial viability assessment results. The viability testing already carried out at the high and low value position demonstrates the change in viability with house price increases/reductions equivalent to +/- 4.6% from the average position. This further sensitivity testing demonstrates the impact of changes in landowner and developer returns and also changes to construction costs (inclusive of fees and contingencies).

6.24 The viability assessment recognises that in certain circumstances there may need to be a balance achieved between any requirements for affordable housing and s106 contributions; however, the sensitivity testing demonstrates that on considering a range of typologies only limited adjustments may be required to achieve a viable position. Section 5 of this document provides additional information on the Council's approach to viability in schemes.

Location, type and tenure mix

6.25 Elements of the 2018 HENA report were updated in 2021 with an economic needs update (referred to as the HENA 2021 update). Data from the HENA 2021 update report was used to further inform the borough wide demand for house sizes, mix and tenure split between rent and shared ownership. The final mix is determined as site specific, but Table 2 below provides an indication of the likely split for on-site affordable housing requirements, based on the scale of the residential development proposed.

Table 2: Indicative requirements for on-site provision of affordable homes

Scale of development (dwellings)	Total no. of affordable homes required (i.e 20%)	First Homes (25%)	Remainder in line with Local Plan Policy CP4 (75%)	
			Social/Affordable Rent (60%)	Intermediate (15%)
10	2	1	1	0
15	3	1	2	0
20	4	1	2	1
25	5	1	3	1
50	10	3	6	1
100	20	5	12	3
250	50	12	30	8
500	100	25	60	15
1,500	300	75	180	45

- 6.26 In finalising the split of on-site affordable housing on a residential development, the Council consults the 'BwithUs' scheme for up to date local demand data. BwithUs is a choice based lettings scheme, which was developed by the Council and Together Housing for Blackburn with Darwen and which now operates across Pennine Lancashire.
- 6.27 The Council also consult with Adults and Childrens commissioning teams on strategic demand for older persons, specialist or adaptive housing needs. Data from these sources is then used to guide housing mix required in specified locations to ensure that the affordable housing provides an acceptable range of types and size of units to meet up to date demand.
- 6.28 If housing is being delivered in phases, affordable housing should be delivered evenly throughout the duration of delivery and not back-loaded onto later phases. In some instances, the viability of a scheme may require that affordable housing is back-loaded, but the Council will resist granting permission to proposals with the provision of no or very low levels of affordable housing in earlier phases where viability is not a consideration.

QUESTION 10: Do you have any comments to make on the proposed approach to providing affordable homes on site?

Off-site provision/contributions

- 6.29 NPPF states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:
- a. off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
 - b. the agreed approach contributes to the objective of creating mixed and balanced communities.
- 6.30 In line with the NPPF, the Council will normally expect the affordable housing requirement to be met on-site, unless the specific circumstances of the site or the type of development proposed mean this is inappropriate. In these circumstances, provision will be made through a financial contribution (commuted sum).
- 6.31 On developments of 10 or more units, the Council will therefore require the developer to provide 20% affordable housing in descending order of priority:
1. On-site provision of agreed affordable house types;
 2. Commuted sum payments equating to the 20% provision required.
- 6.32 Landowners and developers are expected to fully consider the overall costs of development, including the required planning obligations prior to negotiating the sale or purchase of land. Consequently, the overall cost of the development should include the provision of affordable housing, whether provided on-site, off-site, or via a commuted sum.

- 6.33 Time expired planning applications which have not been built and are seeking extensions of time limits will be required to complete a new development appraisal test for affordable housing.
- 6.34 As highlighted above, there may be limited circumstances where it would be more appropriate for the affordable housing to be provided either partly or wholly off-site. The onus is on the developer to demonstrate the case to the Council's satisfaction that this can be delivered in an acceptable way and time period. In such circumstances the Council will seek to secure alternative provision in the vicinity of the development site or elsewhere in the borough in an area of housing need.

What is the s106 requirement?

- 6.35 Where a commuted sum payment is used in lieu of on – or off-site provision, the following formula is applied to calculate the payment:
- For affordable rent the commuted sum required is 50% of the sales cost; and
 - For shared ownership a 35% discount is sought.
- 6.36 However, the Council is mindful that some of our urban sites are proposing to provide 3 and 4 bed larger family homes of higher value which could potentially range from £150,000 to in excess of £300,000. Firstly, the Council felt that the higher value properties would require a greater discount from developers and could potentially impact on scheme viability. Secondly, the higher value properties would indeed be more affordable if they were discounted but not necessarily be affordable to residents on average income. As such the Council carried out an exercise to gauge affordability levels to determine an average price for affordable units which would be more realistic for residents and would be supportive of new developments.
- 6.37 The Council considered a number of schemes across the borough and looked at price ranges alongside considering affordability for low wage earners as first time buyers and also those wishing to staircase upwards from their current home. To this extent it was determined an average price of £150,000 (Open Market Value) for an affordable home would be appropriate. This price was also supported by developers involved in masterplanning and s106 negotiations across the Borough.
- 6.38 For further clarity and to provide a level of certainty for developers on s106 requirements by the Council, it was decided that an average value for commuted sum payment of 42.5% (50% + 35% = 85% / 2 = 42.5%) of the agreed OMV should be taken.
- 6.39 The formula for calculating the contribution per unit for affordable housing is therefore:

Affordable housing s106 calculation (schemes comprising 10 or more dwellings)	
Total No. of dwellings	x
42.5% of the agreed Open Market Value (£150,000)	x
20% (dwellings that would be affordable) / No. of dwellings	

Example

$100 \times (42.5\% \text{ of } \pounds 150,000) \times 20\% = \pounds 1,275,000$
 $\pounds 1,275,000 / 100 = \underline{\pounds 12,750 \text{ per dwelling.}}$

**Off-site Affordable Housing s106 requirement
(schemes comprising 10 or more dwellings)**

£12,750 per dwelling

- 6.40 The limited circumstances where off site provision of affordable homes via commuted sum would be appropriate would be discussed at pre-application/planning application stage with applicants. Such decisions would be based on a number of factors existing at that point in time, including areas of identified affordable housing need and land availability. Final proposals will rely on Registered Provider (RP) partners' deliverability and scheme viability.
- 6.41 If the developer considers that the affordable housing requirement makes the development unviable, it will be necessary for the developer to complete a scheme viability assessment which includes affordable housing provision. The Council will require the developer to supply evidence as to the financial viability of the development. This will normally take the form of an open book financial appraisal of the proposed development, demonstrating the full range of costs to be incurred by the development including the initial purchase of the land, the financial return expected to be realised, and the profit expected to be released. The level of detail required in such an appraisal will always be proportionate to the scale and complexity of the development proposed.
- 6.42 Viability Appraisals which are submitted with planning applications in order to negotiate a reduction in contributions will be independently assessed, with costs borne by the applicant. Fees will be dependent on the scale of development and can be accessed at [Development Viability | Blackburn with Darwen Borough Council](#). Further information on viability can be found in Section 5.

QUESTION 11: Do you have any comments to make on the proposed calculation to be used to identify s106 contributions for affordable housing?

