

Developer Contributions and Affordable Housing Supplementary Planning Document (SPD)

Consultation Statement

1.0 Introduction

- 1.1 Blackburn with Darwen Borough Council has prepared a Supplementary Planning Document (SPD) to provide guidance in relation to Developer Contributions and Affordable Housing.
- 1.2 The SPD is prepared in line with the requirements of the Town and Country Planning (Local Planning) (England) Regulations 2012 (“the TCPA 2012”), the National Planning Policy Framework (NPPF) and national planning guidance.
- 1.3 The Developer Contributions and Affordable Housing SPD provides detailed guidance on the application of a number of policies within the Blackburn with Darwen (BwD) Local Plan (2021-2037) (adopted January 2024) 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.
- 1.4 Once adopted, the SPD will sit alongside the Blackburn with Darwen Local Plan (2021-2037) and will be a material consideration in planning decisions.

Purpose of the Consultation Statement

- 2.1 Regulation 12(a) of the Town and Country Planning (Local Planning) (England) Regulation 2012 (as amended) states that before a local planning authority (LPA) can adopt a supplementary planning document (SPD) it must prepare a statement setting out:
 - i) The persons the local planning authority consulted when preparing the SPD;
 - ii) A summary of the main issues raised by those persons; and
 - iii) How those issues have been addressed in the SPD.
- 2.2 Regulation 12(b) states that, for the purposes of submitting representations on the SPD, the council must make copies of the SPD available publicly with details of the date by which representations must be received (with the consultation open for at least 4 weeks), and the address to which they must be sent. Regulation 13 states that any person may make representations on an SPD, but they must be received by the LPA before the close of consultation.

3.0 Statement of Community Involvement

- 3.1 The Council’s [Statement of Community Involvement \(SCI\)](#) sets out how the council will undertake consultation during the preparation of various planning documents, including the Local Plan and SPDs.

3.2 In accordance with the above Regulations (as amended), the Council has confirmed through the SCI that, for SPDs, they will:

- Send email/written notification to statutory consultees, general consultees on the planning database and other relevant stakeholders, of issues to be addressed in the SPD, and how to make representations;
- Make copies of the SPD document available for inspection at the council offices and any other venue the council consider appropriate (Regulation 35); and
- Publish a notification on the Council's website.

3.3 Prior to adoption of the SPD, the Council will:

- Prepare a consultation statement setting out the main issues raised by representations received and how those comments have been addressed in the SPD the Council intends to adopt;
- Send email/written notification to statutory consultees, general consultees on the planning database and other relevant stakeholders that the SPD has been adopted, including the provision of a link to the published document and adoption statement on the Council's website;
- Make copies of the adopted SPD and adoption statement available for inspection at the Council offices and any other venue the council consider appropriate (Regulation 35); and
- Publish a notification and make the SPD available on the Council's website.

4.0 Public Consultation

4.1 In accordance with the TCPA 2012 Regulations, and the Council's SCI, the draft SPD was:

- Published on the Council website at www.blackburn.gov.uk/SPD_consultation
- Paper copies of the SPD document were placed 'on deposit' at Blackburn and Darwen Town Halls, in the borough's libraries, and in the Barlow Institute, Edgworth.

4.2 Publicity was issued by:

- Notification on the Council's website;
- An email/letter to all statutory consultees and general consultees recorded on the Council's consultation database. This included the statutory consultees Natural England, Environment Agency and Historic England.

4.3 Comments were invited for 6 weeks between 4th December 2023 and 15th January 2024.

4.4 Comments could be submitted to the Council by online form, email or post. The SPD document contained a series of questions to serve as prompts for consideration of the

document. An online comments form was produced, available from the webpage, which allowed respondents to comment on those questions. Alternatively, general comments could be submitted via email to forwardplanning@blackburn.gov.uk, or by post to the Strategic Planning Team.

- 4.5 Following conclusion of this consultation period, an outline planning application for the strategic employment site close to Junction 5 of the M65 was submitted which initiated officer discussions on the Council's approach to securing s106 contributions to deliver the required highway and transport infrastructure to support development sites in the South-East Blackburn area. To ensure all sites that directly impact on the need for the identified transport infrastructure contribute proportionately, a specific, formula-based approach to calculating highway and transport & travel improvements, based on assumed trip generation rates, will be applicable to relevant sites. The Council prepared a note to provide additional details for calculating, and justification of, developer contributions in this area of the borough. This note has been included within the SPD, as Appendix B.
- 4.6 A number of additional amendments were made to the draft SPD relating to Biodiversity Net Gain (BNG) following conclusion of the initial consultation period. The most significant of these changes is the Council's approach to monitoring fees for BNG, details of which were added to the SPD.
- 4.7 Due to the significance of the changes made to the draft SPD following the initial six-week public consultation, the Council considered it appropriate to re-consult on these changes to allow interested parties to review and comment on the updated SPD.
- 4.8 Re-consultation on the draft SPD took place for a five-week period between 4 March 2024 and 5 April 2024, and was undertaken in line with the Council's adopted Statement of Community Involvement, details of which are set out above in relation to the SPD's initial consultation period.

