North East Lincolnshire Supplementary Planning Guidance
Note No. 9
Investment through Growth
Adopted April 2005

Economic Regeneration Agency
1.0 Introduction

1.1 Well-planned and sensitive developments can result in both physical improvements and improvements to the overall quality of life. The Community Strategy for North East Lincolnshire intends to improve, in a sustainable way, the economic, social and environmental well being of the area. It sets out an overall vision for North East Lincolnshire:

"By improving the physical appearance of the area and the quality of life of its residents, make North East Lincolnshire a place in which we are proud to live, work and welcome visitors."

1.2 In striving to achieve this vision the Council wishes to ensure that the impacts of development are minimised and that development provides social, economic and environmental benefits to the community as a whole.

1.3 New development places pressure upon the existing physical and social infrastructure. For example, new housing places increased demand for school places and community facilities. New commercial development leads to new patterns of travel and pressures on highway infrastructure and concerns over public safety and air quality.

1.4 This Supplementary Planning Guidance (SPG) is intended to provide developers, landowners and local residents with information on the mechanism to achieve this vision securing investment to benefit the community from development growth. It will provide a framework to identify appropriate developer contributions at an early stage and the basis upon which developer negotiations will commence.

1.5 The SPG does not attempt to identify all circumstances where a developer contribution may be sought. Instead it sets out to provide core guidance to be backed in appropriate cases by detailed topic based SPG. It sets out the Council's overall approach in support of development plan policies to the provision of developer contributions. It seeks to establish a streamlined system that is transparent in the way it operates, and predictable in the requirements it makes.

1.6 This framework is based on current Government guidance and practice relating to the use of planning obligations, where the key element is the mitigation of the likely impacts of new development.

1.7 The Government has shown a desire to reform the current system "to create a more streamlined system that will enable the community to share in the benefits arising from development". Current proposals seek to reform the system to improve negotiated planning obligations and establish a tariff-based system as an alternative to negotiated planning obligations. If changes to the planning obligation system are introduced this SPG will need to be revised accordingly.
1.8 Fresh legislation introduced in the House of Commons (8th Dec. 03) relating to the Planning and Compulsory Purchase Bill points to the introduction of new legislation marking a change from Section 106 obligations to Section 46 contributions. Further detail is awaited on the legislative changes, which will then need to be addressed in this guidance.
2.0 Planning Context

2.1 A planning obligation is a legal agreement made under Section 106 of the Town and Country Planning Act 1990. It usually relates to an aspect of a development that cannot be secured by imposing a planning condition or by other statutory controls. It can be created:

   a) by agreement between the local planning authority and the developer/landowner, or
   b) unilaterally by developer/landowner

2.2 Planning obligations are a recognised part of the planning system, enabling development to proceed and providing an appropriate mechanism to address the impacts that new development can bring.

2.3 Circular 1/97 is the key source of Government guidance on the use of planning obligations. It states that planning obligations should be sought only when they are:

   i) necessary
   ii) relevant to planning
   iii) directly related to the proposed development
   iv) fairly and reasonably related in scale kind to the proposed development; and
   v) reasonable in all other aspects.

2.4 The Government supports the principle that development should share the costs of facilities for which it creates a need. However, sound-planning principles must not be compromised for the sake of unrelated planning gains or used to compensate for sub-standard development.

2.5 The Government's consultation paper on proposals for reforming planning obligations has recognised the court confirmation that Circular 1/97 is guidance and not binding on local planning authorities. It recognises that case law has allowed a broader interpretation of the type of development contributions that can be secured.

2.6 The consultation paper contains a proposal that rather than requiring the tests set out in the Circular to be met, benefits sought by local planning authorities and offered by developers should meet the legal test. In so doing, they should have a connection with the development that is more than 'de minimus' and therefore capable of being a material planning consideration. Further detail is awaited which will need to be addressed in this guidance once finalised.

2.7 PPG1 reinforces this principle
"local planning authorities should not allow their decisions to be affected by the offer of extra inducements; conversely local planning authorities should not allow their development control powers to be used to require benefits from property owners which do not have a land use planning justification or are unrelated to the development under consideration."

