



Welwyn Hatfield
Borough Council

Planning Obligations

Supplementary Planning Document
February 2012



Part of the Local Development Framework

LDF 

www.welhat.gov.uk

WELWYN
HATFIELD
BOROUGH COUNCIL



Contents

Planning Obligations SPD

1 Introduction	3
1.1 What are Planning Obligations?	3
1.2 Purpose of the SPD	3
1.3 Status of the SPD	4
2 Policy Context	6
2.1 Legislative Context	6
2.2 National Policy Framework	6
2.3 Local Policy Framework	8
2.4 Evidence Base	10
3 Approach to Planning Obligations	12
3.1 Affordable Housing	12
3.2 Green Space	15
3.3 Allotments	17
3.4 Play Facilities	19
3.5 Outdoor Sports Facilities	22
3.6 Indoor Sports Facilities	25
3.7 Community Facilities	26
3.8 Waste and Recycling	27
3.9 Hertfordshire County Council Obligations	29
3.10 Other Obligations	30
4 Procedure	31
4.1 Pre-application Advice	31
4.2 Drafting of Agreements	31
4.3 Cumulative Applications	32
4.4 Monitoring and Administration Contribution	32
4.5 Maintenance Contributions	32
4.6 Off-site Provision	33
4.7 Pooled Contributions	33
4.8 Indexation	33
4.9 Bonds	33
4.10 Payment of Contributions	34
4.11 Re-payment of Contributions	34
4.12 Viability	34
4.13 Enforcing Planning Obligations	36

Contents

Appendices

Appendix 1 Dwelling Occupancy Rates for Welwyn Hatfield	37
--	-----------

1 Introduction

- 1.1 New development can result in increased pressure on local infrastructure, services and facilities, thus creating a need for additional provision within the borough.
- 1.2 Planning obligations are an effective tool to secure the necessary infrastructure and services required as a result of development, to ensure that the negative impacts of development on infrastructure and service provision can be adequately mitigated, and that the wider aims of the Local Authority are met.
- 1.3 The Supplementary Planning Document (SPD) provides detailed guidance on the type and scale of planning obligations sought, and sets out Welwyn Hatfield Borough Council's approach to securing planning obligations, with the aim of establishing a transparent, fair and consistent process.

1.1 What are Planning Obligations?

- 1.4 Section 106 of the Town and Country Planning Act 1990 (as amended) allows landowners to enter into planning obligations, the purpose of which is to make development acceptable that would otherwise be unacceptable in planning terms.
- 1.5 Planning obligations are legally binding covenants usually negotiated in the context of planning applications, and comprise both planning agreements and unilateral undertakings. A planning agreement, or S106 agreement, is an agreement between a local planning authority and persons with an interest in the land, whereas a unilateral undertaking is an obligation offered by an applicant in support of a planning application or planning appeal.
- 1.6 Planning obligations can be used to prescribe the nature of development (e.g. by requiring that a given portion of housing is affordable); or to secure a contribution from a developer to compensate for loss or damage (e.g. enhancements to open space); or to mitigate a development's impact (e.g. through increased or improved public transport provision).
- 1.7 Planning obligations can however only be sought where they meet the tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010, which places new statutory restrictions upon the use of planning obligations to clarify their purpose.

1.2 Purpose of the SPD

- 1.8 This SPD seeks to clarify Welwyn Hatfield's approach to planning obligations and should be used as a starting point in the negotiation process.
- 1.9 In summary, the purpose of the SPD is to:
 - Outline the range, scale and form of planning obligations likely to be sought;

1 Introduction

- Highlight the evidence base and policy justification which underlines our approach;
- Identify the types of development likely to require planning obligations and the thresholds at which obligations will be sought;
- Provide detailed guidance on the Council's planning obligation procedures and how planning obligations are secured and monitored;
- Minimise the need for detailed negotiations for each planning application;
- Streamline the process by which planning obligations are secured and implemented; and
- Ensure an efficient, consistent, accountable and transparent process.

1.10 This SPD does not however attempt to specify all of the planning obligations that may be necessary to mitigate the impacts of every development, and developers should be aware that other planning obligations may be required that are not set out in this SPD due to site specific or local circumstances.

1.3 Status of the SPD

1.11 This document has been written by Welwyn Hatfield Borough Council and is intended to expand upon Policy IM2 (Planning Obligations) of the Welwyn Hatfield District Plan (2005).

1.12 This SPD has been prepared in consultation with statutory service providers, and within the context of:

- Government guidance (Planning Policy Statement (PPS) 12 – Local Spatial Planning (2008), and the associated Town and Country Planning (Local Development) (England) Regulations);
- Government Circular 05/2005 – Planning Obligations;
- Community Infrastructure Levy Regulations (April 2010) (and amended regulations published in April 2011);
- Welwyn Hatfield Borough Council's Sustainable Corporate and Community Strategy (2009);
- Welwyn Hatfield Borough Council's Business Plan 2010 – 2015;
- Welwyn Hatfield Borough Council's Statement of Community Involvement; and
- Welwyn Hatfield District Plan (2005).

1.13 The SPD also takes account of the policies contained within the draft National Planning Policy Framework (NPPF), published in July 2011, which is intended to replace the existing national system of Planning Policy Statements and Planning Policy Guidance Notes. Consultation on the draft NPPF closed on the 17th October 2011, and the final version is expected to be published by April 2012. Whilst amendments to the NPPF are envisaged, the policy approach set out in this SPD will however remain unchanged.

Introduction

- 1.14** Further to this, the SPD has also been considered against the European Directive on Strategic Environmental Assessments 2001/42/EC, which has shown that the Directive does not require an SEA to be undertaken of this document, given that it will not have a significant effect on the environment.
- 1.15** The adopted SPD will be a material planning consideration in the determination of all planning applications within the borough, and will be used by the council to negotiate Section 106 agreements and unilateral undertakings to secure planning obligations on new developments where required.

2 Policy Context

2 Policy Context

2.1 This section sets out the context in which this council will seek to secure planning obligations from new development in the borough.

2.1 Legislative Context

2.2 The legislative basis for securing planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991 (“The Act”), which provides local authorities with the opportunity to enter into Section 106 agreements to secure planning obligations in connection with the development and use of land and for applicants / land owners to give unilateral undertakings when making a planning application.

2.3 In accordance with the Act, planning obligations:

- May restrict the development or use of land; require specified operations or activities to be carried out; require land to be used in any specified way; or require cash payments to be made;
- Can either be positive, i.e. requiring a person to carry out a specified action, or negative, i.e. restricting the person from developing or using the land in a specified way;
- May be entered into either by agreement with the Local Planning Authority or by an undertaking by the developer to which the Local Planning Authority is not a party;
- Must be entered into by means of a Deed (which can be varied later if necessary by ‘Deed of Variation’);
- Must be registered as a local land charge (for the Purposes of the Local Land Charges Act 1975);
- Run with the land and may be enforced against the person entering into them and against any successors in title; and
- Can only be enforced by means of injunction.

2.2 National Policy Framework

Circular 05/2005

2.4 Circular 5/05: Planning Obligations replaced Department of the Environment Circular 1/97 and was introduced to provide revised guidance to local authorities in England on the use of planning obligations under section 106 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.

2.5 The Circular set out that planning obligations can be used to prescribe the nature of a development; mitigate a development’s impact on the locality; or to compensate for loss or damage created by the development. In addition to this, paragraph B5 of the Circular also sets out five tests that a planning obligation must meet if it is to be deemed acceptable. These are that an obligation must be:

- Relevant to planning;
- Necessary to make the proposed development acceptable in planning terms;
- Directly related to the proposed development;
- Fairly and reasonably related in scale and kind to the proposed development; and
- Reasonable in all other respects.

Community Infrastructure Levy

2.6 Part 11 of the Planning Act 2008 set out the legislative framework to support the introduction of the Community Infrastructure Levy (CIL) in England and Wales. The Community Infrastructure Levy then came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. These regulations have subsequently been amended however by the Community Infrastructure Levy (Amendment) Regulations published in April 2011. Further to this, the government is also committed to introducing a second set of amendment regulations, to reform how CIL can be used, and these are expected to come into force in 2012.

