

DEVELOPER CONTRIBUTIONS



Clackmannanshire
Council

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SUPPLEMENTARY GUIDANCE 1

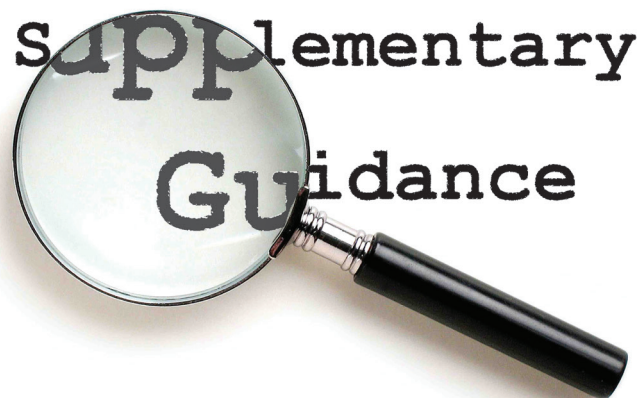
1. Introduction

- 1.1 Clackmannanshire Council has successfully sought to address the population decline and impact of structural economic change experienced in the area in recent decades. As a result of the strategy of economic and population growth, Clackmannanshire has seen significant new housing development over the past decade which has helped turnaround a period of steady population decline, with the area's population now rising above 50,000.
- 1.2 This growth has utilised spare capacity in Clackmannanshire's infrastructure, such as in schools and across the road network. The Council and its partners have also invested in improving the area's infrastructure in order to promote and keep pace with the considerable level of growth experienced in recent years. This includes three new secondary schools, reconnection to the national rail network, improved road links to the east and west, an expanding high quality green transport network and investment in Alloa town centre.

2. Strategy And Approach

- 2.1 The LDP for Clackmannanshire seeks to continue to promote a strategy for population growth, as a key driver of sustainable economic development in Clackmannanshire. The Council therefore wishes to ensure that infrastructure constraints are not a barrier to continued growth, through its own investment programmes. However, on its own, the Council does not have the ability to provide the range of community infrastructure necessary to support planned growth and maximise quality of life for new and existing residents. Nevertheless, the Council is determined to ensure that inadequate infrastructure provision is not a constraint on planned new development and also that new developments, be they residential or commercial, contribute fairly and reasonably to the provision of infrastructure required to serve them. For these reasons, the Council will identify situations in which contributions from developers are required to ensure that essential infrastructure to support new development can be provided. Policy SC9 of the Plan sets out the requirements for Developer Contributions (see Appendix 1). The purpose of this SG is to provide guidance on how this policy will be applied. The SG provides the necessary background and detail to clarify what is expected of developers, and to explain the circumstances when contributions towards the provision or improvement of infrastructure are likely to be required

- 2.2 New development can put a strain on existing infrastructure, for example where a new housing development results in capacity issues at the local primary school. New development can also impact on green infrastructure and networks, and it is important that in assessing the impact of development, the Council considers its wider role in delivering the Central Scotland Green Network and how developer contributions can play a part in this.



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2.3 The Council wishes to strike a balance between reasonably requiring developments to meet their own infrastructure needs and ensuring Clackmannanshire remains an attractive area in which to live and invest. As such, the Council will give due consideration to viability issues affecting new development when it is considering the level and/or timing of developer contributions. The Council will consider waiving or reducing contributions only in exceptional circumstances (for example, where there are unexpected development costs). Where developers wish to seek consideration of waived or reduced contributions, it will be for them to demonstrate the reasons for this, including through the provision of the necessary financial information such as development appraisals. Such information can accompany planning applications or pre-application enquiries, and can be treated on a confidential basis, where appropriate. This can then be taken account of by the Council's Developer Contributions Team referred to in paragraph 4.2, below when considering the scale and nature of contributions expected from a particular development. Other information, such as details of the economic, social or environmental benefits a development would bring, can also be submitted and considered in the same way.

2.4 The Council also requires new residential developments to deliver affordable housing, as set out in Policy SC2 of the Local Development Plan, and must balance priorities in administering policies on affordable housing and developer contributions, whilst maintaining development viability. Therefore, the cost to a developer of contributing to the provision of affordable housing will be taken into account when considering the requirement for other potential infrastructure contributions. Where a contribution towards affordable housing will be towards the higher end of the scale set in the Affordable Housing SG then a reduced level of contribution to other infrastructure requirements will normally be considered. In the case of allocated sites, contributions on which a high priority is placed are set out in the relevant Schedule contained in the Local Development Plan. Emphasis on the provision of affordable housing will be focused in areas where sufficient educational capacity exists. In areas of insufficient educational capacity, an emphasis will be placed on contributions towards addressing capacity issues.