5.0 A summary of the main issues received and how they have been addressed in the Developer Contributions and Affordable Housing SPD

- 5.1 In total across the two consultations, 27 representations were received on the draft SPD; 5 through the online form, and 22 by email. Respondents included the statutory consultees Natural England and the Environment Agency, as well as general consultees including Sport England, National Highways and Homes England. One large house builder (Barratt Homes) also submitted comments via their planning consultants (Pegasus Group).
- 5.2 A summary of all the comments received through the representations can be found in Appendix A of this report. Appendix A also details how each comment has been considered, and any changes that have been made to the SPD as a result.
- 5.3 For the purpose of the report, the following 'themes' have been drawn out as a more concise summary of the main issues and how they have been addressed in the SPD:
 - **General support for the Developer Contributions and Affordable Housing SPD:** This support is acknowledged and welcomed by the Council.
 - **Suggested additional evidence-based documents to be included (for example, Local Nature Recovery Strategy (LNRS), Built Sports Facilities Strategy, Joint Strategic Needs**

Assessment 2022-23 and Pharmacy Needs Assessment 2022): Documents suggested have been added to the SPD.

- **Sport England objected to reducing developer contribution amount for sports facilities to account for occupiers of new homes not all coming from outside of the borough:** Reference to the proposed reduction has been removed from the SPD. The Council acknowledges that the Sports Facilities and Built Sports Facilities calculators will use to date population projections which account for this to determine developer contributions for sport facilities. Any issues with viability will be addressed through the viability review process. It has also been clarified within the SPD when the Facilities calculators will be utilised (i.e in residential developments of 300 homes or more).
- **Pegasus Group on behalf of Barratt Homes highlighted that there was no mechanism in place to account for any surplus capacity within existing NHS facilities. NHS need to fully demonstrate an actual shortfall in funding which any development scheme would cause:** The SPD clearly sets out the approach it will take to calculating developer contributions towards primary care facilities, which are requested by the Lancashire & South Cumbria Integrated Care Board (ICB) (not the NHS). Any request would need to be fully evidenced.
- **Concerns that the wider infrastructure requirements (e.g community facilities, health and digital infrastructure) have not been tested through viability assessment process:** Policy CP12 of the Local Plan (2021-2037) allows for the reduction in planning contributions on the grounds of viability if robust evidence is provided and corroborated by the Council’s viability consultants. This is adequately highlighted within the SPD.
- **Improved transparency and engagement in relation to s106 funds and how they are spent:** Local authorities are required to publish s106 contributions received and spent within each monitoring period (1st April – 31st March) on an annual basis (by December). The Council provides this information in its [Infrastructure Funding Statement](#).

6.0 Conclusion

- 6.1 This consultation statement has explained how consultation has been undertaken, in accordance with the Regulations and the Council’s SCI, and summarised the comments which have been received through the two consultations on the draft SPD. It has also outlined the changes the Council have made to the Developer Contributions and Affordable Housing SPD in direct response to those representations.
- 6.2 The next stage is for the SPD to progress to adoption. All statutory consultees, general consultees on the planning database and other relevant stakeholders will be notified of subsequent adoption in accordance with the regulations and SCI. The SPD, and an accompanying adoption statement will be made available in accordance with the regulations and SCI, with all materials made available on the Council’s website.

APPENDIX A: SUMMARY OF REPRESENTATIONS RECEIVED THROUGH THE DRAFT DEVELOPER CONTRIBUTIONS AND AFFORDABLE HOUSING SPD CONSULTATIONS

Responses received through initial consultation on the SPD (December 2023 - January 2024)

Rep ID	Organisation	Comment ID	Summary of comments	Council response	Change to SPD (if relevant)
1	Lancashire County Lead Flood Authority (LCC)	1	No comments.	Noted.	None required.
2	Active Travel England	2	No comments.	Noted.	None required.
3	Coal Authority	3	No comments.	Noted.	None required.
4	National Highways	4	No comments.	Noted.	None required.
5	Sport England	5	<p>The Playing Pitch Strategy and Outdoor Sports Strategy (PPOSS) and Built Facilities Strategy are considered by Sport England to be the appropriate evidence base for informing developer contributions for indoor and outdoor sports.</p> <p>Paragraphs 3.6 -3.7 summarises the purpose and objectives of the PPOSS. Sport England would suggest that a similar short summary describing the Built Facilities Strategy is also included in this section.</p>	Agree – further details to be added to the SPD.	Additional information provided on Built Sports Facilities Strategy.

		6	<p>Objection to paragraph 6.137 and footnote 16 in relation to including an element of flexibility being applied to the calculation to account for proportion of residents within new developments moving from within the borough and therefore not generating additional need.</p> <p>The inputs included in the Sport England calculators will be derived from the additional demand generated by the population of a development using data derived from the Council's evidence base. It is therefore appropriate to use them without any discount applied.</p> <p>The approach outlined for outdoor sports is also inconsistent to the approach taken to the other contributions included in the draft SPD (e.g. health, open space, education) where no similar discount is sought to be applied.</p>	<p>Agree with points raised. Calculations used will account for this within population projection information.</p> <p>Any required reductions in s106 monies for a development will be identified through the viability appraisal review process, as outlined in the SPD.</p>	<p>Paragraph relating to adding an element of flexibility to calculations has been deleted.</p> <p>Also added reference to sport governing bodies being consulted when determining priority projects for sport facilities in the borough to be funded by developer contributions.</p>
		7	The draft SPD approach to indoor and built sports facilities is identical to the approach outlined above for outdoor sports facilities. The comments made above apply equally.	As above.	As above.
6	Historic England	8	No comments.	Noted.	None required.
7	Environment Agency	9	Suggests rewording of paragraph 6.139 to clarify approach to BNG.	Agree.	Suggested amendments made to relevant paragraph.
		10	Welcome the condition requested by the LPA during the planning application stages to secure the submission of a Biodiversity Gain Plan for BNG liable developments.	Noted.	Relevant information on Biodiversity Gain

