

Planning Obligations

Supplementary Planning Guidance

December 2007



SUPPLEMENTARY PLANNING GUIDANCE

PLANNING OBLIGATIONS

RUNNYMEDE BOROUGH COUNCIL

December 2007

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SUPPLEMENTARY PLANNING GUIDANCE - PLANNING OBLIGATIONS

Background to Consultation

1. The Council adopted this Supplementary Planning Guidance (SPG) on Planning Obligations in December 2007. It outlines the mechanism for setting a consistent approach with regard to the use of planning obligations, also known as Section 106 Agreements, to support the social and physical infrastructure associated with new development.
2. The SPG draws on the work of the 11 Surrey Local Planning Authorities (LPA's) who have been acting in concert to develop consistent planning policy guidance across a spectrum of issues. The Planning Collaboration Project produced detailed advice intended to form the basis of a Supplementary Guidance (SPG) to be adopted individually by every Surrey LPA.
3. The Planning Collaboration work on planning obligation complemented early work by the Council. The SPG draws the work together to form the basis of guidance on planning obligations until such a time as the Local Development Framework Supplementary Document (LDF-SPD) is adopted. The SPG sets out the mechanism for implementation and an indication of the scale of fees proposed. The Borough Council is satisfied with the principles established for those aspects of the social and physical infrastructure requirements associated with matters for which it has a responsibility. However, those aspects that are a County Council function (education, transport and libraries) and in particular the scale of contributions, are included here to give a full picture but on which the Borough Council considers direct discussion will need to take place between the applicant and County Council at the appropriate stage.
4. The Council resolved to adopt the SPG in December 2007, but deferred implementation until the 1st April 2008. The SPG will remain in place until a formal LDF - SPD has been adopted.

PLANNING OBLIGATIONS

SUPPLEMENTARY PLANNING GUIDANCE

This Note explains how Runnymede Borough Council (in common with many other Planning Authorities in Surrey) wish to implement Planning Obligations under Section 106 of the Town and Country Planning Act 1990. Such obligations are a recognised delivery mechanism for matters that are necessary to make a development acceptable. They have become increasingly important to the provision of social and physical infrastructure

A separate document is attached setting out in more detail the basis on which the formulae and standard charges have been calculated and the rationale behind them. See '**Planning Obligations and Infrastructure Provision Code of Practice – Basis for Calculating Formulae and Standard Charges**' located at Annex 1.

1 Status

- 1.1 Government advice in Circular 05/05 'Planning Obligations' (*Office of the Deputy Prime Minister July 2005*) is that local planning authorities should include general policies about the principles and use of planning obligations in their new-style Development Plan Documents. It adds that more detailed policies applying these principles ought then to be included in Supplementary Planning Documents.
- 1.2 This will allow developers to predict as accurately as possible the likely contributions they will be asked to make through planning obligations, and therefore to anticipate the financial implications for development projects.
- 1.3 The advice goes on to state that even where a local planning authority does not have a 'high level' policy specifically relating to planning obligations in its adopted local plan, it should set out detailed implications of other policies for planning obligations in a Supplementary guidance, based on the policies set out in Circular 05/05. This arrangement should only be followed in the transitional period before the general policies referred to in 1.1 above are adopted.
- 1.4 The SPG has been developed as part of a collaboration project among all 11 Surrey Districts and the County Council. It does not seek to change previously adopted or 'saved' policies. Its purpose is to set out common practice and procedures for capturing infrastructure contributions across the Surrey Districts in accordance with adopted policies and nationally recommended best practice. Runnymede is using it as an interim administrative measure and will eventually incorporate the work into an appropriate Supplementary Planning Document.
- 1.5 The principle innovation is the codifying of certain infrastructure contributions for smaller 'windfall' schemes. In Surrey, S106 contributions have usually only been sought for large schemes, resulting in a significant shortfall in funds to provide public services, compared with other areas. The SPG extends infrastructure contributions on a standard basis to every scheme involving a net additional dwellings or commercial floor space. Each application will need to include a unilateral obligation to make a contribution to infrastructure.
- 1.6 Central government has recently announced legislative changes to enable local authorities to levy a new statutory planning charge to support new local infrastructure instead of using S106 powers. That intention provides further support for the approach in this SPG. If it is enacted the arrangements in this SPG would be changed as part of the imminent LDF - SPD

2 Background Guidance about Planning Obligations

Legal Context

- 2.1 The power of a local planning authority to enter into a Planning Obligation with anyone having an interest in land in their area is contained in section 106 of the Town and Country Planning Act 1990 (as amended by Section 12 of the Planning and Compensation Act 1991). Planning Obligations made under section 106 comprise both obligations and unilateral undertakings. Government advice on the use of section 106 is contained within Circular 5/05 'Planning Obligations' (Office of the Deputy Prime Minister, July 2005).
- 2.2 A Planning Obligation may only be created by a person with an interest in the relevant land, and may be created either by means of an agreement with the local planning authority or by means of a unilateral undertaking. An Obligation may restrict development or the use of land, need specific works to take place or need a financial contribution towards a work or service of public benefit (for example a new community building or play area).
- 2.3 The main features of a Planning Obligation are:
- It applies to the land, so enforcement of it would be against the person who agreed it (normally the applicant) or their successor in title.
 - It can also be enforced by a legal injunction. Where a person has defaulted on a requirement to carry out works on the land, the local planning authority may enter onto the land to enforce the terms of the Obligation and also claim back its reasonable costs arising from this action.
 - It can contain a restriction on use of the land or a requirement for works to be undertaken thereon, that can be for an indefinite period, a stated period, or a period defined by reference to some future event, e.g. the completion of specified works.
 - Contribution(s) may be expressed as being due:
 - (a) Singly, on a specified date, or one that can be derived from defined future event(s),
 - (b) In instalments, the amounts of which can be stated or derived from a formula, that are payable on specified dates or on dates based on future events, e.g. stages of the development, and
 - (c) Singly or in instalments, the amounts of which can be stated or derived from a formula, that are payable on specified dates(s), or at defined times after the completion of the development, e.g. to contribute to maintenance needs.
 - Under the Local Land Charges Act 1975, it must be registered as a local land charge in the register kept by the Council and open to public inspection; this being of special importance to a prospective purchaser of the land.
 - It can be varied with the agreement of the local planning authority; there is also a formal application and appeals process in certain circumstances.

What can be included in Planning Obligations?