2.5 Taking account of the Plan Vision and the overall needs assessment for infrastructure in Clackmannanshire and in accordance with the relevant Circulars, contributions will be sought towards the following type of infrastructure:

- ▶ **Education** - Provision of new schools or extensions to existing schools, including nurseries, primaries and secondary schools, or the provision of land for education or ancillary purposes, or commuted sums towards such provision.
- ▶ **Transportation infrastructure** - Roads, footpaths, active travel networks, safe routes to school, public transport provision, or commuted sums towards such provision.
- ▶ **Open space, recreation and play provision (including sports facilities)** - Indoor and outdoor active sports facilities, allotments, pitches, play areas, multi-use games areas (MUGAs), or commuted sums towards such provision.
- ▶ **Green Infrastructure and natural habitats** - Contributions, including commuted sums, towards the strengthening and enhancement of the Clackmannanshire Green Network, including biodiversity improvements involving designated and non-designated sites; landscape, forestry and woodland improvements; and facilities to improve access and use of the countryside by local residents for educational and recreational purposes.
- ▶ **Public art provision** - Commuted sums towards such provision, or in certain cases art installations integral to new developments.

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- ▶ **Water environment and sustainable flood management** - Protection and enhancement of the water environment and measures to reduce flood risk, as part of wider flood management plans, or commuted sums towards such provision. In this respect, contributions are likely to relate to wider strategic water/flood management schemes, rather than dealing with an issue relating to the development site only.
- ▶ **Town centre enhancement** - Works to enhance the public realm and improve the vitality and viability of town centres, or commuted sums towards such initiatives.
- ▶ **Core Paths network** - Works to improve the range and quality of, and accessibility to the Core Path Network, or commuted sums towards such provision.
- ▶ **Libraries, health centres, community halls and facilities** - Provision of new facilities or extensions to existing facilities, or the provision of land for community facilities, or commuted sums towards such provision.

3. National Policy & Legislative Framework

- 3.1 The overarching principles of this approach will be guided by Government Circulars on conditions in planning permissions (Circular 4/1998) and on Planning Agreements (Circular 3/2012 Planning Obligations and Good Neighbour Agreements). As such, the assessment of the need for developer contributions shall be based on the following criteria:
- ▶ necessity to make the proposed development acceptable in planning terms;
 - ▶ that a planning purpose is served;
 - ▶ that the infrastructure is directly related to the proposed development or is arising from the cumulative impact of development in the area;
 - ▶ that the infrastructure requirement fairly and reasonably relates in scale and kind to the proposed development;
 - ▶ that the infrastructure requirement is reasonable in all other respects.

Unilateral Obligations

- 3.2 Notwithstanding these criteria, the Planning etc. (Scotland) Act 2006 introduced changes to the planning agreements process to enable developers to unilaterally offer to enter into a planning agreement which appears to the person entering into the obligation to be necessary or expedient for the purpose of the obligation. In such cases, the Council will require to consider whether the terms of such a unilateral obligation are material to the determination of the planning application.
- 3.3 The 2006 Act introduces a right for parties to apply to the Council to have planning obligations modified or discharged (s75A). Following on from this, s75B establishes a right of appeal where such an application is refused or not determined in a prescribed timescale.
- 3.4 In addition to s75 obligations and planning conditions, developer contributions can be secured through other legislation, including the Local Government (Scotland) Act 1973, the Countryside (Scotland) Act 1967, the Sewerage (Scotland) Act 1986 and the Roads (Scotland) Act 1984. Agreements under these acts can prove useful where the nature of contributions is straightforward and does not need to be secured through successors in Title. Such agreements can also help speed up the development process.

Notes

1. It should be noted that whilst education contributions will be a priority for residential developments, non-residential developments will not normally be expected to contribute to education provision.
2. The requirement for community infrastructure investment from developers does not relate to the provision of water and drainage, gas, electricity or telecoms infrastructure. These are delivered by other public and private bodies and are outwith the control of the Council.
3. The Council recognises that community infrastructure will very often be integral to a development.