			On 29 November 2023, Defra published guidance to support developers in preparing for a Biodiversity Gain Plan; details can be found on Submit a biodiversity gain plan - GOV.UK (www.gov.uk) . We would expect the guidance could be incorporated into the forthcoming BNG Planning Advisory Note.		Plan included within the PAN.
		11	<p>We advise highlighting Local Nature Recovery Strategies (LNRS) opportunities in off-site BNG, or include it in the forthcoming BNG Planning Advisory Note.</p> <p>LNRS plays a role in BNG by determining the ‘strategic significance’ multiplier within the biodiversity metric. This mechanism means that there is an incentive for developers to align with the LNRS in their area when choosing the location of off-site BNG units. Useful information can be found from GOV.UK guidance: Incorporating Local Nature Recovery Strategies when planning for Biodiversity Net Gain - Land use: policies and framework (blog.gov.uk)</p>	Information included within PAN on LNRS. However, agree that the SPD should also make reference to the LNRS.	Reference to LNRS has been added to the SPD.
		12	We would suggest a re-structure to merge these two paragraphs into ‘Approach to securing biodiversity net gain off-site’.	Noted.	Suggested amendment made to SPD.
8	Homes England	13	No comments.	Noted.	None required.
9	Natural England	14	Provides guidance on BNG.	Noted.	None required, SPD adequately covers BNG.

10	Pegasus, on behalf of Barratt Homes	15	<p>Appears that some of the wider contributions, such as community facilities, health and digital infrastructure have not been included in the Local Plan Viability Assessment. Concerned that additional prescriptive requirements have not been formally tested through a revised Viability Appraisal as part of an independent examination.</p>	<p>Policy CP12 in the Local Plan allows for the reduction in planning contributions on the grounds of viability if robust evidence is provided and corroborated by the Council’s viability consultants. This is also highlighted within the SPD itself.</p>	None required.
		16	<p>Health infrastructure – recent high court cases that a planning obligation, which has nothing to do with a proposed development, is irrelevant to that decision.</p> <p>The SPD’s concern relates solely to a “new resident” occupying a dwelling and then treated by the Trust. We consider that the issues in funding are not a planning matter but an internal NHS funding matter. It therefore needs to be clearly demonstrated that new development will result in funding shortfalls which would comply with CIL para 122.</p> <p>The SPD accepts that not all “new” homes will be occupied by people moving into the borough. This does not seem to have reflected in the indicative calculation, so after the assumed occupancy has been identified based on the proposals there needs to be a step to reflect this internal movement within the borough which is already having a draw on healthcare services.</p> <p>In terms of the supply position, there does not appear to be a mechanism to account for any surplus capacity within any existing facilities that may need to</p>	<p>High court decisions relate to NHS England, not Integrated Care Boards (ICB). Seems to be confusion in the comments submitted between Trusts (hospitals) and the ICB and its independent contractors/providers to the NHS, namely GP surgeries.</p> <p>S106 contributions for primary care facilities are therefore legitimate requests under regulations as internal NHS estates funding is outside of GP surgeries income. Further information, including how such requests meet the relevant tests for planning obligations, can be viewed within the ICB’s Section 106 Monies & Community</p>	None required.

			<p>accommodate new residents into the borough. Like with the established approach to education contributions if there is existing capacity in existing facilities, that should be the first mechanism used to 'soak' up additional demand first.</p> <p>There therefore needs to be a clear way of setting out the number of patients registered per doctor/per practice and a clear baseline position of the expected number of patients per doctor/practice to assess this against. Overall, the NHS need to fully demonstrate an actual shortfall in funding which any scheme would cause. If this can be done, the first solution would be to accommodate any shortfall in needs within existing NHS facilities and if there no surplus capacity any development needs to be properly reflected in terms of its demonstrable impacts from new residents in the borough. Until this has been clearly demonstrated, any request for Planning Obligations for Health Infrastructure would not comply with CIL regulations para 122.</p>	<p>Infrastructure Levy Funding Policy here.</p>	
11	Mr M Reid	17	<p>Better and more detailed S106 funds usage accountability and updated on a monthly basis, so that residents can see where the money is being spent by each council dept. etc.</p>	<p>The Council prepares an Infrastructure Funding Statement on an annual basis which reports on the amount of s106 received in the monitoring period and how the monies have been spent. Also reports on s278 works that have been undertaken as part of new development in the borough.</p>	<p>None required.</p>

		18	Improved pre consultation with any local Parish Council or any local residents groups to establish any suggested infrastructure improvements that could be implemented by the use of better local knowledge.	Infrastructure required to support planned development is set out in the <u>Infrastructure Delivery Plan</u> . Such projects have been identified through the evidence base undertaken to inform the Local Plan 2021-2037. This will be updated in due course to include any additional projects and the Council is open to suggestions as to infrastructure projects required to support new development. Any contributions requested by new developments will, however, need to ensure they meet s106 tests i.e 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, in addition to being fully evidenced.	None required.
		19	As the council are charging the Developers for monitoring the S106 and 278 contributions spend etc. there should be a lot better transparency of all S106 and 278 spending, An updated account of S106 / 278 should be made available to all residents showing where all s106 s278 contributions are being spent (on a	The Council prepares an Infrastructure Funding Statement on an annual basis which reports on the amount of s106 received in the monitoring period and how	None required.