2.7 CIL was introduced to allow local authorities to raise funds from developers undertaking new building projects in their area, the purpose of which is to provide infrastructure to support the development of a place, rather than to make individual planning applications acceptable in planning terms. As a result, planning obligations may still be required to address some site specific impacts of development, without which planning permission would not be granted.

2.8 However, in order to ensure that planning obligations and CIL can work in a complementary way, the government has also introduced new statutory restrictions upon the use of planning obligations to clarify their purpose and to ensure that the two mechanisms can work effectively together.

2.9 Here, under powers in the Planning Act, the CIL Regulations 2010, change the use of planning obligations by:

- **Placing into law the policy tests on the use of planning obligations set out in Circular 05/2005:** CIL Regulations 2010 make it unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, that is capable of being charged CIL, if the obligation is not: (i) **necessary** to make the development acceptable in planning terms (ii) **directly** related to the development, and (iii) **fairly and reasonably related in scale and kind** to the development (Regulation 122);
- **Ensuring the local use of CIL and planning obligations does not overlap:** Under regulation 123 (2), on the adoption of the levy, the regulations restrict the local use of planning obligations to ensure that individual developments are not charged for the same items through both planning obligations and CIL. Where a charging authority sets out that it intends to fund an item of infrastructure via the levy then that authority

2 Policy Context

cannot seek a planning obligation contribution towards the same item of infrastructure. Furthermore, a charging authority should publish on its website a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by the levy, and consequently the authority would be prohibited from seeking a planning obligation contribution towards the same item of infrastructure.

- **Limiting pooled contributions from planning obligations towards infrastructure which may be funded by CIL:** CIL Regulation 123 (3) has the effect that from 6 April 2014, or the date that a charging authority's first charging schedule takes effect (whichever is earlier) local planning authorities will only be able to pool up to five individual planning obligation contributions towards infrastructure that is capable of being funded by CIL. Pooled contributions may be sought from up to five separate planning obligations for an item of infrastructure that is not locally intended to be funded by the levy. The limit of five applies as well to types of general infrastructure contributions, such as education and transport. In assessing whether five separate planning obligations have already been entered into for a specific infrastructure project or a type of infrastructure, local planning authorities must look over agreements that have been entered into since 6 April 2010. Until this point however, local authorities are unrestricted in their ability to pool planning obligation contributions. Furthermore, for infrastructure that is not capable of being funded by CIL, even when CIL Regulation 123 (3) takes effect, local planning authorities will still not be restricted in terms of the numbers of obligations that may be pooled, as long as the obligation meets the tests set out in Circular 5/05.

- 2.10** This SPD has been prepared with these future changes in mind, and the approach set out here is intended to assist with future work on CIL. Under the current legislation relating to S106, the council is required to adopt its CIL charging schedule by April 2014, in order to safeguard funding for infrastructure. At this time it will therefore be necessary to review and amend this document in accordance with the relevant regulations and guidance, to identify which infrastructure types may be dealt with using a CIL approach and which may continue to be addressed through planning obligations. A timetable for the introduction of CIL can be found on the council's website www.welhat.gov.uk

2.3 Local Policy Framework

Welwyn Hatfield District Plan

- 2.11** The Welwyn Hatfield District Plan, adopted in 2005, sets out the planning framework for the borough. Planning Policy IM2 (Planning Obligations) of the Welwyn Hatfield District Plan outlines the council's approach to securing planning obligations.

Policy IM2 Planning Obligations

In order to satisfy the sustainability aims of the Plan and secure the proper planning of the area, development will be required to provide for the infrastructure, services and facilities which are directly related to it and necessary to the granting of planning permission. Developers will be required to provide or finance the cost of all such provision which is fairly and reasonably related in scale and kind to the development, including:

- On-site facilities directly related to the proposed development in the interests of proper planning and to mitigate any possible adverse environmental effects
- Off-site improvements, services and facilities necessary as a result of the development in order to avoid placing an additional burden on the existing community and to mitigate any possible adverse environmental impact arising from the development; and
- Affordable housing in accordance with Policy H7.

This will be implemented through planning conditions and obligations agreed between the council and developers under section 106 of the Town and Country Planning Act 1990 and any related or subsequent legislation.

2.12 Whilst Policy IM2 provides a general basis for securing contributions from developments towards the provision of various types of infrastructure and facilities set out in this SPD, other policies from the District Plan are also cited in the SPD where relevant. Here, the main policies to have regard to are:

- Policy R13 Sites of Special Scientific Interest
- Policy R14 Local Nature Reserves
- Policy R17 Trees, Woodland and Hedgerows
- Policy R21 Telecommunications Development
- Policy M3 Green Travel Plans
- Policy M4 Developer Contributions
- Policy M5 Pedestrian Facilities
- Policy M6 Cycle Routes and Facilities
- Policy M9 Bus and Taxi Facilities
- Policy EMP10 Childcare Facilities
- Policy EMP11 Local Recruitment
- Policy OS2 Playing Pitch Provision
- Policy OS3 Play Space and Informal Open Space Provision in New Residential Development).
- Policy RA24 Riding and Livery Stables
- Policy CLT8 New and Extended Education Facilities
- Policy CLT10 Nursery and Childcare Facilities

2 Policy Context

Emerging Core Strategy

- 2.13** Welwyn Hatfield Borough Council is currently in the process of preparing its emerging Core Strategy, which, once adopted, will form part of the council's Local Development Framework. The Core Strategy will set out the council's approach to the delivery of infrastructure to support housing and employment growth within the borough over the next 15 to 20 years.
- 2.14** The council is also in the process of preparing both an Infrastructure Delivery Plan (IDP) to identify the amount, cost, and sources of funding for the main types of community infrastructure needed to support growth, and a CIL Charging Schedule, which will enable the council to secure funding from development to deliver the infrastructure projects identified in the IDP.
- 2.15** Furthermore, the council will also continue to prepare more detailed planning guidance to bring forward the re-development of major sites in the borough. Here, planning obligations are likely to be sought on a site by site basis, and may be in addition to those outlined in this SPD.

2.4 Evidence Base

- 2.16** Under the tests of lawfulness set out at paragraph 2.5, a duty is placed on a local authority to ensure that a planning obligation is based on evidence, so as to demonstrate how the development in question impacts on the achievement of planning objectives, including meeting the demands on infrastructure that the development generates.
- 2.17** Here, it should however be noted that contributions from developments should not be sought through planning obligations to rectify existing deficits in infrastructure or community service provision, except in the case of open space, sports and recreational provision, where Planning Policy Guidance Note 17: Planning for Open Space, Sport and Recreation (2002, republished in 2006) states that planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of these facilities (see paragraph 33 of PPG 17).
- 2.18** In assessing the impact of developments the council will refer to the evidence base for the Local Development Framework which includes a number of studies, of which the most relevant to this SPD are:
- The Hertfordshire Infrastructure and Investment Strategy (2009)
 - An Assessment of Welwyn Hatfield's Open Space, Outdoor Sport and Recreation (June 2009)
 - Green Infrastructure Plan (March 2011)
 - Sports Facilities Study (March 2011)
 - Development Economics Study (July 2010)
 - Strategic Housing Market Assessment (April 2010)
 - Hertfordshire County Council Planning Obligations Toolkit (Jan 2008)

Policy Context

- 2.19** Where necessary, the SPD and its evidence base will be updated to take account of changing circumstances and updates in national guidance. The council's most up-to-date evidence base can be viewed online at www.welhat.gov.uk

Approach to Planning Obligations

3 Approach to Planning Obligations

- 3.1** This section sets out the council's approach to the determination of planning obligations for certain types of infrastructure within Welwyn Hatfield. It explains the overall approach taken in terms of:
- The types of development that may require planning obligations;
 - The thresholds for development that may trigger the need for planning obligations;
 - The methods used to calculate typical financial obligations; and
 - The evidence base and policy justification for requiring an obligation.
- 3.2** Reference is also made to the council's approach towards negotiating obligations through the Hertfordshire County Council Planning Obligations Toolkit, which sets out the County Council's approach and justification for seeking planning obligations towards a number of infrastructure items including sustainable transport measures, passenger transport, education, libraries, youth and childcare, fire and rescue services and adult care services.
- 3.3** Here, it is also important to note, that the starting point for the assessment of planning obligations on schemes, will be on the total number of dwellings proposed in the planning application.