4. The Process

- 4.1 Developer contributions shall normally be agreed at the planning application stage. An indication of the need for developer contributions for some sites is provided in the LDP Schedule of Sites. However, in all cases the Council will encourage early engagement with developers to agree the need for, and the scale and nature of, contributions in relation to individual proposals. This should help reduce uncertainty, and speed up the planning application process.
- 4.2 Contributions shall normally be negotiated and delivered in accordance with the Developer Contributions flowchart in section 8 of this Supplementary Guidance. A key part of this process will involve input from the Council's Developer Contributions Team, made up of officers from key Services, who will provide detailed advice on the level and nature of contributions required for a particular development, and the manner in which this will be secured and delivered.

5. Flat Rate Contributions

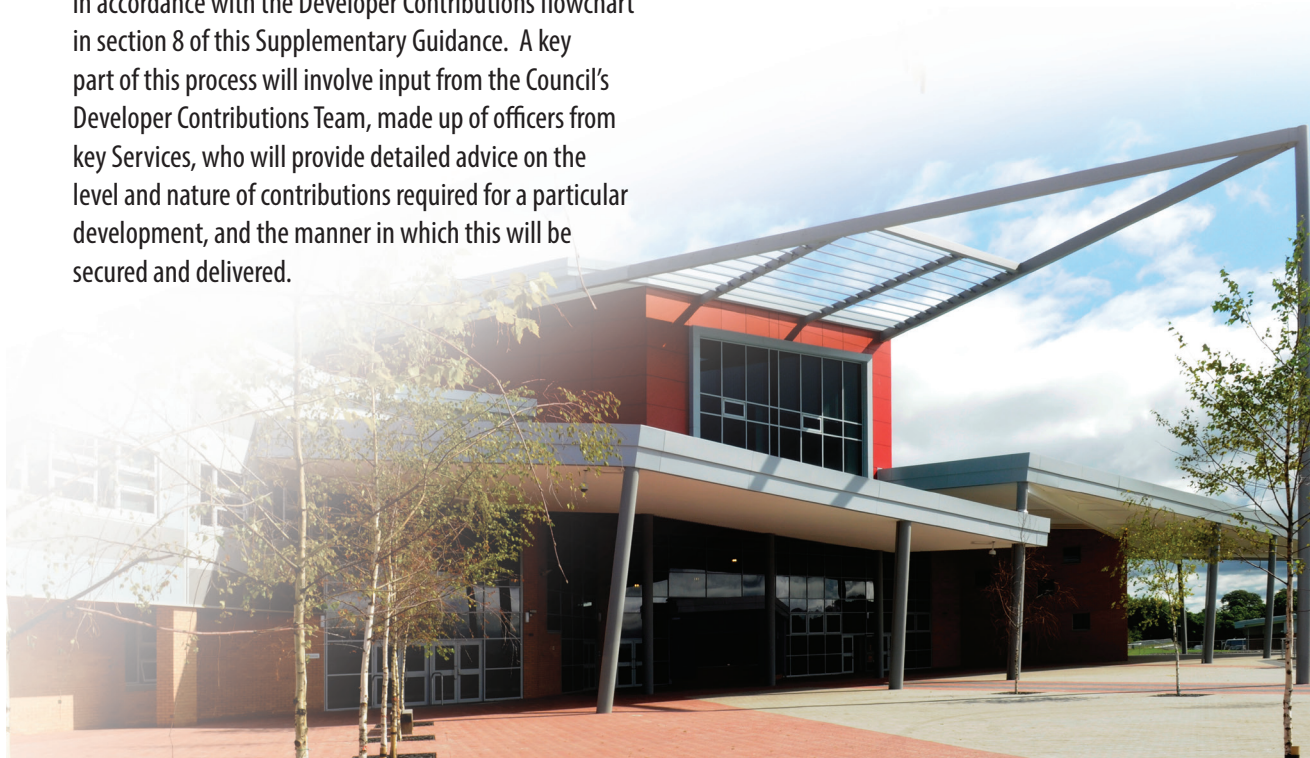
- 5.1 The Council has identified that the delivery of certain types of community infrastructure requires a consistent approach to contributions from developers across the Council area, rather than being specific to a site or individual community. As such, contributions towards secondary school provision and public art will be sought on a flat rate basis, as outlined below. Secondary school contributions shall only be sought in relation to residential developments.

Secondary Schools

- 5.2 All of the Council's three academies operate at or close to their full capacity, and planned housing growth will create demand for secondary school places that these schools in their current form will be unable to accommodate. The Council is currently appraising options for delivery of an expanded secondary school estate, including extending existing academies and provision of a new secondary school.
- 5.3 The future provision of secondary education will have implications for all communities in Clackmannanshire, and for this reason, a flat rate shall be applied to residential developments, based on the Secondary School Contributions Table, below. Secondary education contributions shall apply to residential developments only.

