



**Cumbria County Council**  
**Draft Planning Obligations Policy**  
**Consultation**

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## Introduction

Cumbria County Council's aspirations for Cumbria are to be:

- a place with a thriving economy where we challenge poverty in all its forms;
- a place where you can live in a high quality and sustainable environment and you can move safely and easily around the county;
- a great place to be a child and grow up in a place of opportunity where young people are able to live happy and productive lives;
- a place where young people will want to live and work in the future;
- and a place to enjoy an independent and healthy life and to be safe from harm, with more control over your life and a say in the decisions which affect you

To achieve these aspirations Cumbria County Council aims to ensure that good quality sustainable development, and excellent services and infrastructure, are delivered to meet the needs of current and future communities.

It is essential that the public and private sectors work together to make their own valuable contributions towards these aims. It is the intention of this policy document to provide a framework to guide this close working around the provision of necessary services and infrastructure through the planning system.

Ultimately this policy document is provided to assist the development industry, local planning authorities and the communities they represent. The private and public sector have an important role in delivering sustainable communities in Cumbria and to this end, the county council will ask that, where appropriate, developers fund the cost of the additional infrastructure and services that their developments create a need for. This is essential for the ongoing sustainability of Cumbria's communities.

This draft policy document sets out:

- What planning obligations may be sought by the county council;
- When planning obligations may be sought by the county council;
- How the level of contribution required would be determined by the county council; and
- How matters around viability should be considered.

It is important that the people affected by this policy have their say on how it is shaped, so to ensure the development of a well rounded policy we are undertaking consultation with the relevant stakeholders. It is hoped that constructive comments will be received to ensure the best strategic policy approach which will achieve sustainable development for Cumbria.

The deadline for consultation is 5pm on January 28<sup>th</sup> 2013 and feedback would be welcomed.

## **1. BACKGROUND**

- 1.1 A key role of the planning system is to promote sustainable development. In line with this aspiration, the planning process looks to ensure development gives full regard to social, economic and environmental factors but also infrastructure requirements with development minimising any negative impacts they may create.
- 1.2 Housing and economic development proposals have a key role in achieving Cumbria's aspirations; however it is also important that with these; sufficient services and infrastructure are in place to meet the demands they create. In this context, working with the County Council, the development industry has a responsibility ensuring that new development does not undermine the services and infrastructure important to the social, environmental, and economic well being of Cumbria's communities.
- 1.3 Planning obligations have an important role in ensuring the availability of sufficient infrastructure to meet requirements. As the upper tier authority in Cumbria, the County Council is responsible for many key service and infrastructure areas and wishes to exercise its strategic role in ensuring the sustainable development of the County.
- 1.4 Reflecting this role and to help deliver aspirations for Cumbria this Policy Document has been prepared. The Policy Document details the scope and range of planning obligations that Cumbria County Council may seek from the development industry, through Section 106 agreements (planning obligations). In so doing it promotes a consistent and transparent approach so that communities and the development industry are able to see and understand how development in their area is making a fair and positive contribution to sustainable communities.
- 1.5 The Policy is also recommended to Local Planning Authorities (LPAs) for use in working up their own Local Plan documents including Planning Contribution SPDs and CIL Charging Schedules. When considering infrastructure and planning, it will be important for Cumbria's Local Planning Authorities and Cumbria County Council to actively engage with each other to ensure community infrastructure and service requirements are adequately reflected within Infrastructure Deficit Plans and Development Plan policy, taking account of the County Council's Planning Obligations Policy.

### ***Policy Coverage***

- 1.6 This Policy covers areas of infrastructure and services relating to Highways and Transport, Surface Water Management, Education, Social Care and Safer and Stronger Communities<sup>1</sup>. It does not cover

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<sup>1</sup> The development industry and other important stakeholders were consulted on the draft education contributions policy during October 2011 which has informed this comprehensive policy document.

services provided by District and Borough Councils, such as Affordable Housing, nor contributions that may be sought by other infrastructure providers such as the Environment Agency or United Utilities. Early contact with the appropriate Local Authority is recommended to prospective developers to ensure full account is taken of other service requirements and local policies.

- 1.7 There are 6 District and Borough Councils and 2 National Park Authorities in Cumbria. It is the District/Borough Councils and National Park Authorities that develop local planning policies that determine where development should be located having regard to sub-regional strategies and other evidence. They also determine planning applications for new housing and employment sites and ultimately decide what requests for developer contributions should be secured through Section 106 agreements. These Local Authorities also provide infrastructure in relation to their own services, such as public open space and Affordable Housing.
- 1.8 Cumbria County Council is the minerals and waste planning authority for Cumbria and determines proposals for such schemes as well as County Applications. These minerals and waste developments may be subject to S106 agreements and are informed by policy within the minerals and waste development framework. In developing this Policy Document, the County Council has worked informally with Cumbria's District/Borough Councils and National Park Authorities.
- 1.9 Cumbria County Council is responsible for much of the large scale infrastructure that residents require such as roads (as the Highways Authority) and schools (as the Education Authority). In these various roles, the County Council participates in the development of planning policy and works in partnership with District/Borough Councils and Cumbria National Park Authorities to identify the impact of development proposals on infrastructure. In line with this role, where appropriate and required as a result of the proposed development, Cumbria County Council will seek developer contributions to mitigate the impact of new development on infrastructure capacity.
- 1.10 This policy document relates to Planning Obligations, secured through Section 106 agreements. However, it does not contain policy around Community Benefit packages, Section 78 or Section 278 agreements.
- 1.11 Community Benefit Contribution (CBC) is a recognised concept in relation to developments that are in the national interest (in particular nuclear and energy related development). They are voluntary and should be in addition to the direct mitigation of impacts as a result of large scale developments dealt with through the planning process. CBC are therefore above and beyond any Section 106 and Community Infrastructure Levy (CIL) payments. In general terms they are used to fund projects to meet the needs of communities hosting development.

- 1.12 The delivery of Super Fast Broadband is considered very important to Cumbria's sustainability. It helps to ensure digital inclusion amongst our communities, encouraging economic growth through increasing the competitiveness of Cumbria's businesses and delivering public sector efficiencies through the reengineering of ICT networks and services. The Connecting Cumbria project seeks to secure the delivery of high speed broadband in Cumbria and is a high priority for Cumbria County Council. Although planning obligations are not being sought for the delivery of super fast broadband as a matter of course it is considered that as far as possible new development should be "broadband ready". This in itself is likely to improve commercial values as well as give significant advantage for users. Measures taken could be the provision of ducting in construction with open access to all service providers and provision within the fabric of the buildings for network cabling where it provision is considered appropriate.

## **2. POLICY AND LEGISLATIVE CONTEXT**

- 2.1 National planning policy contained in the National Planning Policy Framework (NPPF) sets out that spatial planning is critical in relation to economic growth and regeneration.
- 2.2 The County Council is a statutory consultee for any 'strategic' planning application submitted within each of the six District and Borough Local Planning Authorities in Cumbria, where development would materially conflict with, or prejudice the implementation of a relevant County policy<sup>2</sup>. In such cases, the County Council's planning services are responsible for providing a corporate response to such consultations with them undertaking internal consultation as required. Where any proposed new development is not considered to be 'strategic', it is the responsibility of each Local Planning Authority in Cumbria to liaise directly with Cumbria County Council to ensure that future infrastructure requirements/issues are fully appreciated as part of the development management process.
- 2.3 It is advised that Cumbria County Council be notified of any pre-application discussions that take place between any developer/landowner and the Local Planning Authority, to ensure that the developer/landowner is made aware of any potential infrastructure requirements at the initial inception stage of their proposal. Likewise, should the County Council be contacted by a developer, officer's will look ensure that the relevant Local Planning Authority are notified.
- 2.4 The Local Plan prepared by each Local Planning Authority should be supported by evidence of what physical, social and green infrastructure is needed to enable the amount of development proposed for the area, taking account of its type and distribution. This evidence should cover who will provide the infrastructure and when it will be provided. The Local Authority's Local Plan should draw on and, in parallel, influence any strategies, policy frameworks and investment plans relevant to the area. This policy document with respect to developer contributions should be given weight by the respective Local Planning Authorities during the development of their Local Plan.
- 2.5 The NPPF requires key infrastructure stakeholders, such as the County Council, to be fully engaged in discussions with Local Planning Authorities when they prepare their Local Plans. As with strategic planning applications, the County Council should be formally consulted at key stages on the production of the Local Plan.

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<sup>2</sup> *Planning and Compulsory Purchase Act 2004 and The Town and Country Planning (Development Management Procedure) (England) Order 2010*

## Legal Framework for Planning Obligations

- 2.6 The power of a Local Planning Authority to enter into a planning obligation with persons with an interest in a piece of land is set out in Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991).
- 2.7 On the 6 April 2010 The Community Infrastructure Levy (CIL) Regulations 2010<sup>3</sup> came into force (an Amendment<sup>4</sup> that came into force on 6 April 2011).
- 2.8 The regulations are clear, that any planning obligation must be:
- a. Necessary to make the development acceptable in planning terms;
  - b. Directly related to the development; and
  - c. Fairly and reasonably related in scale and kind to the development.
- 2.9 Further Government Guidance with respect to planning obligations is contained within National Planning Policy Framework. This reaffirms the legal tests in the event that Local Authorities seek planning obligations.
- 2.10 With a view to limiting the future use of planning obligations in favour of the introduction of a Community Infrastructure Levy, the CIL Regulations 2010 prevent local planning authorities on or after the 6 April 2014 from applying planning obligations in the form of Section 106 planning agreements to more than five separate applications within their area for the purposes of securing a single piece of infrastructure or types of infrastructure.
- 2.11 Over coming years it is anticipated that individual charging authorities (the regulations only allow LPA's to be a charging authority) will develop CIL charging regimes. Cumbria's Local Planning Authorities should engage Cumbria County Council in the development of Community Infrastructure Levy taking into account all relevant County Council requirements and the content of the Planning Obligations Policy. Opportunities should be taken to develop a memorandum of understanding (MOU) between the County Council and Local Planning Authorities to facilitate the effective operation of securing necessary contributions from S106 and/or CIL.

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<sup>3</sup> SI 2010/948

<sup>4</sup> SI 2011/987



### **3. POLICY IMPLEMENTATION AND VIABILITY**

#### **Cumbria**

- 3.1 Cumbria is truly a place of great opportunity where businesses can grow and create jobs. The county has a strong brand and welcomes new investment to help grow the local economy.
- 3.2 Between 1995 and 2007 Cumbria's economic growth rate was the slowest of all the 37 county areas in the UK, with an overall growth rate of just 51.4% compared to 71.2% in the North West and 90.5% for the UK. Medium term growth (2004-09) was much improved before dropping back most recently (2008-09) with Cumbria down to 29<sup>th</sup> of 37 sub regions.
- 3.3 Cumbria is the second largest county in England, home to the Lake District National Park and just over 500,000 people. It has become a centre of excellence in both the nuclear power and marine engineering. Its agricultural industry is essential to UK food security, and its tourism industry is quickly being defined as the UK's adventure capital. Superfast broadband is also being spread throughout the County and should help deliver the County's potential.
- 3.4 There are areas in the county that compete with some of the richest in the UK, and there are others that compare with the most deprived<sup>5</sup>. House prices reflect this pattern, the median house price in Cumbria is £143,869, but there are significant disparities: in Barrow-in-Furness the median price is £93,384 compared to £210,977 in South Lakeland (CACI, Cumbria Intelligence Observatory, 2011). The diversity of house prices in Cumbria is mapped within Appendix 1.
- 3.5 In many of the areas with high house prices, wages are extremely low. This creates challenges around housing affordability. The level of house prices combined with relatively low wages creates significant issues around housing affordability in many parts of the County. This is mapped in Appendix 2.
- 3.6 Similar patterns of diversity recur for educational attainment, life-expectancy, employment and benefits, to name a few. The size, topography and population composition and distribution in Cumbria also creates challenges in the access and delivery of services across the County. Reflecting this, Eden District is the most deprived district in mainland England in respect to the accessibility to services<sup>6</sup>.

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<sup>5</sup> In terms of overall deprivation (2010) Cumbria is ranked 85th nationally (out of 149, where 1 is the most deprived). Barrow in Furness is the most deprived district in Cumbria; ranked 32nd out of 326 and is within the 10% most deprived nationally. Copeland is ranked 78<sup>th</sup>, Carlisle 109<sup>th</sup>, Allerdale 111<sup>th</sup>, Eden 211<sup>th</sup> and South Lakeland 242<sup>nd</sup> (Indices of Multiple Deprivation, 2010, ONS)

<sup>6</sup> The Rural Share of Deprivation in Cumbria Summary published by Action with Communities Cumbria (May 2010)

- 3.7 Significant improvements have been made in addressing these challenges, thanks to both public and private sector investment. Cumbria has seen a number of new schools and academies, hospitals, and other public buildings come to completion in recent times, and land reclamation projects have brought back a number of key sites in towns ready for private sector investment.
- 3.8 Many of Cumbria's successes in recent years has shown how the public and private sectors can achieve both individual and collective goals. It is considered that moving forward such practice can be replicated by ensuring development does not undermine the balanced, sustainable and inclusive development of the county which is reflected in the Cumbria County Council Plan. This aspires for Cumbria to; *have a thriving economy; have a high quality and sustainable environment where you can move easily and safely around the county; be a great place to be a child and grow up; and where you can enjoy an independent and healthy life and be safe from harm.*
- 3.9 These aspirations are considered important pillars of sustainable development and it is considered important that development and proposals do not prejudice these aspirations for Cumbria. The objective of this policy document will be to ensure that necessary infrastructure and services can be provided to support any new development and to ensure it does not prejudice the sustainable economic development of Cumbria necessary to achieve a thriving economy. Notwithstanding this, development site viability is going to vary considerably across a county as diverse as Cumbria. The Council will therefore take account of the overall strategic context in applying its policy for Developer Contributions and also the overall benefits brought by individual development.

### **Assessment of Viability**

- 3.10 In securing necessary infrastructure it will be important for Cumbria's Local Planning Authorities to work with and support Cumbria County Council in seeking necessary developer contributions to mitigate the effects of development on infrastructure and service areas.
- 3.11 The provision of adequate social and other infrastructure to meet the needs of a development is important in achieving good sustainable outcomes from the planning process. Each planning application will need to be assessed on its individual merits and it is for the Local Planning Authorities to work in conjunction with other service and infrastructure providers like the County Council to determine priorities for competing infrastructure requirements created by a proposal, such as the need for; highways improvements, education facilities and affordable housing amongst others. Clearly these considerations will need to be taken into account alongside their effect on the viability and deliverability of any development, and it is expected that most weight

would be given to areas of infrastructure considered most essential to the delivery of schemes.