			contribution fund draw down basis) by each council dept. on a monthly or quarterly basis (i.e. far better accounting records)	the monies have been spent. Also reports on s278 works that have been undertaken as part of new development in the borough. Further information can be accessed at Annual infrastructure funding statements Blackburn with Darwen Borough Council	
12	BwD Public Health	20	Public Health would like to add to the list (in 1.6) of alternative infrastructure provisions, so this would include improvements to the public realm which could improve public safety. A specific example would be that developer contributions could be used to make changes to M65 Bridges in order to prevent suicide, on known frequently used locations. Preventing suicides in public places (publishing.service.gov.uk) .	Improvements to the public realm would be contained within the open space, public realm and leisure infrastructure contributions.	None required.
		21	<p>The Infrastructure Funding Statements from previous years suggests that the majority of contributions have been received for/spent on education, affordable housing, highways and public open space. Appears to have been limited use of or planned use for developer contributions to support health infrastructure projects or areas of alternative provision.</p> <p>Whilst spending on public open space is welcomed, there seems to have been a tendency towards more formal play areas or sports pitches. However, areas for less structured play or sports, or allotments could be supported and may also support biodiversity,</p>	<p>Noted. Decisions on where s106 monies are to be spent are informed by the Infrastructure Delivery Plan (IDP). The IDP is based on a number of evidence documents to identify the infrastructure required to support planned new development.</p> <p>Any suggestions for additional projects can be put forward,</p>	None required.

		sustainable drainage and require less maintenance costs in future.	however, these will need to be adequately evidenced and meet the tests for planning obligations set out in the NPPF.	
22	No studies relating to the health and wellbeing of residents or the availability of health infrastructure (including primary care, numbers of dentists and pharmacies) included within the document – suggest reference to Joint Strategic Needs Assessment 2022-23 and Pharmacy Needs Assessment 2022 is included.	Agree that the SPD should include reference to suggested documents.	Reference to the identified documents included within the SPD.	
23	Para 6.27 - It is useful to know that the Adults and Childrens commissioning teams are consulted on strategic demand for older persons, specialist or adaptive housing needs. Information within the <u>Joint Strategic Needs Assessment 2022-2023</u> can also help to support these discussions by providing demographic data and trends for example about the ageing population or numbers of carer within the borough.	Noted.	None required.	
24	Para 6.50 - In addition to contribution to education provision itself, could developers also be asked to contribute to ensuring the access to those educational facilities is safe and sustainable, including promotion of walking and cycling as the preferred mode of transport. This is particularly important as BwD has the <u>highest rate of children killed and seriously injured on roads in England</u> . (We realise that highway safety is covered in later paragraphs, however, a link across to education provision and road safety for children could be made.)	Walking and cycling improvements, including those close to educational facilities will be picked up through the transport and travel improvements infrastructure.	None required.	

		25	Para 6.83-86 - Public Health fully supports the proposals for developer contributions to support delivery of the LCWIP.	Noted.	None required.
		26	Para 6.97 - Public Health fully supports the reference to developments which creates the environment that support health and wellbeing, whilst also requiring developer contributions to health infrastructure. The reference to ageing populations and wellbeing needs is also welcomed.	Noted.	None required.
		27	Para 6.99 & 6.103 - It is helpful that the ICB has a defined policy in relation to s106/CIL. In planning for new or extended health facilities it would be helpful if space requirements considered the need to undertake public health related interventions such as social prescribing and health checks and not just GP consulting space.	The ICB will advise on the infrastructure required to support new development in the borough.	None required.
		28	<p>Para 6.109 - Public Health welcomes the reference to encouraging play, food production and recreation through developer contributions. However, the current spend seems skewed towards more formal play areas or sports pitches. Areas for less structured play or sports, or allotments could provide more diverse benefits.</p> <p>Where children's play areas are to be included within developments, they could be encouraged to include non-traditional designs which are more nature and innovative - Design for play: a guide to creating successful play spaces (playscotland.org)</p>	Such improvements could be addressed as part of the open space, public realm and leisure infrastructure requirements if a need for such provision is identified.	None required.

		29	Para 6.113 – it is positive to see that the need for more natural and semi-natural greenspace provision has been highlighted in Blackburn North and East Neighbourhood Areas.	Noted.	None required.
		30	Section 8 - Are there plans to monitor the impact of developer contributions at all using metric like, for example, improvements in active travel or biodiversity? Public Health can support with any relevant data sets if that is planned.	The Local Plan includes a set of monitoring indicators which will be used to assess the impact of the plan, including Policy CP12: Infrastructure and Delivery (which developer contributions relate to). An Authority Monitoring Report will be prepared annually which will report on each of these indicators. An Infrastructure Funding Statement is also prepared annually which sets out the contributions the Council has received in that monitoring period and how contributions have been spent. These can be viewed on the Council's webpage at Annual infrastructure funding statements Blackburn with Darwen Borough Council .	None required.
13	LCC Education	31	No comments.	Noted.	None required.
14	Together Housing	32	Feel that the evidence base studies referred to in the Developer Contributions and Affordable Housing Supplementary Planning Document are sufficient to	Noted.	None required.

			inform s106 contributions and cover the right information.		
		33	Support the identified means of securing infrastructure and feel that this approach is appropriate. The approach works for different land values, which are present across the Local Authority area, allowing flexibility for the Council. In our experience, the approach referred to has worked well in securing infrastructure and setting out the approach upfront is useful in new development as it allows planning for commuted costs in advance. Welcome the transparency that Blackburn with Darwen Council provides on securing infrastructure, which allows values to be factored into commercial viability.	Noted.	None required.
		34	<p>Welcome the transparency the Council is providing about commuted sums and we appreciate the approach to being upfront about how viability issues will be considered. Agree with the approach put forward, though we would highlight that viability can be challenging in terms of commercial negotiation, as there is a balance between needing to collect contributions and ensuring values are such that landowners are still willing to sell their land. However, are of the opinion that Blackburn with Darwen is a commercially astute Local Authority and can manage this balance appropriately.</p> <p>On selling land, would like to take this opportunity to ask that Blackburn with Darwen Council work to ensure that all land in the Local Authority area is sold on a freehold basis, rather than leasehold. This provides greater certainty around new development and ongoing costs.</p>	Noted.	None required.