Affordable Housing Design

- 6.43 Wherever practicable, affordable housing design should be tenure blind. It should be physically indistinguishable from the market housing and on larger sites be distributed across the site in small clusters, rather than concentrated on one or two parts of the site. Affordable housing should be distributed in a way which ensures that access to key facilities such as schools, local shops and open space is equivalent to that provided for market homes.
- 6.44 Local Plan Policy DM03: Housing Mix, Standards and Densities requires that, in residential schemes of 10 dwellings or more, 5% of new homes should be built to the higher M4(3) wheelchair adaptable standard. These should also be provided within rented tenure units.

Vacant Building Credit (VBC)

- 6.45 National policy provides an incentive for brownfield development on sites containing vacant buildings. This requires affordable housing requirements to be reduced based on the quantity of floorspace being brought back into use or replaced. Vacant Building Credit (VBC) is intended to incentivise the re-use of buildings or sites that would otherwise remain vacant or become derelict. It is not intended as a back-door means of reducing Affordable Housing contributions on otherwise viable sites.
- 6.46 Affordable housing contributions will be sought for any additional increase in floorspace, which will be calculated in the same way as any other development. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation.
- 6.47 Satisfactory evidence should be provided to demonstrate that the site meets the definition of 'previously developed land' in the NPPF. VBC will only apply when, in the Council's opinion, the building has not been abandoned, the assessment for which will take into consideration the following factors: the condition of the property; the period of non-use; whether there is an intervening use; and any evidence regarding the owner's intention, including attempts to sell the property.
- 6.48 The Council will also consider whether the building has been made vacant for the sole purpose of redevelopment and may require the applicant to provide records to demonstrate that vacancy has arisen for other reasons. Relevant planning history will also be assessed to ensure that the building is not covered by extant or recently expired permission for the same or similar development.

QUESTION 12: Do you have any comments to make on the proposed approach to Vacant Building Credit?

Education provision

Justification

- 6.49 Schools are a crucial element of local infrastructure and therefore provision of school places must be considered alongside the delivery of new homes. The NPPF notes the importance of having a sufficient choice of school places available to meet the needs of existing and new communities. The NPPF states that local planning authorities should:
- give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
 - work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.
- 6.50 Planning applications, especially those relating to the largest developments will be expected to contribute to education provision serving the development. This may include serviced land as well as financial contributions. Discussions should be undertaken at an early stage with the Council to ensure appropriate and well-located facilities can be delivered in a timely way. This includes having regard to the demand for mainstream

education, Special Educational Needs and Disabilities (SEND) and early years places based on forecasted pupil yield.

Assessing sufficiency of places

- 6.51 It is important that the impacts of development on education provision are adequately mitigated, requiring an understanding of:
- The education needs arising from development, based on an up-to-date pupil yield factor;
 - The capacity of existing schools that will serve development, taking account of pupil migration across planning areas and local authority boundaries;
 - Available sources of funding to increase capacity where required; and
 - The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.
- 6.52 The government has updated its guidance on [Delivering schools to support housing growth](#) which should be used by local authorities planning for education to support housing growth and seeking associated developer contributions. This update involved the publication of an updated version of its guidance on [Securing developer contributions for education](#) and the addition of new guidance on [Estimating pupil yield from housing development](#), which will be used to determine s106 requirements for relevant development sites.
- 6.53 To support the new Local Plan, a detailed pupil forecast modelling exercise has been carried out by Edge Analytics (2021) on behalf of the Council, to assess and identify future demand for school places. The model uses school census data, future housing growth figures, primary and secondary pupil yield information, migration information, pre-school population data and projected birth rates to determine the need for additional primary and secondary school places until 2037, aiming to maintain a 10% surplus of places across the Borough in accordance with best practice.
- 6.54 The model identifies a shortfall in primary and secondary school places across the borough as a result of new housing developments. As a result, education contributions will be sought in relation to outline or full applications for all major housing developments (10 or more family homes of 2+ bedrooms) which are likely to result in the need for additional education provision.
- 6.55 As a development may be implemented within 3 years of the granting of planning permission and may not be completed until some years later (especially for major or phased developments,) the education contribution may not actually be available to the Council at an appropriate time to deliver the necessary related projects. For example, payment of an education contribution may not be made until the first house on a development is occupied but many more houses may become occupied at or around the same time and accommodate children who need school places. Basic Need or Local Authority borrowing may therefore be required as forward funding to make provision for the children occupying the development, which will then be retrospectively recouped from the education contribution when paid, including any borrowing costs.

Cost of Additional Places

- 6.56 The Council's Education department uses pupil yield factors to forecast the education needs for each phase and type of education provision arising from new development. As well as being useful for pupil place planning across the borough, pupil yield factors

also allows an estimate the number of school places required as a direct result of development, underpinning the contributions agreed in planning obligations.

- 6.57 The DfE has developed a recommended methodology for estimating pupil yield from housing development, to assist local authorities demonstrating the need for education facilities in the consideration of planning applications. The [Pupil Yield Dashboard](#) provides pupil yield factors for each local authority in England and this is used by the Council's Education department to identify the need for additional school places as a result of new developments within the borough.
- 6.58 A pupil yield factor of 0.38 per family home is identified for primary schools and 0.22 per family home for secondary schools. For SEND provision, a pupil yield factor of 0.01 is identified.
- 6.59 The amount of money that the Council will seek to secure through developer contributions for education provision will reflect the cost of providing school places. The assumed cost of mainstream school places on national average costs are based on the published DfE school place scorecards.⁶ This differentiates between the average per pupil costs of a new school, permanent expansion or temporary expansion, ensuring developer contributions are fairly and reasonably related in scale and kind to the development.
- 6.60 However, these costings were identified in May 2022 and it is acknowledged that these are likely to have increased since then. At a minimum, therefore, costs will be index linked to inflation to reflect up to date costings for such projects. Any updates to the costings within the Scorecard will be used to inform calculations for additional school places.

Primary school places

- 6.61 The DfE Pupil Yield Dashboard estimates an average primary-school pupil yield of 0.38 for every new family home. Based on recent housing developments that approximately 31% of new pupils were estimated to have resulted from migration to the borough to fill the new homes – applying this to each of the yields, estimates the “net” effect of population movement into the borough reducing the pupil yield estimates.
- 6.62 The Government's latest Local Authority School Places Scorecard sets out an average current cost per place for permanent primary school expansion (£19,425), temporary primary school expansion (£9,184) and new primary school projects within the borough (£23,192). The most up to date costs included within the Scorecard will be used to calculate the required contributions.
- 6.63 Where the Council's Education department identifies a need for additional primary school places as a result of a new major development, the developer contribution will therefore be calculated using the formula:

<p style="text-align: center;">Education - primary school places¹⁰⁶ calculation (schemes comprising 10 or more family homes of 2+ bedrooms)</p>
<p style="text-align: center;">Number of houses x 0.38 pupil yield factor x 0.31 migration factor = number of pupils generated</p> <p style="text-align: center;">x</p> <p style="text-align: center;">cost of primary school place</p>

⁶ [Local authority school places scorecards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/103222/local-authority-school-places-scorecards.pdf)

6.64 In order to meet the shortfall of primary school places identified in the pupil forecasting work as a result of housing growth in the Local Plan, the Council's Education department has identified a number of infrastructure projects needed to provide the required additional places which will be funded through developer contributions. These projects are identified within the latest [IDP](#), including indicative costings, and include:

- Provision of additional primary school places in the Borough through extensions to existing primary schools;
- Increase capacity at Lammack Community Primary School from 490 places (70 per year group) to 630 places (90 per year group);
- Delivery of a new one-form entry primary school in West Blackburn if required; and
- Extension of St Peter's CE Primary School, Darwen.