- 2.4 The planning system works on the principle that planning permissions cannot be bought from or sold by a local planning authority. Negotiations to gain benefits from development proposals must take place in a way which is seen to be fair and reasonable. By working this way, Planning Obligations can improve the quality of development proposals which might otherwise have to be refused because they lack required services or infrastructure.
- 2.5 Planning Obligations must be related to the scale and nature of the development being proposed. Circular 5/05 requires Planning Obligations to meet the following tests. They have to be:
- Necessary to make a proposal acceptable in planning terms;

- Relevant to planning;
- Directly related to the proposed development;
- Fairly and reasonably related in size and type to the proposed development; and
- Reasonable in all other respects.

2.6 It follows that the Council acting as local planning authority cannot allow unacceptable developments because of unnecessary or unrelated benefits that the applicant may be offering. Equally applicants cannot be expected to pay for facilities which are only needed to deal with existing shortfalls in the area.

Current Best Practice

- 2.7 In recent recommendations the Audit Commission (Securing Community Benefits Through The Planning Process – August 2006) describes three different policy approaches to Planning Obligations dealing with community benefits:
- The detailed service based policy, described in Circular 05/05. The basis of the approach is to develop detailed supplementary planning guidance (now Supplementary Planning Document). This would determine contributions based on formulae and standard charges that would vary according to the type of development and its location.
 - A discretionary case-by-case approach based on Local and Structure Plan policies, with no detailed supplementary policy in place.
 - Fixed tariffs and formulae similar to the service-based policy above, but in aggregate form (as pioneered at Milton Keynes). The total contribution is based on the impact of all the proposed developments in the area, and is shared between them.
- 2.8 The Commission's advice is that the first approach is preferred to the second, as experience has shown that it is more successful in delivering benefits. In respect of the third approach they comment that it has potential advantages of clarity, transparency and simplicity of operation, but is still at an early stage of development.
- 2.9 Also relevant is the Department of Communities and Local Government's Best Practice Guidance, published in August 2006. This guidance brings together a range of case study examples illustrating how local planning authorities (LPAs), developers and others are working together to deliver Planning Obligations effectively. The aim of the guidance is to provide LPAs and anyone carrying out development with practical tools and methods to help improve the development, negotiation and implementation of Planning Obligations.

Obligations and Planning Policies

- 2.10 The implementation of Planning Obligations by Runnymede Borough Council is supported by saved policy DN1 contained in the Surrey Structure Plan 2004 that will remain in place until the relevant parts of the LDF are adopted.

Structure Plan Policy DN1 explains:

Local planning authorities will not permit development unless the infrastructure that is required to service the development is available or will be provided within a timescale determined by the local authorities.

In assessing infrastructure requirements local planning authorities will have regard to the cumulative impact of development.

The developer will be expected to provide or contribute to the infrastructure improvements related to new development including any requirements emerging out of Local Development Frameworks.

The explanatory text notes that:

- By seeking to accommodate most of the additional development (in Surrey) within settlements, existing infrastructure can be used more efficiently by utilising spare capacity and the provision of major new infrastructure can be kept to a minimum.
- LDFs should include an assessment of infrastructure capacity and opportunities for expansion. This will inform the scale and location of development opportunities. Where such a local assessment has been undertaken, it will justify a standard approach to developer contributions for all proposed developments within the relevant area.
- There is established good practice guidance in Surrey: “Infrastructure and Amenity Requirements to Support New Development” (SLGA October 2002 www.surreycc.gov.uk/yourenvironment). This aims to set out a consistent and co-ordinated approach to securing infrastructure contributions throughout the county.

The Collaborative Approach in the SPG

- 2.11 In the collaboration work that developed the initial draft of this document it was acknowledged that the existing situation in Surrey is unsatisfactory, and does not follow current best practice. Very few authorities have formal guidance on handling S106 contributions, and those that do relate mainly to larger developments. There are a vast number of smaller schemes that escape any contributions, despite cumulatively adding significantly to the population and infrastructure burden. The established Surrey Infrastructure Guide referred to above was a worthy attempt to address the problem but was not followed through to implementation.
- 2.12 The situation cannot be resolved fully until each district has completed the necessary work on the Local Development Framework. During that process detailed assessments will be made of local infrastructure capacity, allowing the kind of location-specific contributions advocated in the best practice guidance to be identified.
- 2.13 However, in carrying this through it is important to consider the advantages of implementing a common approach across all the districts in the County. There are many examples where general problems resulting from the increase in population are encountered countrywide. Transport, education, open space and community facilities are all functions that are administered by local authorities and where experience has shown that there is a general under-provision of facilities. There is already much evidence about the inadequacy of infrastructure capacity.
- 2.14 To this end a co-ordinated and consistent approach is needed in the Surrey Authorities’ emerging development plan documents. This will aim to establish standard tariffs and contributions for the same type of infrastructure so that the development industry is not confronted by widely varying requirements from one local authority to another. This approach also ensures consistency of infrastructure and service provision across LA administrative boundaries. It is also evident that the ‘fixed tariff’ approach (the third approach referred to by the Audit Commission) has much to commend it for some of these types of contribution throughout Surrey, delivering clarity and simplicity. It is particularly appropriate for the smaller ‘windfall’ schemes that characterise much of the housing delivery in the County (some 50% of annual completions in Runnymede is on windfall sites under 1 ha).
- 2.15 The SPG aims to do two main things in advance of the main LDF process. First, to standardise the administrative procedures and monitoring across the districts, to improve delivery, clarity and transparency. Second, to set out standard tariffs for those types of infrastructure contributions already collected on an ad hoc basis and which are suited to the tariff approach. This should improve receipt of financial contributions while making the system more predictable for users.

- 2.16 The collaboration project indicated that there would be tariffs for those types of infrastructure where each district already has different policy thresholds, for example in relation to affordable housing. These are addressed on a case-by-case or district-by-district basis as at present, until the LDF process has moved further forward. Further details are set out below.
- 2.17 The collaborative approach in Surrey was reported to the EiP of the South East Plan. The Panel report expressed support for the Surrey approach and is recommending the adoption of a high level policy for the London Fringe Sub-Region requiring authorities to collaborate on the development of a small-scale sites tariff.

3. Implementation by Runnymede Borough Council of the Interim Planning Obligations Policy

3.1 In the interests of providing a transparent process that minimises uncertainty for applicants and unnecessary delays, the Council will implement the interim SPG on Planning Obligations by:

- the use of formulae and standard charges,
- a model section 106 agreement (and model clauses),
- model wording for Committee reports, and
- a scheme for monitoring obligations.

Overview of Process

3.2 The process is shown in summary form on the attached 'Planning Obligations Flowchart'. The key components of the process are:

Formulae and Standard Charges

3.3 **The formulae and standard charges which are expected to be built into a Planning Obligation, to meet the provision of infrastructure that is necessitated by a development proposal, are set out in the attached 'Formulae and Standard Charges' document.**

3.4 Circular 5/05 recognises that the use of formulae and standard charges can help to speed up negotiations and ensure predictability, by indicating in advance the likely size and type of contributions that are required. They are particularly suited to smaller 'windfall' sites where individual case-by-case negotiations would be time consuming and potentially expensive, yet would result in a very similar outcome.