		35	Feel that the indicative minimum planning contributions identified are appropriate and have no further comments to add on this.	Noted.	None required.
		36	Agree that the Local Authority must be able to adjust the level of contributions in line with an index of inflation and the proposed approach of using the RICS Building Cost Information Service indices is appropriate. We would, however, highlight that there could be a risk of negative inflation on building materials over the next 12 months which could impact negatively on the Local Authority's approach to collecting developer contributions.	Noted.	None required.
		37	Feel that the proposed eligibility criteria for First Homes is appropriate. We have concerns about First Homes, given that this detracts from other affordable housing tenures in s106 contributions and that it acts as direct competition against the shared ownership market, however we acknowledge that the Local Authority must comply with the national First Homes policy and feel that it has been applied appropriately for the local context.	Noted.	None required.
		38	Support the proposed approach to Rural Exception Sites. There is a requirement on us as a housing association benefitting from Homes England grant funding to deliver rural exception sites and we would welcome the opportunity to work with Blackburn with Darwen to deliver this.	Noted.	None required.
		39	Welcome the proposed approach to providing affordable homes on site. We are pleased to see	Noted.	None required.

		reference to affordable housing design being tenure blind and to being distributed across the site in small clusters. This can help address the stigma attached to social housing by preventing the homes delivered from being poor quality or in a less desirable area on the site.		
	40	Support the proposed calculation to identify s106 contributions for affordable housing. Have concerns about First Homes, however, appreciate this is a national policy requirement. The split of social/affordable rent and intermediate seems appropriate and aligns with their approach as a housing association. Have found that in the current economic downturn, have received higher levels of affordable housing on sites as private developers have been seeking to de-risk and have been willing to sell properties to us. Welcome the proposed calculation to set a benchmark for affordable housing delivery, particularly for when the market may recover from the current downturn.	Noted.	None required.
	41	Feel that the proposed approach to Vacant Building Credit is proportionate and would welcome an ongoing focus on how the highest level of new affordable housing can be delivered balanced against encouraging redevelopment.	Noted.	None required.
	42	Feel strongly that s106 contributions should be collected for education provision and feel that the proposed calculation is appropriate. This can support new and existing residents to achieve their potential and can benefit inclusive growth. It has been widely reported that existing communities can reject new homes being	Noted.	None required.

		<p>developed in their area due to the pressure this places on existing infrastructure.</p> <p>Setting out s106 contributions for education can help to overcome this challenge. By providing the calculation this offers transparency for developers in assessing commuted values that can support financial viability of sites. However, as with all s106 contributions, there is a balance between needing to collect funds for infrastructure and not putting off landowners from selling their land. The approach to using s106 contributions allows flexibility, as land values can vary significantly across the Local Authority area.</p>		
	43	<p>Welcome the proposed s106 requirements for transport and travel improvements or highways infrastructure and feel that it is positive that this will be determined on a site by site basis, given differing existing infrastructure availability and varying land values.</p>	Noted.	None required.
	44	<p>Feel strongly that s106 contributions should be collected for health infrastructure provision and feel that the proposed calculation is appropriate. It has been widely reported that existing communities can reject new homes being developed in their area due to the pressure this places on existing infrastructure.</p> <p>Setting out s106 contributions for health infrastructure can help to overcome this challenge. By providing the calculation, this offers transparency for developers in assessing commuted values that can support financial viability of sites. However, as with all s106 contributions, there is a balance between needing to collect funds for</p>	Noted.	None required.

			infrastructure and not putting off landowners from selling their land. The approach to using s106 contributions allows flexibility, as land values can vary significantly across the Local Authority area.		
		45	Agree that the provision of open space is an important element of s106 contributions and support the proposed calculation to identify contributions. While there is always a risk in planning that contributions could be challenged on commercial viability, by the Council being transparent and up front about the requirements this can support developers in building in commuted values.	Noted.	None required.
		46	Support the proposed calculation to identify s106 contributions for outdoor sports facilities and feel that this is an appropriate and proportionate approach to calculating contributions.	Noted.	None required.
		47	Support the proposed calculation to identify s106 contributions for indoor and built sports facilities and feel that this is an appropriate and proportionate approach to calculating contributions.	Noted.	None required.
		48	Feel that the proposed approach to biodiversity net gain is positive and we are supportive of this. Believe this approach may offer benefits to their organisation in terms of being able to use smaller infill sites that aren't viable for housing development to support biodiversity net gain. The approach to biodiversity net gain also aligns with their ongoing net zero ambitions.	Noted.	None required.