3.1 Affordable Housing

Approach

- 3.4** Planning Policy Statement 3 states that the Government's key housing policy goal is to ensure that everyone has the opportunity to live in a decent home, which they can afford, in a community where they want to live. To achieve this, the Government is seeking:
- To achieve a wide choice of high quality homes, both affordable and market housing, to address the requirements of the community.
 - To widen opportunities for home ownership and ensure high quality housing for those who cannot afford market housing, in particular those who are vulnerable or in need.
 - To improve affordability across the housing market, including by increasing the supply of housing.
 - To create sustainable, inclusive, mixed communities in all areas, both urban and rural.
- 3.5** Policy H7 of the Welwyn Hatfield District Plan seeks the provision of a minimum of 30% affordable housing on all eligible sites.
- 3.6** The provision of affordable housing will normally be sought through a section 106 agreement, and the council will expect details of the affordable housing to be provided as part of the development to be submitted as part of the planning application.

Approach to Planning Obligations

Threshold

- 3.7** The council's affordable housing policy applies on residential sites of 25 units or more, or on residential sites over 1 hectare.

Evidence of Need

- 3.8** Decisions about the type of affordable housing required, and the size and mix of tenures, should be informed by the latest housing needs surveys and assessments. Here, applicants should have regard to the:

- Strategic Housing Market Assessment (2010);
- Development Economics Study (July 2010);
- Council's housing advice note - available to view online at www.welhat.gov.uk; and
- Other relevant studies

Affordable Housing Tenure Mix

- 3.9** Where affordable housing is sought, there should be a mix of housing sizes and types, in a range of affordable tenures (social rent, affordable rent and intermediate). The precise on site requirements for the size and tenure of affordable housing will however be assessed in light of the Council's latest evidence of need, and should also reflect the requirements of the Housing Register. The exact range and mix will depend on the nature and location of the site. Currently the priority need for rented units is for 1 and 3 bedroom properties, and the priority for intermediate tenure (likely to be shared ownership and at initial equity shares that will be affordable to future occupants to be agreed with the local authority) is for 1 and 2 bedroom units.
- 3.10** Up-to-date information on the council's priorities in relation to tenure and mix can be found on the council's website (www.welhat.gov.uk) or by contacting the council's Housing and Community Dept on 01707 357 000.

Affordable Housing Design

- 3.11** Affordable housing should be provided on-site and integrated with neighbouring private sector homes. The council expects the standard and design of the affordable housing to be of a high quality in accordance with policy D1 of the Welwyn Hatfield District Plan (2005). On larger sites a developer should explore a range of options, which may include providing the affordable housing in smaller clusters rather than in one location on the site. Further to this, where affordable housing is subsidised using public housing grants, dwellings will be required to meet the Homes and Communities Agency's (HCA) prevailing design standards. From time to time, even where public subsidy is not involved, there may be circumstances where Registered Providers require certain standards design to be met.

Approach to Planning Obligations

3.12 The council would also expect a proportion of affordable housing to be designed to meet the lifetime homes standard, in accordance with policy H10 of the Welwyn Hatfield District Plan (2005).

3.13 Where required, further advice should be obtained through pre-application discussions with the council.

Viability

3.14 The council acknowledges that in some circumstances, scheme viability may be affected by the overall requirements for planning obligations, including the provision of affordable housing. Where an applicant considers that a scheme is unable to deliver the level of affordable housing required by the District Plan Policy this would need to be justified, and the onus would be on the applicant to demonstrate to the council why viability would be a barrier to the delivery of the policy requirements. This will involve submitting an open book appraisal of the scheme. The Council has commissioned a bespoke Toolkit to assist with such an appraisal. See section 4.11 for further details.

Rural Exception Sites

3.15 In accordance with Policy RA14 of the Welwyn Hatfield District Plan, where a scheme is proposed in a rural area of the borough, permission may exceptionally be granted for small scale affordable housing schemes to meet (in accordance with PPS3) the needs of households who are either current residents or have an existing family or employment connection.

3.16 Schemes will however only be allowed where there is an identified local need from an up-to-date housing needs survey and any development must respect the character and local distinctiveness of the settlement.

Off-Site Provision or Commuted Payments in Lieu

3.17 In line with Policy H7 of the Welwyn Hatfield District Plan, and national Planning Policy Statement 3, the priority will be for affordable housing to be provided on the application site. However, where it can be robustly justified, off-site provision or a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted provided the agreed approach results in the delivery of affordable housing within mixed communities in the vicinity of the application site.

3.18 The following calculation shall be used to inform the appropriate level of commuted sum:

- Where RV (100% M) = residual value with 100% market housing, RV (AH) = residual value with required affordable housing component (e.g. 30% affordable)
- Commuted sum = RV (100% M) - RV (AH)

Approach to Planning Obligations

3.2 Green Space

Introduction

3.19 Green space comprises parks and gardens, formal and informal open green space, productive environments (e.g. farmland), green corridors, river corridors, waterways, greenways, urban open land, Sites of Scientific Interest, conservation areas, and the Watling Chase community forest, and forms an important part of the borough's infrastructure, as it is increasingly recognised as a cornerstone of sustainable development, and a 'must have' for communities, due to the many social, environmental, and health benefits it offers.

Approach

3.20 The council will expect all new development within the borough to provide green space and landscaping on site, in accordance with the council's adopted local standards, as set out in the Open Space, Outdoor Sport and Recreation Strategy.

3.21 Further to this, where there is the potential to implement either the actions identified in the council's Open Space Strategy Action Plan 2010 - 2020, and/or the projects set out in the Green Infrastructure Plan (2011), in the vicinity of the development site, then the council will seek a contribution from that development, by means of a standard charge, and this money would then be put towards implementing one or more of these projects (as applicable).

Threshold

3.22 The charge will apply to residential developments of 10 units or more.

Standard Charge

3.23 The 'Open Space, Outdoor Sport and Recreation Study for Welwyn Hatfield' sets a recommended local standard for the provision of green space in the borough of 6.1 ha per 1000 population, and the Hertfordshire Infrastructure and Investment Strategy Summary Report (2009), Table 6.1, gives a typical cost for natural and semi-natural green space of £10,000 per ha.

3.24 Given this, the standard cost of providing green space in the borough equates to £61 per person. This is based on the following calculation:

- $6.1 \text{ ha} \times £10,000 = £61,000$
- $£61,000 / 1,000 \text{ (population)} = £61$

Approach to Planning Obligations

Table 1: Standard Charge for Green Space

£61 per person	Bedrooms ⁽¹⁾					
	1	2	3	4	5	6+
Average Occupancy (persons per dwelling) ⁽²⁾	1.38	1.84	2.3	2.76	3.22	3.68
Contribution per dwelling	£84.18	£112.24	£140.30	£168.36	£196.42	£224.48

Policy

3.25 This approach is supported by the following policies of the adopted Welwyn Hatfield District Plan (2005):

- Policy IM2 Planning Obligations
- Policy OS3 Play Space and Informal Open Space Provision in New Residential Development
- Policy R13 Sites of Specific Scientific Interest
- Policy R14 Local Nature Reserves
- Policy R15 Wildlife Sites

Supporting Evidence

3.26 The council's assessment of Welwyn Hatfield's Open Space, Outdoor Sport and Recreation (2009) identified:

- 24 areas of natural and semi natural green space in the borough, equating to 629ha or 6.29ha per thousand population. The natural spaces include a European designated Special Area of Conservation (SAC), 5 Sites of Special Scientific Interest (SSSIs), 9 Local Nature Reserves and other locally important areas for the protection and enhancement of wildlife and habitats.
- 172 amenity green spaces, covering 133.77ha, or 1.36ha per 1000 population. Amenity green spaces have a local role, providing informal recreational opportunities and good visual amenity.
- 11 parks and gardens covering 1402 ha or 14.4 ha per 1000 population. Parks and gardens provide passive and active recreation opportunities for Welwyn Hatfield residents and visitors from outside the borough.