Secondary school places

6.65 The DfE Pupil Yield Dashboard estimates an average secondary-school pupil yield of 0.22 for every new family home. A migration factor of 31% is also included within the developer contribution calculation for secondary school provision.

6.66 The Government's latest Local Authority School Places Scorecard sets out an average current cost per place for permanent secondary school expansion (£26,717), temporary secondary school expansion (£10,310) and new secondary school projects within the borough (£28,096).

6.67 The developer contribution for each new family home is therefore calculated using the formula below:

Education - secondary school places calculation (schemes comprising 10 or more family homes of 2+ bedrooms)	
Number of houses x 0.22 pupil yield factor x 0.31 migration factor = number of pupils generated	
x	
cost of secondary school place	

6.68 The Pupil Forecasting work identified a need for an additional 810 secondary school places across the borough over the plan period to 2037. In order to meet this shortfall, the Council has progressed feasibility works to determine the capacity of existing Secondary Schools and identify opportunities to deliver extensions, providing the additional places needed.

6.69 It is recognised that many homes included within the future trajectory already have planning permission, some will be approved as minor applications, and some sites are already required to contribute towards primary school places through adopted masterplans. In most of these scenarios a developer contribution towards secondary school places would not be triggered, however there could be exceptions as each application will be assessed on its own merits.

6.70 The projected need figures presented above are based on a number of long-term factors which will change over time. The developer contributions requested will therefore be kept under review and revised from time to time if required in light of updated data.

SEND provision

- 6.71 New housing developments will also result in an increase in the number of SEND places required, and DfE advises authorities to seek developer contributions for all special school/SEND places generated by a development, where there is a documented need for additional SEND provision. The SEND forecast work undertaken by Edge Analytics identifies a continued growth in the total number of SEND pupils over the period to 2031/32 which will result in the need for additional SEND places. The Council will therefore also require developments consisting of new family homes (2+ bedrooms) to fund the provision of additional special school/SEND places generated as a result of the new homes.
- 6.72 Special schools require more space per pupil than mainstream schools, and this needs to be reflected in the assumed costs of provision. The Council will set the costs of special or alternative provision school places at four times the cost of mainstream places, which is consistent with the additional space requirements in Building Bulletin 104⁷.

Table 3: Costs for the provision of SEND places

School type	Cost per place ⁸	SEND multiplier	Cost per place (SEND)
Primary			
Permanent primary school expansion	£19,425	x4	£77,700
Temporary primary school expansion	£9,184	x4	£36,736
New primary school	£23,192	x4	£92,768
Secondary			
Permanent secondary school expansion	£26,717	x4	£106,868
Temporary secondary school expansion	£10,310	x4	£41,240
New secondary school	£28,096	x4	£112,384

- 6.73 The DfE Pupil Yield Dashboard estimates an average SEND pupil yield of 0.01 for every new family home, and therefore the developer contribution for each new family home is calculated using the formula below:

Education - SEND school places¹⁰⁶ calculation (schemes involving 10 or more family homes of 2+ bedrooms)
$\begin{aligned} &\text{Number of houses} \times 0.01 \text{ pupil yield factor} \times 0.31 \text{ migration factor} = \\ &\quad \text{number of pupils generated} \\ &\quad \times \\ &\quad \text{cost of SEND school place} \end{aligned}$

⁷ [Primary and secondary school design - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

⁸ Local Authority School Places Scorecard

Early years' provision

- 6.74 There is currently no requirement for additional nursery provision in the Borough at the present time. Private nursery provision is commercially driven and population growth in the Borough as a result of planned new housing development set out in the Local Plan should help to sustain providers who currently have surplus provision. This position will be kept under review as part of updates to the Infrastructure and Delivery Plan (IDP).

QUESTION 13: Do you have any comments to make on the proposed calculation to be used to identify s106 contributions for education?

Transport and travel improvements & highways infrastructure

Justification

- 6.75 The NPPF requires the planning system to promote sustainable travel. It also states that transport issues should be considered from the earliest stages of plan making and development proposals. When assessing development proposals, it should be ensured that any significant impacts from the development on the transport network, or on highway safety can be cost effectively mitigated to an acceptable degree.
- 6.76 The levels of growth and development envisaged in the plan will place additional demands on transport and highway networks and planning obligations can be used to mitigate against these effects.
- 6.77 Blackburn with Darwen is the local highway authority and has the primary responsibility for providing and maintaining transport infrastructure and some bus services in the Borough. As a statutory consultee, it is consulted on all applications for which s106, s278 or s38 works or contributions may be required.
- 6.78 Developer contributions sought through a section 106 agreement may be used by the Highway Authority to carry out improvements to the highway network to accommodate the development. This mechanism can also allow the Highway Authority to seek contributions towards travel planning, public transport services, sustainable travel and pedestrian and cycle infrastructure, provided that the NPPF planning tests are met. The Highways Authority will advise on each relevant planning application on a case-by-case basis, in delivering a fair and proportionate developer contribution towards highway mitigation.
- 6.79 There are a number of studies that will help to inform the contributions required for a particular development; further details on these are outlined below and will be included within the latest version of the Council's Infrastructure Delivery Plan (IDP).

Local Plan transport studies

- 6.80 As identified in Section 3, a number of transportation studies have been prepared as part of the Local Plan to assess the potential impacts of development on both the strategic and local transport networks. Junctions that are identified as requiring mitigation during the plan period are incorporated into the list of [highways](#) infrastructure works within the Infrastructure Schedule which was updated as part of the Local Plan submission, in addition to an updated [sustainable transport](#) list. As the IDP is a living document, these will be incorporated into the next version of the report when it is produced, and updated periodically through the Local Plan period.

Local Transport Plan (LTP) 4

- 6.81 The Transport Authorities of Blackburn with Darwen, Blackpool and Lancashire are currently in the process of preparing a Joint Lancashire Local Transport Plan (LTP4). LTP4 will set the key strategic transport priorities for the county, alongside an investment programme.
- 6.82 The Local Plan sets out policies that are expected to align with LTP4 to ensure that transport provision across the Borough is sustainable and safe and that negative environmental impacts, such as noise and air pollution, can be avoided or mitigated. In particular with regards to planning applications, regard should be had to promoting modal shift, as well as the management of highway impacts where those impacts would be directly related to the development proposed.

Local Cycling and Walking Infrastructure Plans (LCWIP)

- 6.83 The Blackburn with Darwen Borough Council LCWIP proposes numerous improvement schemes across the borough towards the delivery of a comprehensive active travel network. Where developments are likely to benefit from the improvement schemes identified within the LCWIP and these have not yet been delivered, a financial contribution may be sought towards their delivery.
- 6.84 All development must facilitate walking and cycling in its design and should link to existing cycling routes where possible. If it is not possible to do this through scheme design and layout, a financial contribution may be sought to ensure the development delivers appropriate safe sustainable walking and cycling links in accordance with Policy DM29 of the Plan. Where a development site is not within a location covered by an LCWIP, the development must facilitate walking and cycling in its design and should still link to existing cycling routes where possible. If it is not possible to do this through scheme design and layout, a financial contribution may be sought to ensure the development delivers appropriate safe sustainable walking and cycling links in accordance with Policy DM29 of the Plan.
- 6.85 Development will also be expected to maintain or improve the permeability of public rights of way (PROWs) for pedestrians, cyclists, and horse-riders. Proposals must not result in the loss of, or deterioration in the quality of, PROWs in accordance with Policies 16 (Green and Blue Infrastructure) and 29 (Transport and Accessibility) of the Local Plan.
- 6.86 Since June 2023, Active Travel England (ATE) is a statutory consultee on all planning applications for developments equal or exceeding 150 housing units, 7,500m² of floorspace or an area of 5 hectares. ATE will help planning authorities in their work to implement good active travel design – for example, by ensuring developments include walking, wheeling and cycling connectivity to schools and local amenities.