2.8 Developers should not be expected to pay for facilities that are needed solely to resolve existing deficiencies.

2.9 In addition to Circular 1/97 and the generic reference in PPG1, guidance on the use of planning obligations in relation to specific developments is included in other Government guidance. These include the following specific references:

- PPG1 - to secure an appropriate mix of uses
- PPG3 - to secure affordable housing contributions
- PPG4 - to secure appropriate developer contributions
- PPG6 - to secure appropriate transport infrastructure, and traffic management
- PPG7 - to tie re-use of a building to land
- PPG9 - to secure long term management of nature conservation sites
- PPG13 - to secure public transport, pedestrian and cycling improvements
- PPG16 - to secure appropriate and satisfactory provision for the excavation and recording of remains
- PPG17 - to secure the suitable exchange of recreational land and ensure necessary works are undertaken
- PPG20 - to secure public access to the coast
- PPG22 - to mitigate for the effects of renewable energy projects
- PPG23 - to require appropriate decontamination
- PPG24 - to secure measures to mitigate for increased noise
- PPG25 - to secure flood defence and mitigation works
### District Audit Report

#### 3.1

The District Audit Report, Probity on Planning received by the Council in 2000 made a number of recommendations relating to the Council's commitment to deliver planning gain and subsequent monitoring. These recommendations are set out below together with the Council's response.

<table>
<thead>
<tr>
<th>Ref</th>
<th>Action</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>R17</td>
<td>The Council should re-assess the present policy coverage to ensure that it is extensive and comprehensive enough to facilitate negotiating benefits for the community through Section 106 agreements.</td>
<td>This guidance based on the Council's Corporate Business Plan priorities provides the basis for the delivery of community benefits through Section 106 Agreements.</td>
</tr>
<tr>
<td>R18</td>
<td>Consideration should be given to having a brief 'statement of requirements for developer contributions' which outlines the range of services which could be appropriate for developer contributions.</td>
<td>This guidance based on the Council's Corporate Business Plan priorities provides the basis for delivery of community benefits through Section 106 Agreements.</td>
</tr>
<tr>
<td>R19</td>
<td>Responsibility for ensuring obligations are adhered to should be clearly assigned, e.g. Legal section or planning enforcement. To aid the process, an auditable system should be introduced which records and tracks the progression of all covenants in Section 106 Agreements and should include all 'live' agreements entered into prior to reorganisation, plus all post reorganisation agreements.</td>
<td>The monitoring arrangements set out in this guidance provide for the appropriate monitoring.</td>
</tr>
<tr>
<td>R20</td>
<td>Developers should be provided with annual progress reports and closing statements where the work is completed on obligations entered into.</td>
<td>The monitoring arrangements set out in this guidance provide for the appropriate monitoring.</td>
</tr>
<tr>
<td>R21</td>
<td>Members should be provided with annual progress reports on spend in cases where the developer provides the work</td>
<td>The monitoring arrangements set out in this guidance provide for the appropriate monitoring which will allow for annual reports to Planning Committee.</td>
</tr>
</tbody>
</table>
4.0 Development Plan and Corporate Plan Linkage

4.1 The Corporate Business Plan sets out the Council’s corporate priorities reflecting the ongoing process of community consultation in the Community Strategy. The Council has an agreed long-term vision for the future of North East Lincolnshire, the result of the Council embracing its community leadership role and working in partnership. This vision is presented in the form of a number of aspirational outcomes for the area and the people who live and work in it.

4.2 The planning process provides a mechanism by which these priorities can be addressed and improvements made to the quality of the environment.

4.3 The Development Plan identifies the planning basis for the need to provide contributions towards community infrastructure, service and amenity facilities.

4.4 Set out below is a list of core topic areas where contributions may be sought. Each is cross-referenced to the Corporate Business Plan and the North East Lincolnshire Local Plan. Where topic based SPG has been prepared or is in preparation its existence has been highlighted. This guidance provides further clarity on the assessment of contributions and where appropriate the nature and scale of contributions. In all cases the scope of the contributions is dependent on the scale and nature of development.

4.5 The Council is aware of the financial implications of developers meeting contributions. Where development warrants significant contributions that might prejudice the viability of the project if sought before development gets underway, phasing of payments will be considered.