1 For the purpose of this SPD a bedroom is defined as a habitable room that is large enough to sleep in, and is not a bathroom, toilet, kitchen, hall, landing or room that can only be used for storage

2 Average occupancy is derived from dividing total population by the number of people per habitable room, and then multiplying this figure by the number of habitable rooms per dwelling. The full calculation is set out in Appendix 1

Approach to Planning Obligations

- 17 green corridors amounting to 200.78 ha of green space. Green corridors comprise footpaths, cycleways and wildlife corridors that provide opportunities for recreation and wildlife migration.
- 4 civic spaces in the borough, 3 of which are in Hatfield, with the other 1 being in Welwyn Garden City.

3.27 Further to this, an Action Plan was produced to deliver the actions identified in the Open Space Study, and this is available to view on the council's website www.welhat.gov.uk

3.28 In 2011 the council also published its Green Infrastructure Plan. This study provided an overview of existing green infrastructure assets within the borough; considered opportunities for the enhancement and creation of green infrastructure; and outlined a series of potential projects to deliver multiple functions and benefits. These projects included:

- Urban Greening in Welwyn Garden City and Hatfield;
- Post Industrial Heritage - Promoting the Former Rail Routes;
- River Valleys Project - Mimram and Lee; and
- Woodland and Heathland/ Grassland Landscape Links.

3.29 The Green Infrastructure Plan is available to view on the council's website at www.welhat.gov.uk

3.3 Allotments

Introduction

3.30 An allotment garden can be defined as an area which is available to rent from the council, parish council or other organisation, which may be used for gardening, growing your own fruit and vegetables, and getting physical activity on an area near your home.

3.31 There are 46 allotment gardens in the borough, covering over 13 hectares of land, with an average plot size of 0.02 hectares (208 sq m).

3.32 The council's adopted local standard for the provision of allotments in the borough, as set out in the Open Space Strategy 2009, is 0.13 ha per 1000 of the population.

Approach

3.33 On developments of 300 dwellings or more, the council will expect allotments to be provided on-site, in line with the council's adopted local standard.

Policy

3.34 This approach is supported by the following policies of the adopted Welwyn Hatfield District Plan (2005):

Approach to Planning Obligations

- Policy IM2 Planning Obligations
- Policy OS4 Allotments

Supporting Evidence

3.35 The council manages 26 allotment gardens in Welwyn Garden City, which are located in the following wards:

- Haldens - There are four sites within the Haldens area. Dawley and Maple Grove both have 6 plots. Blythway has 10 plots and Rowans has 12 plots. The latter two allotment gardens also have water provision.
- Handside - Dellcott Close has 10 plots, Attimore Road and Melbourne Court both have just one plot and Colgrove has 7 plots. Lemsford Lane has 7 plots and Parkway Close is landlocked and can only be accessed by neighbouring properties.
- Howlands - The Pastures has 14 plots and Westmead Organic site has 8 plots and a mains water supply. A new site has also recently been opened at Bushey Green, which has 3 plots and a rainwater harvesting system.
- Panshanger - Moneyhole Lane is the council's largest site in Welwyn Garden City with 90 plus plots. The site has a mains water supply.
- Peartree - St Audrey's Green allotment was opened in 2009. It has 12 plots and a 2500 litre rainwater harvesting system.
- Sherrards - There are 15 plots at the council's two sites at Sewells, which are connected to mains water. There are 9 plots at the two sites at Ingles, which are also connected to the mains. Tilecroft has 6 plots and Harwood Hill has 7 plots and a rainwater harvesting system.
- Hollybush - Marley Road allotment was opened in 2009 and has 5 plots. Another site was also recently opened in Marley Road and this also has 5 plots. Hyde Valley has 7 plots and Hatfield Hyde has 14 plots. All the councils sites in Hollybush have rainwater harvesting systems.

3.36 Further to this the council also manages 18 allotment gardens in Hatfield, which are located in the following wards:

- Hatfield West - The Council opened a new site in 2011 at Haven Close, which has 3 plots and a rainwater harvesting system. Briars Wood Organic site is the council's largest site in Hatfield with 19 plots. The site is connected to the mains water supply. It also has regular meetings to discuss any issues on site and tenants work together to purchase manure. The nearby site of Briars Close is connected to mains water and has 7 plots. Hillcrest has 7 plots and Firs Close has 4 plots. The Haseldine Meadows Site A has 7 plots and has a rainwater harvesting system. Haseldine Meadows Site B has 6 plots. Feather Dell is a landlocked site and can only be accessed by neighbouring residents. The Council also has allotment gardens at Martins Close, Swallow Gardens, which has 4 plots, Dove Court,

Approach to Planning Obligations

which has 4 plots and Raven Court, which has 6 plots. None of the aforementioned sites have water provision.

- South Hatfield - Hawthornes has 6 plots, Newstead has 4 plots and the council's sites at Bullrush Close and Badger Way both have 3 plots. The site at Deerswood Avenue is the council's largest in South Hatfield with 16 plots and has a 2500 litre rainwater harvesting system. Broom Close has 6 plots and also water provision.

3.37 The council also manages the Hawbush Close allotment in Welwyn Village, which has 10 plots and two 2500 litre rainwater harvesting systems.

3.38 In addition to this, there are a number of other allotment sites in the borough, which are managed by town or parish councils as well as allotment associations. These are located at:

- Digswell - This is managed by the Longcroft Allotment Association
- School Lane, Essendon - This is managed by Essendon Parish Council
- Green Lanes, Hatfield - This is managed by Hatfield Town Council
- Station Road, Welham Green - This is managed by North Mymms Parish Council
- Lockleys Drive, Welwyn - This is managed by Welwyn Parish Council
- Broadwater Road, Welwyn Garden City - This is managed by the Longcroft Allotment Association

3.39 The council's 'Open Space Study' found that there was considerable demand for allotment plots within Welwyn Hatfield, with waiting lists in many areas across the borough. This has recently been reinforced by the findings of the council's 'Green Infrastructure Plan', published in March 2011, which has shown that since the original study was completed back in 2009 demand for plots had increased significantly.

3.40 Coupled with this, there is an uneven distribution of allotments across the borough, with accessibility, in terms of residents living within 1km of an allotment, also limited in some areas.

3.41 Given this, it is the council's view that larger developments in the borough will generate a need for additional allotment plots, which should be provided on-site, to accommodate the anticipated additional demand for allotments that a new development will give rise to.

3.4 Play Facilities

Introduction

3.42 The location, content and design of children's play space should be appropriate to the needs of the local population. Fields in Trust recommends three main types of play space to cater for the needs of children of different ages. They are:

Approach to Planning Obligations

- Local Area of Play (LAP): small area of unsupervised open space specifically designated for young children for play activities close to where they live. They mainly cater for 4 - 6 year olds and should be appropriate for low key games such as hopscotch.
- Local Equipped Area for Play (LEAP): unsupervised play area equipped for children of early school age. These mainly cater for 4 - 8 year olds and should offer at least 5 types of play equipment.
- Neighbourhood Equipped Area for Play (NEAP): unsupervised site providing for a large residential area. Should cater for 8 - 14 year olds and should offer at least 8 types of play equipment.

3.43 The council's recommended local standards for the provision of formal play areas in the borough are 0.2 – 0.3ha of formal play provision per 1000 population and a 100m walk to a Local Area of Play (LAP), a 400m walk to a Local Equipped Area of Play (LEAP) and a 1km walk to a Neighbourhood Equipped Area of Play (NEAP). Recommended local quality features include clean and well-maintained sites, safe and secure areas and a range of play equipment.

Approach

3.44 The council will expect new play facilities to be provided on-site, for developments of 0.4 ha or above, in line with policy OS3 of the Welwyn Hatfield District Plan (2005). In cases where there is a reasoned justification for not providing play facilities on-site however, but where there is evidence that the development will give rise to a demand for play facilities, then the council will seek a contribution from the development, in the form of a standard charge, for the enhancement of existing facilities in proximity to the development, that would serve the development.