3.5 In some cases it will be better to provide the infrastructure itself, rather than a standard contribution towards it. This is often the case on larger sites, where some of the infrastructure necessary to meet the needs of new residents and businesses would be provided directly on site. A good example would be recreation space, and in these circumstances the relevant standard tariff would be waived. (See 'Formulae and Standard Charges' document.) Where standard charges are applicable, they have been calculated using the cost of new provision per additional person. These will be reviewed annually and updated as necessary.

Pre-Application Discussions

3.6 Prior to the submission of a planning application for a major development, the applicant is recommended to contact the Council, with a view to seeking pre-application advice. The applicant will be expected to have familiarised him or herself with the details of this Note and the Formulae and Standard Charges Document. Pre-application discussions should aim to provide an early opportunity to obtain the local planning authority's view of a development proposal and to clarify the likely requirements of a Planning Obligation. The Formulae and Standard Charges Section below will assist in pre-application discussions.

Application Submission

- 3.7 Whether pre-application discussions have taken place or not, applicants should include with their planning application a draft unilateral undertaking, or a section 106 agreement. Applicants should ensure that the requirements of the Formulae and Standard Charges document are reflected in their submitted application. If the application does not include the required draft agreement or unilateral undertaking, the Council will treat the application as incomplete and it will not be processed or may have to be refused (see 3.10 and 3.11 below).

Model Section 106 Agreement

- 3.8 A **draft model agreement is attached** and should be used as a template, appropriately adapted for submission with the application. This is based on the Law Society's model agreement. Relevant parts of the agreement should be used to suit the circumstances of the proposal.

Processing Planning Applications

- 3.9 The Council will aim to process, within the nationally set target time for determining planning applications, any valid application that includes a draft S106 agreement.

Officers Report to Planning Committee

- 3.10 The SPG requires early commitment to any Planning Obligations that may be necessary to make a development proposal acceptable in planning terms. Provided the SPG is followed, and there is agreement and commitment to the requirements of the Planning Obligation at an early stage, determination of a planning application should be relatively quick. In view of this the Council will operate a practice of using dual recommendations where Planning Obligations are involved, and if the applicant has not completed the necessary work on the obligation, the Council will refuse the application.

3.11 Model Wording for Committee Reports:
Either Recommendation A

Subject to the applicant first entering into an appropriate legal agreement (at no cost to the Council) for/to secure....., by no later than (date-8 or 13 week target), permission be granted subject to the following conditions;

Or Recommendation B

In the event that the requirements of recommendation A are not met by (date – 8 or 13 week target), the Director of Technical Services be authorised to refuse planning permission on the following grounds:

1. In the absence of a completed legal agreement under section 106 of the Town and Country Planning Act, 1990 (as amended), the applicant has failed to comply with Policiesof the.....Development Plan in relation to.....issues."

Register as a Local Land Charge

- 3.12 Once completed the legal agreement is entered in the Local Land Charges Register that is available for inspection by the public.

Implementation and Monitoring of Planning Obligations

- 3.13 Once development is commenced it is important that the undertakings that have been agreed are complied with; and that any contributions are provided on time or as otherwise required by the Council or other benefiting stakeholder. The developer will be expected to inform the local planning authority when any development is about to commence unless some other trigger mechanism has been agreed. This will initiate the necessary steps to be undertaken to comply with the terms of the agreement, or will be the starting point for ensuring that any future obligations and contributions in the agreement are met.
- 3.14 The Council will develop a monitoring database and will chase up contributions etc. as they fall due. Failure to comply may result in warning letters being sent and ultimately injunctive action to halt development on site until the obligations have been met.
- 3.15 Variation and discharge of undertakings will only be considered formally, whether by a deed of agreement or an application following the necessary publicity. If specific obligations are time limited and cannot be met within the prescribed period then arrangements will be made for any unspent financial contributions to be returned where appropriate. Note that this would not normally apply to tariff payments.
- 3.16 Annual reports will be produced that identify the various benefits that have been provided from undertakings implemented during the year and to show how such benefits have contributed, or will contribute in future, to the infrastructure and essential public services of the area.
- 3.17 Due to the level of new monitoring work that will result from the scheme a monitoring charge of 5% will be added to the total contributions calculated for each S106 agreement document. This will be used to fund officer time to ensure that the Standard Charges have been properly calculated, the charge is collected; and funds are allocated to and spent by the appropriate beneficiaries. It will also be used to fund production and publication of the annual reports identified in 3.16 above.

4. RUNNYMEDE BOROUGH COUNCIL S106 PLANNING INFRASTRUCTURE CONTRIBUTIONS FORMULAE AND STANDARD TARIFFS

- 4.1 The Audit Commission has identified the following infrastructure and services where community benefits are secured through the planning process. In the following lists benefits have been grouped together to identify those that will be negotiated individually and those that are subject to a standard tariff.

Individual Assessment or On-Site Provision

Generally applicable on larger sites or in specific locations

Affordable Housing
Flood Defence, Alleviation and Mitigation and SUDS or appropriate measures
Healthcare
Fire and Rescue
Town Centre Improvements
Archaeology and Conservation of the Built Environment
Renewable Energy

Standard Tariff to Surrey County Council (see over for details)

Highways, Transport and Travel Schemes
Education
Libraries

Standard Tariff to Runnymede Borough Council (see over for details)

Yellow school bus service (congestion levy)

Recycling

Crime and Disorder Prevention

Recreation (within Sangs zone)

Recreation (outside Sangs zone)

4.2 For larger sites applicants should always contact the Council as there may be circumstances where site-specific provision is more appropriate than payment of a standard charge. For all other sites the applicant should complete the Standard Charges sheets and submit them with the planning applications.

4.3 More detail about the basis on which the formulae and standard charges have been calculated and the rationale behind them is set out in a separate document: 'Planning Obligations and Infrastructure Provision Code of Practice – Basis for Calculating Formulae and Standard Charges'.

How to complete the Standard Charge Sheets

4.4 The standard tariffs specified below are set at a level to cover the cost of new infrastructure needed by the estimated standard number of additional residents or workers that would occupy a development.

4.5 No tariff will be levied on affordable housing units (as defined in PPS3 and confirmed in the S106 obligation). Affordable housing normally accounts for 40% of total housing delivery so the resulting charge sought from housing developments that provide affordable units is correspondingly below that which would otherwise be required. A lower charge will both encourage the delivery of affordable housing and avoid the criticism that charging for affordable housing would represent a double charge to the developer. If a developer chooses to provide 100% affordable housing on a site the tariff payable under this code would be zero. A separate Interim SPG has been prepared for Affordable Housing, with technical notes sets out the approach with regard to the financial assessments for sites with affordable housing.