4.6 Each topic identifies triggers (where appropriate) where contributions will be sought. For the basis of this guidance major development is defined in accordance with the General Development Procedure Order 1995 as follows: -

The provision of dwelling houses where: -

- The number of dwelling houses to be provided is 10 or more; or
- The residential development is to be carried out on a site having an area of 0.5ha or more and it is not known whether the development comprises 10 or more dwellings;

The provision of non-residential development where: -

- The provision of a building or buildings where the floorspace to be created by the development is 1000m² or more; or
• Development carried out on a site having an area of 1ha or more.

A PUBLIC REALM

Public Realm includes not only public open spaces, but also streets and open areas between or adjacent to buildings of all kinds and, covered areas such as building foyers or shopping malls.

SPG - 'Creating Better Places' (Adopted April 2005)

SPG - 'Improving the Public Realm' (Adopted April 2005)

Corporate Business Plan - Vision: - Safe and clean environment, waterside development, thriving town centres, and sustainable development of a competitive and vibrant economy

North East Lincolnshire Local Plan - Policy Linkage; - GEN1, GEN3, GEN4, GEN16 and GEN19

- Public Art
- Community Safety - signage - provision of CCTV (including management and maintenance commuted sums)
- Town Centre Strategy development
- Environmental Enhancement - tree planting, seating, interpretation
- Community Wardens (safe and clean team - NEAT Model)
- Traffic and parking management

Triggers

All development will be expected to contribute to enhancing the public realm. Major development will be expected to incorporate improvements in accordance with topic based guidance particularly where direct works are to be undertaken within the public realm. i.e. highway infrastructure works.

B TRANSPORTATION

SPG - 'Mobility and Parking Standards' (Adopted April 2004)

Corporate Business Plan - Vision: - An integrated transport system

North East Lincolnshire Local Plan - Policy Linkage: - GEN1, GEN16, T1, T2, T3, T5, T6, T7, T9 and T10

- Local Transport Plan (LTP)
- Bus Stop Infrastructure
- Shelters, information provision additional services
- Bus priority measures
- Access to development by bus services
- Employee bus pass discount
- Pedestrian links to bus services
- Cycle ways/public footpath, provision or upgrading
- Cycle parking
- Subsidised public transport provision
- Freight quality partnership
- Verge maintenance

**Triggers**

**All development** assessed in relation to topic based guidance.

**C HOUSING**

**SPG - 'Affordable Housing' (Adopted April 2005)**

**SPG - 'Creating Better Places' (Adopted April 2005)**

**SPG - 'Sustainable Development' (Internal Draft)**

**Corporate Business Plan - Vision:** - Living in appropriate and decent housing

**North East Lincolnshire Local Plan - Policy Linkage:** - GEN1, GEN9, H4, H5, H6, H12 and H13

Affordable and Special Needs Housing

(Supporting information contained in Housing Needs Survey)

- Bringing Empty Homes Back Into Use
  (In appropriate cases method to provide off site affordable housing)

  (Major residential development - aspiration 20% to achieve enhanced standards)
- Flood attenuation and mitigation measures

**Triggers**

**All development** will be assessed in relation to design, sustainability and flooding. Residential **development of 25 units or 1ha, or more** triggers an affordable housing contribution as set out in topic based guidance.

**D EDUCATION**

SPG 'Developer Contributions to Education Facilities' (Adopted April 2005)

**Corporate Business Plan - Vision:** - Ready to learn and ready for school, achieve academic success and social and cultural development

**North East Lincolnshire Local Plan - Policy Linkage:** - GEN1 and H1

- School education facilities

**Triggers**

**Residential development of 10 or more accountable dwellings** triggers assessment against capacity of existing school(s) as set out in topic based guidance.