- 3.12 Generally, the County Council will require the developer/landowner to provide the infrastructure required to meet needs that arise from a development as set out within this policy document. However it is accepted that, on occasion, there may be overwhelming public benefit that can only be realised by giving permission to a scheme that would not be delivered if all demands for planning obligations were met.
- 3.13 In such circumstances, where a developer/landowner seeks a reduction in the level of development contributions sought due to material and reasonable concerns over viability and deliverability, the Local Planning Authority will usually expect an 'open book' independent development appraisal. Given the County Council's important role in the provision of infrastructure, the relevant LPA is expected to engage with the County Council to jointly review this appraisal. If, following this review, it is determined that viability and deliverability concerns are justified, material and reasonable, joint consideration should be given to the potential to reapportion contributions on the basis of which infrastructure is considered most essential. Through this process it is anticipated that, most weight would be given to the provision of contributions towards elements of infrastructure considered most essential to the delivery of a specific development.
- 3.14 Where necessary planning obligations are not provided without an appropriate and demonstrable justification, Local Planning Authorities should look to refuse a planning application. Should any application be refused, Cumbria County Council's request for a contribution towards the provision of infrastructure should be recorded for consideration by a Planning Inspector in the event of a planning appeal.

#### **4. Overarching Policy**

- 4.1 To ensure the well being and sustainability of Cumbria's Communities, working with district and national park authorities, Cumbria County Council will seek necessary planning obligations from development proposals in line with the overarching policy set out below.

##### **Overarching Policy**

To ensure the sustainability of development proposals, working with Cumbria's Local Planning Authorities, Cumbria County Council will seek necessary planning obligations where development creates a requirement for additional or improved services and infrastructure.

Contributions will be sought where they are relevant, necessary and reasonable. They may be sought with respect to the following service areas:

- Highways – to help ensure the safe and ready access between locations allowing people to move easily and safely around the county (Section 5)
- Transport and Travel Plans – to help ensure sustainable transport is available and used to ensure sustainability ensuring that all can access important services (Section 5)
- Surface Water Management – to help ensure appropriate surface water management is in place (Section 5)
- Education – to ensure the availability of sufficient and adequately located education facilities for children which should help ensure Cumbria is a great place to grow up and young people are able to fulfil their potential (Section 6)
- Social Care – to help ensure statutory duties to provide care and accommodation can be met to help support healthy independent lives for Cumbria's residents and visitors (Section 7)
- Safer Communities – to help reduce crime and anti-social behaviour and to help keep communities safe from harm (Section 8)
- Fire Service – to help ensure adequate fire fighting facilities are in place to meet the requirements of development (Section 8)

Detailed information with respect to the requirements of the policy is set out in the subsequent sections of this document (as above). Planning obligations may be sought to fund a single item of infrastructure or collectively with other developments, part of an infrastructure item or service.

Where a scheme is considered to bring overwhelming wider benefit but there are justified, material and reasonable viability and deliverability concerns, the County Council and Local Planning Authorities will give joint consideration to the potential to reapportion contributions based on the strength of case made by developers.

Where requested contributions are not to be provided by the developer, the County Council considers that the Local Planning Authority should seek appropriate revision or refuse the planning application.

## 5. HIGHWAYS, TRANSPORT AND SURFACE WATER MANAGEMENT

### Headlines

- Cumbria County Council has a responsibility to provide and maintain access throughout the county.
- Where it is considered that a proposed development will have an unacceptable impact upon the highway or would require improved transport facilities to ensure all can access services and facilities, the County Council will require that the developer helps to ensure the provision of necessary infrastructure and services.
- To ensure that sites can be accessed through sustainable means, the County Council will require that certain developments are accompanied by a Travel Plan
- The County Council also has responsibilities relating to surface water management. Through this process, where the County Council considers that a proposal would require mitigation that cannot be provided on site, the County Council would seek an appropriate contribution to provide such necessary infrastructure off site.

These matters are detailed below.

5.1.1 The Cumbria County Council Plan aspires for Cumbria to be a location with a thriving economy which has a high quality and sustainable environment where you can move easily and safely around. These aspirations are consistent with the County Council's role as a Highway Authority and it is considered important that development proposals do not prejudice the Cumbria highway and transport network and accommodate sustainable forms of travel. Consistent with these aspirations, the Local Transport Plan sets out the transport priorities for the county which are:

- the maintenance of Cumbria's roads, pavements, paths and cycle ways;
- making sure our strategic road links are able to support the Cumbrian economy;
- maximising the benefits of the county rail network;
- using smartcard technology to reduce barriers to people using passenger transport;
- maximising the potential of the Port of Workington to support the Energy Coast and reduce carbon emissions from road transport;
- enabling more people walking and cycling to school and to work.

5.1.2 Development proposals will usually have an impact on highways and transport networks. Cumbria County Council, as Highway Authority is a statutory consultee in the planning process. The Highways & Transportation division undertakes this statutory function and advises the nine planning authorities in Cumbria (the County Council, the six District Councils and the two National Park Authorities) about the impact that development proposals will have on the highway and

transportation system and acceptability of mitigating measures proposed or are required to mitigate these impacts.

- 5.1.3 Most developments generate new travel movements and they should, as a first principle, provide the highway and transport infrastructure to cope with these movements. The development should also be accessible by sustainable modes of transport, i.e. walking, cycling and public transport. Any necessary alterations to the highway and transport system will be expected to be incorporated within the development's proposals, and the Highway Authority will raise objections should the developer be unwilling or unable<sup>7</sup> to provide the necessary solutions.
- 5.1.4 New developments can also have wider impacts and may increase the demands on a transport network that at certain times already operates above capacity. This can result in congestion and traffic intrusion (e.g. additional traffic on quiet lanes). It can also have a detrimental impact on road safety, air quality, and other, especially vulnerable, highway users.

### **Assessing Schemes**

- 5.1.5 Each development is assessed in terms of its impact on the highway and transport network. The Highway Authority will require a full Transport Statement to be submitted with the application for sites that propose 50 to 79 dwellings, or for other types of development that generate equivalent traffic flows. For developments of 80 dwellings or more, or other types of development such as commercial or leisure uses that generate equivalent or greater traffic flows, the Highway Authority will require a full Transport Assessment and Travel Plan to be submitted. The documents submitted should identify mitigation measures associated with the development, which the developer will be asked to fund in total or part, depending on the measures identified. Such measures could include additional highway infrastructure, including cycleways and footpaths, network management measures, and enhanced public transport provision and infrastructure. Early discussions with the Highway Authority are recommended to scope the parameters of any assessment or statement.
- 5.1.6 These early discussions will allow the developer to make sure that adequate time is built in to the project for the development and agreement of any highway mitigation measures. They should also enable preliminary designs of any infrastructure improvements to be agreed prior to the finalisation of any land acquisition required by the developer.

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<sup>7</sup> In the case of contributions secured via S106 agreement, where appropriate, weight may be given to legitimate and demonstrable viability concerns as per paragraph 2.10 – 2.13 of the Policy document.

- 5.1.7 With the exception of householder applications, a Transport Form, available from the Cumbria County Council web site, should be completed for developments below 50 residential dwellings or generating less than 40 passenger car movements during the peak hour. The Highway Authority considers a Transport Assessment or Transport Statement will usually be unnecessary, however, they may be requested should the Highway Authority consider it appropriate.
- 5.1.8 Based on the assessment of the development proposals, contributions or delivery of mitigation schemes will be sought to mitigate the impact of the development and to make an unacceptable proposal acceptable in Highways & Transport terms. Cumbria County Council works closely with the Local Planning Authorities, and direct provision of infrastructure improvements or contributions are usually secured through Section 278 (Highways Act 1980) agreements and planning obligations (Section 106 of Town and Country Planning Act 1990). More information about Section 278 agreements and commuted sums are provided in Appendix 3 to this policy.

## **5.2 PLANNING OBLIGATIONS AND REQUIREMENTS OF POLICY**

- 5.2.1 The Highway Authority will usually seek a Section 106 Agreement to secure Travel Plans and financial contributions towards public transport (further details below), and walking and cycling measures. Where it has been determined that physical infrastructure is required this should normally be provided via a Section 278 Agreement. However, there will be instances where the Highway Authority considers a financial contribution via Section 106 preferable, such as to enable pooled contributions. The Highways & Transportation Division's local Development Management Officer will advise on the appropriate process.
- 5.2.2 Priority will be given to securing the following via a S106 Agreement:
- A Travel Plan (further guidance is provided below);
  - Financial contributions for measures that improve transport choices and make it safer and easier for people to access jobs, education, shopping, leisure facilities and services by public transport, walking and cycling; and
  - Financial contributions for physical improvements to existing roads.
- 5.2.3 The above priorities may be subject to change depending on the individual circumstances and to safeguard strategic interests of the Highway & Transportation networks.
- 5.2.4 In seeking to obtain funding from developers for public transport, walking, and cycling improvements, the Highway Authority is seeking to ensure the development has an appropriate level of access to

education, employment, food shopping and health services by sustainable modes of transport.

- 5.2.5 Where the impact of development on the existing Public Rights of Way network is significant in adjoining urban fringe areas, financial contributions will be sought to ensure they are appropriately upgraded to accommodate additional use. The creation of new footpaths to connect to existing Public Rights of Way and to improve the overall network will also be sought, where considered appropriate and necessary.
- 5.2.6 The phasing of infrastructure or developer contributions may be appropriate for large developments with a build programme spanning many years. Such phasing may reflect that a facility or road improvement, for example, is not required at the start of building, but at a later date. Financial contributions may also be phased to reflect the viability of the site. However, as travel behaviour is established very early, phasing should not limit the availability or attractiveness of sustainable modes of transport (walking, cycling or public transport).

### **Highway Maintenance Payments**

- 5.2.7 Developments resulting in significant plant/HGV movements either during construction or subsequent to the use commencing, have the effect of causing accelerated wear, thus shortening the life of existing highway infrastructure. To ensure that the highway infrastructure is maintained/retained in a safe and durable condition, developers may be required to provide for the costs of the enhanced maintenance, either by a single payment for upgrading works, or via annual contributions to maintenance costs for as long as the use continues, secured via a Section 106 Agreement.
- 5.2.8 Payments made by the developers in respect of commuted maintenance sums, will be determined by the specific nature of the proposals in question and could relate to physical damage to roads, verges, footways and highway structures. The determining factor in calculating the appropriate sum will be the cost of maintaining the infrastructure, which is over and above the average figure that would have been incurred by the Highway Authority for the affected roads in any normal year. The sum is determined and secured by one of two methods:
1. A meeting is held with representatives of the developer and County Council Highway Engineers. Both parties agree on a maintenance contribution sum that is reasonable and related to the scale of the development and kind(s) of traffic. The sum is secured by a Section 106 Agreement to be paid at the agreed time(s).



2. An inspection of the highways (that it is considered will be affected), is carried out by representatives of the developer and the County Council prior to the commencement of the development. A joint statement is agreed documenting the condition of the highway infrastructure prior to the commencement of operations. Annual inspections will take place thereafter with any interventions necessary to return the network to its original condition being undertaken and paid for by the developer/operator. The Section 106 Agreement will include a clause requiring the developer to agree bonding arrangements with the County Council, which will be called on should the maintenance works costs not be met.

### **Travel Plans**

- 5.2.9 A Travel Plan is a long-term management strategy for a development that seeks to deliver sustainable transport objectives through positive action. This management strategy is set out in a document that is regularly reviewed to assess its effectiveness in delivering the intended results, or amended to attempt to resolve any failure to meet the targets set.
- 5.2.10 Travel Plans have an important part to play in encouraging the effective use of current transport networks. Travel Plans have been used successfully for many years and have proved to be an effective tool for promoting sustainable travel choices such as walking, cycling and public transport. By helping to reduce single occupant car use, Travel Plans can encourage effective use of current highway and transport networks, help support sustainable economic growth, encourage healthy lifestyles, promote social inclusion, manage travel demand, and assist in reducing the impacts of climate change.
- 5.2.11 Cumbria County Council, as Highway Authority, is keen to see Travel Plans used effectively and will be working towards this goal in partnership with Cumbria's Local Planning Authorities. Greater priority will be given to Travel Planning and the monitoring of Travel Plans.
- 5.2.12 Travel Plans form a fundamental part of the development management process as recognised by the National Planning Policy Framework. It is therefore important that where development proposals meet threshold levels; or where a Travel Plan is specifically requested by the Highway Authority, a Travel Plan should be produced to accompany the developer's planning application.
- 5.2.13 The thresholds for Travel Plans in Cumbria are taken from the Department for Transport's 'Good Practice Guidelines: Delivering Travel Plans through the Planning Process' (2009). The threshold levels are, however, intended to be indicative only. Other developments that raise sustainability concerns in terms of transport may also be requested to produce a Travel Plan.

5.2.14 Cumbria County Council is seeking to secure these Travel Plans via planning obligations through the planning process (Section 106 of the Town and Country Planning Act 1990) to guarantee the provision of sustainable travel options that will result in social, economic and environmental benefits. This will apply both to new developments and extensions of existing sites, whatever their use.

### **Travel Plan Contributions**

5.2.15 A guaranteed Travel Plan contribution will be required from a developer as part of a S106 Agreement where the development exceeds the thresholds where a Travel Plan is required. A contribution will also be required where a development is expected to have a significant impact on the local highway network. The contribution will be linked to agreed Travel Plan targets for reducing the number of trips generated by a development; or for reducing the level of single occupant car use.

5.2.16 The minimum target for reducing the number of trips or level of single occupant private vehicle use to and from the development is 10%. Evidence shows that a robust Travel Plan can readily reduce trips to a development by around 15-20%, and in some cases by over 50%. However, it has to be recognised that Cumbria has particular qualities (such as geography, rurality, population levels) that would make such targets challenging in some areas of the county. In recognition of these qualities, and to ensure consistency, it is considered that a 10% target (for reducing single occupancy private vehicle trips / number of trips generated by a development) across the county is reasonable.

5.2.17 The contribution is used to ensure that the developer is committed to meeting the targets as achieving them helps to mitigate the need for costly infrastructure improvements to be provided. The contribution is secured via a S106 Agreement, and is returnable in full after a specified period of time, if the number of trips, or single occupant car journey target is met in full. If targets are partly met, the contribution is refunded proportionally.