Secondary School Contributions Table

No. Bedrooms per unit	Contribution Rate
2	£3,500
3	£5,000
4	£7,000
5+	£8,500



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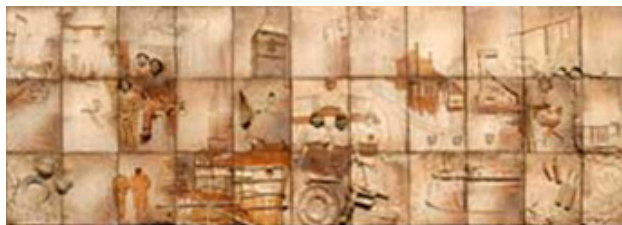
Public Art

5.4 Contributions towards public art shall largely be provided on a “flat rate” basis.

Public Art Contributions Table

Development Type	Contribution Rate
Residential	£250 per flat/house
Retail*	£15 per m ² of new gross floorspace

5.5 Public art contributions will also be sought for other commercial developments, such as business, industrial, care homes, schools and leisure developments (excluding changes of use of buildings). In such cases, contributions will be proportionate to the scale and nature of the proposed development. Where proposals involves larger scale developments in prominent locations or publicly accessible buildings, the public art contribution may be incorporated into the development itself.



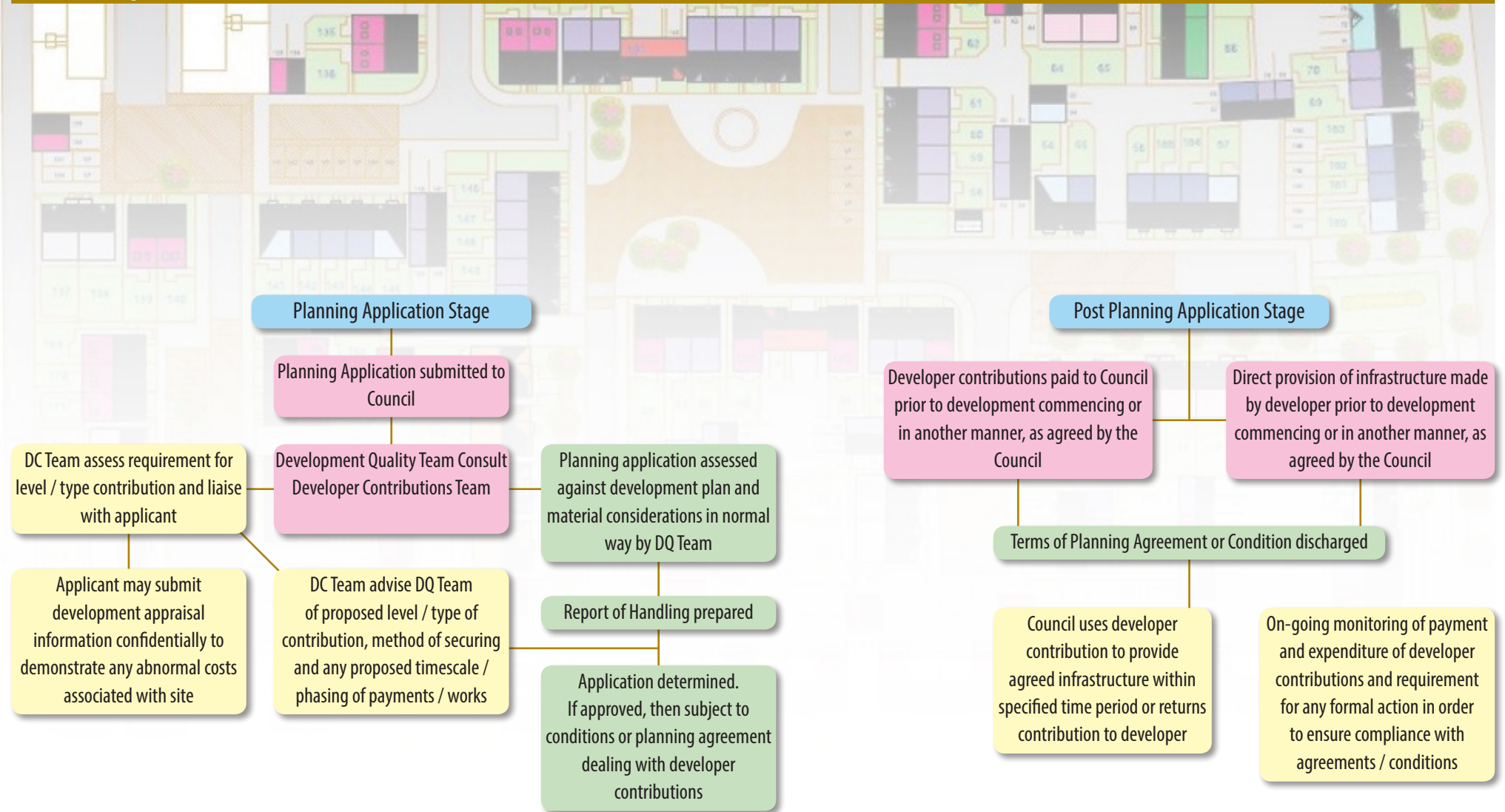
6. Costs

6.1 All costs will be agreed with the Council and will be indexed using the BCIS (Building Cost Information Service) All-In Trade Price Index, updated on a quarterly basis, and are exclusive of VAT.

7. Openness And Accountability

7.1 Financial contributions from developers will be accounted for separately from the Council’s finances, and the Council will ensure that these monies are used solely for the purposes originally intended. Developer contributions shall be ring-fenced for their intended purpose. Agreements on developer contributions shall include the time period for payments, including any agreed phasing, and also the time period for the Council to utilise payments. Where the Council does not utilise some or all of a paid contribution, the balance of unused contribution shall be reimbursed to the developer with interest calculated based on the Council’s average prevailing interest on revenue balances rate (IROB) over the period in question.

8. Developer Contributions Flow Chart



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Appendix 1 - Developer Contribution Policy

Policy SC9 - Developer Contributions

- A1.1 Policy SC9 aims to ensure that, where a new development has an impact on infrastructure capacity or gives rise to the need for environmental mitigation measures, developers mitigate the impact by contributing new or improved infrastructure or facilities.
- A1.2 All developments with an impact on infrastructure capacity will normally be required to contribute, either through financial contributions or direct provision, towards new or improved infrastructure and the mitigation of environmental impacts, commensurate with the scale of the development, to address deficiencies which are a consequence of the development taking place.