Bus Service Improvement Plan

- 6.87 The new Bus Service Improvement Plan (BSIP) developed by Lancashire County Council, Blackburn with Darwen Council, and bus operators, outlines how buses could be made the transport mode of choice for many more people under the government's Bus Back Better strategy, which has set aside £3bn to transform services across the country.
- 6.88 Lancashire's BSIP describes how an injection of £165m could be used to create a network of 'Superbuses' with frequent services throughout the week and weekends, offering passengers significantly improved journey times thanks to investment in highways such as bus lanes and 'bus priority' measures on traffic lights at junctions. It

also outlines how more funding would also allow the development of more consistent and accessible timetable information, making it easier for people to catch their local bus. A further priority would be for all bus operators to adopt a London-style single shared ticketing system to make travel simpler, and to introduce a standard half-fare ticket for 16 to 19-year-olds. The plan also sets out that the initial challenge facing bus operators is to restore passenger numbers to pre-Covid levels.

- 6.89 Measures currently included in the BSIP have been added to the Infrastructure Delivery Schedule. The BSIP will be updated annually to enable the Council to remain flexible to changes and demands.
- 6.90 All development must facilitate public transport accessibility in its design and should link to existing public transport routes and services where possible. If it is not possible to do this through scheme design and layout, a financial contribution may be sought to ensure the development delivers appropriate public transport services and infrastructure in accordance with Policy DM29 of the Plan.

Blackburn with Darwen Local Plan (2021-2037)

- 6.91 Local Plan Policy DM29: Transport and Accessibility requires Transport Statements, Transport Assessments and/or Travel Plans to support a planning application, depending on the development type and size. These documents provide an assessment of the likely transport impacts of the development in question. Where impacts cannot be fully mitigated, sustainable transport and highways planning obligations will be sought, informed by these documents in addition to those projects identified through the IDP (supported by the evidence base outlined above).
- 6.92 The cumulative transport impact of development proposals will also be taken into account as set out in the Local Plan, which may mean that smaller schemes may be requested to make appropriate contributions towards schemes which are required to address the combined impacts of future growth.
- 6.93 Non-financial contributions towards sustainable transport may also be required and may include establishing car clubs, providing electric vehicle charging infrastructure, land for Rights of Way improvements, and safe cycle storage. This may be particularly important at transport hubs and interchanges.
- 6.94 There are no specific formulas or contributions set out for transport at developments sites as the costs of providing this infrastructure will depend on the specific characteristics of each individual site. Such contributions will therefore be identified on a case by case basis by the authority's highways/strategic transport teams, informed by the relevant latest evidence base.

S278 agreements

- 6.95 In addition to s106 agreements, section 278 (s278) agreements can be used as a mechanism to secure highway measures that cannot be addressed through the design of the proposed development. S278 agreements are used when the proposed works relate to the existing highway network, and Section 38 of the Highways Act is used where new highways are to be created within the application site. On occasions where the developer is solely responsible for delivering works, a s278 agreement may be used in place of s106, secured by way of Grampian condition. This will only apply to matters relating to timing and delivery, rather than the detail of the works.

Transport and travel improvements s106 requirement

Determined on a site by site basis, using information contained within Transport Assessment submitted as part of planning application, Local Plan transport evidence base, LCWIP and BSIP infrastructure requirements

Refer to latest Infrastructure Delivery Plan (IDP) for relevant schemes

Highways infrastructure s106 requirement

Determined on a site by site basis, using information contained within Transport Assessment submitted as part of planning application, Local Plan transport evidence base

Refer to latest Infrastructure Delivery Plan (IDP) for relevant schemes

QUESTION 14: Do you have any comments to make on the proposed s106 requirements for transport and travel improvements or highways infrastructure?

Health infrastructure

Justification

- 6.96 The NPPF outlines the importance of promoting healthy and safe communities, stating that planning authorities should work with delivery partners to plan for required public service infrastructure facilities.
- 6.97 Housing development can add substantially to the demand for health care as it generates population growth in given areas. It is important that the planning system ensures not only that development creates an environment that supports health and wellbeing; but that there should be a reasonable level of developer contributions towards the capacity and resilience of health facilities. Additionally, demographic factors such as an ageing population and wellbeing needs of the population including secondary and specialist support services, should also be considered in terms of provision of health infrastructure to support the needs of area.
- 6.98 The Council works closely with key stakeholders in the health and wellbeing sector, including the Lancashire and South Cumbria Integrated Care Board (ICB) and the Council's Public Health department, to ensure a coordinated approach for effective collection of developer contributions, including consultation on all major planning applications of 10 dwellings or more. The primary method of calculating developer contributions will consider the likely impact of new population. S106 contributions may be required to support construction costs for additional facilities/extension etc or new

health facilities that may be co-located with other health or social care providers, as advised by ICB or relevant health provider.

Assessing Supply and Demand

6.99 The ICB has a [s106/CIL policy](#) which sets out how the Board will engage with local authorities when planning applications that will impact on local health infrastructure, and, the principles upon which the ICB will exercise its responsibilities for making recommendations on the allocation of health related S106 and CIL allocations in a way that is:

- Strategic;
- financially robust;
- meeting need in a particular area;
- supported by the relevant Council, the ICB Members and relevant healthcare organisations in the ICB area; and
- allows the ICB and district/borough councils to align their relevant investment strategies in order to enable the development of a holistic approach to investment in the broad healthcare estate.

6.100 The ICB uses a formula for calculating s106 contributions which is based on the number of additional patients generated by the development multiplied by the standard area (m²) per patient required, multiplied by the project rate (dependent upon the type of project required) using the RICS Building Cost Information Service. Where the application identifies unit sizes the following predicted occupancy rates will be used.

- 1 bed unit @ 1.4 persons
- 2 bed unit @ 2 persons
- 3 bed unit @ 2.8 persons
- 4 bed unit @ 3.5 persons
- 5 bed unit @ 4.8 persons

6.101 Should a planning application not specify the unit sizes in the proposed development (for example in an outline planning application), the average occupancy of 2.4 persons⁹ will be used in the initial health calculation until such time as the size of the units are confirmed at Reserved Matters Stage, at which point the final costs/health calculation would be confirmed. For example if the proposal was for a 400 dwelling development the initial calculation would be – 2.4 persons x 400 units x £the agreed rate in relation to the project type (extension, alteration or new build) = £xxx contribution. However, all new homes will not be occupied by people moving into the borough, so the assumed occupancy should be reduced accordingly, allowing for an element of existing borough residents forming new households.