3.45 Furthermore, in cases where a development creates an additional demand for a larger scale play facility (e.g. a NEAP), or where there is shown to be a deficit in the provision of NEAPs in that area, then a contribution, in the form of a standard charge, will also be sought towards the provision of this facility.

Threshold

3.46 The charge will apply to residential developments of 10 units or more.

Standard Charge

3.47 The 'Open Space, Outdoor Sport and Recreation Study for Welwyn Hatfield' (2009) sets a recommended local standard for the provision of play space in the borough of 0.2 - 0.3ha per 1000 population, and the cost of providing a NEAP equates to £80 per sq m, which is derived from the Hertfordshire Infrastructure and Investment Strategy Summary Report (2009). Table 6.1 of the HISS gives a typical cost of £80,000 for a Neighbourhood Equipped Area for Play (NEAP), and the FIT Guidelines (Six Acre Standard) promote a minimum size of 1,000 sqm for NEAP (also promoted by WHDP).

Approach to Planning Obligations

3.48 Given this, the standard cost of providing a play space in the borough equates to £160 per person. This is based on the following calculation:

- 0.2ha = 2,000 sq m
- £80 x 2,000 = 160,000
- 160,000/ 1,000 (population) = 160

Table 2: Standard Charge for Play Facilities

£160 per person	Bedrooms ⁽³⁾					
	1	2	3	4	5	6+
Average Occupancy (persons per dwelling) ⁽⁴⁾	1.38	1.84	2.3	2.76	3.22	3.68
Contribution per dwelling	£220.80	£294.40	£368	£441.60	£515.20	£588.80

Policy

3.49 This approach is supported by the following policies of the adopted Welwyn Hatfield District Plan (2005):

- Policy IM2 Planning Obligations
- Policy OS3 Play Space and Open Space Provision in New Residential Development

3.50 Further to this Planning Policy Guidance Note 17: Planning for Open Space, Sport and Recreation (2002, republished in 2006) para 33 indicates that planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space, sports and recreational provision. Local authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local needs. PPG17 notes that it is essential that local authorities set local standards based on an assessment of need in order to justify planning obligations.

3 For the purpose of this SPD a bedroom is defined as a habitable room that is large enough to sleep in, and is not a bathroom, toilet, kitchen, hall, landing or room that can only be used for storage

4 Average occupancy is derived from dividing total population by the number of people per habitable room, and then multiplying this figure by the number of habitable rooms per dwelling. The full calculation is set out in Appendix 1

Approach to Planning Obligations

Evidence

3.51 In June 2009 the council published 'An assessment of Welwyn Hatfield's Open Space, Outdoor Sport and Recreation'. The study identified 67 sites which provide formal play provision for children and young people in the borough. This amounts to a total area of 5.68 hectares, which equates to 0.06 hectares per thousand population. Within this total provision, there are 0.04 hectares of LAPs and LEAPs per 1000 population and 9 NEAPs, which account for 0.02 hectares per 1000 population.

3.52 Provision for children and teenagers varies across Welwyn Hatfield, with most of the wards in the borough shown to be significantly below the recommended quantitative standard. Coupled with this, when the recommended accessibility standards are applied, whilst most residents are shown to have access to a local playground, there are a number of exceptions, with the following neighbourhoods having no play areas:

- North Cuffley
- Oaklands and Mardley Heath
- North Digswell
- North Welwyn
- Old Hatfield and The Ryde
- East and West Brookmans Park

3.53 Further to this, Hollybush is the only ward which actually meets the per 1000 population standard, primarily due to the size of King George V Playing Fields, with Hatfield South and Welham Green also having a relatively high level of formal play provision. In contrast Sherrards, Peartree, Howlands and Hatfield West wards have the lowest (under 0.03ha) provision in the borough. It should also be noted however that the areas of deficiency are spread across the borough, not concentrated in one ward.

3.54 Furthermore, a key concern is the current provision for older children and teenagers. There are only 9 NEAPs in the borough and 3 of these are concentrated in southern Welwyn Garden City, so many residents across the borough do not have access to facilities suitable for young people. The teenage shelter at Welwyn Playing Fields is categorised as a NEAP, but generally most of the NEAPs include a range of facilities. Notably, there is a lack of teenage facilities in Hatfield. The town's two NEAPs have Multi Use Games Areas (MUGAs) but these are pay and play and used by local sports teams, so are not freely accessible to teenagers.

3.5 Outdoor Sports Facilities

Introduction

3.55 The council's Sports Facilities Study (2011) identifies 45 community outdoor sports facilities in Welwyn Hatfield, excluding the 6 golf courses. Most of the facilities accommodate a range of different sports and 35 of the outdoor sports

Approach to Planning Obligations

facilities include playing pitches. Furthermore, there are 130 playing pitches (grass and artificial) in the borough. Other outdoor facilities include multi-use games areas (MUGAs) tennis courts, bowling greens, an athletics track and a dry ski slope. In total there are 156 ha of outdoor sports facilities in Welwyn Hatfield, which amounts to 1.44 ha per 1000 population.

- 3.56** All the facilities identified in the study are accessible to the local community in various ways. Most of the facilities (82%) are hired by clubs, so are used by club members. Five facilities are available on a pay and play basis and three facilities (David Lloyd, Dellcott Family Club and Orchard Lawn Tennis Club) are available to members.
- 3.57** The sports facilities in the borough are managed by a range of different organisations and bodies. The largest proportion (30%) are managed by private sports clubs, there are also a significant number of facilities run by school/college/universities (28%), local authorities (20%), trusts (11%) and commercial organisations (9%). There are also 6 secondary schools and 5 primary schools with community outdoor sports facilities. The number of facilities managed by trusts is quite high, primarily because the council has outsourced the management of their facilities to Finesse Leisure Trust. By contrast the town and parish councils manage their facilities in house. North Mymms Youth and Community Centre is the only facility managed by a community organisation in the borough.

Approach

- 3.58** In line with policy OS2 of the Welwyn Hatfield District Plan, on sites over 0.4 ha, where there are existing outdoor sports facilities and playing pitches in proximity to the development, that would serve the development, and are shown to be in need of enhancement, then contributions will be sought from developments for this purpose.
- 3.59** Further to this, on developments of 300 dwellings or more, where there is evidence of need, the council will look to the applicant/ developer to provide outdoor sports facilities and sports pitches on-site, in line with the council's local standards set out in the adopted Sports Facilities Study (2011).

Policy

- 3.60** This approach is supported by the following policies of the adopted Welwyn Hatfield District plan (2005):
- Policy IM2 Planning Obligations
 - Policy OS2 Playing Pitch Provision

Approach to Planning Obligations

Supporting Evidence

3.61 The Welwyn Hatfield Sports Facilities Study (2011) provides an assessment of indoor and outdoor sports facilities in the borough now and up to 2026. The study has identified that based on the findings of the playing pitch model and initial club feedback, the following total/additional pitch requirements should be planned for to 2026:

- Junior Football Pitches: 13 junior football pitches (predominantly required to meet demand in Welwyn Garden City and Hatfield)
- Mini Soccer: 1 mini football pitch (required to meet demand in Hatfield)
- Senior Football Pitches: 2 senior football pitches (both required to meet demand in Hatfield). Further to this, it is understood that Hatfield Town Football Club cannot find a pitch in the town suitable for their league aspirations and that as such one of these pitches may need to be designated for higher league football with stands, fencing and hard standing.
- Cricket: 3 cricket pitches (1 is required to meet demand in Welwyn Garden City, and the other 2 are needed to meet demand in Hatfield)
- Lacrosse: A new sand based Artificial Grass Pitch (AGP) and a new 3G AGP should be marked out for lacrosse.
- Rugby: 2 senior rugby pitches are needed to help accommodate the need for senior and junior rugby at Welwyn rugby club, local schools, and the University of Hertfordshire.
- Junior Rugby Pitches: 6 junior rugby pitches (although if current practice continues this demand can be met by playing on 2 new senior pitches)
- Hockey: A new sand based AGP is required for competitive Hockey in the borough and the preferred location for this is Welwyn Garden City
- Artificial Grass Pitches: 2 – 3 Artificial Grass Pitches (Welwyn Garden City is the preferred location for one of the AGPs)
- MUGAs: 14 Flood Lit Multi Use Games Areas are required to provide neighbourhood level access by 2026. Where possible need could be met by upgrading and lighting existing MUGAs in the borough.
- Outdoor Tennis Courts: 7 recreational tennis courts
- Bowling Green: 2 – 3 additional bowling greens
- Athletics Track: 1 – 2 additional lanes in an athletics track

3.62 The study also identified issues with the quality of existing sports facilities, and highlights the need to invest in the maintenance and enhancement of existing sports facilities in the borough to ensure they remain fit for purpose.