**E RECREATION AND OPEN SPACE**

SPG 'Landscape Design' (Adopted April 2005)

**SPG (Recreation and Open Space) (Programmed for Preparation)**

**Corporate Business Plan - Vision:** - Participate in a range of learning, leisure and cultural activities, enjoy good health and lead a healthy lifestyle, the Freshney Forest

**North East Lincolnshire Local Plan - Policy Linkage:** - LTC1, LTC2, LTC3, LTC4, LTC6 and LTC7

- Provision of Formal and informal Open Space
- Provision of Children's Play Equipment (All ages)
- Improvements to existing facilities to increase or widen usage
- On going maintenance associated with new or replacement facilities
Triggers

Residential development of 50 or more dwellings triggers the provision of an equipped children’s playground. Major residential development in areas of recognised deficiency (identified through local assessment) will be expected to provide or contribute towards amenity open space.

F HISTORIC ENVIRONMENT

SPG - Planning the Historic Environment (Adopted April 2005)

Corporate Business Plan - Vision: - Sustainable development

North East Lincolnshire Local Plan - Policy Linkage: - GEN1, BH11 and BH12

- Archaeological preservation in site excavation and recording of remains, site management
- Provision of interpretation information as appropriate

Triggers

All development will be assessed in relation to topic based guidance.

G COMMUNITY DEVELOPMENT

Corporate Business Plan - Vision: - Safe and supportive community, active citizenship and community involvement

North East Lincolnshire Local Plan - Policy Linkage: - GEN1

New facilities (permanent or mobile facilities)

- Refurbishment or redevelopment of existing facilities to meet new or additional needs

Triggers

All development will be assessed in relation to community development and support.

H NATURE CONSERVATION

Corporate Business Plan - Vision: - Sustainable development

North East Lincolnshire Local Plan - Policy Linkage: - GEN1, NH1, NH2, NH3, NH4, NH5, NH6, NH7, NH8 and NH10

Provision or improvement of on or off-site wildlife habitats to mitigate the impact of development
- Interpretation or information facilities
- Management of wildlife habitats

**Triggers**

**All development** will be assessed in relation to nature conservation interests.

I  **POLLUTION AND WASTE MANAGEMENT**

**Corporate Business Plan - Vision:** - Safe and clean environment

**North East Lincolnshire Local Plan - Policy Linkage:** - GEN1, GEN8, GEN10, GEN11, GEN12

Provision of recycling facilities
- Site restoration and aftercare
- Noise mitigation measures
- Decontamination and reinstatement of land
- Landfill gas management
- Air quality monitoring

**Triggers**

**All development** will be assessed in relation to pollution and waste management.

J  **FLOOD RISK**

**SPG - 'Strategic Flood Risk Appraisal'**

**Corporate Business Plan - Vision:** - Safe and clean environment

**North East Lincolnshire Local Plan - Policy Linkage:** - GEN1, GEN9
- Flood attenuation and mitigation measures

**Triggers**

**All development** will be assessed in relation to flood attenuation and mitigation.

4.7 The tables set out at Appendix 1 provide details of the approach to residential and commercial developments and provide the starting point for negotiations. Not all development will involve developer contributions; the table provides the framework for consideration of
which contributions may be appropriate. Where it is appropriate to attach conditions to a planning approval rather than securing contributions through a legal agreement this approach will be pursued.
5.0 **Implementation**

5.1 In all cases contributions will be agreed through negotiation based on the provisions of this SPG and any topic based SPG or other considerations. Any unilateral undertakings offered by developers will similarly be expected to accord with this SPG. Each aspect of negotiation is considered to be mutually exclusive. In cases where appropriate contributions are not agreed developers will need to justify why contributions being sought are considered inappropriate. The Local Planning Authority may refuse permission for a development proposal, where it is considered the development has made inadequate provision for the impacts it creates.

5.2 Contributions will not be used to substitute or replace existing local authority funding. Contributions will be used to mitigate for the additional impact of the development. Where appropriate this will include design and procurement fees incurred as part of the implementation process.

5.3 The completion of planning obligations is often perceived as a lengthy time consuming process. The Council is keen to ensure that where planning obligations are necessary they are completed quickly. The Council therefore proposes maximum time periods for the signing of planning obligations and will make all possible efforts to meet these targets. Where the targets are exceeded the proposal will be reviewed. Where it is considered that there has been unreasonable delay in completing the planning obligations a report may be taken to Planning Committee to consider whether planning permission should be refused in the absence of the completed planning obligation.