6.102 The S106 essentially confirms mutual agreement of the methodology that will be used to calculate the contribution once the details of the scheme are known e.g. new build, extension or internal alterations. It does not specify amounts at outline stage but clearly a guide contribution could be established. The calculation will be made upon the lodging of a reserved matters application.

6.103 To establish the number of clinical rooms to determine the core GMS (General Medical Services) space required for a practice patient population the Department of Health uses a space calculation in [Health Building Note HBN11- 01: Facilities for Primary and](#)

⁹ ONS 2017

[Community Care Services 2013](#). This sets a standard size of 16m² for a consulting/examination room. [HBN 00-03 Clinical and Clinical Support Spaces](#) provides a standard size for a treatment room of 18m². Other support service spaces are also indicated e.g. utility rooms.

- 6.104 When major housing development applications are submitted to the authority, the ICB (Strategic Estates Team) will be contacted for their comments, including any required s106 contributions as a result of the proposed development, taking into account current and future needs in the area. These needs and associated costs will form part of the negotiations with local authorities and developments.
- 6.105 In order to respond to planning applications, the ICB will assess the impact on local practices whose practice boundary includes the proposed development. All GP practices have well established Practice Boundaries as part of their contract and cannot be adjusted without prior ICB approval. Contributions received by the ICB will only be expended on facilities within that boundary.
- 6.106 The ICB will also use local knowledge and intelligence, premises conditions, and numbers of clinical rooms and ability to accommodate growth to inform the response. One or more general practices may be named as an expected recipient of the funding for alterations or extensions to existing premises and in some cases the ICB may also highlight the requirement for a strategic infrastructure solution. In response to a planning application consultation the ICB will clearly identify where extra capacity is required and determine exactly where the finances are to be directed towards a single “identified project”. Such details will be set out within the planning obligation thereby clearly linking the obligation to the specified scheme. Such an “identified scheme” may involve more than one local practice in a settlement where capacity has to be met at more than one location where practice boundaries overlap. This will still be one project but implemented across two sites.
- 6.107 Any s106 contributions required to fund health infrastructure as part of a development will therefore be established on a case by case basis with input from the ICB, using the formula indicated below. This is based on the impact the proposal will have on nearby primary care facilities. Further information on the ICB’s approach to s106 contributions can be accessed in their [Section 106 Monies Funding Policy and Procedure](#) paper.

**Health infrastructure s106 requirement
(schemes comprising 10 or more dwellings)**

Number of units x assumed occupancy rate = Number of people (including reduction allowance an element of existing borough residents forming new households)

Number of people

x

Standard area (m²)/person required

x

Cost for provision of identified project type (using the RICS Building Cost Information Service)

QUESTION 15: Do you have any comments to make on the proposed calculation to be used to identify s106 contributions for health infrastructure?

Open Space, Public Realm and Leisure

Justification

- 6.108 The importance of good quality green space or 'green infrastructure' to where we live has significantly increased over recent years, and this is reflected in the planning system. The climate crisis, biodiversity crisis and health crisis (including Covid-19) mean we all need multi-functional and good quality green space now more than ever to address the challenges of the physical and natural environment we live in.
- 6.109 Residents of new housing developments will generate additional needs and demands for open space, sport and recreation facilities. It is therefore important such facilities are sufficient, accessible, connected and enhance nature and biodiversity. Also critical to this is water management as well as climate mitigation and adaptation. There should also be activities for all to enjoy such as play, food production, recreation and sport so as to encourage physical activity and support good health, social inclusion and well-being.
- 6.110 Policy DM18: Public Open Space in New Development requires that new residential development will contribute to the provision of high quality open space for its residents, through provision of public open space on site and, where appropriate, through financial contributions towards improving the quality and/or accessibility of nearby existing spaces. Any on-site provision must include a long-term maintenance and management plan. Proposals for new development are required to use the information contained within the Open Space Audit to determine the most appropriate means of providing open space for residents.

Open Space Audit

- 6.111 An Open Space Audit (OSA) was undertaken in July 2021 which provides a robust assessment of needs and deficiencies of open space in order to establish local provision standards and create an up to date evidence base which can be used to inform decision making on planning applications. The OSA comprises of a main report and five neighbourhood area profiles which provide further analysis at a localised level.
- 6.112 Policy DM18(2) states that the Council will work with developers to determine the most appropriate means of providing open space by having regard to the most up to date assessment of open space requirements or provision across the borough, as set out in the Council's OSA.
- 6.113 The Council's latest OSA illustrated that need varies across the area, and identified a series of priorities. Specific priorities identified in the audit that the Local Plan will aim to address include:
- Increasing amenity greenspace provision in Blackburn North and Darwen Neighbourhood Areas;
 - Increasing natural and semi-natural greenspace provision in Blackburn North and East Neighbourhood Areas;

- Improving the quality of existing open spaces, especially children’s play areas.

6.114 Public open space requirements will therefore be determined by the Council on a case-by-case basis, dependent on the development proposal (including relevant growth site policy, size, location) and having regard to the audit to identify the most appropriate type of open space provision. For that reason, the policy seeks to avoid being overly prescriptive, as open space requirements and financial contributions will be determined based on identified needs relating to each individual development site.

6.115 The OSA also establishes an up to date set of local standards for the amount, quality and accessibility of open space that it expects to be provided within neighbourhood areas and at a Borough-wide level. These standards are based on current provision levels and will be used to inform development proposals, helping to ensure that, where necessary, developers are required to provide sufficient open space in new developments to meet the needs of local residents.

6.116 In the first instance, all types of provision should look to be provided as part of new housing developments but where these are already provided by an existing open space within an appropriate catchment distance, the focus should be on ensuring contributions to enhancing the quality and accessibility of existing open space provision. The OSA seeks to prioritise improving the quality of facilities and accessibility to existing green spaces and maximising opportunities to provide additional open spaces wherever possible.

6.117 The tables below identify the Average Provision Rates (APR) for each open space typology compared to the Fields in Trust standards and will be used as a guide to determine the amount and type of open space to be provided on-site.

Table 4: Open space standards for new developments – as set out in OSA

Type	Standard (ha per 1,000 people) (Average Provision Rate)	Standard (ha per 1,000 people) (Fields in Trust Standard)	Walking guideline
Allotments	0.09	No standard set	10 minutes walk (800m)
Amenity greenspace	0.66	0.60	6 minute walk (480m)
Cemeteries	No standard set	No standard set	No catchment set
Civic spaces	No standard set	No standard set	No catchment set
Green and blue corridors	No standard set	No standard set	No catchment set
Natural and semi-natural greenspace	3.03	1.80	10 minutes walk (800m)
Parks and gardens	1.86	0.80	10 minutes walk (800m)
Provision for children and young people	0.04	0.25	5 minute walk (500m)

Table 5: Requirement for open space facilities for developments

Type of provision	1-19 dwellings	20-49 dwellings	50-99 dwellings	100-499 dwellings	500+ dwellings
Allotments	Off-site	Off-site	Off-site	Off-site	On-site
Amenity/Natural greenspace	Off-site	On-site	On-site	On-site	On-site
Parks and gardens	Off-site	Off-site	Off-site	Off-site	On-site
Provision for children and young people	Off-site	Off-site	On-site (LAP)	On-site (LEAP)	On-site (NEAP)

- 6.118 The application of the tables set out above in assessing planning application will be flexible, taking into account of local circumstances. For example, there may be instances where the scheme is of a certain size to warrant the development of formal play space. However, the development site may be proposed in a location where there is already an existing facility within the accepted access standard for the typology of open space. In such circumstances, there is scope to be flexible, and the optimum solution may be one which seeks a financial contribution in-lieu of providing on site provision. This money could then be used to improve the quality of the existing facility. The OSA area profiles will provide the evidence in terms of the location and quality of existing green infrastructure provision, and each case will be assessed on its merits.
- 6.119 Management and ongoing maintenance of areas of open space and any on-site play provision will be the responsibility of the developer. Before the commencement of development, the developer will confirm the details of maintenance responsibility with the Council and this will be imposed through a planning condition to ensure that the space is maintained to an acceptable standard in the future, for the long term.