5.2.18 The guaranteed contribution is required to ensure that if identified targets are not met by an agreed date then the County Council, in conjunction with the Local Planning Authority, can use the contribution to take remedial action to improve sustainable transport in the area of the development and encourage modal shift.

5.2.19 Three elements are taken into account when calculating the amount of contribution required. These are:

- The appropriate annual bus ticket for the area in which the development sits;
- The target for reducing the number of trips or single occupant private vehicle use; and

- The number of years covered by the Travel Plan period (typically 5 years).

5.2.20 The contribution is calculated by using the current cost of an appropriate annual bus pass for the area in which the development sits, multiplied by the proposed reduction target, multiplied by the number of years of the Travel Plan monitoring period (typically 5 years). A further fee is added to cover the County Council's costs incurred in identifying, developing and implementing any potential measures. This fee will be the greater of 5% of the contribution or £1,000.

**Figure 1 Travel Plan Contribution**

£ contribution = (£annual bus ticket x target x 5) + greater of 5% or £1,000

*Worked example:*  
 A business development in Penrith expects to employ 120 staff, and has agreed a 10% reduction in staff single occupant car commuting journeys to the site (i.e reduction in 12 staff journeys). The travel plan monitoring period is 5 years. The appropriate annual bus ticket for the Penrith area is Cumbria Megarider Gold at a cost of £975. Therefore:

<i>Contribution required</i>	= (£975 x 12 x 5) + 5%
	= £58,500 + £2,925
	= £61,425

**Travel Plan Coordinator Administration Fee**

5.2.21 A Travel Plan is a “living document” that needs to be updated, amended, approved and monitored throughout the life of the development. There are administration cost implications for the County Council as the Local Highway Authority relating to elements such as reviewing the implementation and management of the Travel Plan, providing advice on its monitoring or future review, travelling to and attending meetings with the development’s Travel Plan Coordinator, reviewing marketing material, and reviewing survey results.

5.2.22 In order for this work to be undertaken by the County Council’s Travel Plan Coordinator, a financial contribution will be required from the developer towards staff costs incurred by the County Council and this should be included as part of a Section 106 Agreement.

5.2.23 The cost to a developer for this input from the County Council’s Travel Plan Coordinator will be a contribution of £6,600 to cover the 5 year period of the Travel Plan.

5.2.24 The County Council would also be able to take on the site Travel Plan Coordinator role for individual sites or for an area Travel Plan should the developer not wish to appoint an independent Travel Plan

Coordinator to carry out this function. The County Council would require a fee towards staffing costs for the Travel Plan Coordinator. This would be calculated for individual developments by negotiation based upon their size and the likely time requirements of the role.

- 5.2.25 Further information, including a breakdown of charges and example contribution calculations, can be found in Cumbria County Council's Travel Plan guidance document "*Travel Plans and the Planning Process in Cumbria: Guidance for Developers*" which can be found on the Council's website.

## **Public Transport**

### **Scheduled Public Transport: Residential Developments**

- 5.2.26 In developments of 80 or more properties (or smaller developments which will form part of a development of at least this size), unless there is a bus stop within 400 metres (800 metres in rural areas) of the properties, with the prescribed frequency of service, the developer will need to provide funding for a new or enhanced service, for a minimum of 5 years, on a reducing scale allowing for revenue growth. In order to encourage the use of public transport, the service and payment will ideally start upon initial occupation, although factors such as development phasing and likely future viability will be taken into account on a case-by-case basis.

- 5.2.27 Ideally services will be integrated with the existing network of commercial and supported bus services, to avoid abstraction from them and to maximise the potential for long term viability. It should not be assumed that if a bus service already runs near to the development, that it will be possible or desirable to run it into the development. Such an assumption will not be given weight when considering a development proposal unless prior discussions with the bus operator(s) and the County Council's Integrated Transport Team have taken place and the measure agreed can then be secured via a Section 106 Agreement.

- 5.2.28 The road network should be designed to allow vehicles to run through the development, with safe pedestrian links via the shortest route from sections of the main estate roads, to ensure that the maximum walking distance is no more than 400 metres (800 metres in rural areas).

### **Scheduled Public Transport: Employment Developments**

- 5.2.29 Any new development with more than 100 workers on site at the same time will be expected to make a contribution via S106 Agreement, to the provision of a bus at the main start/finish time of the day from the nearest Key Service Centre, unless that level of service already exists within 400 metres of the site (800 metres in rural areas), via safe and appropriate pedestrian facilities. The contribution could then be made

through the purchase of season tickets which can be re-sold to employees at full or discounted rate.

5.2.30 Where a new bus service is required, the intention will be for any service to become commercially viable within 5 years, and the operation should be reviewed each year to ensure that it is meeting the needs of workers to maximise revenue and the potential for long term viability.

### **Scheduled Public Transport: Retail Developments**

5.2.31 Any new store entrance should be within a reasonable walking distance of nearby bus stops and be linked via safe, commodious, attractive and direct pedestrian facilities.

5.2.32 Free services should normally be avoided, in preference to offering discounts to customers using existing commercially provided services or where necessary enhancing the network of fare paying services. In the latter case, the aim must be that the service can be viable once the funding expires.

### **Bus Service Frequency**

5.2.33 The required standard of bus service frequency is defined as follows:

- For developments located in Barrow, Carlisle, Workington, Whitehaven, Kendal, Penrith, Ulverston and Maryport (locations considered appropriate for major and significant scales of development within the Cumbria Sub Regional Spatial Strategy), the frequency should be a minimum of every 30 minutes (ideally 20 minutes) between 07:00 and 18:00 Monday to Saturday with an hourly evening service to 22:30, plus an hourly daytime service from 10:00 to 18:00 on Sundays;
- For developments in Dalton-in-Furness, Aspatria, Cockermouth, Brampton, Longtown, Wigton, Cleator Moor, Egremont, Millom, Silloth, Alston, Appleby, Grange-over-Sands, Kirkby Stephen, Milnthorpe and Sedbergh (locations considered appropriate for moderate scales of development within the Cumbria Sub Regional Spatial Strategy), the frequency should be a minimum of every 30 minutes (hourly where the population is less than 20,000), between 07:00 and 18:00 Monday to Saturday. No service will normally be required in the evening or on Sundays;
- For development located in local service centres and other locations the frequency should be a minimum of every hour between 07:00 and 18:00 Monday to Saturday. No service will normally be required in the evening or on Sundays.

### **Bus Stop Infrastructure**

- 5.2.34 Where new bus stops are required, these will need to be marked with a bus stop sign, either with a new pole or by attaching a “flag” sign to a piece of existing street furniture. New bus stops should also be fitted with timetable displays that comply with County Council standards.
- 5.2.35 In line with DfT guidance, the distance between bus stops in urban areas should be no greater than 400 metres.
- 5.2.36 Where feasible, lay-bys will be required on busy main roads or where a bus stopping for passengers to board or alight is likely to cause a traffic hazard. On estate roads with little traffic a lay-by is not required.
- 5.2.37 If provided, bus shelters need an agreement for long term maintenance, ideally with a Parish/District Council with a commuted payment to ensure cleaning and maintenance for 30 years.
- 5.2.38 A contribution towards the introduction of Real Time Information, including future maintenance costs, may be required.
- 5.2.39 Further advice regarding bus infrastructure requirements, applicants will be provided by the Highways & Transportation’s Integrated Transport Team where appropriate.

#### **Rail Service Contributions**

- 5.2.40 Where a development is located within 800 metres of a railway station, safe and appropriate links to the station for pedestrians and cyclists should be provided. The development may also be required to provide contributions via a S106 agreement towards the enhancement of station facilities such as passenger information screens, waiting facilities, cycle storage, station car parking, etc. For very large developments, it may also be appropriate to request contributions towards increasing train capacity or rail infrastructure improvements. Further advice in this regard will be provided by the Integrated Transport Team where appropriate.

#### **Community Transport Contributions**

- 5.2.41 While new development should be located where it is or can be made accessible by sustainable modes of transport it is recognised that there may be instances when this cannot be reasonably achieved. Where there are no scheduled public transport services, or it is not feasible to provide access to scheduled public transport through new stops or services, support for community transport for the locality will be sought. The contribution will be based on the following formula:

### **Figure 2 Community Transport Contribution - Residential**

- No. of dwellings proposed x average household occupancy x average no. of bus trips per person in the north-west x average cost of Rural Wheels trip = contribution per dwelling
- $1 \times 2.27 \times 68 \times \text{£}8 = \text{£}1,234.88$  per dwelling

5.2.42 The above formula is based upon the cost of Rural Wheels<sup>8</sup> which is particularly appropriate for small, rurally isolated developments. However, as well as Rural Wheels, Cumbria County Council supports a number of other community transport services, including voluntary social car schemes and community minibus brokerage. Depending on the location of the development, a contribution towards one of the regionally-based services, e.g. Fellrunner in Eden, Muncaster Microbus in Copeland, may be appropriate.

5.2.43 In developments which are specifically for elderly/mobility impaired, e.g. sheltered housing, which is not met by an accessible, scheduled passenger transport service or has its own transport for residents (such as an appropriately accessible mini-bus etc) , the developer will need to provide funding for an accessible dial-a-ride service or equivalent, e.g. City Wheels in Carlisle or Barrow Ring-a-Ride. This contribution will be based on the following formula:

### **Figure 3 Community Transport Contribution – Specialist Housing**

- Proposed no. of residents in development x average number of bus trips per person in the north-west x average cost of City Wheels/Ring-a-Ride trip
- $1 \times 68 \times \text{£}14 = \text{£}952$  per resident

### **Home to School Transport**

5.2.44 The Highway Authority will also seek a contribution towards funding the provision of home to school transport where it is demonstrably not possible for school place capacity to be provided locally. The requirement for this contribution will be determined on a case-by-case basis, in line with the statutory policy for provision of home to school transport. This states that where a child either lives more than the statutory walking distance from the nearest or catchment school, or is from a 'low income group' and meets the age and distance criteria, transport arrangements are the Local Authority's responsibility.

5.2.45 The statutory walking distance is 2 miles for children aged under eight and 3 miles for older children. This is defined as the distance measured by the nearest available walking route. For the route to be available, it

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<sup>8</sup> Rural Wheels is a unique community transport scheme that helps to address the issue of a lack of good public transport provision in some rural areas of Cumbria.

must be one which a child, accompanied by an adult, could be expected to walk with reasonable safety. The safety of walking routes to the nearest school from a development will be determined by the opinion of the Development Management Officer. However, if a formal route assessment is required, the developer will be required to fund the cost of the assessment.

5.2.46 A contribution will also be sought where there is insufficient capacity in the nearest or catchment school, and there is no alternative school with sufficient capacity within the statutory walking distance (please see the Education section of this document).

5.2.47 Where a contribution towards home to school transport is sought, it will be considered based on the following formula:

- Cost per pupil x no. of pupils generated x time period

5.2.48 The cost per pupil will be based on the specific needs of the development, to be advised by the Integrated Transport Team and in liaison with the Education Authority.

5.2.49 The time period over which the contribution is required will be dependent on whether transport to a primary or secondary school is required. For primary schools, a ten year period will be required reflecting the time period General Practitioner Register (GPR) information and current school roll information is available. For secondary schools, a five-year period represents the cost of transporting pupils from year 7 to the end of year 11. It should be noted that the costs for the County Council will be ongoing, but the length of the contribution has been limited to 5 and 10 years in order to aid development.

5.2.50 Home to school transport will be provided in line with Cumbria County Council standards, i.e. CRB checked drivers/escorts, appropriate vehicles, personnel documents in place, etc.

### **Active Travel**

5.2.51 Where a residential development is located within the statutory walking distance of a school as defined above, a contribution towards the provision of Active Travel initiatives may be appropriate, in order to reduce the reliance on car journeys for school drop-offs/pick-ups. This will include a contribution towards the provision of a safe walking route to the school if required.

5.2.52 A contribution may also be required towards the cost of a formal assessment of walking routes to the nearest school and provision of additional cycle storage, with further advice in this regard to be provided by the Integrated Transport Team where appropriate.



## **Administration Costs**

5.2.53 Where a contribution is sought towards provision of services covered by the Integrated Transport Team, an additional contribution should also be sought to cover the associated staff costs for administering these services.

5.2.54 The administration fee will be based on the average officer time required to administer the service, including elements such as tendering for services, contract management and administration of travel passes. The administration fee will cover the costs of administration over a 5 year period, and will be charged as the larger of £1750 or 5% of the overall contribution towards sustainable transport.

## **5.3 SURFACE WATER MANAGEMENT**

### **The role of the County Council in Surface Water Management**

5.3.1 Cumbria County Council has been given new duties relating to surface water management under the Floods and Water Management Act 2010. These new duties include;

- Establishing and maintaining a public register of features likely to have a significant effect on flood risk;
- Investigating flood events and publishing the results;
- Designating structures or features it believes play a key role in the management of flood risk. Once designated, consent is required to remove, replace or alter these;
- Develop, maintain, apply and monitor the application of a Local Flood Risk Management Strategy;
- Consenting certain works on Ordinary Watercourses;
- Approving construction works that would affect the ability of the land to absorb rainwater;
- Adopting and maintaining such structures if they are constructed to new national standards. Provisions are made for non performance bonds to be provided;
- Permissive powers to manage flooding from surface water and ground water.

### **Surface Water Management Plan**

5.3.2 In order to better understand the scale and nature of local flood risk, the County Council has produced a Surface Water Management Plan. This plan includes an initial county wide strategic assessment which allowed those locations where the surface water flood risk is most extensive or severe to be identified. A final list of hotspots is currently being examined in order to identify those that might benefit most from quick wins, such as minor engineering works, those that might warrant from larger capital schemes, and those that might benefit from planning

related controls via what is currently being referred to as critical drainage areas.

### **Planning Obligations Requirements and CIL**

- 5.3.3 One of the roles as Lead Local Flood Authority will be to identify candidate flood alleviation schemes. These will be prioritised against certain criteria and submissions for funding made on an annual basis. As part of the consideration of these candidate schemes it may become apparent that new infrastructure is required or that alterations are made to existing criteria.
- 5.3.4 In order for new development to be acceptable it may be necessary to open up existing problematic culverts, improve design of existing access bridges or formalise a boundary wall so that it serves a flood risk management role. Identifying these opportunities could facilitate development where it might otherwise have been deemed inappropriate on flood risk grounds.