5.4 **Minor developments**

Planning obligations associated with minor development seldom include complex arrangements. It is therefore considered reasonable that they are completed within **3 months** from the date of approval in principle.

5.5 **Major developments**

Planning obligations relating to major developments can be simple. In such circumstances it is considered reasonable that they are completed within **3 months** from the date of approval in principle. However some obligations include complex and varied issues. It is therefore considered reasonable in such cases that such obligations are completed within **6 months** from, (or such time period agreed between the Council and the applicant prior to) the date of approval in principle.

5.6 The applicant will be informed of the time period within which it is intended to complete the obligation and will be informed of the review process if completion is not achieved.
5.7 Applicants will be expected to ensure that all parties with an interest in the land are kept informed of the need for a planning obligation at an early stage and should be aware that contributions should be index linked where this is appropriate.

5.8 All planning applications subject to the completion of a planning obligation will be expected to include Heads of Terms or a draft agreement in the report to Planning Committee. This will ensure transparency as to why and how an agreement is being entered into; and should ensure that decisions are issued speedily.

5.9 The applicant will be required to cover North East Lincolnshire Council's legal costs relating to the planning obligation.
6.0 Monitoring

6.1 It is important that the signing of planning obligations is not seen as the end of the process. The District Audit Report recommended that appropriate action be made to monitor progress on agreements. Developers will be provided with annual progress reports and closing statements where the work is completed to fulfil the obligations entered into.

6.2 An annual report will also be presented to Planning Committee to outline progress on obligations outstanding at the start of the year and new planning obligations that have been served.

6.3 This process ensures the establishment and retention of an auditable system that tracks the progress on current planning obligations.
7.0 Further Information

7.1 Council Contacts

**IMPLEMENTATION**
Phil Wallis  
Development Control Manager  
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Knoll Street  
Cleethorpes  
North East Lincolnshire  
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Fax 01472 324216  
Email phil.wallis@nelincs.gov.uk

**PLANNING POLICY**
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Principal Planning Officer  
Forward Planning  
North East Lincolnshire Council  
Civic Offices  
Knoll Street  
Cleethorpes  
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DN35 8LN  
Tel 01472 323370  
Fax 01472 324216  
Email ian.king@nelincs.gov.uk

7.2 The Local Planning Authority will in appropriate cases adopt a ‘development team approach’ when considering development proposals. Such an approach ensures that key officers are involved in discussion/negotiation at all stages of the development process. Such an approach offers particular benefits when contributions are to be sought across a range of disciplines such as education, affordable housing and open space.
If you would like to receive this information in another language or in another format such as large print, Braille or on audio tape, please contact

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Economic Regeneration Agency
Civic Offices
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Tel: 01472 323370
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### APPENDIX 1

#### Residential Development Matrix

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
<th>J</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>public realm</td>
<td>transportation</td>
<td>housing (affordable housing contribution)</td>
<td>education (primary school provision)</td>
<td>recreation and open space</td>
<td>historic environment</td>
<td>community development</td>
<td>nature conservation</td>
<td>pollution and waste management</td>
<td>flood risk</td>
</tr>
</tbody>
</table>

The Matrix identifies the thresholds where an assessment of the requirement for a developer contribution will be made.

<table>
<thead>
<tr>
<th>No. of Dwellings</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
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<th>J</th>
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<tbody>
<tr>
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<td>X</td>
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<td>X</td>
<td>X</td>
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<td>X</td>
<td>X</td>
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<tr>
<td>50+</td>
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<td>X</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

# - Where specific need has been identified associated with a development identified in Policy or replacement open space is required.
Commercial Development Matrix

A  public realm
B  transportation
C  housing
D  education
E  recreation and open space
F  historic environment
G  community development
H  nature conservation
I  pollution and waste management
J  flood risk

The Matrix identifies the thresholds where an assessment of the requirement for a developer contribution will be made.

<table>
<thead>
<tr>
<th>New floorspace</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
<th>J</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial B1, B2, B8</td>
<td>X</td>
<td>X</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

The assessment of whether a contribution is necessary will be based upon the number of visitors/clients, the quantity and character of traffic generated, visual impacts, potential for noise and pollution, and crime and disorder.