3.63 Further evidence on the quality of existing outdoor sports facilities, and standards for future provision, are set out in the adopted Sports Facilities Study (2011), which can be found on the council's website: www.welhat.gov.uk

Approach to Planning Obligations

3.6 Indoor Sports Facilities

Introduction

3.64 The Sports Facilities Study (2011) identifies that there are a wide range of indoor sports facilities within Welwyn Hatfield:

- Sports halls – 25 halls of 1 court and above, on 16 sites
- Swimming pools – 9 pools at 6 sites plus one lido currently closed, including 3 learner/training/diving pools
- Health and Fitness centres – 9 centres providing 530 stations
- Indoor tennis centres – 7 facilities on 4 sites, a combination of 18 traditional buildings, 4 framed fabric and 6 airhalls
- Indoor Bowls Centres – 1 venue with 4 rinks

3.65 Here, whilst some facilities are owned by the council, and managed by Finesse Leisure on its behalf, other major community sports halls are owned by the University of Hertfordshire and Welwyn Hatfield Sports Centre Leisure Trust (Gosling). In addition to this, Hatfield Town Council is also an important facility provider in the borough, with all other facilities owned and managed by schools, sports clubs and private operators.

3.66 Further to this, most sports halls are available to the wider community to use, with only 3 in private ownership; only two main pool venues are available for unrestricted public use; and health and fitness centres are primarily available to pay and use. The existing indoor bowls club is owned and managed by a local club, but widely available through membership, while the indoor tennis centres are mainly pay and play (3 centres), members only (2), and available to clubs and associations (3).

Approach

3.67 On sites over 0.4 ha, where there are existing indoor sports facilities in proximity to the development, that would serve the development, and are shown to be in need of enhancement, then contributions will be sought from developments for this purpose.

3.68 Further to this, on developments of 300 dwellings or more, where there is evidence of need, the council will look to the applicant/ developer to provide indoor sports facilities on-site, in line with the council's local standards set out in the adopted Sports Facilities Study (2011).

Policy

3.69 This approach is supported by the following policies of the adopted Welwyn Hatfield District Plan (2005):

- Policy IM2 Planning Obligations
- Policy CLT1 Protection of Existing Leisure Facilities

Approach to Planning Obligations

- Policy CLT2 New and Expanded Leisure Facilities
- Policy CLT7 Community Use of Education Facilities

Supporting Evidence

3.70 The Welwyn Hatfield Sports Facilities Study (2011) provides an assessment of indoor and outdoor sports facilities in the borough now and up to 2026. The study has identified that based on the findings of the playing pitch model and initial club feedback, the following total/additional pitch requirements should be planned for to 2026, depending on participation rates:

- Sports halls: 2 – 3 four court sports halls
- Swimming pools: 7 – 10 more lanes with full community access
- Health and Fitness Centres: 120 – 180 additional health and fitness stations
- Indoor Bowls: 3.5 – 4.5 additional indoor bowls rinks
- Indoor Tennis Centres: No need identified at present.

3.71 The study also identified issues with the quality of existing sports facilities, and highlights the need to invest in the maintenance and enhancement of existing sports facilities in the borough to ensure they remain fit for purpose.

3.72 Further evidence on the quality of existing indoor sports facilities, and standards for future provision, are set out in the adopted Sports Facilities Study (2011), which can be found on the councils website: www.welhat.gov.uk

3.7 Community Facilities

Introduction

3.73 To aid in the creation of sustainable places in the borough it is vital to ensure that communities are well served by a good range of accessible community facilities and services. Here, some facilities will need to be provided at a neighbourhood or village level, whilst others are more likely to be of a scale that they should be provided for at more strategic locations such as the town centres. Community facilities comprise a number of different services. However, for the purpose of this SPD, community facilities encompass purpose built community centres, community halls, church halls (used for community purposes) and village halls.

3.74 The standard for the provision of community facilities in the borough should be 1 facility per 4,000 people or per 1,740 dwellings. ⁽⁵⁾

Approach

3.75 On sites over 0.4 ha, where there are existing community facilities in proximity to the development, that would serve the development, and are shown to be in need of enhancement, then contributions will be sought from developments for this purpose.

5 Sourced from the 2010 Shaping Neighbourhoods, 2nd edition, by Barton, Grant and Guise.

Approach to Planning Obligations

3.76 Further to this, on developments of 1,500 dwellings or more, where there is evidence of need, the council will look to the applicant/ developer to provide community facilities on-site to support the creation of sustainable communities.

Policy

3.77 This approach is supported by the following policies of the adopted Welwyn Hatfield District Plan (2005):

- Policy IM2 Planning Obligations
- CLT13 Loss of Community Facilities

Supporting Evidence

3.78 Most of the settlements and neighbourhoods of Welwyn Hatfield have a reasonably good provision of community services and facilities. This is partly a reflection of the New Town legacy wherein Hatfield and Welwyn Garden City were planned to have neighbourhoods that contained community facilities and services that met day-to-day needs. Feedback from the council's issues and options consultation does, however, indicate that there are certain gaps and shortages in provision in terms of their distribution, for example some villages lack village halls, e.g Brookman's Park, and Oaklands and Mardley Heath.

3.8 Waste and Recycling

Introduction

3.79 The council will employ a standard charge approach to secure planning obligations from residential development in the borough for the delivery of waste and recycling facilities.

3.80 A standard charge has been developed here on the grounds that the provision of waste and recycling bins is a one-off capital cost which is directly attributable to the impact of a new development, and related in scale and kind to that development, in accordance with the 3 tests set out in the Community Infrastructure Regulations 2010.

3.81 The revenue costs of collecting waste and recycling bins will be borne by the council, as these are covered by council tax.

Approach

3.82 The council will have two charges for the provision of waste and recycling facilities based on the cost of providing bins to houses and flats in the borough:

Approach to Planning Obligations

- Charge 1, will apply to houses or flats with space/ storage for individual bins. This will be a set charge based on the provision of the bins specified in Table 3; and
- Charge 2, will apply to flats or dwellings with a shared bin store area. This will be a more bespoke charge, and will depend on the size of the development and tenure mix. Here, the council will advise applicants, at the pre-application stage, of what bins they will be expected to provide in their development and the charge that will be required for the provision of these bins. An indication of likely bin specifications is however provided in Table 3.

3.83 The charges will be based on the number and specification of bins to be provided in a residential development. The charges will be updated on a yearly basis and for this reason, are available to view on the council's website: www.welhat.gov.uk

Table 3: Provision of Waste and Recycling Bins

Applies to...	Waste and recycling bins to be provided...
House or flat (flat with space/ storage for individual bins)	Household waste bin Compost bin Recycling bin
Flats/dwellings with shared bin store area	<p>In flatted developments the council require a combination of the following refuse and recycling bins:</p> <p>Refuse:</p> <p>Either 1100 litre containers or alternatively we also offer 180, 240 or 360 litre bins, depending on the size of the development, access to recycling facilities and the likely recycling rates, as assessed by the council.</p> <p>Recycling:</p> <p>As a standard, two 360 litre bins on a lockable frame are provided, but again this is dependant on the size of the development. In some cases however residents could be provided with 240 litre bins for recycling and composting depending on the nature of the development.</p> <p>Developers will be advised of the exact numbers of bins/ bin specification they will need to provide as part of pre-application discussions.</p>

Approach to Planning Obligations

Threshold

3.84 Table 4 sets out the thresholds to which the charges for each type of development will apply.

Table 4: Thresholds for the provision of waste and recycling facilities

Charge...	Applies to...	Threshold
Charge 1	House or flat (flat with space/ storage for individual bins)	Residential developments of 10 units or more
Charge 2	Flats/dwellings with shared bin store area	Residential developments of 1 unit or more

Policy

3.85 This approach is supported by the following policies of the adopted Welwyn Hatfield District Plan (2005):

- Policy IM2 Planning Obligations
- Policy R5 Waste Management

3.9 Hertfordshire County Council Obligations

3.86 Hertfordshire County Council adopted their 'Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements)' in January 2008. This sets out the County Council's approach and justification for seeking planning obligations, and provides model template documents and contact details.