### **5.4 POOLING OF CONTRIBUTIONS**

- 5.4.1 The pooling of contributions enables the provision of infrastructure required to meet the cumulative impact of development where a single contribution would not fairly or reasonably be able to meet that cost.
- 5.4.2 In some cases, individual developments will have some impact but not sufficient to require improvements to infrastructure. In these instances, the County Council as Local Highway Authority and Lead Local Flood Authority may wish to consider whether it is appropriate to seek contributions to specific future provision. In these cases, spare capacity in existing infrastructure provision should not be credited to earlier developers.
- 5.4.3 The County Council will therefore seek contributions via S106, which will be based on the estimated cost of the required infrastructure apportioned to the scale of the development, to be pooled where:-
- The cumulative impact of small scale developments will require infrastructure improvements to be provided.
  - It is apparent that significant infrastructure improvements will be required to accommodate levels of development proposed via Local Plans.
- 5.4.4 The County Council will work closely with Local Planning Authorities in order to inform their Local Plans and Infrastructure Delivery Plans, which will provide a basis for pooled contributions, and allow the known costs of relevant infrastructure deficits to be fairly apportioned. The County Council will also assist the Local Planning Authorities should any decide to implement a Community Infrastructure Levy in the future,

as this will deal with the cumulative transport impacts of incremental development, ensuring that all developments contribute to improving necessary transport infrastructure.

- 5.4.5 Prior to a Local Planning Authority finalising their Local Plans, the County Council as Local Highway Authority and Lead Local Flood Authority may take a view as to the likely infrastructure needed to accommodate anticipated growth and use this as a basis for requesting pooled contributions.

## 6. EDUCATION

### Headlines

- The County Council has a statutory requirement to provide school places to meet the needs of children living within its authority area.
- Where local schools do not have enough space to accommodate the needs of children that a development may create the County Council will expect the developer to fund or provide (in some cases) the required additional school facilities.
- Additional capacity can be provided through the extending/refurbishing/remodelling existing buildings or through the provision of new a new school where it is considered necessary due to individual or cumulative impacts.

These matters are detailed below.

- 6.1.1 The Cumbria County Council Plan sets out the aspiration for Cumbria to be a great place for a child to grow up and where young people are able to live happy and productive lives. Schooling has an important role in allowing fulfillment of this aspiration. The role of this section of the policy document is to set out a consistent and transparent approach to the seeking of contributions towards the provision of education infrastructure where it is needed to meet the needs created by a development. It sets out how Cumbria County Council will consider whether or not a proposal should contribute to the provision of education infrastructure, and how this will be sought.
- 6.1.2 Cumbria County Council’s vision is to provide the best for every child, young person and their family. If we are to improve children’s life chances, provide them with the skills they need for the world of work and reinvigorate our communities, it is essential that we deliver the best possible educational opportunities. As a contribution to this vision, the County Council must ensure that it meets the statutory obligations set out in Section 14 of the Education Act 1996 to; *“secure that sufficient schools for providing primary...and...secondary education are available for their area.”* In addition, the County Council must seek to provide school places in line with parents’ preferences, and is encouraged to expand popular schools<sup>9</sup>, and ensure that sufficient nursery provision exists so that every child can access his or her full entitlement.
- 6.1.3 New housing development can place additional pressure on school places, either through inward migration from outside the county, or by redistributing the existing population into areas where the existing schools are full to capacity or where no school exists within a ‘reasonable’ distance. The County Council also has a statutory obligation to provide free transport where the nearest school is over 2

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<sup>9</sup> DFES (2005) Higher Standards, Better Schools For All: More choice for parents and pupils.

miles distant for children up to the age of 8, and over 3 miles distant for those aged 8 and over<sup>10</sup>.

- 6.1.4 In the past, housing development has rarely, if ever, resulted in a shortage of school places; the County Council's schools have usually had sufficient available places to cope with any influx of pupils as a result of new housing. In line with Government policy, however, the County Council has worked hard to rationalise the number of school places available where there has been no realistic prospect of short- to medium-term growth in pupil numbers - it generally being accepted that the long term maintenance of empty places is an inefficient use of public resources. This has resulted in a far more appropriate match between the supply of school places and the demand for them, with a higher proportion of schools operating at, or close to, their full capacity. It is possible, therefore, that children moving into new housing developments where no provision is made for additional capacity, may have difficulty accessing a school place at their catchment area school or another within a reasonable distance
- 6.1.5 In some circumstances, this may require the provision of additional school accommodation. Doing so would be consistent the National Planning Policy Framework (NPPF), *'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations'*.
- 6.1.6 It is also stated in the NPPF that the; *"Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement and to development that will widen choice in education"*.
- 6.1.7 Ensuring that there is sufficient education infrastructure provided is consistent with the desired outcomes of the Cumbria Community Strategy 2008-2028 and its vision of creating safe, strong and inclusive communities. Part of this includes providing excellent learning and training opportunities.

## **6.2 REQUIREMENTS OF POLICY**

- 6.2.1 Cumbria County Council will require contributions from landowners and/or developers only where there is a demonstrable need arising from any development that cannot be reasonably met by existing education facilities. The nature of the facilities required will inevitably vary depending on the area in which development is taking place, the scale and nature of that development and the capacity of nearby schools to accommodate additional pupils (see Section 6.5).

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<sup>10</sup> Education Act (1996) Section 444 (5)

- 6.2.2 As a general rule, where development gives rise to a need, the County Council will require the developer/landowner to provide:
- The full capital cost of providing new education buildings or extending/refurbishing/remodelling existing buildings (including, but not limited to, ancillary facilities such as toilet, storage and hall space, additional parking and staff facilities); and
  - The full cost of related fittings, furniture and equipment; and
  - The provision or full cost of acquiring any land and/or rights over land required.
- 6.2.3 In appropriate circumstances, the County Council will require that, instead of providing the sums set out in 6.2.2 above, the developer/landowner will provide appropriate education accommodation in a location approved by the County Council in its absolute discretion incorporating relevant fittings, furniture, equipment and land
- 6.2.4 In addition to the contributions set out in 6.2.2 and 6.2.3 above, the developer/landowner should provide the full cost of any temporary accommodation required pending delivery of new or extended facilities.
- 6.2.5 Costs or provision will only be sought in respect of a development giving rise to the need for new primary (including nursery) and secondary school capacity. No contribution will be sought in respect of pupils over the age of 16, whilst that remains the school leaving age, or in respect of children with special educational needs.
- 6.2.6 Where the appropriate local school is an academy the County Council can seek a contribution to provide capacity at that school with the support of the Academy Trust. Although, independent schools, the County Council retains its statutory responsibility to secure school places which can be provided at academy schools.
- 6.2.7 As part of a Section 106 agreement entered into the County Council would require the developer to meet reasonable legal costs incurred by the authority and indeed those of academy schools where additional capacity is to be provided.
- 6.2.8 On certain occasions the County Council may seek a contribution for the transporting of children to a local school where they can be accommodated should capacity not be able to be provided locally. This is explored in greater detail within the transport policy section of the policy document.
- 6.2.9 Where the dwelling mix is known, contributions will only be sought from those dwellings containing 2 or more bedrooms. Contributions will not be sought from specialist housing for older people (these being generally subject to occupancy or management controls) that would not

impact on local school facilities. Contributions will be sought where a need arises from the development of all other housing.

6.2.10 The cumulative impact of development will also be taken into account. Where a number of developments are proposed, the overall impact will be assessed and a contribution sought from developers based on the projected pupil yield (see Sections 6.3-6.5) from each development.

6.2.11 Contributions towards the provision of education capacity would normally be sought from development that will result in a net increase of [30] or more dwellings in Key Service Centres<sup>11</sup> and [15] or more dwellings in all other settlements where there is insufficient capacity in local schools to meet the needs of that development, however the cumulative effects of a number of developments smaller than this should also be considered where they could have a cumulatively significant impact. This could be a particular issue in local service centres where there could be a number of sites below this threshold. This approach should also ensure that contributions can not be circumvented by sites being split up and likewise ensures there is no disincentive to developers working together to bring forward comprehensive and considered schemes.

6.2.12 When assessing proposals 3 main stages will apply:

- Stage 1 will be to assess the pupil yield created by a development,
- Stage 2 involves assessment of the capacity of local schools to meet this yield and where a contribution will be required, and
- Stage 3 will be used to establish the nature and level of contribution to be provided.

### **6.3 STAGE 1 - ASSESSING THE 'PUPIL YIELD' FROM HOUSING DEVELOPMENT**

6.3.1 In considering whether proposals would create a need for a contribution towards the provision of additional education capacity a starting point is an assessment of what is the likely 'pupil yield' of a development.

6.3.2 The assessment of pupil yield will be based on the latest available census data. Households of 3 or more people are reasonably assumed to contain one child of school age (4-16, excluding nursery-age children). The number of households with 3 or more people is calculated as a percentage of total households in the County, and this is applied to any new development to provide the pupil yield. Calculations of household size (i.e. bedroom numbers) are derived from census information setting out the number of rooms in a house. Current figures are set out below:

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<sup>11</sup> As identified in para. 3.6 of the Cumbria Sub Regional Spatial Strategy 2008-2028 or in appropriate successor document

- 2-bedroom dwellings – 12.9% of households have 3 or more people
- 3-bedroom dwellings – 37.9% of households have 3 or more people
- 4-bedroom+ dwellings – 50.2% of households have 3 or more people

It is assumed that children will fall equally into the 12 year groups (Reception and Years 1-11) to provide a primary-secondary pupil yield split.

**Figure 4 Calculation of Pupil Yield – Dwelling Led Model - Example**

<p>A development of 1,000 units:</p> <ul style="list-style-type: none"> <li>• 300 2-bed homes</li> <li>• 400 3-bed houses</li> <li>• 300 4-bed houses</li> </ul> <p>Pupil Yield:</p> <ul style="list-style-type: none"> <li>• 300 2-bed houses x 12.9% = 38.7 school age children</li> <li>• 400 3-bed houses x 37.9% = 151.6 school age children</li> <li>• 300 4-bed houses x 50.2% = 150.6 school age children</li> </ul> <p>Total Pupil Yield = 340.9 school age children</p> <p>Primary Yield = <math>340.9/12</math> (total year groups) x 7 primary year groups = 199 children</p> <p>Secondary Yield = <math>340.9/12</math> (total year groups) x 5 secondary year groups = 142 children</p>
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6.3.3 For Nursery-age children, the primary yield/year group as calculated above will be used to assess whether any additional capacity is required. In figure 4 above, the primary yield is calculated as 199 children. Dividing that by the number of primary year groups (7) gives a yield/year group of 28 children, which is assumed to be the number of additional nursery pupils who will require accommodation for 15 hours/week, and in respect of whom a contribution may be sought.

6.3.4 In the case of outline planning applications where there is no indication of the likely dwelling mix the County Council will provide an estimate of pupil yield based on a population-led model. The latest available census data will be used to assess the average number of school-age children living in each household, and this will be applied to the total number of dwellings proposed to produce an estimate of pupil yield. Whilst this is a more crude methodology than one based on dwelling mix, it should give developers a reasonable indication of the likely level



of contribution to be sought. When the dwelling mix becomes apparent, the County Council (see Figure 4) will recalculate the pupil yield based on that data, and will use that figure when finalising details of the contribution.

**Figure 5 Population Led Model - Example**

Number of households in Cumbria – 209,027

Number of children aged 4-15 living in households in Cumbria = 72,149

Number of children per household (72,149/209,027) = 0.345

Outline application for 1,000 units:

Pupil Yield (1,000 units x 0.345 children per unit) = 345

Primary Yield [(345 x 7 primary year groups)/12 total year groups] = 201

Secondary Yield [(345 x 5 secondary year groups)/12 total year groups] = 144

6.3.5 The use of Cumbria-wide figures is considered to provide a large and accurate sample to base anticipated levels of household composition. Pupil yield figures will be generally rounded up or down to nearest whole pupil number

#### **6.4 STAGE 2 - ASSESSING THE CAPACITY OF LOCAL SCHOOLS**

6.4.1 Together with a likely assessment of the pupil yield associated with a development, in considering whether or not a contribution would be required regard needs to be had to the capacity of local schools.

6.4.2 The County Council provides to DfE each year an assessment of surplus capacity in each school it maintains. That assessment includes the latest, agreed 'net capacity' figure, based on standard formulae provided by DfE. This will be the capacity figure used to decide whether the pupil yield from housing development can be accommodated, taking into account any changes in capacity since the previous measurement was undertaken.

6.4.3 The County Council expects that children should be educated within a reasonable distance of home, and will generally assume that the catchment area school in which any development is located is the appropriate school for children living in that development. It is likely that parents will expect places to be available in their local schools, and the County Council has a duty to meet the preferences of as many parents as possible. Safe routes to school will need to be provided to encourage parents and their children to walk or cycle to school.

- 6.4.4 The net capacity of the catchment area school will generally be used as the basis for determining whether any contribution is to be sought. (In the case of urban developments, there may be circumstances where it would be reasonable to look beyond the catchment area/local school towards others nearby: however each case will need to be considered on its own merits.) This may be compared with projected pupil numbers, based on data collected annually from General Practitioner Registers (GPR) (showing all children aged 6 and under living in any given school catchment area), to determine how many places, if any, will be available as development progresses.
- 6.4.5 Where an Academy or a Free School is already in existence, its capacity and numbers on roll will be included in the assessment of places available across an area. Where a development or population growth has resulted in the need for places in the local school and the local school is a Free School or an Academy, the County Council may seek to commission additional places there using s106 contributions.
- 6.4.6 Dedicated nursery accommodation does not contribute to a schools net capacity measurement, and existing nursery provision across the maintained, private and voluntary sectors in an area will need to be assessed to determine whether additional places are required as a result of housing development. Contributions will be sought where existing capacity is insufficient to accommodate the expected pupil yield.
- 6.4.7 For large scale, longer term developments, this will require some extrapolation of trends in pupil populations, since the birth data may not exist to determine exactly the number of children expected to be living in an area by the time the development is projected to be completed. To extrapolate future roll numbers, the County Council will use an average of the last two years' available birth and cohort progression data for the relevant catchment area (see Figure 6).

**Figure 6 Extrapolation of Future Rolls - Example**

Where the last two years' births in a catchment area are 58 and 62, the County Council will assume for the purposes of future projections that the birth rate will remain constant at the average (60). Likewise, where cohort progression from the 0-1 age group to the 1-2 age group is 92% and 88% in the last two years, we will assume that the average (90%) will apply in future years, and so on until each cohort reaches school age.

Hence where there are 60 children in the 0-1 age group, we will apply 90% to that figure to calculate the number of 1-2s in the area (in this case, 54). Similar calculations will be applied to older cohorts in order to produce a figure for future Reception intakes.