4.6 Similarly no charge for certain infrastructure and services will be made for elderly persons dwellings (so long as the S106 obligation limits occupancy to the elderly).

4.7 No charge is levied on 'householder' extensions to existing dwellings, nor to very small commercial developments (where the size is below the threshold for employing one extra worker – see table on charge sheet).

4.8 Where demolition is involved the number of dwellings or floorspace in the existing development (or previous development if it was demolished in the preceding 3 years) should be subtracted from the new development.

4.9 For changes of use the tariff is calculated by comparing the dwellings or floorspace in the proposed development with the dwellings/floorspace in the existing lawful use.

4.10 To assess the house size (based on the number of bedrooms) any additional habitable room capable of realistic use or conversion as a bedroom should be included. Habitable rooms capable of future use as a bedroom will include, for a house with two or more storeys, any room at first floor level and above with an external window (excluding bathrooms and the like) and with a floor area greater than 6.5 sqm.

4.11 The tariff will be sought for all relevant Full and Outline Planning Applications. Where insufficient information is available to calculate the tariff at the Outline Application stage the Council will estimate the charge payable in negotiation with the applicant, based on predicted dwelling numbers and sizes, floorspace and land uses. Should this estimated amount fail to reflect the actual necessary tariff, when it is reviewed at

the Reserved Matters Application stage, to correct this a Deed of Variation will be sought from the applicant to accompany that application.

- 4.12 For a mixed residential and commercial development the charges sheets for both types of development should be completed and the totals added together.
- 4.13 In all cases a 5% monitoring fee should be added to the final figure.
- 4.14 Once calculated, the total figure should be entered on the standard charges sheet and included with the application. It will become payable on commencement of the development unless the Council agrees that an alternative timetable is appropriate (for example on a larger phased development), in which case the alternative agreed timetable should be specified in the obligation.

S106 Standard Charges Sheet – Residential Development

These charges will apply to all planning applications for houses or flats except affordable housing and elderly persons housing.

See following Formulae and standard charges document for more detail

Stage One

Calculate the number of occupants in the development by completing the following table:

House Size	<u>Number of Dwellings Proposed</u>	<u>Subtract Number of Dwellings Replaced or Demolished</u>	<u>Standard Occupancy Rate</u>	<u>Number of Standard Occupants</u>
1 bedroom			1.31	
2 bedroom			1.76	
3 bedroom			2.51	
4 bedroom			2.86	
5 bedroom or more			3.73	
			TOTAL	_____

Stage Two

Identify whether the site is within a defined town centre boundary (refer to the inset maps: in the Borough Local Plan): Yes/No (please delete)

Stage Three

Complete the following table: (multiply the standard occupants in Stage One by the relevant tariffs)

Benefit	<u>Tariff Per Standard Occupant</u>	<u>Total Payments</u>
Education (Primary)	£1285*	
Education (Secondary)	£1414*	
Libraries	£92	
Yellow School Bus (congestion levy)	£500	
Recreation (Within SANGS/Zone)	£2000 per unit	
Recreation (Outside SANGS/Zone)	£576	
Recycling	£33	
Crime & Disorder	£250	
Transport (Within Town Centre)	£718 or	
or		
Transport (Outside Town Centre)	£1333	_____
	TOTAL	-

* No charge for elderly persons housing

Stage Four

Multiply the standard occupants total in Stage 1 by the tariff in Stage 3: £_____

Stage Five

Add 5% monitoring charge: £_____

TOTAL PAYABLE: £

S106 Standard Charges Sheet – Commercial Development

These charges are applicable to all planning applications for additional commercial floor space

See separate Formulae and standard charges document for more detail

Stage One

Calculate the number of standard full-time equivalent workers in the development by completing the following table:

Prime Land Use	Sqm Proposed (Gross)	Subtract Sqm Replaced or Demolished (Gross)	Sqm per Standard Worker	Number of Standard Workers
Retailing			34.4	
Financial/Professional Services			15	
Restaurant or Pub			31.6	
Offices			16.4	
Research & Development			67	
Light Industrial			37.5	
Manufacturing			33.1	
Storage & Distribution			46.2	
Community Services			14.6	
Leisure			25.4	
			TOTAL	_____

Stage Two

Identify whether the site is within a defined town centre boundary (refer to the inset maps: in the Borough Local Plan): Yes/No (please delete)

Stage Three

Complete the following table:

Benefit	<u>Tariff Per Standard Worker</u>	<u>S/Total Tariff</u>
Libraries	£92	
Recycling	£33	
Crime and Disorder	£250	
Transport (Site is Within Town Centre) Infrastructure	either £718	
Transport (Site is Outside Town Centre)	or £1333	
	S/TOTAL	_____

Stage Four

Multiply the total standard workers in Stage 1 by the total per Stage 3
£_____

Stage Five

Benefit	<u>Tariff per parking space</u>	<u>S/Total Tariff</u>
Yellow School Bus Service (congestion levy)	£1000 per parking space	