		49	Feel that the monitoring fees proposed are in line with other Local Authorities that we work with and that this approach is not unusual.	Noted.	None required.
15	Canal and River Trust	50	Trust welcome and support acknowledgement of the role our waterways can play in terms of active travel. Look forward to working with the Council to continue to progress these. Would welcome any opportunities for funding for towpath works/access upgrades from any new development adjacent to our waterways and would benefit from the towpath for active travel.	Noted.	None required.
		51	Para 6.83 – would be important that a contribution can still be sought from those developments that just ‘link to existing routes.’ For example, uplift in usage would increase the maintenance burden and upkeep on existing routes, such as canal towpaths. If a development just links to such a route without any contribution being required then this would increase the maintenance burden on the Trust, who are a charity with limited funding.	Agree – changes made to SPD in response to comments.	Additional wording added to the SPD to highlight developer contributions may be requested towards improving existing walking and cycling routes.

		52	<p>The Defra Biodiversity Metric will require that planning applications that include land within the site boundary that is within 10m of a canal or river are supported by an assessment of the baseline condition of the watercourse. Developers will need to deliver a minimum 10% net gain in watercourse biodiversity units. Development may also affect other habitat types on land owned by the Trust, including, but not limited to, grassland, woodland, scrubland and hedgerows.</p> <p>The Trust position on BNG is that we will consider proposals from developers to deliver net gains on its land (be these watercourse units or other habitat types) on a case-by-case basis. The Trust's agreement to habitat enhancement activities being undertaken on our land will be subject to operational, management and commercial considerations.</p>	Noted.	None required.
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Responses received through re-consultation on the SPD (March – April 2024)

Rep ID	Organisation	Comment ID	Summary of comments	Council response	Change to SPD (if relevant)
16	Together Housing	53	<p>Agree that where there will be significant new development, such as in the South-East Blackburn area, developers should contribute to supporting highways and transport infrastructure.</p> <p>Highlights that some of these areas are relatively low value. If the s106 contribution is too high, this could make the sites financially unviable or reduce the land value. As with all s106 contributions, there is a balance</p>	Noted.	None required.

			<p>between needing to collect funds for infrastructure and not putting off development.</p> <p>Welcome reference in the consultation document to approaches where the required contribution identified for a site cannot be fully secured on the grounds of viability. For sites elsewhere in the borough, welcome the proposed s106 requirements for transport and travel improvements or highways infrastructure and feel that it is positive that this will be determined on a site-by-site basis, given differing existing infrastructure availability and varying land values.</p>		
		54	<p>Agree that the provision of open space is an important element of s106 contributions and support the proposed calculation to identify contributions, which has now reduced the applicability from under 20 dwellings to 10 or more dwellings. While there is always a risk in planning that contributions could be challenged on commercial viability, by the Council being transparent and up front about the requirements this can support developers in building in commuted values.</p> <p>Aware that there can be challenges on the provision of open space as this is land that does not generate a return on investment, however as we are a housing association that is the beneficiary of Homes England grant funding, we follow relevant design standards and have no issues with what Blackburn with Darwen are proposing.</p>	Noted.	None required.

			<p>Working on placeshaping projects in the Local Authority area, which consider the provision of appropriate open space. Recognise that this provision is the right thing to do for local communities. Further to setting out the values and calculations on s106 contributions for open space, would highlight that consideration is also needed to ensure open space provided is accessible, useable and safe, ensuring it has been appropriately designed. Proper consideration of location and design of open space can prevent it being used for the wrong reasons, such as for anti-social behaviour, which can blight neighbourhoods.</p>		
		55	<p>Supports approach to BNG which may offer benefits to TGH in terms of being able to use their smaller infill sites that are unviable for housing development to support biodiversity net gain. The approach to biodiversity net gain also aligns with our ongoing net zero ambitions.</p> <p>Highlights that the approach to monitoring biodiversity net gain must be reasonable and proportionate, in order to keep s106 contributions at an affordable level. Given the length of time for the monitoring period, there is the potential that the fees could make sites unviable.</p> <p>Understand the national legal requirements around BNG monitoring, though have some concerns that this could create an industry. The practicalities of monitoring approaches need careful consideration, ensuring these are delivering value for money.</p>	Noted.	None required.

			<p>Appreciate the need to include an inflation rate within the s106 contribution calculation to biodiversity net gain to cover the monitoring period. Highlights that full transparency is needed around how this figure has been reached as the figure could be challenged, which could create more work for the Council in dealing with these challenges. Developers will also wish to see how the fee is being used, given the monitoring period, and so clarity in the approach to monitoring upfront would be useful. Again, we would stress that the approach to monitoring should be reasonable and proportionate.</p> <p>Agree that the approach proposed to calculating the inflation rate is fair. Welcome the approach to calculating the s106 contribution for biodiversity net gain on a site-by-site basis, as conditions will differ at different sites. We would also highlight that some consideration should be given to the region in the round, given the potential for off-site biodiversity net gain. Appreciate that as the approach to BNG is relatively new, guidance and requirements may need to be adjusted as the approach beds in. However, to ensure confidence and certainty in the approach, and given that it can take some time for sites to be developed to completion, would like to see any changes to approach applied only to future sites not yet commenced.</p>		
		56	Monitoring fees proposed are in line with other Local Authorities that we work with and that this approach is not unusual.	Noted.	None required.