- 6.4.8 Temporary accommodation at any school will be excluded from the net capacity calculation. Moreover, the existence of temporary accommodation would suggest that the school is already under some pressure in terms of available places and it is clearly not designed as a long-term solution.
- 6.4.9 Where a school's roll is reducing and there is potential for its closure, the County Council will take account of proposed development in an area prior to making decisions on the school's future. However, the County Council will not retain a school simply because there is potential for development. Even where land has been formally allocated for housing, some proposed developments take many years to come to fruition, and the County Council's primary responsibility must be to ensure that all children continue to receive a high quality education, whilst also ensuring that public funding is used efficiently. Likewise, a school which is failing educationally or is functionally and economically obsolete (ie at the end of its design life) will not be retained indefinitely on the basis that development may occur in the future. Where closure is an option, the County Council will liaise with the relevant Local Planning Authority to determine the likelihood and timescale for future housing development so that a considered view can be taken as to whether a school or its buildings should be retained.
- 6.4.10 When planning permission is in place, and where a school is closed that would otherwise be the destination of children from any new development, the County Council may, if appropriate, retain the buildings until such time as they are required for the educational needs of those living in any new development. However, it is important to note that the County Council would seek to have any security and other revenue costs paid by the developer as part of their contribution, and would also seek to make any improvements to the building to make it fit for purpose via a contribution from the developer ahead of the building being required to be put back into school use.
- 6.4.11 No building would be retained in the event that the pupil yield from a development would be insufficient to support an educationally and financially viable school. As a rule of thumb, the County Council will assume that any school of less than one form entry primary school (210 places in total) is not viable, notwithstanding that smaller schools in rural areas may necessarily have a lower capacity and number on roll. A 210 place primary school allows for the establishment of 7 classes covering the National Curriculum year groups Reception to Year 6, without the requirement for mixed-age teaching (i.e. a single class containing both Year 1 and Year 2 pupils). This is generally accepted as being educationally and financially desirable, albeit that individual school management teams will make the final decision on the exact nature of class organisation.
- 6.4.12 For the avoidance of doubt existing spare capacity will not be automatically available to accommodate the pupil yield from new

housing development. In assessing spare capacity, the County Council may take account of other permitted development, housing allocations and regard would also be given to the potential effects of other proposed developments

## **6.5 STAGE 3 - ESTABLISHING THE NATURE AND LEVEL OF CONTRIBUTION REQUIRED**

### **New School Provision**

- 6.5.1 Where a housing development or the cumulative impact of a number of housing developments in an area give(s) rise to the need for a new school, the County Council will look to the landowner/developer or consortium of landowners/developers to provide (free of charge to the County Council) a complete new school and site as part of the development site or in a location considered to best meet the need arising from the new development
- 6.5.2 Normally the County Council will require the school and site to be provided by the landowner/developer on a “turn key” basis to the County Council’s specification and satisfaction based upon DfE guidance on school accommodation. This requirement will be based on but not limited to Building Bulletins 98 (secondary schools) and 99 (Primary schools) and other guidance, at the appropriate time (i.e. when the capacity is required).
- 6.5.3 Alternatively the County Council may require the landowner/developer or a consortium of landowners/developers to provide or fund the full cost of a suitable school site and to fund the full cost of providing the new school to the required standard at the appropriate time.
- 6.5.4 In general, the County Council will assume that the minimum size for a new primary school would be one form of entry (210 places plus a nursery) with a maintained nursery also provided as part of the school development (assuming that sufficient nursery capacity does not exist elsewhere in the area in the private or voluntary sectors). In the case of a proposal or series of proposals that generate a significant pupil yield the County Council would seek the provision or the full cost of a new primary school (including land). The normal threshold for new school provision will be a pupil yield of 150 or more. However the provision of a new school may be required in the case of pupils yields that are below this level, where the County Council consider it necessary. This will be the case where it is considered that providing school places for such a pupil yield cannot be reasonably met through the extension or remodelling of existing schools. It is assumed that a new primary school will be single storey construction unless otherwise agreed by the County Council.
- 6.5.5 In some cases, therefore, it would be necessary for the contribution sought to provide additional places beyond the pupil yield calculation,

but which will produce manageable class groups. For example, if a development were to yield 180 primary-age children, they could reasonably be accommodated in 6 classes of 30. The result, however, would be to require mixed-age teaching at the school and is likely to require changes in class structure each year. It would not be possible for the school to operate separate classes for each individual year group and, as children progress through the school, it is almost inevitable that a different mix will be required each year; this places an added burden on the school's management team, on individual teachers and would result in discontinuity for children. In this case, therefore, the County Council would seek the full cost or provision of a 210-place school incorporating 7 classrooms to ensure that each cohort could be taught separately, without the need for mixed-age classes.

- 6.5.6 It is unlikely that a complete new secondary school would be required unless the expected pupil yield of a development or series of developments is 600 pupils or more.
- 6.5.7 Any school site must be, of an appropriate size<sup>12</sup>; regularly shaped; level; fully serviced (drainage, utilities including ICT, roads etc, built to adoptable standard or adopted); free from contamination, adverse ground conditions, or other development constraints such as archaeology, ecology (protected species), tree preservation orders, restrictive covenants etc; and located within the development or such other location mutually agreed with the County Council and the Local Planning Authority. The proposed school site should, as a general rule, be for the exclusive use of the school.
- 6.5.8 Where developer/landowner(s) are required to provide or fund the full cost of a new school, in addition to the provision or the full cost of a suitable site, the County Council will, as a general rule, require the actual or estimated cost of the development of the new school to be used to determine the contribution, subject to appropriate indexation to reflect the cost at the time the school is built. In the absence of actual costs, the landowner/developer may either provide the County Council with a specification and cost plan, based on the Royal Institution of Chartered Surveyors (RICS) Building Cost Indices (published by the Building Cost Information Service) or such other appropriate construction cost indices, for approval or, alternatively, request that the County Council prepares the specification and cost plan. The landowner/developer will be required to pay the County Council's reasonable costs associated with approving the specification and cost plan or for procuring a specification or cost plan on the same basis. This payment will be required in advance of expenditure or work commencement.

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<sup>12</sup> Appropriate site sizes are contained within DfE Building Bulletins 98 (secondary schools) and 99 (primary schools) as amended from time to time.

## **Providing Additional Capacity at Existing Schools**

- 6.5.9 Where housing developments or the cumulative impact of a number of housing developments in an area give rise to the need for extensions, refurbishment and/or remodelling to provide additional capacity (including nursery capacity, as appropriate) at existing schools. The County Council will look to the landowner/developer or a consortium of landowners/developers to fund the cost of providing the additional capacity at existing schools at the appropriate time, including the cost of acquiring additional land if necessary.
- 6.5.10 Where developers/landowner(s) are required to fund the cost of additional capacity at existing schools, the County Council will, as a general rule, require the full actual or estimated cost of the specific additional capacity to be used to determine the contribution. This would be subject to appropriate indexation to reflect the cost at the time the additional capacity is built. The basis for considering this will be broadly the same as in 6.5.8 above.
- 6.5.11 It may not always be practicable or desirable to utilise development contributions to provide additional capacity at the school closest to the development. For example, the school site nearest to development may be fully developed, or the expansion of the school may result in an overdevelopment/loss of essential school facilities. In these cases contributions would be sought towards the cost of providing additional capacity through extensions, refurbishment and/or remodelling of existing schools where the need would be best met. The use of contributions would be monitored by the County Council.
- 6.5.12 Where a school is in a rural location and additional capacity is required but cannot be provided at the school due to site or other constraints, a contribution may be sought towards the provision of school transport and additional capacity at another nearby school which has capacity or may be expanded to provide such capacity. This is to ensure sites are sustainable. As part of this process consideration would be given to the nearest available school and to where children travel to already. The calculation of school transport will be based on that set out in the Highway's and Transport Section of this document. This is not the desired approach however, and should not be considered as appropriate mitigation in every circumstance and should be viewed as a last option.

## **Alternative Means of Contribution Calculation**

- 6.5.13 Where additional school capacity is to be funded by the landowner/developer the County Council will normally seek the developer/landowner to fund the full actual cost of new provision or, if this is not feasible, the estimated cost (as set out above). In the absence of actual or estimated cost information or where other details are not known (for example where it is not practical to provide such

information e.g. in the case of some outline or smaller scale proposals), the County Council will use Department for Education (DfE) construction cost multipliers (as amended/available/appropriately updated) to indicate the anticipated cost of providing additional school places. These multipliers are linked to location factors, which adjust the base multiplier to reflect the differing costs of building nationwide.

6.5.14 In these occasions the cost of the additional school places will be calculated as follows:

Contribution = Pupil Yield x DfE primary and/or secondary cost multiplier at the time the additional places are required.

The multipliers exclude ICT equipment, site abnormalities, site acquisition, VAT and other associated costs. Where appropriate these costs will be sought in addition to the multiplier applied.

### **Cumulative Development**

6.5.15 For cumulative, separate proposed developments that impact on school places, contributions will be sought that are proportionate to the cost of additional facilities and the expected pupil yield from each individual development.

#### **Figure 7 Cumulative Development - Example**

Development A – Pupil Yield = 25 primary-age pupils

Development B – Pupil Yield = 50 primary-age pupils

Development C – Pupil Yield = 100 primary-age pupils

Total Pupil Yield = 175 primary-age pupils

1. Existing local primary school(s) assessed as requiring an additional 90 places to accommodate all pupils arising from the three developments.

Where actual costs or a cost plan is available the cost multiplier will be determined by dividing the actual cost of funding additional capacity by the number of additional spaces required. Alternatively, in the absence of such actual cost information, the appropriate DfE construction cost based multiplier may be utilised:

- Developer A Contribution: (Cost multiplier x 90 places) x (25/175) = £A
- Developer B Contribution: (Cost multiplier x 90 places) x (50/175) = £B
- Developer C Contribution: (Cost multiplier x 90 places) x (100/175) = £C

2. New 1-form-entry (210 place) primary school required;

estimated cost, £Y:

- Developer A Contribution:  $\text{£Y} \times (25/175) = \text{£A}$
- Developer B Contribution:  $\text{£Y} \times (50/175) = \text{£B}$
- Developer C Contribution:  $\text{£Y} \times (100/175) = \text{£C}$

### **Other Important Considerations**

6.5.16 Where the effect of a new housing development requires the provision of temporary education accommodation pending delivery of a new school/extension, the full cost of providing this will be required from the developer/landowner.

6.5.17 Relevant to all contributions towards the provision of education infrastructure (new schools and extensions) it should be noted that the most up to date information will be used when each assessment of contributions is made. If an estimate is made prior to submission of a planning application, this may need to be revised when the application is submitted, especially when more accurate cost information becomes available. All costs will be assessed as and when applications are submitted.

6.5.18 The County Council on occasion may reserve the right to use the funds paid for providing additional capacity at existing schools to help fund the provision of new schools (or vice versa as the case may be) should this be considered a more appropriate course of action. This would be set out in the s106.



## 7. SOCIAL CARE PROVISION

### Headlines

- The County Council is responsible for the provision of social care for adults and children in Cumbria.
- Where it is considered that, due to their design, new homes would increase the need for adaptations or care at home to meet needs; the County Council would seek a contribution towards such necessary services.
- Where there is considered to be a shortfall in the availability of extra care housing locally, the County Council would seek a contribution towards the provision of additional Extra Care Housing to address the impacts created by new development.
- In the case of certain proposals the County Council would wish to see the provision of Changing Places toilets or a contribution towards their delivery elsewhere.

These issues are explored below.

7.1 The Cumbria County Council Plan sets out the aspiration for Cumbria to be a place where people can enjoy an independent and healthy life. This aspiration reflects Cumbria County Council responsibilities around the provision of social care for adults and children in Cumbria. New developments may create heightened demand for statutory services. Given this it is considered appropriate that new developments contribute towards the provision of infrastructure and services required to meet demands created by that development in the form of adaptations, support at home or residential care where appropriate.

## 7.2 A – HOUSING DESIGN AND ADAPTATIONS

### Background

7.2.1 Housing is a vital component of community care and the key to independent living. In order to support people to live as independently as possible there is a need for agencies to work collaboratively in planning and the use of resources. The promotion of health, wellbeing and independence are themes currently embedded in Government policies relating to health services, public health and social care.

7.2.2 There is a requirement to design communities that promote active ageing and sustainability to ensure that people of all ages, with disabilities, are included as active citizens; and to meet the needs of the population as they age. Additionally, there is a housing equality duty on Local Authorities, with further duties on housing providers and developers, under the Equality Act 2010.

7.2.3 Lifetime Homes Standards (Lifetime Homes), seek to enable 'general needs' housing to provide, either from the outset or through simple and

cost-effective adaptation, design solutions that meet the existing and changing needs of diverse households.

7.2.4 Housing that is designed to the Lifetime Homes Standard will be convenient for many occupants, including some (but not all) wheelchair users and disabled visitors, without the necessity for substantial alterations. Lifetime Homes are not however, a substitute for purpose-designed wheelchair standard housing. Many wheelchair users will require purpose-designed wheelchair housing. Planners and providers should therefore ensure that good provision is made to meet this need and these requirements are over and above those of Lifetime Homes.

### **Legal Duties of CCC and Working with Partners**

7.2.5 The promotion of health and well-being throughout life, including the independent living of the elderly, is an important role of the County Council. Delivery of suitable housing that meets the needs of all in the community will be important in achieving this aspiration.

7.2.6 The provision of social services is governed by law. That law consists of primary and secondary legislation (i.e. Acts of Parliament and Rules and Regulations) together with government guidance which must be followed by local authorities save in exceptional circumstances.

7.2.7 In some cases Local Authorities have a duty to act which means that they must do so; in others they have a power to act, i.e. the law enables them to do something but does not compel them so to do.

7.2.8 'The National Health Service and Community Care Act' (1990) states that it is a duty for Local Authorities to assess people for social care and support who appear to be in need of community care. This is to ensure that people that require community care services, or other types of support, receive the services and support they need. The local authority has a duty to meet assessed eligible needs.

7.2.9 'The Chronically Sick and Disabled Persons Act 1970 places a duty on social service authorities to:-

- arrange practical assistance in the home, and
- any works of adaptation or the provision of additional facilities designed to secure greater safety, comfort or convenience.

7.2.10 In practice, making arrangements to provide major adaptations to properties is undertaken by District and Borough Councils using Disabled Facilities Grants (DFGs). The current legislative framework governing DFGs is provided by the Housing Grants, Construction and Regeneration Act\_(1996).