Add stages 4 and 5 to produce total tariff
Stage Six

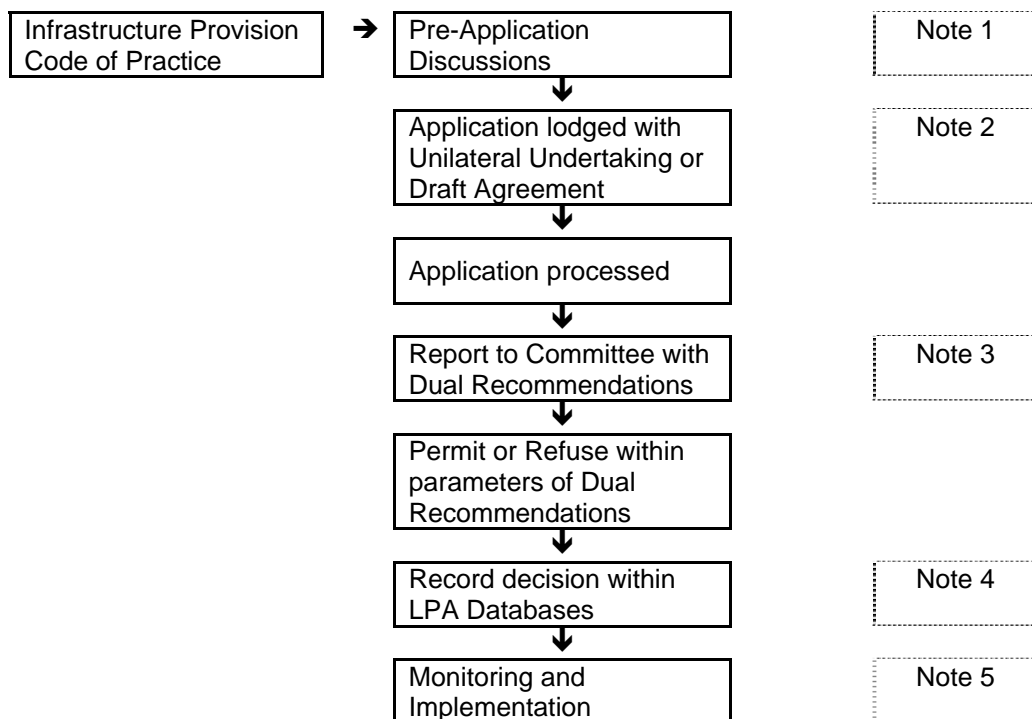
£ _____

Add 5% (of stages 4+5) monitoring tariff:
 £ _____

TOTAL PAYABLE:

Add totals from stages 4, 5 and 6 to calculate total contributions: £ _____

Note 1 Planning Obligations Flow Chart



Notes

- 1 For minor applications advised tariff applies: for major applications advised tariff used as basis for negotiations.
- 2 See Model Unilateral Undertaking and Model Arrangement
- 3 Committee report dual recommendations:
RECOMMENDATION A: SUBJECT TO THE APPLICANT FIRST ENTERING INTO AN APPROPRIATE LEGAL AGREEMENT OR DEED OF VARIATION OR UNILATERAL UNDERTAKING FOR THE PROVISION OF (I) £XXXX FOR (INSERT NAME OF INFRASTRUCTURE PROVISION) AND (II) £XXXX FOR (INSERT NAME OF INFRASTRUCTURE PROVISION) IMPROVEMENTS BY NO LATER THAN (INSERT DATE) PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:-
 Recommendation **B**: in the event that the requirements of recommendation A are not met by (insert date), the (insert title of officer delegated to refuse application) be authorised to refuse planning permission on the following grounds:-

- i. In the absence of a completed legal agreement under section 106 of the Town and Country Planning Act 1990, the applicant has failed to comply with Policy (*insert policy reference from adopted development plan*) in relation to provision of (*insert name of infrastructure provision*) and Policy (*insert policy reference from adopted development plan*) in relation to (*insert name of infrastructure provision*) infrastructure of the (*insert name of the adopted development plan*).
- 4 Record in Parts I and II of the Planning Register, as a local land charge, and within the Planning Obligations monitoring system.
- 5 Regular reports made to committee as to monetary receipts and progress with implementation

**Runnymede Borough Council Interim Supplementary Planning Guidance - Planning
Obligations**

RUNNYMEDE BOROUGH COUNCIL

December 2007

**SURREY PLANNING COLLABORATION PROJECT 2006
RUNNYMEDE BOROUGH COUNCIL**

Planning Obligations and Infrastructure Provision

Basis for Calculating Formulae and Standard Charges

1. Introduction

- 1.1 Developer contributions are currently secured in relation to large-scale development. However, in response to government advice to re-develop brown field sites and at higher densities (particularly housing) the development industry has delivered developments which have more intensive infrastructure generating characteristics per unit of land. Although many of these developments are small in scale the cumulative effect represents a discernable net increase in the demands on already stretched local infrastructure. The use of standard tariffs and charges in the Surrey Code is designed in accordance with the ODPM circular 05/2005 – Planning Obligations, and primarily seeks to address the collective impact of these small-scale developments on local infrastructure.
- 1.2 Using the variable of land use occupancy levels, and a baseline access supplement, the method provides a mechanism to calculate the appropriate level of developer contribution for a range of developments. This approach has been successfully applied elsewhere within the South East (GOSE). More details including the current tariff levels are set out in the main Code of Practice.

2. Land Use Occupancy Levels

- 2.1.1 The calculation of the charge is based on the unique parameters of a particular development and so the following table sets out the land use occupancy levels to be used in quantifying the amount of travel associated with new residential and commercial development. To determine a net change in demand for infrastructure, the existing demand associated with a site's lawful use will be calculated also using the occupancy levels set out in the table below. All occupancy figures will be reviewed and, where necessary, amended to reflect the most current relevant data available.

Housing Unit	Occupancy
1 bed	1.31
2 bed	1.76
3 bed	2.51
4 bed	2.86
+ 4 beds	3.73
Land Use	Sqm per worker
Retailing	34.4
Financial/Professional Services	15
Restaurant or Pub	31.6
Offices	17.6
Research & Development	67
Light Industrial	37.5
Manufacturing	33.1
Storage & Distribution	46.2
Community Services	14.6
Leisure	25.4

Table 1 – Land Use Occupancy Levels

Source: Survey of occupiers of new houses in Surrey 1997 – 1999

Source: New Businesses in Surrey 2001&Use of Business Space and Changing Working Practices in the South East May 2004.

- 2.2 Even when using this method, it is likely that contributions will fall below the full infrastructure costs of providing for the new population or workers (particularly as affordable housing is exempt – see 3.2 below). Therefore, on those rare occasions where there is a net reduction in occupancy or workers, the Council will not be expected to pay developers because of this.
- 2.3 Work in this area is ongoing, and during the preparation of the Code a revised Implementation Plan for the draft South East Plan was published as part of the submission to the Examination in Public. Annex 4 to that Implementation Plan sets out detailed costs for a number of functions.
- 2.4 It should be noted that the costs proposed person are significantly higher than those proposed in the Surrey Code, but that the suggested occupancy rates are lower, as they have been averaged out across the whole region and reflect falling household sizes. Nevertheless, overall the charges per equivalent development would be higher using the SE Plan figures. This work will therefore be fed into the review of the occupancy and tariff levels in the Surrey Code at the earliest opportunity. It is possible that in those districts experiencing a significantly higher than average Surrey population increase (such as Runnymede) will ultimately need either higher tariffs or a higher occupancy rate.
- 3. Exemptions**
- 3.1 The proposed tariff is designed primarily to address the cumulative impacts of small-scale residential and commercial developments that will be granted permission the future. The tariff would not be applied to any house extension. Neither would it apply to any commercial extension that is below the relevant area per standard worker set out in the above table.