			Highlights that the approach to monitoring BNG must be reasonable and proportionate, in order to keep s106 contributions at an affordable level. Given the length of time for the monitoring period, there is the potential that the fees could make sites unviable. The practicalities of monitoring approaches need careful consideration, ensuring these are delivering value for money.		
17	The Wildlife Trust for Lancashire, Manchester & North Merseyside	57	The statutory (Environment Act 2021) Local Nature Recovery Strategy and related mapping and actions are still in development. Consequently, a Local Nature Recovery Network is not yet mapped, but would be needed to guide delivery of Biodiversity Net Gain and green and blue infrastructure associated with development. Should be included as a supporting document.	Agree, reference should be included to the Local Nature Recovery Strategy (LNRS).	Included reference to the Local Nature Recovery Strategy (LNRS) as a supporting document.
		58	Clarification is needed that the identified means of securing infrastructure would apply across all infrastructure, i.e. green, blue, and grey.	Council considers that the SPD clearly identifies the range of infrastructure that may be funded through developer contributions. Has included a flow chart in section 6 of the SPD to clarify the main types of infrastructure likely to be requested from new development (where applicable).	Flow chart added to the SPD to help clarify likely developer contribution requests.
		59	Welcome the new content at 6.117 and 6.118 on open space contributions.	Noted.	None required.

		60	Currently have little on which to base comment on the BNG calculation that you propose other than that it would appear a sound one in theory.	Noted.	None required.
18	Robert Frewen on behalf of Country Land & Business Association (CLA)	61	All contributions ultimately fall back to the landowner. Take care throughout this SPD not to ramp up contributions of all sorts such that landowners decline to bring site forward on the basis of too low a return.	Noted.	None required.
		62	As per comments above. The value of rural exception sites risks making them borderline.	Noted.	None required.
19	Mr M Reid	63	Road traffic studies are sometimes conducted during holiday periods and off-peak traffic times, therefore present a false indication of actual traffic volume, traffic speeds, and impact on surrounding infrastructure, residents living standards and general wellbeing of the residents.	Not considered to be relevant to the content of the SPD. The Council's Highways team will review transport assessments undertaken as part of planning applications to ensure they are robust.	None required.
		64	Road traffic studies should be conducted over a greater period of time and across different times during the day including peak times (e.g. school runs and work finishing times etc.) to provide a better and more accurate understanding of actual traffic volumes and any potential impacts increased traffic volumes would present as a result of any new developments etc.	As per comments above.	None required.
		65	Requests improved consultation with local Parish Councils and any other recognised community groups (e.g. local Community centres, scouts, guides etc.) to	The Infrastructure Delivery Plan (IDP) identifies the infrastructure required to	None required.

		<p>fully understand the needs of the local community and obtain suggested way to improve the surrounding area affected by any new developments (housing or industrial).</p> <p>Also means the council Planning Dept. taking note of any suggestion and providing a reasonable written answers with a full description of any infrastructure improvements that would be made in line with any consultation suggested improvement and the Planning Dept. not using a blanket non-descript statement such as "your suggestion / comments / concerns are noted and appropriate action will be taken" if the suggested improvements are not possible give an explanation why (e.g. cost restrictions, legal implications and any suggested alternatives).</p>	<p>support planned new development in the borough over the Local Plan period to 2037. This includes a list of specific projects, some of which will be funded through s106 monies secured from new development. Such projects have been identified through numerous evidence base studies including transport studies, Playing Pitch and Outdoor Sports Strategy, Connectivity Studies, Pupil Forecast Modelling etc.</p> <p>The Council welcomes suggestions on additional infrastructure projects to be funded by s106 monies however, such requests would need to be adequately evidenced and meet the relevant tests for planning obligations set out in the NPPF.</p>	
	66	<p>Providing affordable housing on site could affect housing developers being prepared to invest. Affordable housing on site may reduce the selling price of all the other properties.</p>	<p>The Blackburn with Darwen Local Plan (adopted January 2024) sets out a preference for affordable housing (where applicable as part of a</p>	None required

		<p>Of the opinion that S106 affordable housing contributions would be better used in either bringing existing housing back to a good standard or developing new affordable housing sites where house clearance has taken place within the borough or old industrial sites etc.</p>	<p>planning application) to be delivered on site in order to encourage mixed communities, however off-site via commuted sums may be appropriate in limited circumstances.</p> <p>The approach to affordable housing delivery as part of new developments will comply with local policy requirements.</p>	
	67	<p>Would suggest that there is a nationally recognised method to calculate infrastructure provision and as long as this method or a similar method is used (that is more beneficial to the borough) the current calculations would be fine.</p> <p>Would also suggest that any calculations used are reviewed and tested to be "fit for purpose" on an annual basis to ensure that the borough is getting the best possible information and therefore able to make up-to-date informed decisions. Any calculations used should be clearly displayed within the annual Developers Section 106 and 278 Contributions infrastructure report and available funds available to the public in an excel report at all times, in line with the agreed Councils and Developers spending monitoring process.</p>	<p>If the information contained within the SPD will be reviewed to ensure it remains accurate. If, in the future, a requirement to update the SPD is identified, the Council will progress with preparing an updated document.</p> <p>Councils are required to publish s106 contributions received and spent within each monitoring period (1st April – 31st March) on an annual basis (by December). The Council provides this information in its Infrastructure Funding</p>	None required.