7.2.11 Mandatory DFGs are available from Local Authorities in England. They are subject to a means test, and provide essential adaptations to give

disabled people better freedom of movement into and around their homes and to give access to essential facilities within the home.

7.2.12 Section 24(3) of the 1996 Act imposes a duty on local housing authorities to consult welfare authorities in coming to a view on whether the proposed works are 'necessary and appropriate'. In Cumbria, as elsewhere, Occupational Therapists employed in social care teams will refer appropriate cases to District and Borough Council Housing teams for DFGs following an assessment of need.

7.2.13 Despite the significant role of District Councils and Disabled Facilities Grants in supporting the needs of clients who require adaptations to their properties, ultimately the 'welfare duty' for meeting assessed needs remains with the County Council. In situations where DFG funding is delayed, the County Council is required to provide appropriate support in the form of increased care packages, possible admission to a care home or direct funding of adaptations. There is a clear link between housing design and the need for increased social care support.

7.2.14 Set out below is a table of spend on DFGs for each District with an average cost in the end column.

**Table 1 DFG Cost Information**

	Grant *10/11	Actual Spend 10/11	No. of Cases	Ave. Cost
Allerdale	£399,000	£1,034,000	127	£8,142
Barrow	£399,000	£850,000	152	£5,592
Carlisle	£663,000	£2,100,000	256	£8,203
Copeland	£210,000	£750,000	76	£9,868
Eden	£158,000	£359,000	57	£6,298
South Lakeland	£226,000	£480,000	69	£6,957
Cumbria Total	£2,046,000	£5,573,000	737**	£7,562
* Government funding				
** 7% of the total cases are for adaptations for children, 83% for adults, the vast majority of whom are over 65.				

Based on the above assessment, in 09/10 the average DFG adaptation cost for Cumbria came to £7,562.

7.2.15 Homes that are designed to Lifetimes Homes standards or incorporate key elements of these standards are easier and cheaper to adapt to enable people with disabilities to continue to live there. Moreover, adaptations to properties that are not designed with a view to

accessibility often fall short of achieving their full impact i.e. they may enable access into the property but retain inadequate circulation space.

7.2.16 Poorly adapted properties can contribute to increased levels of dependence which impact on the wellbeing of the individual, their carers and families and ultimately require social care support funded by the County Council.

**Figure 9 Example of cumulative social care costs for someone who needs additional personal help to maintain hygiene when they are no longer able to access a bathing facility**

Average cost of support at home care in 2010 = £14.50 x 6.5 hours  
= £94.25 per week

This would equate to £24,505 over a five year period or £4,901 per annum.

7.2.17 Occupants of homes which provide certain design features are far easier to adapt and in consequence require far reduced support packages.

**Requirements of Policy**

7.2.18 Financial contributions would be sought where it is considered that by reason of a development's design, its adaptation to meet the needs of those with a physical disability would be significant and it is likely that the provision of increased home caring services would be needed. Contributions may be sought from proposals containing 60 or more dwellings. This reflects the County Council definition of a strategic planning application within a Key Service Centre.

7.2.19 In contrast, **new homes that contribute to reduced care or adaptation needs through the provision of key design elements would not be expected to provide a contribution.** Contributions would not be sought from those homes that provide.

**Figure 10 Design Mitigation**

Straight and sufficiently wide staircases (Lifetime Homes Criteria 12a) **and** sufficiently large entry level WC facilities (Lifetime Homes Criteria 10) that can easily incorporate a level entry shower

7.2.20 The most frequently requested adaptations are stairlifts and level access showers, usually both facilities. The benefits of incorporating these design elements include:

- Homes that better meet the needs of residents as their requirements change.

- Improved use of DFG funding by District and Borough Councils as efficiencies will accrue from fitting straight stairlifts rather than curved rail stairlifts - The fitting of straight stair lifts are considerably cheaper than the curved and have the potential to be reused.
- Improved use of DFG funding by installing level access shower facilities in a pre-determined environment which is within or adjoining the existing ground floor WC area of the property making adaptation easier and promoting greater independence.
- Overall reduced demand on County Council social care resources through the reduced demand for personal care support and care home services by promoting greater independence, safety and wellbeing in the home environment.

7.2.21 In addition to the above; specialist housing for the elderly/disabled would be deducted from the proportion of homes from which a contribution would be sought.

### Contributions

7.2.22 Where a contribution is sought via a S106 Agreement, the level of contribution would be based on a standard calculation.

#### Figure 11 Formula Calculation

$$\text{Contribution} = (a) \times (b) \times (c)$$

a = Dwellings without straight and sufficiently wide staircases and sufficiently large entry level WC facilities that can easily incorporate a level entry shower

b = Prevalence of adult physically disabled Cumbria County Council Adult Social Care service users within Housing Market Area in 2010

c = Average cost of DFG adaptation at £7,562

7.2.23 Information on the prevalence rates of adult social care service users for each of Cumbria's housing market areas (see appendix 4) are set out in Table 2 below (this contains baseline information from 2010 and projections provided by Cumbria Observatory - please note the increased uptake of services projected over coming years):

**Table 2 Adult Social Care Service Users**

	2010	2020	2030		2010	2020	2030
<b>HMA</b>	<b>Physically Disabled Service Users</b>				<b>Rate per 1000 pop</b>		
<b>Alston Moor</b>	56	70	83		33	39	44
<b>Carlisle</b>	2003	2430	2867		35	39	44
<b>Carlisle Rural East</b>	689	847	1012		33	37	41
<b>Carlisle Rural West</b>	242	297	354		37	41	46
<b>Cartmel Peninsula</b>	414	531	637		51	59	66

<b>Central Lakes</b>	504	637	755		32	38	43
<b>Cockermouth</b>	209	257	304		32	38	43
<b>Dales</b>	91	114	135		31	37	41
<b>Eden Valley North</b>	706	901	1079		33	40	46
<b>Eden Valley South</b>	410	522	624		29	34	39
<b>Kendal</b>	837	1045	1232		38	45	51
<b>Kendal Rural</b>	604	755	891		31	36	41
<b>Millom</b>	170	211	256		27	31	36
<b>North Lakes</b>	364	453	539		27	32	37
<b>North Lakes East</b>	122	157	188		26	31	36
<b>North Lakes West</b>	242	303	362		28	34	39
<b>Ulverston &amp; Furness</b>	621	781	924		39	46	52
<b>West Lakes</b>	163	205	253		25	29	34
<b>Wigton</b>	262	320	376		26	30	34
<b>Whitehaven</b>	1116	1387	1687		26	30	36
<b>Workington &amp; Maryport</b>	1598	1955	2296		32	38	43

**Figure 12 Contribution Calculation - Example**

<p>a) A 100 unit scheme is proposed in Carlisle. Of the 100 units proposed 80 do not contain straight and sufficiently wide staircases and sufficiently large entry level WC facilities that can easily incorporate a level entry shower.</p> <p>b) In 2010 0.035 of adults within the Carlisle HMA use Cumbria Council care services.</p> <p>c) Average cost of DFG adaptation</p> <p>Based on this a contribution would be sought on the following basis:</p> <p>Contribution = (80) x (0.035) x (£7,562) = £21,174 contribution.</p>
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7.2.24 Contributions received would be managed by the County Council to either fund:

- To supplement DFG funding; or
- Support packages which will include care at home and/or adaption and equipment.

### **7.3 B – EXTRA CARE HOUSING**

#### **Legal Responsibilities**

7.3.1 Cumbria County Council has a duty under the 1948 National Assistance Act (Section 21(1)) to provide residential accommodation to some adults over 18 years old who through age, illness, disability or any other circumstances are in need of care and attention that would otherwise be unavailable to them.

7.3.2 It is important to note that; over the past 25 years or so, extra care housing has been seen as a modern alternative to residential care, where people rent, part own, or purchase outright a property (usually a flat or bungalow) within a scheme of several such properties where the provision of on-site, 24/7 care and support is an integral element. Such schemes may be developed by Local Authorities in partnership with local housing associations and care providers, or may be developed by private companies to meet the needs of local communities, and to provide an alternative to traditional residential care services. For more information on this please refer to the Government publication; CLG, DH/CSIP (2008), *More Choice, Greater Voice: a toolkit for producing a strategy for accommodation with care for older people*.

### Calculating Need for Extra Care Housing

7.3.3 In November 2009 Cumbria County Council used independent consultants (Planning4Care – Care Equation and Oxford Consultants for Social Inclusion) to provide an accurate demand analysis of the requirements within Cumbria for the provision of residential care and extra care housing.

7.3.4 The Table 3 below shows the total predicted numbers aged 65+ with moderate care needs or above in 2009 and 2019 based on the 2009 baseline, together with the projected future requirement for extra care housing in Cumbria.

7.3.5 Currently there is a significant shortfall in provision and no capacity to meet the requirements created by new development. The further development of extra care housing is a priority for Cumbria County Council Adult Social Care as stated in the Commissioning Strategy for Older people and their Carers 2009-19, and the Cumbria County Council Extra Care Housing Strategy 2011- 2029.

**Table 3 Total predicted numbers aged 65+ with moderate care needs or above in 2009 and 2019**

<b>District</b>	<b>Extra Care Provision March 2011</b>	<b>Conservative estimate of ECH required (2009)</b> <i>Source- "Planning4Care" Research document</i>	<b>Conservative estimate of ECH required (2019)</b> <i>Source- "Planning4Care" Research document</i>
Cumbria	188	1465	1850
Eden	31	110	150
Carlisle	48	265	340
Copeland	22	210	275

Allerdale	0	300	380
Furness	42	320	390
South Lakeland	45	255	320

7.3.6 Bidding for public subsidy to support the delivery of extra care housing schemes is often unsuccessful, and has led to very slow growth in the number of extra care housing properties available across Cumbria. As of March 2011 Cumbria is still 1,662 properties short of the estimated demand that will exist by the year 2019 (with just 188 units completed).

7.3.7 In order to improve the rate of development Cumbria County Council consider that Local Planning Authorities should ensure that extra care housing is planned for as part of their Local Plans. It is considered that as extra care housing should be delivered in those settlements which are sustainable enabling the occupiers to gain access to services, but also to help retain access to other social networks. Cumbria County Council is happy to work with Local Planning Authorities when considering the location of proposals, which it is considered could be readily accommodated as an element within strategic scale developments. Given the existing shortfall in supply there will be very limited capacity to meet demands created by new housing development.

### **Requirements of Policy**

7.3.8 The above demonstrates that there is insufficient Extra Care Housing to meet existing needs across Cumbria. Given this, there is no capacity to meet the demands created by additional housing. Additional housing will bring with it additional population, and this is anticipated to increase demand for the provision of Extra Care housing.

7.3.9 In order to mitigate the effects of new development, contributions towards the provision of additional Extra Care housing units would be sought from sites containing 60 or more residential units where:

- There is shown to be no available Extra Care Units over and above the baseline requirements (of the appropriate tenure) identified in the Planning4Care report (or subsequent related evidence) to meet the needs of the development.

7.3.10 The threshold of 60 units reflects the County Council's definition of a strategic planning application within a Key Service Centre.

### **Contributions**

7.3.11 The means of calculating contributions is based on consideration of the capital investment required to develop an extra care housing scheme



along with associated communal facilities. Local experiences highlight how such costs can come in between approximately £108,000 to £150,000 per extra care housing unit, with cost depending on local variables.

7.3.12 The capital cost of building extra care housing schemes that are developed in partnership between local authorities and housing associations are generally met through a combination of funding sources:

- Capital investment from the registered provider developer. Typically this investment will be proportional to the rental income realised by properties for rent within the scheme over a 20-25 year period.
- Capital investment from the registered provider developer proportional to the likely capital receipts that would be realised from any property within the scheme that is for outright sale, or part rent / part buy.
- Capital investment – public subsidy – usually obtained via a successful competitive bid for national capital funds held by the Homes and Communities Agency

7.3.13 The level of public subsidy required will vary from scheme to scheme depending on factors such as, land costs; the tenure mix applied to the scheme (number of properties offered for sale / part ownership) and the market value of local property in the area in which the scheme is developed. Consideration of recent schemes around Cumbria suggests a public subsidy in the region of £56,300 is needed to allow delivery of affordable units.

7.3.14 Any contribution would be proportional to the anticipated level of service demand created by number of additional population associated with a development that may require extra care housing. Such funding would be used to aid delivery of necessary affordable extra care housing having regard to a general assumption that in line with the recommendations of the Planning4Care report; 50% of Extra Care Units would be affordable rented and 50% would be for sale.

7.3.15 To ensure any contributions sought are reasonable and proportionate to the development the impact of additional housing on the requirement to provide extra care units has been calculated using available evidence. The Planning4Care report highlights a minimum requirement for 1,465 ECH units for older people in Cumbria in 2009, when this figure is divided by the estimate of 222,488 households in Cumbria in 2011 (based on 2011 CACI data) it quantifies as a requirement for about 0.0066 ECH units per household.

7.3.16 Utilising this calculation of 0.0066 ECH units per household, and the typical equity shortfall identified (£56,300 divided in half to reflect the anticipated 50/50 tenure split on site), an appropriate level of contribution can be calculated.

**Figure 13 Formula Calculation**

a) x b) x c) x d) = Contribution

a) Number of homes proposed where there is a shortage of Extra Care Housing

b) 0.0066 ECH units required per home

c) £56,300 (typical equity shortfall per unit)

d) 0.5 reflecting the expected 50:50 split of affordable rented and sale on site

**Figure 14 Contribution Calculation - Example**

A 100 unit scheme is proposed. There is no surplus extra care housing over and above identified requirements. Based on this a contribution would be sought on the following basis:

Contribution = 100 (homes) x 0.0066 x £56,300 (average subsidy shortfall) x 0.5 = £18,579 contribution (e.g. £186 per unit)

7.3.17 Contributions from individual proposals will be used to help with the delivery of affordable ECH units within the local housing market or Local Planning Authority area in which the proposed development is to be located.

**7.4 C – CHANGING PLACES TOILETS**

7.4.1 In addition to care in the home or stand alone facilities, it is very important that disabled people are able to have their needs met outside the home. An area of particular importance in respect to the welfare of the disabled relates to the availability of suitable toilet and changing facilities for both the resident and visitor population. It is considered that certain forms of development should provide suitable changing facilities to meet the needs of all in the community.

7.4.2 People with profound and multiple learning disabilities, as well as other serious impairments such as spinal injuries, muscular dystrophy, multiple sclerosis or an acquired brain injury, often need extra facilities to allow them to use toilets comfortably. Changing Places toilets are different to standard disabled toilets with extra features and more space to meet these needs.