- 3.2 The tariff would also not be applied to Affordable Housing, as defined in PPS 3, in order not to discourage the provision of this essential facility. This normally amounts to some 20-40% of total housing delivery in any particular district, so the resulting income from the code is correspondingly below that which would otherwise be received. This both acts as an encouragement to the delivery of affordable housing and avoids the criticism that any charge for such may be too high. If a developer chooses to provide 100% affordable housing on a site, the tariff payable under this code would be zero. Certain specialist types of housing such as housing specifically restricted to occupation by the elderly would also be exempt from some parts of the tariff, for example education and play space contributions (see below). Similar exemptions would be applied to workers in commercial developments.
- 3.3 For larger developments the level of developer contribution shall continue to be negotiated on a site-by-site basis, as there may be benefits in on-site provision rather than financial contribution to enhancements elsewhere. However the Tariff method can be applied to these developments to determine a minimum level of provision with any additional infrastructure or services negotiated on a site-specific basis.

4. Education

4.1 Introduction

- 4.1.1 Section 106 of the *Town & Country Planning Act 1990* allows for requests for voluntary contributions to mitigate the effects of developments S106 requests. ODPM *circular 05/2005* gives guidance on such requests. Developer contributions to Education Infrastructure are currently requested for large-scale developments. Historically, it may be the case that some requests may not have been made even though there was a need to mitigate the effect of the children yielded by a development.
- 4.1.2 More recently, Government guidance for developments to be of higher density and the tendency to develop brown field sites have led to a significant number of developments that have not attracted S 106 contributions. *Circular 05/2005 B21* notes that the cumulative effect of developments should be mitigated, along with B22 stating that a discrete piece of infrastructure does not need to be required to justify a request for a contribution. Such developments, therefore, apply to pressure on educational infrastructure and their effect should be mitigated.
- 4.1.3 The Tariff approach, recommended in *Circular 05/2005 B33*, Would be beneficial as it is transparent and simple. Owing to its simplicity, its administration will result in lower costs to developers than would otherwise be the case were the contributions to be negotiated individually.

4.2 Trends in Births in Surrey

- 4.2.1 The downward trend in births some years ago led to a decline in the school population. This led to various Reviews of School Provision owing to increases in surpluses places in schools. The Surrey births declined until a minimum in 2002, but have recovered since then. Birth rate over a larger area, however, is not necessarily a predictor of birth rate in a local area.
- 4.2.2 There is a geographic variation in the distribution in births. When the statistics are aggregated, it hides local fluctuations in births. For example, Surrey Heath and Epsom and Ewell had a minimum number of births in 2001, whereas in Guildford and Spelthorne the births were higher in 2001 than 2002. Such fluctuations also happen at Ward level. Therefore, birth rate over a District/Borough is not necessarily a predictor of birth rate in a local area. However, as noted below, even if there were a surplus of school places in a locality, there would still be pressure on school places in a wider area.

- 4.2.3 There are many areas in Surrey where the number of births has increased. This is leading to an increased number of pupils subsequently attending schools, increasing pressure on schools generally and particularly on more popular schools.

4.3 Factors affecting pressure on Education Infrastructure

- 4.3.1 The need for S106 contributions is based on the fact that when new dwellings are built there will be a certain number of children who live in them - they will yield extra pupils who will attend maintained schools in Surrey. The *Education Act 1996* S14 places a duty on Local Authorities to secure that schools are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. Thus effect of these extra pupils needs to be mitigated. Therefore, there is a need to provide additional infrastructure for these pupils, hence the request for S106 contributions in line with *Circular 05/2005* B3 and B15.
- 4.3.2 Pressure is not applied evenly on all schools. In a local area there may be particularly popular schools and one or two unpopular schools. Section 86 of the *Schools Standards and Framework Act 1998* places a duty on Local Authorities to enable the expression of parental preference as to the school at which they wish education to be provided for their child. S86 places a further duty to comply with any preference expressed provided compliance with the preference would not prejudice the provision of efficient education or the efficient use of resources. Parents/carers will invariably apply for the popular schools and not for the unpopular schools. Therefore, even if there were an overall surplus of school places in a local area, pressure would be applied to the popular schools by pupils yielded by a development, and this effect needs to be mitigated.
- 4.3.3 Pressure is not necessarily even across a phase of education. In the primary phase there is Foundation Stage and Key Stage 1 (Infant) and Key Stage 2 (Junior) provision. In most cases the Foundation Stage and Key Stage 1 provision is provided at the same location. In many locations there is separate infant and junior provision. It is not unusual for the places available and/or the demand to be different at different Key Stages within the same area. Therefore, it is entirely possible for pressure to be applied on either one of Infant or Junior places in a locality and not the other.
- 4.3.4 Unbalanced demand between schools can be exacerbated by an influx of families yielded by a development. Parental preference is modified by the expectation of successfully obtaining a school place, increasing pressure on different schools.
- 4.3.5 There are circumstances where a school is not full, but the educational infrastructure available is sufficient only for the pupils in the school. Were additional pupils to be yielded by a development their admission would exacerbate the situation and would prejudice the education of the children already in the school. This effect would need to be mitigated. The additional pupils may trigger the need for substantial reprovisioning of the infrastructure in order to accommodate larger groups of children, and the existing deficiencies would not need to have been resolved but for the additional pupils.
- 4.3.6 On occasion, pupils are admitted to schools subsequent to an appeal carried out according to S94 of the *School Standards and Framework Act 1998*. The Independent Appeal Panel weighs the prejudice to the efficient education that may be provided in the school against the needs of the pupil. A pupil may, therefore, be admitted despite deficiency of infrastructure in a school and the admission of additional pupils on Appeal does not mean here is no need to mitigate the effect of additional pupils yielded by developments.

4.3.7 There may be circumstances where low demand for school places has necessitated a school re-organisation, which may include removal of school provision. The re-provisioning will incur capital costs. Once a decision has been determined on the basis of existing pupil then it must be enacted. Therefore an existing deficiency in strategic educational provision will have been resolved prior to subsequent developments. Any new pupils yielded by developments after this point will apply pressure on education infrastructure notwithstanding that the education provision had previously been reduced.

4.4 True cost compared with S106 Contributions

4.4.1 Surrey uses a formula to calculate S106 contributions to education. The tariff is based upon this S106 Education Formula (see 4.5.2 below).

4.4.2 It is customary to multiply the pupil yield by a DfES cost multiplier. This cost multiplier does not reflect the true cost of providing education provision. DfES Statutory Building Guidance, such as BB93 *Acoustic Design of Schools*, for example, place increased standards on building requirements. Therefore, the contributions requested are still below that which is fairly related in scale to the effect of developments.

4.4.3 Within the number of pupil yielded by a development, a proportion would have disabilities. The *Disability Discrimination Act 2005* inserts S21B into the *Disability Discrimination Act 1995* which makes it unlawful for a public authority to discriminate against a disabled person in carrying out its functions. S21E places a duty on local authorities to make reasonable adjustments to allow pupils with disabilities to access services. The additional costs to fulfil these duties have not been included in the size of contributions requested, further lowering them below that which is fairly related in scale to the effect of developments.