- A1.3 In considering development proposals, the Council will assess the requirement for developer contributions on an individual basis, in accordance with the principles set out above, and the criteria in Circular 4/1998: The Use of Conditions in Planning Permissions and Circular 3/2012: Planning Obligations and Good Neighbour Agreements, as appropriate.
- A1.4 The types of infrastructure and environmental mitigation measures which the Council will expect contributions towards include where necessary and in accordance with the above-mentioned circulars:
- ▶ Education provision
 - ▶ Transportation infrastructure (including active travel networks)
 - ▶ Open space, recreation and play provision (including sports facilities)
 - ▶ Protection and enhancement of green networks and natural habitats including the water environment and woodlands
 - ▶ Public art provision
 - ▶ Sustainable flood management
 - ▶ Town centre enhancement
 - ▶ Core paths network
 - ▶ Libraries, health centres, community halls and facilities
- A1.5 The nature of contributions shall vary from site to site, depending on the infrastructure or facilities requirements within that particular area. The scale and nature of contributions required shall relate fairly and reasonably to each development, taking account of the size and location of the site, the number of units (or new residential floorspace) to be created, the type of housing to be provided, and consideration of clear evidence of any abnormal costs associated with the development.
- A1.6 The assessment of the nature of contributions shall be in accordance with the LDP Strategy, Vision, sub-area strategies, policies and development guidelines; the Open Space Strategy; the Green Infrastructure SG; and the Water SG. They shall also be informed by other relevant strategies and plans of the Council and other agencies, as well as any particular issues raised by a planning application, relating to the nature of the site or the proposed development. The Council will take into account the viability of the development in determining the amount and/or timing of such contributions. Contributions will be waived or reduced only in exceptional circumstances (for example, where there are unexpected development costs) and it will be for developers to demonstrate that such circumstances apply, including through the provision of the necessary financial information.
- A1.7 Financial contributions or direct provision shall normally be delivered through planning conditions and, where appropriate, legal agreements negotiated between the developer and the Council.
- A1.8 The details of how contributions are negotiated, agreed and delivered are set out in the Developer Contributions SG.



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