7.4.3 People with profound and multiple learning disabilities cannot use standard accessible toilets. Standard accessible toilets do not provide changing benches or hoists. Most are too small to accommodate more than one person. Without Changing Places toilets, the person with disabilities is put at risk having to be changed on toilet floors.

7.4.4 Government policy promotes the idea of 'community participation' and 'active citizenship', but for some people with disabilities the lack of a fully accessible toilet denies them this right.

- 7.4.5 Each Changing Places toilet provides<sup>13</sup> :
- a height adjustable adult-sized changing bench
  - a tracking hoist system, or mobile hoist if this is not possible.
  - adequate space in the changing area for the disabled person and up to two carers
  - a centrally placed toilet with room either side for the carers
  - a screen or curtain to allow the disabled person and carer some privacy.
  - wide tear off paper roll to cover the bench
  - a large waste bin for disposable pads
  - a non-slip floor.

7.4.6 The Changing Places website provides a searchable map to help people find out where the nearest facilities are and where future Changing Places toilets are planned - <http://www.changing-places.org/>.

### ***The Current Situation***

7.4.7 Currently there is just one publicly accessible Changing Places toilets facility in Cumbria. By comparison, active development has taken place in the north-east of England with 11 Changing Places toilets within a 5-mile radius of Newcastle city centre. The shortage of spaces presents difficult to the resident and visitor community alike.

### ***Requirements of Policy***

7.4.8 It is clear that Cumbria has significant deficiencies in respect to the provision of changing places in the County. It is considered reasonable that given the shortage of facilities, new development for certain uses that generate significant visitors may be sought to provide such facilities.

7.4.9 The type of development that would be suitable for Changing Places toilets include:

- Leisure Centres
- Shopping Centres
- Large stores and supermarkets
- Entertainment venues
- Bus and Railway stations
- Hospitals
- Churches
- Sports facilities
- Business Centres
- Libraries

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<sup>13</sup> The Sport England Accessible Sport Facilities guide 2010 has a plan and dimensions of a Changing Places toilet British Standard BS8300 - [http://www.sportengland.org/facilities\\_planning/design\\_guidance\\_notes.aspx](http://www.sportengland.org/facilities_planning/design_guidance_notes.aspx)

7.4.10 As part of this process, it anticipated that during the design of large scale retail, leisure, community or tourist development, opportunity should be taken to provide a suitable changing places toilet as part of the of scheme. If these features are not incorporated, then a financial contribution may be sought for off site provision.

7.4.11 The provision of more changing places toilets will open up public places to people that would otherwise not be able to go there and enable them to participate in activities and opportunities in the same way as everyone else.

## 8. SAFER STRONGER COMMUNITIES

### Headlines

- The County Council has responsibilities around fire fighting and helping to ensure community safety is maintained.
- Where there is considered to be insufficient fire fighting infrastructure available to meet the needs of development, the County Council may require the provision of contributions to mitigate the effects of development.
- Where it is considered that a proposal presents community safety risks, the County Council may seek a contribution towards an appropriate community safety initiative.

These issues are explored below.

8.1 The Cumbria County Council Plan sets out the aspiration for Cumbria to be a place where people are safe from harm. This aspiration reflects the County Council's role as the Fire and Rescue Authority which gives it significant responsibilities in the area of fire safety together with a more general Local Authority role in helping to ensure community safety is achieved. In line with this, where it is considered that by reason of its nature or design a proposal presents a particular risk, the County Council will seek the provision of appropriate mitigation through the planning system.

### 8.2 FIRE AND RESCUE SERVICE

#### The role of the Fire and Rescue Service

8.2.1 Cumbria Fire and Rescue Service (CFRS) has a statutory duty to respond to emergencies, along with additional responsibilities under The Fire and Rescue Services Act 2004. This identifies the duties and powers of fire authorities as being to:

- fight fires
- promote fire safety
- protect people and property from fires
- rescue people from road traffic incident
- deal with other specific emergencies, such as flooding or terrorist attack and
- Do other things to respond to the particular needs of their communities and the risks they face.

8.2.2 The Act sets out both the duties and powers under which water for fire fighting should be provided. It requires that the Fire and Rescue Authority take all reasonable measures to ensure provision of an adequate supply of water for use in case of fire.

- 8.2.3 In providing a fire and rescue service, Authorities are required to agree their own emergency cover standards, pre-plan their response and weight of attack to fires. When doing so they should take into account the risk to life, the type and construction of buildings, and the availability of water supplies for fire fighting purposes for the area of risk.
- 8.2.4 Supporting the fire service, legislation recognises the important role of water industry. The obligations on the water industry are contained in the Water Industry Act 1991, supplemented by further directions and regulations e.g. the Water Supply (Water Quality) Regulations 2000 and Water and Sewerage Services (Customer Service Standards) Regulations 1989. This Legislation requires that Water Companies:
- Provide water constantly in mains and other pipes that have fire hydrants fixed on them at a pressure that will reach the top most storey of every building in the Undertakers Area.
  - Allow any person to take water for fire fighting purposes from any pipe to which a fire hydrant is fixed. The Fire and Rescue Authority, or the person requesting the apparatus, is liable for the costs of this work.
  - Water Companies do not have powers to require developers to size mains for fire fighting purposes.
- 8.2.5 Provision of Water for Fire fighting (2007) was produced following recognition nationally that Water Companies and Fire and Rescue Service need to co-operate effectively to ensure that both can meet their respective statutory obligations in the most economic, efficient and effective manner possible. The fundamental issue in achieving the efficiencies envisaged in the guidance is to move to a transparent and robust risk based method of matching the risk with an adequate supply of water for fire fighting.
- 8.2.6 Historically the supply of water for fire fighting has been achieved through the provision of hydrants. The hydrants were commonly spaced at intervals of 90 to 180 metres in built up areas, but in remote areas there could be much longer distances between them. The definition of an adequate supply has been, and remains, ill defined. There is a realisation that there must be a limit to the amount of water that can be extracted from the water supply infrastructure as such there is a finite amount of water that can be supplied from any hydrant, even on the larger mains.

### **Current Situation**

- 8.2.7 The provision of water for fire fighting has become an increased risk to the CFRS due to the commercial pressures placed upon the water undertakers. Water undertakers have reduced the pressure in their mains to the minimum statutory levels to reduce the amount of water lost from leaks. This has had a dramatic effect on the quantity of water available for fire fighting purposes. This has the potential to conflict with

that of local fire authorities undertaking their statutory duties under the Fire and Rescue Services Act 2004.

- 8.2.8 CFRS has approximately 14,000 hydrants throughout the County. Over half of these hydrants are fed by mains of 75mm or less which results in insufficient pressure or flow to deal with a fire situation.
- 8.2.9 Flow and pressure tests have been carried out on hydrants located on larger diameter mains and the results have shown that expected output cannot be gauged on mains size alone, there are complex hydraulic and physical characteristics that influence the output, nevertheless, it is acknowledged that where there is adequate pressure larger diameter mains can deliver a greater flow of water.
- 8.2.10 The provision of facilities for fire-fighting are covered under The Building Regulations 2000. Fire safety is covered in Part B, the requirements of which seek to provide appropriate means of early warning of fire and appropriate means of escape; to reasonably inhibit the spread of fire within the building and from one building to another; and to provide reasonable access and facilities for the Fire and Rescue Service. It is for the Building Control Body to determine, in consultation with the relevant Fire and Rescue Authority where necessary, what will be required to meet the functional requirements of the regulations on a case by case basis.
- 8.2.11 To ensure infrastructure is in place to meet the needs of new development, it will be important that schemes look to incorporate or provide the necessary fire fighting facilities and infrastructure.

### **Assessing Schemes**

- 8.2.12 Through the planning process CFRS should be consulted on all commercial and industrial developments and all residential schemes that require extension to the existing water mains infrastructure. CFRS will require that the developer ensures that there will be sufficient water for fire fighting available to meet the potential risk of fire.
- 8.2.13 When consulted on a planning application, CFRS will consider proposals on an individual basis. Through this process regard will be given quantity of water available from hydrants and main sizes. Where it is considered that proposed facilities are not sufficient to meet the potential requirements of a development CFRS may request the provision of mains of a size over and above the minimum requirements of building regulations. The required flow rate will be based upon the guidance provided in 'The National Guidance Document on the Provision of Water for Firefighting, 7<sup>th</sup> Edition 2007' produced by the Local Government Association and Water UK.

8.2.14 Moreover, the fire service may also request that further features relating to fire safety be included as part of the design of a scheme where considered appropriate. Such additions may include:

- Access to surface water collection areas (if available and appropriate)
- Requirements for static tanks
- Improved fire precautions and/or enhanced fire warning/suppression systems.

### **Requirements of Policy**

8.2.15 While features will generally be sought through the design process or condition. On some occasions, necessary mitigation measures may need to be secured through the use of a S106 secured planning obligation. This may occur in cases where there is a requirement of off-site infrastructure, due to the individual or cumulative effects of development or where it is considered that a planning condition would not suffice. Infrastructure that is sought would reflect the scale issues, and potential risks created by a development.

8.2.16 On very large scale developments that pose an especially high risk, costs associated with changes to crewing arrangements on existing fire stations or a contribution towards the development costs of new stations may be secured.

8.2.17 Contributions towards community safety initiatives such as home safety checks, school/community group education or road safety education may also be sought where considered appropriate.

8.2.18 It is anticipated that the provision of infrastructure towards the provision of fire and rescue infrastructure would be considered through the Local Plan process and CFRS are happy to work with Local Planning Authorities in this regard.

## **8.3 COMMUNITY SAFETY**

### **Background**

8.3.1 Alongside the significant human consequences of crime, research undertaken by Victim Support indicates that in 2010 crime against individuals and households cost society in England and Wales an estimated £34 billion. Of this, an estimated £18bn was attributed to the physical and emotional impact on direct victims of crime. In the same year over £2bn was spent on health services as a consequence of crime and £4bn was attributed to the cost of lost output. Over £1bn worth of property was stolen, and more than £700m worth of property was damaged or destroyed.

8.3.2 Characteristic of this, within Cumbria, as well as the far reaching impacts on victims, the cost of crime can be estimated at tens of



millions of pounds, with a significant proportion attributable to the type of offences that can be reduced through good design and appropriate mitigation measures.

**Figure 15 Costs of Crime**

In anticipation of crime	Security Expenditure
	Insurance administration
As a consequence of crime	Property stolen and damaged
	Emotional and physical impact on victims
	Lost output
	Victim Services
	Health Services
In response to crime	Criminal Justice system

- 8.3.3 The Government has recognised the importance of partnership working in addressing crime and disorder but also the ability of well thought out development to reduce potential risks.
- 8.3.4 Under the Crime and Disorder Act 1998 Local Authorities are required to minimize the impact of development on community safety. The Act also encourages partnership working between authorities i.e. police and fire service. In Cumbria, Safer Cumbria represents such partnership working. Members of the partnership include the County Council, District and Borough Councils, Fire Service, Police Force, Police Authority, Primary Care Trust and Probation service.
- 8.3.5 The National Planning Policy Framework highlights the important role for planning in reducing the risk of crime. Crime prevention can be a material consideration in the determination of a planning application; Local Planning Authorities can refuse planning permission if a development is deemed to increase the risk or fear of crime. Local Planning Authorities should therefore seek to remove or mitigate the negative impacts of development on community safety and where appropriate, ensure that development contributes to measures that deter crime and antisocial behaviour.

#### **Assessing Schemes**

- 8.3.6 All development should demonstrate how crime prevention measures have been considered. Good quality design and management offer the potential to reduce crime and provide safe and secure environments for communities.
- 8.3.7 The Safer Cumbria partnership will seek to give consideration to the impact of a proposed development on community safety. This consideration will be underpinned by data managed by Cumbria Constabulary. This data is updated monthly and is fully audited to standards set down by the Home Office. Having regard to evidence, when taking account the impact of a new development, consideration will be given to:

- what the development will be used for;
- how it is likely to affect community safety;
- the hours of use;
- the total floor space;
- the likely number of users and level of activity;
- the location in terms of public transport and accessibility, including fear of crime;
- how the building and design will affect the immediate area;
- existing safety measures; and
- other practical requirements such as car parks and open space.

8.3.8 Where potential crime and disorder implications are identified, priority will be to reduce the potential risk of crime through the design process, indeed there is an established practice of using 'Secured by Design'. It is anticipated that generally speaking potential community safety issues can be addressed this way.

### **Requirements of Policy**

8.3.9 Where it is clear that a development;

- may increase the risk of theft or burglary; or
- may increase the risk to public safety; or
- lead to an increase in vandalism or antisocial behaviour;

the development will be expected provide a contribution through a Section 106 Agreement towards the mitigation of the risk of crime identified. The mitigation required will have regard to those priorities set out in the Cumbria Community Safety Agreement<sup>14</sup>. This agreement is refreshed frequently, its priorities are currently:

- Violent crime – especially alcohol related violent crime;
- Anti-social behaviour including criminal damage;
- Domestic Violence;
- Reoffending - a priority for the Partnership, this would be addressed through the implementation of integrated offender management throughout the county; and
- Alcohol and substance misuse to be a partnership priority, tackled through close working with the appropriate agencies.

8.2.10 The level of any contribution sought will vary based on an assessment of how a proposal may increase the risk of crime and the mitigation steps that are required to alleviate that risk. Below are set out the types of initiatives that a contribution may be sought to fund.

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<sup>14</sup> The Agreement has been developed from the findings of the Cumbria Strategic Assessment and the strategic assessments of the four sub-county Community Safety Partnerships which were undertaken in 2010 and include direct consultation with the communities of Cumbria.

**Figure 16 Initiatives that may be funded by planning obligations**

Development type	Types of initiative contributions may fund
Residential	Alley Gating Schemes Improved illumination of vulnerable locations Diversions Activities Police Initiatives
Night-time economy	Test Purchasing Taxi Rank Wardens Mobile CCTV Drug Dog Operations Domestic Violence Initiatives Police Initiatives Targeted Public Awareness Campaigns
Commercial	Diversions Activities Police Initiatives Trading Standards Operations

### **Residential Development**

8.2.11 Contributions from developers will be sought where there is clear evidence that a proposed residential development will increase the risk of crime and/or anti social behaviour, or impact on feelings of public safety in the case of developments consisting of 60 or more units. This reflects the thresholds above which sites can be considered to have a strategic impact within Key Service Centres.