4.5 The Education Tariff

4.5.1 The contribution per occupant for education is as in the table below:

Phase	Contribution per occupant
Primary	£1,285
Secondary	£1,414
Post 16	£0
Total	£2,699

4.5.1 Methodology to obtain the Education Tariff Figures

The Education Tariff is based on the S106 Education Formula. The S106 Education Formula uses the numbers of pupils yielded by a new development. This is obtained from a fraction called the pupil yield. Pupil yield is the average number of children yielded by new dwellings of 2 or more bedrooms. This is as in the table below:-

Phase	Pupil Yield	DfES Build Cost	DfES Location Factor	Total Build Cost
Primary	0.25	£10,372	1.14	£11,824
Secondary	0.18	£15,848	1.14	£18,067
Post 16	0	£17,013	1.14	£19,395

NB No contribution is requested for post 16

4.5.3 The method of calculating S106 Education Contributions involves 4 factors:

Phase, Pupil Yield, DfES Build Cost and DfES Location Factor

4.5.4 Phase

The Phase is Primary or Secondary. At present, no contribution is requested for post 16 or nursery aged children, even though new dwellings do yield such children, putting a pressure on educational infrastructure.

4.5.5 Pupil Yield

Pupil yield is the average number of children yielded by new dwellings of 2 or more bedrooms. The old education formula used a yield per age group and this was then multiplied by the number of years in a phase (7 yrs for primary and 5 years for secondary).

4.5.6 Dcfs Build Cost

The DfES Build Cost is a figure provided by the DfES which is meant to represent the capital cost of providing a small place. It is worth noting that this figure is considerably below the actual figure required per place when building schools to the latest building regulations. However, it is a standard published figure.

4.5.7 Dcfs Location Factor

The Dcfs Location Factor is a scaling factor that recognises that some parts of the country are more expensive than others.

4.5.8 The S106 Education Formula assumes an average yield for all dwellings of 2 or more bedrooms. The new tariff uses occupancy. The tariff figures have been calculated so that the same average contribution would be obtained either through the S106 education formula or through the tariff. The methodology was as follows:

- The S106 requests for 2005-06 were analysed
- The fraction of each number of bedrooms was calculated
- A yield ratio was calculated such that when occupancy is multiplied by the yield ratio, the same average pupil yield for that number of dwellings is achieved.
- To simplify the formula, a contribution per occupant figure is calculated so that the same average S106 contribution is obtained through the tariff as would be obtained through the new education formula.

4.5.9 Thus the following figures were obtained:

Phase	Yield Ratio	Contribution per occupant
Primary	0.11	£1,285
Secondary	0.085	£1,414
Post 16	0	£0

4.5.10 Therefore, the S106 Code of Practice education tariff figures are necessary, directly related to the proposed developments and fairly and reasonably related in scale.

5. Transport

5.1 The impact of a development on the highway infrastructure can be quantified by determining the total travel generated by a particular land use. The transportation element of the tariff seeks to secure improved accessibility by all modes and to mitigate the impact of those accessing development by car. It is based on the principle that developers can reasonably be expected to plan a site so as to mitigate against new travel demands to a level which is proportionate to that currently expended by Surrey County Council on managing existing travel demands.

Calculation of Baseline

- 5.2 Given the complex nature of travel demand (which include variables such as trip lengths, trip chaining, trip timings, trip frequencies and mode choice values), the level of impact placed on the transportation infrastructure can only be made by approximation. To this end, the following process has been used to derive a baseline charge, which represents an approximation of the financial burden that is placed on the transport infrastructure by an additional movement. This baseline value is adjusted within the formula on the basis of land use occupancy, to produce a site-specific level of developer contributions.
- 5.3 The baseline charge is calculated by dividing Surrey County Council's current annual expenditure on transport^[1] by the existing Surrey related travel demand^[2]. This produces a value of £28.10 per year per daily trip. Within cost benefit analysis or road schemes a typical design life of 25 years is used in such calculations. On this basis, the value of accommodating an additional trip on the network over an impact/design-life period of 25 years (assuming a year-on-year inflation value of 3%) produces a baseline impact supplement of approximately £1,025 over a period of 25 years. This baseline calculation will be reviewed on an annual basis.
- 5.4 As an incentive towards locating development in a more highly accessible central area, a differential of plus or minus 30% has been applied to the baseline cost per trip, derived from the location of the proposed development.
- 5.5 Therefore, a contribution per occupant/worker of £1.333 (£1.025 + 30%) will be sought outside of defined town centre areas (as set out in Local Plans and evolving LDF's) and a contribution per occupant/worker of £718 (£1,025 – 30%) will be sought for developments inside a defined town centre area (Addlestone, Chertsey and Egham). The lower unit cost per occupant/worker associated with those sites within town centres will encourage the development of sustainable sites at higher densities, so reflecting the emphasis on achieving the greatest degree of access by public transport, walking and cycling. This lower unit cost value placed on a town centre site provides a strong incentive for developers to focus development in accessible locations where more emphasis is placed on lower parking provision and less car dependence.

Application of the Transport Impact Supplement

5.6 Residential:

The following table sets out worked examples of the transport element of the tariff, which is dependent upon occupancy and whether or not the site is in a defined town centre.

Development	Occupancy	Transport Element of the Tariff for defined town centre sites	Transport Element of the Tariff for non-town centre sites
1 bed unit	1.31	1.31 x £718 = £941	1.31 x £1333 = £1746
2 bed unit	1.76	1.76 x £718 + £1264	1.76 x £1333 = £2346
3 bed unit	2.51	2.51 x £718 = £1802	2.51 x £1333 = £3346
4 bed unit	2.86	2.86 x £718 = £2053	2.86 x £1333 = £3812
4+ bed unit	3.73	3.73 x £718 = £2678	3.73 x £1333 = £4972

^[1] Surrey Local Transport Plan Annual Delivery Report 2001- 2006 2.1.3

^[2] Surrey County Transport Model – Approx 2.7 million daily trips

5.7 The development of smaller units will generate less demand for movement and so will be required to make a lower level of contribution. For example, contributions from 1 bed units in a town centre will be £941 per unit whilst contributions from a three bed unit outside the defined town centre will be £3,346 per unit. These differential charges reflect the likely variations in car parking between the size and location of the units, and therefore demand upon the transport infrastructure. It should be noted that the Transport element of the Tariff will be sought in addition to any specific access improvements (that also include the costs of licence fees, deposits and bonds), deemed necessary for a particular development, and any costs associated with a travel plan for a particular development.