			Any calculations used should be clearly displayed within the annual Developers Section 106 and 278 Contributions infrastructure report and available funds available to the public in an excel report at all times, in line with the agreed Councils and Developers monthly spending monitoring process Residents requesting any S106 / 278 information should be supplied with an up to date spreadsheet showing the current S106 /278 spending position and not be supplied with a blanket response "the information is shown within the BwD annual infrastructure statement by the Planning dept. Monitoring means to keep a regular check (i.e. monthly or quarterly) not an annual report.	Statement and therefore fulfils this requirement.	
20	Environment Agency	68	No further comments to add to previous response.	Noted.	None required.
21	Homes England	69	No comments	Noted.	None required.
22	Lancashire County Council Flood Authority	70	No comments	Noted.	None required.
23	National Highways	71	<p>With regard to the changes to the wording at paragraph 6.95 to 6.100 NH are in agreement with this wording.</p> <p>However, SoCG was agreed between National Highways and Blackburn and Darwen at the time of the Local Plan being submitted setting out that a 'Junction Monitoring Report would be undertaken at J4 M65 to inform any future studies.' I am aware that discussions around this are continuing.</p>	Agree additional wording is needed to address these points.	Additional wording added to paragraph 6.101 of the SPD to clarify Council's approach to contributions where additional infrastructure improvements/mitigation measures are identified over and above those listed in Appendix B to the SPD.

			<p>However, were any studies to commence, which may end-up with possible schemes, the question is how would BwD apportion any need for improvement to development? how would funding for these be sought? Could this be through developer contributions?</p> <p>There is a need to add an addition to paragraph 6.98-6.100 on page 35 of the requirement for improvements to accommodate growth affecting J4 and how this would be delivered. I would suggest that wording is added to the draft to include this and shared with NH for further comment and agreement.</p>		
		72	<p>National Highways acknowledge that the note provides details of the approach to be used to calculate developer contributions towards the Transport Infrastructure required to support growth across Southeast Blackburn.</p> <p>The package of measures includes a significant upgrade to M65 Junction 5, the delivery of an Active Travel Network comprising around 18km walking and cycling improvements across Southeast Blackburn and other measures to support access and accessibility in relation to the delivery of a Strategic Employment Site to the south of the M65 close to Junction 5</p> <p>National Highways recognises that work is continuing with regard to the scheme identified at Junction 5 of the M65 and agree to the added wording within Annex B and will continue to work with Blackburn and Darwen, in the delivery of this scheme.</p>	Noted.	None required.

24	Natural England	73	Satisfied with the amendments made in response to our previous comments and have no further comments to make.	Noted.	None required.
25	Pegasus Group on behalf of Barratt Homes	74	Viability – highlighting proposed additional SPD elements not tested as part of the local plan viability evidence.	See Council’s response to previous comments received (comment ID 15).	None required.
		75	<p>In relation to health infrastructure contributions, the NHS needs to fully demonstrate an actual shortfall in funding which any scheme would cause.</p> <p>If this can be done, the first solution would be to accommodate any shortfall in needs within existing NHS facilities and if there no surplus capacity any development needs to be properly reflected in terms of its demonstrable impacts from new residents in the borough.</p> <p>Does not appear to be a mechanism to account for any surplus capacity within any existing facilities that may need to accommodate new residents into the borough within the SPD formula. The ICB’s S106 Monies Funding Policy and Procedure Paper, there does appear to be the necessary step of accounting for capacity within existing facilities. This is not reflected in the Council’s formula.</p> <p>Unclear in the ICBs paper where the assessments of the individual facilities can be found. On the worked example, there are no referenced to the assessment, only that the practice in question has a ‘red flag rating.’ No indication as to how the assessment has</p>	<p>Seems to be confusion between NHS and ICB roles within response – see previous comments (Comment ID 16) on this.</p> <p>The ICB will be required to provide adequate accompanying evidence to justify any s106 request for health infrastructure. The Council will pick this up with the ICB on a case-by-case basis.</p> <p>Further information, including how such requests meet the relevant tests for planning obligations, can be viewed within the ICB’s Section 106 Monies & Community Infrastructure Levy Funding Policy here.</p>	None required.

			<p>been undertaken, whether it is indeed correct or can be checked for the practice in question and where an applicant can find this information ahead of the submission of any planning application to understand their potential liability.</p> <p>Needs to be a clear way of understanding the capacity of existing facilities. This also needs to be a step reflected within the Council's formula within the SPD. NHS need to fully demonstrate an actual shortfall in funding which any scheme would cause.</p> <p>If this can be done, the first solution would be to accommodate any shortfall within existing NHS facilities, which needs to be clearly identifiable for applicants. If there is no surplus capacity the NHS then need to set out the demonstrable impacts from new residents in the borough, which should be reflected in the SPD's formula. Until this shortfall in funding for new residents has been clearly demonstrated, any request for planning obligations for health infrastructure would not comply with the CIL regulations para 122.</p>		
		76	<p>Para 6.107 highlights that not all new homes will be occupied by people moving into the borough so the assumed occupancy should be reduced accordingly. This doesn't seem to have been done as para 6.106 sets out the intended occupancy rates based on the RICS BCIS. Needs to be a clear position set out in the SPDs formula to reflect this internal movement within the borough. The proposed 'reduction allowance' in the SPD formula is unknown and not evidenced.</p>	<p>Following discussions with the ICB, agreed that a reduction allowance should not be added to calculations for health infrastructure s106 requests. There is insufficient evidence available to justify this reduction.</p>	<p>None required.</p>

				Policy CP12 in the Local Plan allows for the reduction in planning contributions on the grounds of viability if robust evidence is provided and corroborated by the Council's viability consultants. This is also highlighted within the SPD itself. This will be picked up on a case-by case basis.	
26	Sport England	77	Withdraws objection to the SPD in light of amendments made following comments submitted as part of previous consultation on the document.	Noted.	None required.
27	Coal Authority	78	No comments to make on the SPD.	Noted.	None required.