8.2.12 The money obtained from contributions will be used to fund crime prevention initiatives as outlined in the Cumbria Community Safety Agreement and local level Community Safety Partnership plans that relate to the impact of a development<sup>15</sup>. These initiatives will be targeted at, those crime types which it is considered that the proposed development may increase the risk of, such as; burglary, criminal damage and anti social behaviour. Measures may include; ally gating, improved street lighting, diversions activities and police initiatives, such as police awareness campaigns.

### **Commercial/Employment Development**

8.2.13 Contributions from developers will be sought where there is evidence that a proposed commercial development will increase the risk of crime and/or anti social behaviour, or impact on feelings of public safety.

<sup>15</sup> Information about these can be found at <http://www.cumbria.gov.uk/communitysafety/CommunitySafetyAgreement.asp>

**Table 4 Risks Associated with Proposal Types**

Proposal	Rationale
All major proposals for leisure and entertainment facilities, including gyms, leisure centres and cinemas, that are likely to be open after 8pm.	The increased numbers of people in an area will lead to an increased risk of violent crime, alcohol fuelled behaviour, criminal damage and violent crime. Increased burden on Police and other criminal justice agencies.
Retail, hotel, office and other development that include the facilities listed above, or that are likely to significantly increase visitor numbers to the area.	
Developments such as supermarkets and petrol stations that are open late at night or 24 hours a day.	Increased risk of shop lifting, drive offs, increased access to alcohol, and increased risk of anti social behaviour. Increased burden on Policy and other criminal justice agencies.
Late night cafes, restaurants, pubs and nightclubs that can accommodate 40 or more people and attract custom after 8pm.	Increased footfall and availability of alcohol significantly increases the potential for anti social behaviour and violent crime. Increased burden on Policy and other criminal justice agencies.

8.2.14 Where a proposal is considered likely to increase the risk of, or fear of crime, and through the design process/conditions issues identified cannot/have not been fully mitigated, a financial contribution secured through S106 Agreement may be sought to help mitigate the crime impacts identified.

8.2.15 Contributions from commercial proposals will be typically used to maintain a safe and secure environment for employees, visitors and the general public, together with other crime preventions initiatives relevant to the development proposed in line with the Community Safety Agreement.

## **9. CONTRIBUTIONS**

### **9.1 Timing of Contributions**

9.1.1 There can be no set rule for the timing of contributions and each case will need to be assessed on its own merits. It may be appropriate to seek a contribution prior to completion/sale of a development in order to ensure that infrastructure/services are available on occupation/use of the development. Alternatively, it may be appropriate for contributions to be phased over the life of a development or to be paid upon an agreed occupation trigger point being reached.

9.1.2 The provision of additional infrastructure will be required, at the very latest, to coincide with the need/demand. In the event that the landowner/developer is funding additional facilities, payment will need to be timed so as to enable the County Council to procure the delivery of the necessary infrastructure/services at the appropriate time.

### **9.2 Use and Monitoring of Contributions**

9.2.1 Cumbria County Council will use all contributions for the purposes negotiated and as set out in each relevant Section 106 agreement.

9.2.2 The County Council will maintain records of contributions received and how they are spent as far as possible.

### **9.3 Bonds**

9.3.1 The County Council reserves the right to require landowners/developers to provide appropriate bonds to protect larger contributions in Section 106 agreements, especially in relation to larger developments.

### **9.4 Charges**

9.4.1 The County Council will look to the landowner/developer to meet its reasonable costs incurred in negotiating and completing any required Section 106 agreement(s) and will require a solicitor's undertaking before any work is carried out in this respect.

9.4.2 Reasonable costs will include, but will not be limited to, the County Council's reasonable professional adviser costs, such as legal<sup>16</sup> and surveyors' costs.

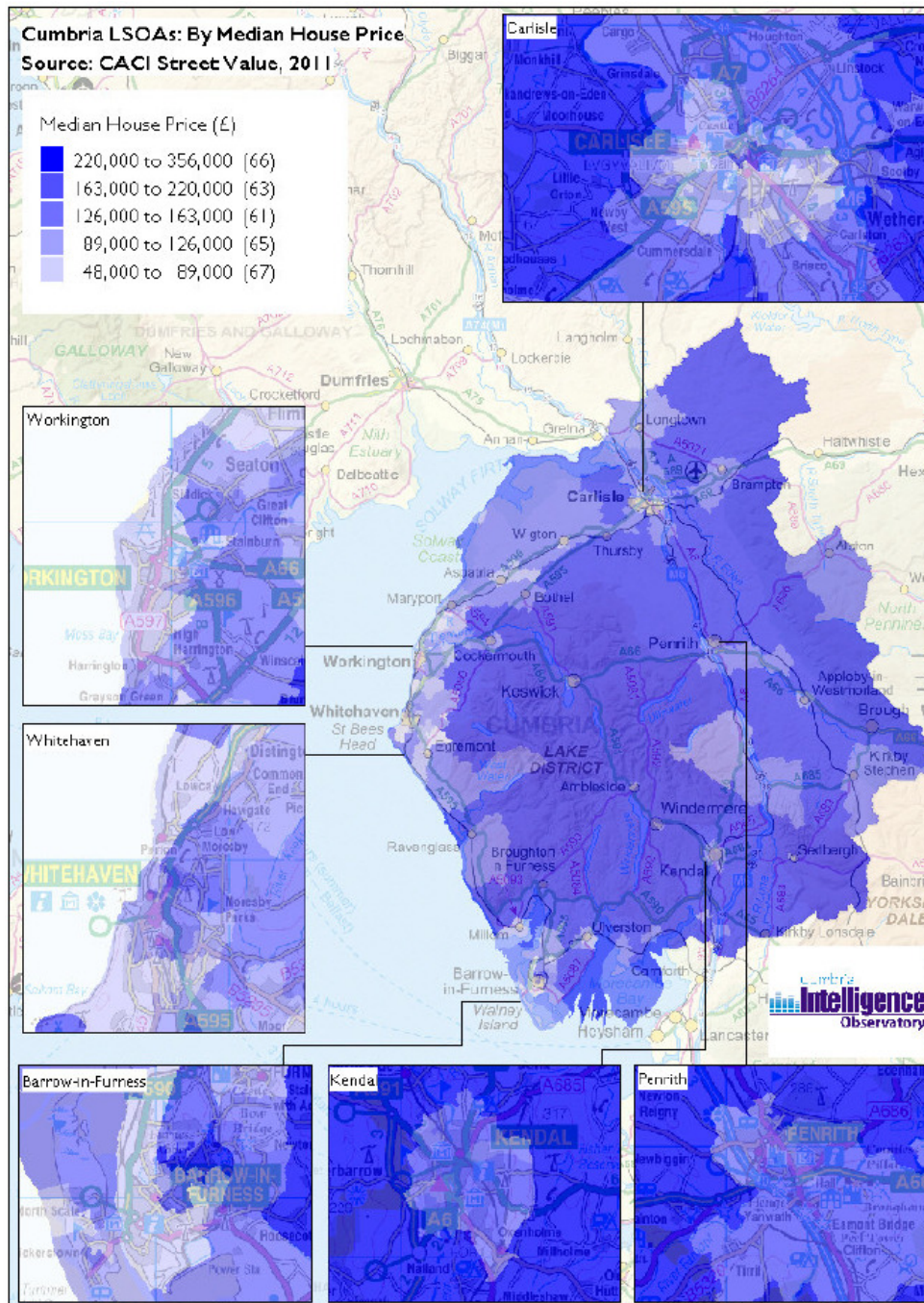
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<sup>16</sup> With respect to legal fees, charges will be £300 for simple s.106 agreements involving a commuted sum and requiring no more than 4 hours' work. For matters requiring more than 4 hours' work, an hourly rate of £80 will apply for every additional hour. For more complex matters, an estimate will be provided on a matter by matter basis. These figures are up to date as of March 2012 but will be subject to regular review.

9.4.3 The County Council reserves the right to charge landowners/ developers for its reasonable costs in respect of the monitoring and administration of completed Section 106 Agreements/planning obligations.

# APPENDIX 1

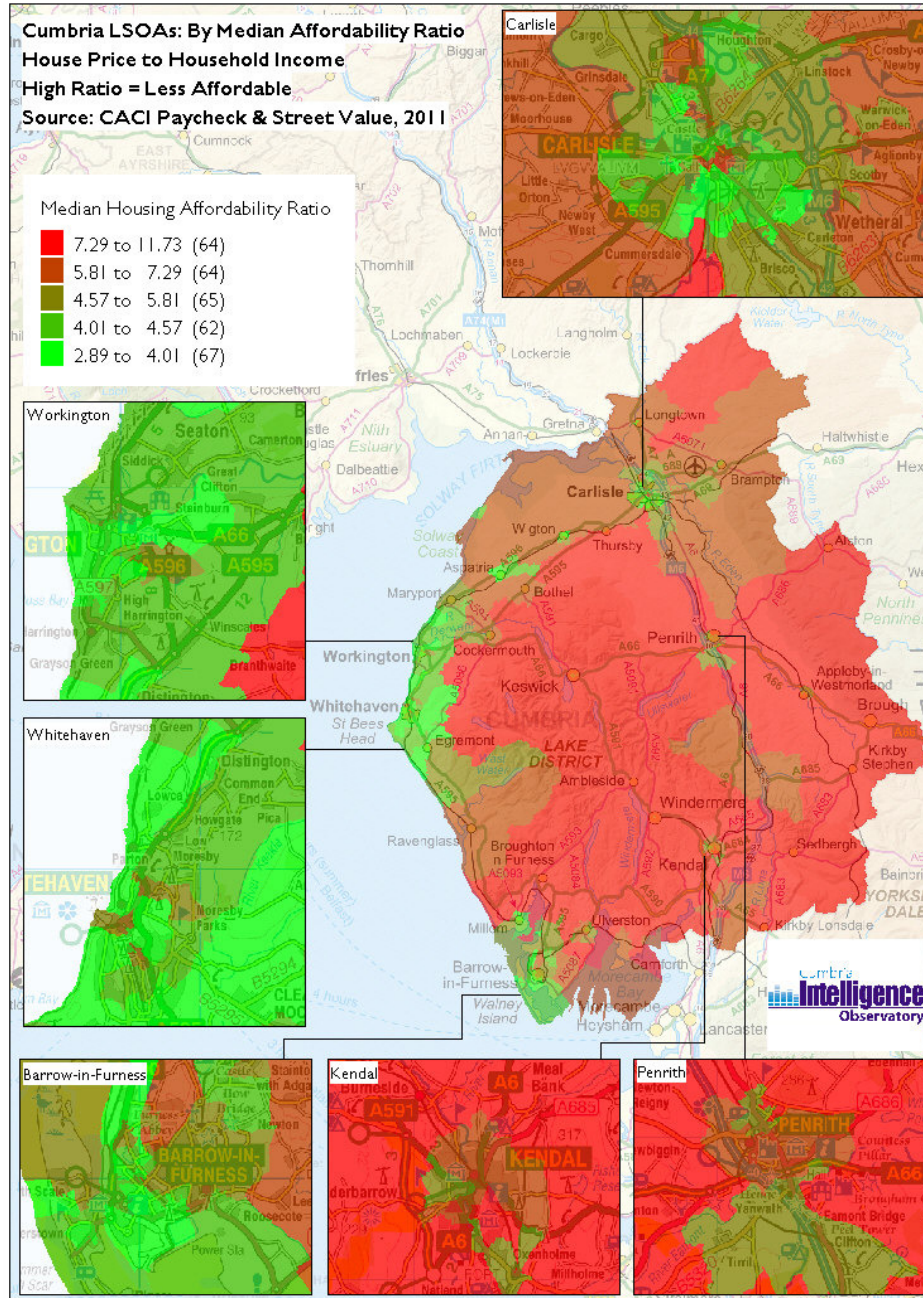
## Median House Price, Cumbria's LSOAs, CACI Street Value, 2011



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## APPENDIX 2

### Median Affordability Ratio, Cumbria LSOA's, CACI Paycheck and Street Value 2011



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## APPENDIX 3 – S278 AGREEMENTS AND COMMUTED SUMS

### S278 Agreements

1. Additional to requirements that may be secured by planning obligations alterations required to the layout or management of the highway network in connection with proposed developments can be secured through an agreement between the developer and the Highway Authority, drawn up under the terms in Section 278 of the Highways Act 1980.
2. This provides that a Highway Authority may, if they are satisfied it will be of benefit to the general public, enter into an agreement with any person:
  - a) for the execution by the Authority of any works which the Authority are or may be authorised to execute, or
  - b) for the execution by the Authority of such works incorporating particular modifications, additions or features, or at a particular time or in a particular manner,on terms that the person pays the whole or such part of the cost of the works as may be specified in or determined in accordance with the agreement. The cost of the works shall be taken to include:
  - (a) the whole of the costs incurred by the Highway Authority in or in connection with:
    - (i) the making of the agreement;
    - (ii) the making or confirmation of any scheme or order required for the purposes of the work;
    - (iii) the granting of any authorisation, permission or consent required for the purpose of the work;
    - (iv) the acquisition by the Authority of any land required for the purpose of the works if it is in the public interest to do so; and
  - (b) all relevant administrative expenses of the Highway Authority including an appropriate sum in respect of general staff costs and overheads;
  - (c) a commuted sum, calculated by the Highway Authority to fund maintenance of the new or changed highway assets and energy costs, usually for a period of 30 years.
3. The Highway Authority is not able to provide guide prices for individual site specific schemes and, therefore, the developer/applicant is recommended to seek specific guidance on costing for any scheme from the Highway Authority or another appropriate source at an early stage in the development of the project and certainly before any planning application is made. Factors such as the requirement for land acquisition, or alterations to statutory undertaking plant need to be investigated and discussed with the appropriate bodies.

## **Commuted Sums**

4. Consistent with many other authorities around the Country, the Highway Authority has adopted the CSS (formerly County Surveyors Society) guidance entitled “Commuted Sums for Maintaining Infrastructure Assets” published in 2009.
5. Developers are required to pay a commuted sum towards maintenance of items that are required as a result of the development. Any net increase in asset; or increase in maintenance costs compared with conventional materials or items will be likely to attract a commuted sum. These sums will enable the Highway Authority to adequately maintain the works after completion, usually for a period of 30 years. with the exception of highway structures, when the period of time and amount will be agreed on a case by case basis.
6. The requirement for commuted sums will be assessed for each site prior to the drafting of the Section 38 and Section 278 agreements and the sums will be additional to any transport infrastructure contribution made under Section 106 of the Town and Country Planning Act.

## APPENDIX 4 CUMBRIA HOUSING MARKET AREAS