3.87 The County Council is responsible for ensuring the provision of a range of services and seeks contributions and/or facilities from development which would have an additional impact on service provision in the following areas:

- Sustainable transport measures such as highways and rights of way improvements (including payments for the provision of roads, byways, footpaths, bridleways, cycleways, bridges, bus infrastructure, and /or traffic signals as may be required)
- Passenger transport
- Education
- Libraries
- Youth and childcare
- Fire and rescue services
- Health and Community Service (formerly adult care services) - special needs accommodation and other services
- Other matters such as economic development, archaeology, waste facilities, green infrastructure, key worker housing.

Approach to Planning Obligations

3.88 Here, Welwyn Hatfield Borough Council will support the County Council in seeking planning obligations for the items outlined above, so long as need can be evidenced, and they meet the three tests set out in Community Infrastructure Regulations 2010.

3.89 The HCC Planning Toolkit states that the threshold for seeking contributions/ obligations for residential development is one dwelling, and that this applies up to a threshold of 300 dwellings, above which, developments will be considered individually and specific on-site or off-site provision may be sought for land or built facilities as set out within para 10.6 of the Toolkit. However, the practice of this council is to only apply the Toolkit to residential development of 10 units or more.

3.90 A copy of the Toolkit can be found on HCC's website <http://www.hertsdirect.org/your-council/hcc/resandperf/hertsprop/planningobs/>

3.10 Other Obligations

3.91 In addition to the obligations outlined in this chapter the council will also look to secure obligations to deliver the following, in line with the policies of the Welwyn Hatfield District Plan:

- Sustainable Urban Drainage Systems (SUDs) - Under Policies R7 and R10 of the Welwyn Hatfield District Plan the council may require developers to put in SUDs as part of a development to protect ground and surface water, and promote water efficiency. However, this would be covered by a condition, rather than an obligation where possible.
- Public Art - Here, the council will expect developers to include, as appropriate, the provision of an element of public art within proposals for new development, as per the provisions in Policy D10.
- Childcare Facilities - The council will seek to ensure that any large-scale employment generating development provides childcare facilities for its employees, either within the development, or in the form of the support for the provision of childcare provision elsewhere, under Policy EMP10 of the Welwyn Hatfield District Plan.
- Local Recruitment - Here, Policy EMP11 states that the council will enter into S106 agreement to secure programmes of local recruitment, where appropriate.
- Heritage Assets - In order to preserve listed buildings for the enjoyment of future generations, obligations will be sought via section 106 for the repair and maintenance of heritage assets, and the investigation and interpretation of archaeology, in accordance with national policy.

4 Procedure

- 4.1** This section provides advice to applicants on the council's procedures for securing planning obligations.

4.1 Pre-application Advice

- 4.2** It is recommended that developers enter into pre-application discussions with the council's planning officers, prior to the submission of a planning application, to ensure that the potential for a site is optimised and that any potential delays can be avoided.
- 4.3** As part of the pre-application process, officers, in conjunction with statutory consultees, will identify the need for a S106 Agreement or Unilateral Undertaking, and the nature of the planning obligations likely to be required, in line with Regulation 122 of the Community Infrastructure Regulations 2010. Here, it is intended that this SPD will form the basis for any discussions on planning obligations, along with the HCC Planning Obligations Toolkit, and the Welwyn Hatfield District Plan (2005).
- 4.4** Advice will be provided in the form of written comments designed to assist in the submission of a planning application. Pre-application advice is given in good faith and represents the case officer's professional view. The level of advice provided is however dependant on the quality of information available at the time of the enquiry, and does not automatically mean that an application will be granted/refused permission.
- 4.5** Details of the council's pre-application process and the fees associated with the provision of this advice can be found on the council's website: <http://www.welhat.gov.uk/preapplicationadvice>

4.2 Drafting of Agreements

- 4.6** Following pre-application discussions, where it has been agreed that a planning obligation is required, applicants will be expected to submit heads of terms with their application, for agreement by the council. Before entering into an obligation however, the council would recommend that applicants consult a solicitor. Further to this, applicants should also be aware that all parties with a land ownership interest should enter into a S106 Agreement or Unilateral Undertaking (including mortgagees) and that the council (and where appropriate the County Council) will require a proof of title before the agreement can progress.
- 4.7** As part of the application process the S106 Agreement or Unilateral Undertaking will then be finalised. Copies of the council's standard templates for Affordable Housing, S106 Agreements and Unilateral Undertakings are available to download from the council website at www.welhat.gov.uk

Procedure

4.8 The drafting of Section 106 Agreements and the checking of Unilateral Undertakings will be undertaken by either the Council's Legal Team, or by solicitors appointed by the council to represent them, and/or, where appropriate, by the County Council. Applicants will however be required to pay any legal fees incurred in the drafting and checking of legal documentation by Welwyn Hatfield Borough Council and Hertfordshire County Council, and a solicitor's undertaking will be required from the applicant before proceeding with this work.

4.3 Cumulative Applications

4.9 In the interests of promoting sustainable development in the borough, the council will assess the cumulative impacts of the development on adjacent sites (including sites that have been split) where the combined total of units on those sites exceeds the threshold of 10 units, and will seek planning obligations accordingly.

4.4 Monitoring and Administration Contribution

4.10 A contribution will be sought by the council towards the costs associated with administering each S106 Agreement and Unilateral Undertaking, and monitoring compliance with each agreement. The council will seek a contribution equivalent to 5% of the total value of the planning obligations, capped at a maximum of £5,000.

4.11 This contribution will be separate to any pre-application or planning application fees.

4.5 Maintenance Contributions

4.12 ODPM Circular 05/05 states that...“Where contributions are secured through planning obligations towards the provision of facilities which are predominantly for the benefit of the users of the associated development, it may be appropriate for the developer to make provision for subsequent maintenance (i.e. physical upkeep).” Given this, the council will seek a reasonable maintenance contribution from developers, on a discretionary basis, for the upkeep and maintenance of such facilities.

4.13 However, where an asset is intended for wider public use, contributions towards maintenance will only be sought until such time as the facility passes to the body or authority in which the asset is to be vested, in accordance with Circular 05/05.

4.14 Maintenance contributions will however be in addition to the contributions set out in this SPD.

4.6 Off-site Provision

- 4.15** Where it can be justified that the on-site provision of certain types of infrastructure is not appropriate, the council may enter into an agreement with the developer to allow for provision to be made off-site, or for a financial contribution to be made towards off-site provision.

4.7 Pooled Contributions

- 4.16** Where appropriate, contributions from more than one developer may be pooled to enable the council to secure the delivery of a single piece of infrastructure in an area. However, from 6 April 2014, or on the date that the council's first charging schedule takes effect (whichever is earlier) the council will only be able to pool up to five individual planning obligation contributions towards infrastructure that is capable of being funded by CIL.
- 4.17** When pooling contributions, the council will ensure that the pooled benefits relate to the development from which they were raised, and will contribute to the delivery of programmes or schemes identified in the relevant planning obligations (i.e. either Section 106 Agreements or Unilateral Undertakings). This approach facilitates the realisation of benefits from smaller, cumulative developments as well as being able to effectively manage larger developments on a case-by-case basis.

4.8 Indexation

- 4.18** To ensure that the value of an obligation does not reduce over time all monetary contributions paid to Welwyn Hatfield Borough Council will be index linked from the date of adoption of this SPD.
- 4.19** Here, the Retail Price Index (RPI) will be used as a measure of indexation for ongoing non capital costs (for example open space maintenance), and PubSec will be used as a measure of indexation for all capital costs.
- 4.20** Where money is to be paid to Hertfordshire County Council, indexation will be calculated by the County Council as set out in the HCC Planning Obligations Guidance Toolkit.