Calculating the s106 requirements

- 6.120 Some or all of the open space required can be made through the negotiation of a commuted sum payment to the Council where appropriate, if it cannot be provided on site. Please note that the Council will not accept commuted sums payments towards landscaped amenity open space, which should be provided within the development site in all developments of 20 or more dwellings.
- 6.121 The commuted sum will cover provision of the open space and its maintenance for 25 years to the same standard as that required for on-site provision.
- 6.122 In general terms a commuted sum will be acceptable in the following circumstances:
- In small developments of under 20 dwellings;
 - In developments of 20 or more dwellings where existing open space in close proximity can best provide for the prospective residents of the new development through the implementation of improvement and enhancement works.
- 6.123 In all cases, contributions towards off site provision/enhancement through commuted sum payments will only be sought where it would be of direct benefit to the occupiers of the new development and where such provision/enhancement would be fairly and reasonably related in scale and kind to the development proposal. The Council's Open Space Audit will form the basis for assessing this.

- 6.124 General amenity greenspace and children's play spaces are seen as essential elements of open space when new residential units are developed. As a result, the commuted sum requirement for residential developments will be based on the current provision rate of these open spaces within the borough. This will form the basis for commuted sum negotiations.
- 6.125 This provision rate is translated into a requirement per person (by dividing the overall standard by 1000) and a requirement per dwelling. For phased or incremental developments, the overall requirements will be based on the number of dwellings expected to be accommodated on the site as a whole.
- 6.126 Updated costs for the provision of amenity greenspace and equipped play areas have been identified by the Council's Environment Team at £71.43 m²¹⁰ and £190.48 m²¹¹ respectively.
- 6.127 The current provision rate for amenity greenspace within the borough is 0.66ha/1000 population, equivalent to 6,600m² per 1000 population or 6.6m² per person. For children's play space, the current provision rate is 0.04ha/1000 population, equivalent to 400m² per 1000 population or 0.4m² per person.
- 6.128 For residential developments, the contribution per dwelling will depend on the house type and the estimated occupancy rate for that house type, and the Council's existing standard of open space provision (amenity greenspace and children's play space combined) of 0.7 hectares per 1000 people. Where the unit sizes are not identified then an assumed occupancy of 2.34 persons will be used.

Table 6: Requirement (m2) of open space per unit by size of dwelling

Type of open space	1 bed ¹²	2 bed ¹³	3 bed ¹⁴	4 bed ¹⁵
Amenity greenspace	13.2	19.8	26.4	33
Children's play area	0.8	1.2	1.6	2

Open space s106 calculation				
Type of open space	1 bed	2 bed	3 bed	4 bed
Amenity greenspace	£942.88 (£71.43 x 13.2)	£1,414.31 (£71.43 x 19.8)	£1,885.75 (£71.43 x 26.4)	£2,357.19 (£71.43 x 33)
Children's play area	£152.38 (£190.48 x 0.8)	£228.58 (£190.48 x 1.2)	£304.77 (£190.48 x 1.6)	£380.96 (£190.48 x 2)
Total contribution per dwelling	£1,095	£1,643	£2,191	£2,738

¹⁰ Based on cost of £35,000 for provision of LAP

¹¹ Based on cost of £80,000 for provision of LEAP

¹² Based on assumed occupancy rate of 2 persons

¹³ Based on assumed occupancy rate of 3 persons

¹⁴ Based on assumed occupancy rate of 4 persons

¹⁵ Based on assumed occupancy rate of 5 persons

- 6.129 To maintain the quality of open space in the long term so that it can be enjoyed by future residents of the development, it is essential that adequate provision be made for the long term maintenance and management of the site. For developments providing off-site open space provision via a commuted sum, the commuted sum includes maintenance for 25 years and therefore no further payment for maintenance is required.

QUESTION 16: Do you have any comments to make on the proposed calculation to be used to identify s106 contributions for open space?

Outdoor sports facilities

- 6.130 When considering projects and sites for developer contributions for outdoor sports facilities, regard should be had to the conclusions of the [Playing Pitch and Outdoor Sports Strategy](#) (PPOSS) and [Assessment Report](#). Where possible, contributions should seek to use these conclusions to ensure that development will not negatively impact on the current or future demand for playing pitches in the borough.
- 6.131 The Council will use Sport England's [Playing Pitch Calculator \(PPC\)](#) as a tool for determining developer contributions linking to sites within the locality. This is only applicable to schemes comprising of 10 or more dwellings. The principal purpose of the calculator is to estimate the demand for playing pitches that may be generated by a new population. The calculator also identifies the current capital cost of meeting this demand, which can then be used for informing the amount of any financial contributions that are secured, but this is not its main purpose.
- 6.132 To determine what supply is provided, it is imperative that the PPOSS findings are considered, and that consultation takes place with Sport England and the sport's national governing bodies. This is to avoid what is being provided becoming unsustainable and unused, such as single grass pitch football sites without adequate ancillary facilities or new cricket/rugby grounds located away from existing clubs. Instead, multi-pitch and multi-sport sites should be developed, supported by a clubhouse and adequate parking facilities.
- 6.133 The PPOSS will form the basis for negotiation with developers to secure contributions to include provision and/or enhancement of appropriate outdoor sports facilities and subsequent maintenance. S106 contributions could also be used to improve the condition and maintenance regimes of the facilities to increase capacity to accommodate more matches.

**Outdoor sports facilities s106 requirement
(schemes comprising 10 or more dwellings)**

Determined using Sport England's Playing Pitch Calculator, with input from Sport England¹⁶

Priority projects to be funded by s106 to be determined using Blackburn with Darwen Playing Pitch & Outdoor Sports Strategy (PPOSS)

QUESTION 17: Do you have any comments to make on the proposed calculation to be used to identify s106 contributions for outdoor sports facilities?