5.8 Commercial

The calculation for commercial developments is simply based upon the standard occupancy rates as set out in table 1 and these are then multiplied by the appropriate contribution per worker dependent upon location, as set out in paragraph 5.5 above.

6. **Libraries**

6.1 Public libraries are at the heart of communities, providing free access to books, information and IT as well as opportunities for learning. As a statutory service, local authorities must ensure that their libraries meet national standards and provide the quality of services people need and expect. The existing pattern of libraries will need to expand and adapt to serve the needs of the new population. Existing provisions will need to be enhanced or upgraded, and new outlets (often in joint service centres with other community services) will be required.

6.2 Museums Libraries and Archives South East is a regional body that is co-ordinating the South East Public Library Tariff. This is already being collected by a number of authorities and the intention is that it should be rolled out nationally in 2007.

6.3 The MLA tariff is £92 per additional person or worker, made up as follows:

- a minimum standard of 30sqm of new library space per 1,000 population
- a construction and initial equipment costs of £3,071 per square metre.
- no cost for land purchase is included.

6.4 This is a minimum tariff calculated to accommodate a suite of enhancements to the library service across the County. On larger town centre developments where specific provision is needed the contribution may need to be calculated at a higher rate. It is recommended that in these cases the developer discuss the requirements with the County Council.

7. **Yellow School Bus Service**

7.1 Contributions to the yellow school bus service are already set out in supplementary planning guidance. The levy is required to support a school bus service that is provided by the Borough Council in association with the Runnymede Business Partnership. The Borough Council is not an Education or Transport Authority and does not receive government support to provide such services. The service is supported by fares collected, business sponsorship and section 106 contributions. The service is designed to reduce peak hour congestion by reducing the number of trips to school by car. In very simple terms there is trade off between the additional traffic generated by the new development (and related to the number of car parking spaces) and the benefits of providing the yellow school bus service in reducing peak hour congestion.

8. Relocation (beyond SANGS zone)

- 8.1 The provision of children's playspace is recognised in PPS3 as being important to ensure that the needs of children are taken into account. It stresses the importance of good provision, including both play areas and informal play space. New housing should provide, or enable good access to, community and green and open amenity and recreational space (including play space).
- 8.2 The PPG17 audit of existing open space, sports and recreation facilities generally, together with their use and location has been completed. This identifies needs and deficits or surpluses in provision and tailors contributions to provide additional facilities needed to cope with additional population.
- 8.3 In Runnymede depending on the locality there is currently either a surplus or deficit of youth, adult and casual children's play space. However, there is a shortage of equipped children's play space across the whole Borough.
- 8.4 The cost of providing an equipped play space currently averages £192 per square metre. No cost for land purchase is included. Using the National Planning Fields Association standard for equipped children's play areas, at a standard of 0.3ha per 1,000 population, there would need to be the provision of 3 sqm of equipped play space per additional person. This would result in a tariff per additional person of £576.
- 8.5 On larger sites the proposals should be discussed with the District Council because on-site provision in lieu of a contribution will normally be preferred. On all schemes no charge would be made for dwellings specifically reserved for the elderly, as they are regarded as unlikely to have children needing playspace.

9. Recreation (Within SANGS Zone)

- 9.1 A separate advice note has been prepared that requires a contribution of £2,000 per unit. This is also subject to consultation.

10. Recycling

- 10.1 Waste collection and recycling comprises a substantial part of each district council's function. The costs of these services are generally borne by government grant and council-tax payers, with new occupiers covering the revenue cost of additional provision for new housing.
- 10.2 However, each year specific one-off capital costs are borne for the additional facilities necessary to cope with recycling waste from additional population or workers. In 2008-09 this will total some £30,000 plus revenue cost for the extra crew which on the basis of the trend of previous years additional population and workers, would require a tariff of £33 per person or worker. The additional works for future years would include:

11. Crime and Disorder

- 11.1 This covers an essential district level initiatives founded on the Crime and Disorder Partnership that supports the 24/7 CCTV Safer Runnymede service.
- 11.2 Establishing an appropriate level of contribution is not as straightforward as for other functions. There is no benchmark for an optimum rate per additional person or worker and so it is proposed to allocate a modest proportion of the overall tariff-approximately 5% initially – to this objective. This will be reviewed in future years to ensure that appropriate programmes may be delivered with this level of contribution. It would amount to a contribution of £250 per person or worker.

The funding received would be allocated towards the following projects that would not otherwise be funded to support the increase in population or workers

12. Mechanism for Payment

- 12.1 It is expected that the applicant will complete the Section 106 Standard Charges Sheet for all the benefits (see Code of Practice) and submit this as part of the application together with the Unilateral Undertaking.

13. Expenditure of Contributions

- 13.1 Circular 05/2005 supports the principle of formulae and tariff charges where appropriate to securing developer contributions. The circular maintains the necessity tests, which dictate that there should be a functional link between the development and the expenditure of any monies paid as part of the developer's contribution.
- 13.2 A protocol will be established within Surrey County Council to enable to appropriate dispersal of funds transferred from the Districts to the County. In accordance with ODPM circular 05/2005 in circumstances where the impact is not sufficient to justify the need for a specific piece of infrastructure or public transport improvement, contributions will be pooled and directed towards future infrastructure or service provision in the area. It should be noted that pooled developer contributions may occasionally also be directed towards schemes of strategic importance.
- 13.3 An analysis of the funds collected for each beneficiary and a list of the infrastructure or service enhancements provided will be included in each district's Annual Monitoring Report, normally published in the final quarter of each calendar year.

14. Monitoring Fee

- 14.1 For both residential and commercial developments, an additional overall levy of 5% will be imposed on the total tariff charge, the levy will be used to fund the necessary resources to operate, administrate, monitor and report on the operation of the system.

^[1] Surrey Local Transport Plan Annual Delivery Report 2001- 2006 2.1.3

^[2] Surrey County Transport Model – Approx 2.7 million daily trips

Filename: 12-01INTERIM SUPPLEMENTARY PLANNING
GUIDANCE 08A.doc
Directory: \\Rbcursupport\Profiles\DESKTOP\katy.mcgrath\Desktop
Template: C:\Documents and Settings\katy.mcgrath\application
data\Microsoft\Templates\Normal.dot
Title: INTERIM SUPPLEMENTARY PLANNING GUIDANCE
Subject:
Author: Information Systems
Keywords:
Comments:
Creation Date: 12/19/2008 12:28:00 PM
Change Number: 2
Last Saved On: 12/19/2008 12:28:00 PM
Last Saved By: katy.mcgrath
Total Editing Time: 19 Minutes
Last Printed On: 12/19/2008 1:47:00 PM
As of Last Complete Printing
Number of Pages: 29
Number of Words: 10,310 (approx.)
Number of Characters: 58,772 (approx.)