4.9 Bonds

- 4.21** In cases where a developer intends to carry out work themselves (e.g. through providing a new community centre as part of a development), or where payments are phased, a bond will be required. The bond sum can then be drawn upon to provide the facility if the works are not carried out as agreed.

Procedure

4.10 Payment of Contributions

4.22 As a rule, the council would expect the payment of financial contributions to be on or before the commencement of development in order to co-ordinate the delivery of any planning obligations with the delivery of the development. This should be agreed at the planning application stage and be set out in the Section 106 Agreement or Unilateral Undertaking.

4.23 In the case of larger development schemes, it may be acceptable to phase payments. However this will require the production of a phasing agreement with appropriate trigger points, to be agreed with the council. Following this, the onus will be on the developer to inform the council when the relevant triggers have been reached.

4.11 Re-payment of Contributions

4.24 If, after 10 years from the date of the section 106 agreement or unilateral undertaking, any monies remain unspent, then the council will undertake to repay all unspent obligations, back to the applicant.

4.12 Viability

4.25 The council recognises, that in certain market conditions, the overall level of contribution attributed to a scheme can, from time to time, affect the financial viability of a development proposal. A key objective of the SPD is to inform applicants of the likely planning obligations that will be required from development at the earliest possible stage in the process so that any likely implications for scheme viability are considered at the outset. Decisions on the level of contributions will be based on negotiation with developers over the level of contribution that can be demonstrated as reasonable to be made whilst still allowing development to take place.

4.26 The Council's Development Economics Study (DES), published in July 2010, examined the economic viability of land for housing development in the area. When assessing the viability of imposing a CIL charge on new development in the borough, the study has accounted for a baseline charge of £10,000 per unit across variable rates of affordable housing delivery. The study highlighted that a potential CIL charge of £10,000 per unit should not routinely hold back sites across the borough. It also examined the likely impact of a potential CIL charge of £23,000 per unit and whilst such charges would have an impact on the residual values of a scheme, in the absence of significant abnormal costs, middle and higher value areas of the borough should be able to absorb these costs without comprising overall scheme viability. Given this, whilst the housing market data in the study relates to October 2009, the council is confident that the level of charges set out in this SPD are well within the parameters of viability for most types of residential development in most locations.

Procedure

- 4.27** Where a developer considers the planning obligations (including the level of affordable housing provision) required by the council to impact on the viability of a development proposal, the onus will be on the developer to demonstrate this through a robust open book appraisal. The council will expect all appraisals to be conducted using the council's bespoke Three Dragons Toolkit, which will be made available to applicants at a fee. Further information on the Toolkit is provided below.
- 4.28** Following this, as part of the planning application process, the appraisal should then be submitted to the council for consideration, along with a statement setting out which values have been used and why.
- 4.29** The appraisal carried out using the Three Dragons Toolkit may not in all circumstances result in the council and the developer reaching agreement on the levels of affordable housing and planning obligation payments which can be provided in a development. In this case the applicant may be required to commission an independent open book financial appraisal by an appropriate assessor, for the council's consideration.
- 4.30** A fee will be charged to cover the cost of officer time associated with assessing viability appraisals. However this will form part of the planning application fee under the new fee system, which is intended to be introduced in 2012. Details of the council's fees and charges will be available on the council's website www.welhat.gov.uk

The Three Dragons Toolkit

The Toolkit provides the user with an assessment of the economics of residential development. It allows the user to test the economic implications of different types and amounts of planning obligation and, in particular, the amount and mix of affordable housing. It uses a residual development appraisal approach which is the industry accepted approach in valuation practice.

The Toolkit compares the potential revenue from a site with the potential costs of development before a payment for land is made. In estimating the potential revenue, the income from selling dwellings in the market and the income from producing specific forms of affordable housing are considered. The estimates involve (1) assumptions about how the development process and the subsidy system operate and (2) assumptions about the values for specific inputs such as house prices and building costs.

The main output of the Toolkit is the residual value. In practice, there is a 'gross' residual value and a 'net' residual value. The gross residual value is that value that a scheme generates before Section 106 is required. Once Section 106 contributions have been taken into account, the scheme then has a net residual value, which is effectively the land owner's interest.

Procedure

4.13 Enforcing Planning Obligations

- 4.31** Planning Obligations are enforceable under Sections 106(5),(6),(7) and (8) of the Planning and Compensation Act 1991, which enables a local authority to:
- Apply to the courts for an injunction or to recover contributions payable [Section 106(5)].
 - Carry out any operations required by the Planning Obligation and recover the cost from the person(s) against whom the obligation is enforceable [Section 106(6)].
- 4.32** If it is evident that the planning obligation is not being complied with, the council may instigate enforcement action. This will initially involve contacting the applicant in writing to remind them of their obligations.
- 4.33** If the planning obligation is still not complied with the council's legal services will be instructed to take appropriate action to secure compliance with the terms of the planning obligation.
- 4.34** To ensure compliance with planning obligations, the council will include appropriate clauses in the terms of all legal agreements securing the payment of monetary obligations to the authority.

Dwelling Occupancy Rates for Welwyn Hatfield

Appendix 1 Dwelling Occupancy Rates for Welwyn Hatfield

In order to work out a standard charge based on average occupancy (persons per dwelling), the following calculation was undertaken:

Part 1: Calculate Average Occupancy Rate for the Borough

The population of the borough stood at 97,553 in 2001 (2001 Census data).⁽⁶⁾

The total number of habitable rooms in the borough is 212,138. This is calculated using the 2001 Census data for households by number of rooms to work out the total number of habitable rooms (see Table 5 below).

Table 5: Average Occupancy Rate for the Borough

Number of rooms per household	2001 Census data: Households by number of rooms	Total number of rooms (Households by number of rooms x number of rooms e.g 248 x 1, 864 x 2 etc)
1 room	248	248
2 rooms	864	1,728
3 rooms	4,044	2,132
4 rooms	6,714	26,856
5 rooms	11,001	55,005
6 rooms	7,754	46,524
7 rooms	4,107	28,749
8 rooms	5,112	40,896

The average occupancy rate for the borough is therefore 0.46 people per habitable room. This is based on total population divided by total number of habitable rooms.

Part 2: Calculate Average Occupancy Rate per Dwelling

To calculate the average occupancy rates per dwelling the following assumptions have been made:

6 The Census is generally acknowledged to be the most accurate way of counting the population. However, data from the Census carried out in March 2011 is unlikely to be published at local authority level until at least 2012/13. Hence, the last published data set relates to the 2001 Census. This calculation will be updated once final data is published on these datasets from the 2011 Census.

1 Dwelling Occupancy Rates for Welwyn Hatfield

- 1, 2 and 3 habitable rooms = 1 bedroom
- 4 habitable rooms = 2 bedrooms
- 5 habitable rooms = 3 bedrooms
- 6 habitable rooms = 4 bedrooms
- 7 habitable rooms = 5 bedrooms
- 8+ habitable rooms = 6+ bedrooms

The number of habitable rooms per dwelling have then been multiplied by 0.46 (the average occupancy rate for the borough) e.g. 3hbr x 0.46 = 1.38

The dwelling occupancy rates for Welwyn Hatfield are therefore as follows:

Table 6: Average Occupancy Rate per Dwelling

	Bedrooms					
	1	2	3	4	5	6+
Average Occupancy (persons per dwelling)	1.38	1.84	2.3	2.76	3.22	3.68



The Planning Obligations Supplementary Planning Document

is produced and published by:

Planning Policy

Welwyn Hatfield Borough Council

The Campus

Welwyn Garden City

Herts AL8 6AE

Telephone: **01707 357 532**

Email: planningprojects@welhat.gov.uk

The Planning Obligations Supplementary Planning Document is also available to view and download free of charge from the council's website www.welhat.gov.uk

If you would like to receive this document in a different format please call **01707 357000** or email contact-whc@welhat.gov.uk



LDF *

Putting people first.

**WELWYN
HATFIELD**
BOROUGH COUNCIL