Indoor and Built Sports Facilities

- 6.134 In determining need, the Council will be informed by the [Built Sports Facilities Strategy](#) (BSFS). Sports specific recommendations are made in relation to sports halls, including for sports such as tennis, indoor bowling, squash, gymnastics, trampoline, health and fitness, indoor climbing walls and boxing and martial arts.
- 6.135 The Council will use the [Sport England Sports Facilities Calculator \(SFC\)](#) to calculate the contribution required from each housing development, for schemes comprising 10 or more dwellings. This will be the basis for negotiations with developers on the contribution from each development. The Council will use the calculator to estimate the demand for indoor sports facilities that may be generated by an additional population as well as calculating the contribution. This would be the principal purpose of the calculator, to estimate the demand for indoor sports facilities that may be generated by a new population. But the calculator also identifies the current capital cost of meeting this demand, which can then be used for informing the amount of any financial contributions that are secured, but this is not its main purpose.
- 6.136 The BSFS will form the basis for negotiation with developers to secure contributions to include provision and/or enhancement of appropriate indoor and built sports facilities and subsequent maintenance. S106 contributions could also be used to improve the condition and maintenance regimes of the facilities to increase capacity to accommodate increased usage.
- 6.137 The Sports Facilities and Playing Pitch Calculators both assume that all population from new development sites will be new residents. Evidence from house builders on currently active/recently completed housing sites in Blackburn with Darwen highlights that typically over 70% of homes are occupied by existing residents of the borough. Therefore a reasonable assumption would be that only a minor proportion of the population occupying the site should be incorporated into any calculations. The Council will therefore apply an element of flexibility when utilising the calculators to take this into account.

¹⁶ Element of flexibility applied to calculation to account for proportion of residents within new developments moving from within the borough and therefore not generating additional need

**Indoor and built sports facilities s106 requirement
(schemes comprising 10 or more dwellings)**

**Determined using Sport England's Sports Facilities Calculator, with input
from Sport England¹⁷**

**Priority projects to be determined using Blackburn with Darwen Built Sports
Facilities Strategy**

**QUESTION 18: Do you have any comments to make on the proposed
calculation to be used to identify s106 contributions for indoor and built
sports facilities?**

Biodiversity net gain (BNG) and environmental improvements

Justification

- 6.138 Biodiversity net gain (BNG) seeks to ensure most new development contributes to the recovery of nature, so that habitat for wildlife is in a better state post-development than it was pre-development. BNGs will apply to major developments, from January 2024, and to minor developments from April 2024, although some exemptions apply.
- 6.139 As set out in the [Government's guidance on BNG](#), developers must follow the mitigation hierarchy and try to avoid causing harm to the existing biodiversity and habitats on a proposed development site. Where loss cannot be avoided, they should seek to minimise the loss, and provide any compensation through the creation of new or enhanced habitat so that there is no net loss. At this point, the additional measures required to provide a minimum of 10% gains (not just compensate for losses) can be considered.
- 6.140 Ideally, habitats should be created or enhanced on the same site as the development (on-site). Where BNG is not wholly or partly achievable on-site then the delivery of BNG off-the development site (off-site) must be considered. Off-site land may be sourced from other land in the developer's ownership, land in private ownership (in agreement with the landowner) or from land brokers/habitat banks. All off-site BNG should be provided 'local' to the source-development site. In order to ensure that the benefits of development are retained in the areas affected by development and therefore will expect any off-site habitats to be delivered within the Blackburn with Darwen area, not outside of it. The Council may provide their own opportunities for off-site habitat creation or enhancement through the sale of biodiversity units, on council-owned habitat land, to developers.
- 6.141 Planning applications for BNG liable developments will be required to submit a range of information at the application stage, including a Biodiversity Net Gain Statement and

¹⁷ Element of flexibility applied to calculation to account for proportion of residents within new developments moving from within the borough and therefore not generating additional need

accompanying metrics. All BNG liable developments will be required, by standard condition, to submit a Biodiversity Gain Plan prior to commencement of the development, which the Council must approve (discharging the condition) before works can begin. Full information is to be provided through the BNG Planning Advisory Note, due to be published in early 2024.

Approach to securing biodiversity net gain off-site

6.142 Off-site BNG can be delivered by securing a bespoke site(s) for net gain, or from appropriate sites on the local net gain habitat market from other landowners. All off-site habitats must be registered on a national register, managed by Natural England, which are then linked to a specific development(s). As per national requirements, biodiversity net gain must be subject to long term management (a minimum of 30 years) and ongoing monitoring. BNG delivery, management, maintenance and monitoring requirements must be secured through planning conditions, and/or legal agreements, including s106 Agreements or Conservation Covenants. Each habitat needs to be registered before the BNG Plan for the site can be discharged (as the Council needs to know the site is registered to know the BNG can be delivered). The Council will also use a local register to record on-site BNG and off-site BNG, for the purposes of its environmental monitoring requirements.

Costs for local biodiversity net gain delivery

6.143 The Council has identified a series of public sites to support BNG delivery within the borough. At the time of drafting this SPD, the Council are awaiting the completion of ecological surveys on each of the identified sites to understand the baseline BNG, the potential uplift and the detailed intervention measures required to deliver BNG uplift. The difference between the baseline and the uplift identifies the number of biodiversity units required to achieve that uplift, and these units can then be sold. The survey will also calculate the cost of selling each of those units. The sale of the biodiversity units will be used to undertake habitat improvements and to manage the site for a minimum 30 year period.

6.144 The draft SPD will be updated prior to its adoption to include these costs following the completion of this work.

Statutory credits

6.145 If a developer cannot use on-site or off-site land, they must buy statutory credits from the government. The use of statutory credits is intended to be a last resort option for developers and the credit prices have intentionally been set at a high rate, which is not market competitive, to dissuade their use and encourage BNG to be delivered local to the source development. The Council would only expect national credits to be used in very rare and exceptional circumstances, with strong evidence provided to justify their use. Indicative statutory biodiversity credit prices are set out at [Statutory biodiversity credit prices - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/statutory-biodiversity-credit-prices). These prices are indicative to help developers plan ahead. Confirmed prices will be published when biodiversity net gain becomes mandatory.

S106 agreements for biodiversity net gain

- 6.146 A s106 agreement will be required to secure any off-site gains and/or monetary payments relating to the purchase of off-site biodiversity units and ongoing maintenance costs. The s106 will need to include the habitat types the fees need to be spent on, and the reporting intervals and requirements for monitoring the site. The s106 will specify the contribution due for the delivery, management and monitoring of the site. S106s may also be used to secure 'significant' on-site gains.
- 6.147 Where the Council provide biodiversity units for sale, contribution costs will be calculated based on the total biodiversity unit value for the amount of habitat to be created or enhanced, and the cost of maintaining and monitoring that habitat for the mandatory 30 year period. These costs will be on a site-by-site and habitat-by-habitat basis.
- 6.148 At the time of writing this SPD, the Council is awaiting additional details on BNG from the government. The SPD will be updated prior to adoption once these details have been confirmed. Further information will be set out in a BNG Planning Advisory Note, due to be published by the Council in early 2024.

Biodiversity net gain s106 requirement

**Cost of Biodiversity Units (including 30-year management)
and
Monitoring Fees**

QUESTION 19: Do you have any comments to make on the proposed calculation to be used to identify s106 contributions for biodiversity net gain?

Environment Fund

- 6.149 There has been no progress made on establishing an environment fund at the time of preparing this SPD. Further details will be included in an updated version of the SPD if necessary.

7. Deeds of Variation

- 7.1 Planning contributions made under Section 106 of the Town and Country Planning Act 1990 may be modified or discharged at any time by a deed between the LPA and all parties to the agreement; or where an application is made to modify or discharge a planning contribution made under the Act, the LPA may decide to either:
- (a) Continue the planning contribution without modification;
 - (b) Discharge it, if it no longer serves a useful purpose; or
 - (c) If it continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications applied for, then allow the modifications, provided it does not place any burden on a third party.
- 7.2 Where the LPA decides not to allow a modification or change, and the agreement has been in existence for 5 years or more the applicant may appeal the determination to the Secretary of State, pursuant to s106B. There is also a special procedure for varying affordable housing requirements under Section 106 BA of the act. If a deed of variation is requested, a planning officer will need to authorise the variation, determining whether or not the change is justified. In certain cases, the variation may need to be authorised by the Planning & Highways Committee. A planning officer will then instruct the Council's legal services team to draft the variation. Once the deed of variation is agreed it will be signed by all relevant parties.

8. Spending, monitoring and review

- 8.1 The Council regularly monitors the delivery of financial and non-financial s106 obligations to ensure that these are secured in accordance with the relevant planning legal agreement. An [Infrastructure Funding Statement \(IFS\)](#) is prepared annually which reports on the s106 contributions the Council has received and spent in the monitoring period (1st April – 31st March each year), in addition to s278 works undertaken within the same period.
- 8.2 The Community Infrastructure Levy (Amendment)(England)(No.2) Regulations 2019 allow Local Authorities to charge a monitoring fee through s106 planning obligations, to cover the cost of the monitoring and reporting on delivery of that s106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. However, monitoring fees should not be sought retrospectively for historic agreements.
- 8.3 The regulations allow monitoring fees to be either a fixed percentage of the total value of the section 106 agreement or individual obligation; or could be a fixed monetary amount per agreement obligation; or authorities may decide to set fees using other methods. However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring.
- 8.4 The following monitoring fees will be added to any s106 agreements associated with planning applications. The fees set out below are considered to be proportionate and will contribute to the Council's reasonable costs of monitoring each obligation. Monitoring fees will be reviewed regularly to reflect up-to-date costs. To clarify, the fee will be added to the s106 requirements.

Table 7: S106 Monitoring fees

Type of obligation	Monitoring fee	Comment
Commuted sum	1% of each payment instalment	To be included within each invoice sent to developers requesting payment at appropriate time.
Land contribution	£1,000 per development site	Payment to be made at the time land transfer takes place.
On-site affordable housing	£1,000 per development site	Payment to be made on first occupation of affordable units.
BNG monitoring	10% per development site	To cover monitoring costs over the 30 year period

QUESTION 20: Do you have any comments to make on the monitoring fees that are added to s106 contributions?

Appendix A – Affordable Housing Eligibility Criteria



Affordable Housing Eligibility Questionnaire

ALL applicants must sign the legal declaration at the end of this form

MANDATORY CRITERIA

To buy a First Home, you must answer yes to all three of these questions:

Q1: First Time Buyer requirement

All proposed First Homes Purchasers, the New First Homes Owner(s) must be first time buyers

YES: a first time buyer:

NOT a first time buyer: you are not eligible and cannot apply

Q2: Household income limit

The household income of **all** proposed First Homes Purchasers, the New First Homes Owner(s), must not exceed £80,000 per annum

YES: requirement met and detailed below. All applicants must complete this section

NO: household income cap exceeded; you are not eligible and cannot apply

Homebuyer 1		Evidenced by
Name:		
Employment income (gross)	£	[Pay slip/bank statement etc]
Self-employment income (gross)	£	[Signed off accounts]
Other income	£	
Total 1	£	

Homebuyer 2		Evidenced by
Name:		
Employment income (gross)	£	[Pay slip/bank statement etc]
Self-employment income (gross)	£	[Signed off accounts]
Other income	£	
Total 2	£	

Total household income 1& 2	£
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Q3: Mortgage / Home purchase plan requirement

Proposed First Homes Purchasers, the New First Homes Owner(s), must have a mortgage or home purchase plan (if required to comply with Islamic law) to fund a minimum of 50% of the discounted purchase price.

Please provide evidence (e.g. offer in principle) from your mortgage provider that you are able to fund a minimum of 50% of the discounted purchase price.

[include supporting evidence]

FURTHER CRITERIA

Please note: if a suitable buyer has not reserved a home after 3 months, the eligibility criteria will revert to the national criteria set out above, to widen the consumer base.

To buy a First Home, you need to answer yes to one of these questions:

Q4: Local connection requirement

Are proposed First Homes owner(s) buying because of meeting the local connection eligibility criteria? This requires the applicant to have lived within Blackburn with Darwen for 36 consecutive months.

For joint purchasers only one applicant must meet these requirements

YES: please complete Local Connection section below

NO: please leave section blank

Homebuyer 1 (only one homebuyer must meet this requirement)	
Name:	
Address:	
Time at current address:	
If less than 3 years, please give previous address:	

Homebuyer 2 (only one homebuyer must meet this requirement)	
Name:	
Address:	
Time at current address:	
If less than 3 years, please give previous address:	

Q5: <u>Keyworker/essential worker requirement</u>	
<p>Are proposed First Homes owner(s) buying because of meeting the keyworker/essential worker eligibility criteria? This requires the applicant to have a requirement to live within Blackburn with Darwen due to their employment as a keyworker/essential worker (meaning a person employed or with a confirmed job offer in health and social care; or education and child care; or public safety and national security).</p> <p><i>For joint purchasers only one applicant must meet these requirements</i></p>	
YES: please complete Keyworker/essential worker section below	
NO: please leave section blank	

Homebuyer 1 (only one homebuyer must meet this requirement)	
Name:	
I am a key worker/essential worker	

Employer:	
Employer address:	
Job title/role	
Evidenced by:	[ID/warrant card]

Homebuyer 2 (only one homebuyer must meet this requirement)	
Name:	
I am a key worker/essential worker	
Employer:	
Employer address:	
Job title/role	
Evidenced by:	[ID/warrant card]

Q6: Armed Forces requirement

Are proposed First Homes owner(s) buying because of meeting the Armed Forces eligibility criteria? To meet this criteria at least one applicant must meet one of these conditions:

In recognition of the unique nature of their circumstances, members of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or veterans within five years of leaving the Armed Forces should be exempt from any local connection testing restrictions.

YES: please complete the Armed Forces section below (for joint purchasers only one applicant must meet these requirements)

NO: please leave section blank

Homebuyer 1 (only one homebuyer must meet this requirement)

Name:	
I am a member of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or a veteran within five years of leaving the Armed Forces	
Armed Forces unit	Name: Address:
Job title/role	
Evidenced by:	[ID/warrant card]

Homebuyer 2 (only one homebuyer must meet this requirement)

Name:	
I am a member of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or a veteran within five years of leaving the Armed Forces	
Armed Forces unit	Name: Address:
Job title/role	
Evidenced by:	[ID/warrant card]

Declaration

I confirm that the information provided on this form is true and accurate and that it will be used by [DEVELOPER] and Blackburn with Darwen Borough Council in assessing suitability for an affordable unit on the [NAME OF HOUSING DEVELOPMENT].

Signed: _____

Date: _____

(Homebuyer 1)

Signed: _____

Date: _____

(Homebuyer 2 if applicable)

N.B. – The information provided on this form will be used as the applicants' income criteria and will be validated. The Council is empowered to seek further assurances or request further information in order to satisfy itself that a proposed qualifying person meets the criteria as set out in the section 106 agreement.

Please return Completed Forms to:

Strategic Development Manager (Housing)
5th Floor, 10 Duke Street
Blackburn
BB2 1DH

Or

Strategic Planning
5th Floor, 10 Duke Street
Blackburn
BB2 1DH