



Supplementary Guidance

A suite of 14 supplementary guidance notes (SG's) is currently being produced by the Council in conjunction with LDP2. The number of SGs is reducing from seventeen to fourteen, as three of the adopted SGs are being consolidated to provide a more comprehensive and integrated approach to guidance. The SGs seek to provide more detailed guidance on how particular local development plan policies should be applied in practice.

These SGs form a statutory supplement to LDP2, and are intended to expand upon planning policies and proposals contained in the plan.

A full list of the supplementary guidance in this series is found below.



Development in the Countryside



Neighbourhood Design



Residential Extension and Alterations



Shopfronts



Green Infrastructure and New Development



Affordable Housing



Biodiversity and Development



Local Nature Conservation and Geodiversity Sites



Landscape Character Assessment and Landscape Designations



Trees and Development



Frontiers of the Roman Empire (Antonine Wall) World Heritage Sites



Listed Buildings and Unlisted Properties in Conservations Areas



Developer Contributions



Renewable and Low Carbon Energy

Developer Contributions

1. Introduction

2. Legal and Policy Context

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Appendix 1 - Useful Contacts

Appendix 2 - Apportioning of DEAR Costs

Appendix 3 - Outline Requirements for Development Viability Statements

1. Introduction

1.1 SG13 - Developer Contributions sets out Falkirk Council's approach to developer contributions. The purpose of the guidance is to provide greater clarity and transparency to applicants regarding the basis on which contributions will be sought. The guidance details the type of contributions that may be required, the circumstances in which they will be sought and how the amounts payable will be calculated. It will help landowners and developers establish the contribution requirements for specific sites or general locations so that the cost implications can be taken into account before the planning application is submitted or the land is purchased.

1.2 Specifically, the guidance covers developer contributions in the following areas:

Green Infrastructure:

- Open Space & Play Areas;
- Habitat Creation and Management;
- Sustainable Water and Flood Management.

Transport Infrastructure:

- Active Travel;
- Public Transport Facilities and Services;
- Road Network Improvements.

Community Infrastructure:

- School and Nurseries;
- Community Space;
- Healthcare Facilities.

Placemaking and Historic Environment:

- Environmental Improvements and Public Art;
- Archaeological Investigation and Interpretation;
- Historic Building Conservation.

1.3 The aforementioned list is taken from Table 4.1 of LDP2. It is not exhaustive as other items for contributions may be identified in specific circumstances.

1.4 SG13 does not cover affordable housing as this is an area which merits its own standalone guidance: SG06 - Affordable Housing. However, Chapter 8 of SG13 supplements SG06 providing guidance that is applicable to viability issues linked to affordable housing contributions.

2. Legal and Policy Context

What are Developer Contributions?

- 2.1 Development can impact on communities and the environment. In some cases, new or improved infrastructure will be required to mitigate, or compensate for these impacts and to make the development acceptable in land use planning terms. Developers make a 'contribution' toward this infrastructure usually in one or both of the following ways:
- **In kind:** the developer provides the infrastructure by themselves either on site or off site;
 - **Financial:** the developer pays an agreed sum of money which the Council will use to pay the costs of the infrastructure.
- 2.2 Infrastructure covers a wide variety of facilities and services and can include environmental measures too.
- 2.3 Contributions are one source of infrastructure funding. External funding, tax incremental financing, and the Council's capital programme are examples of how some infrastructure is funded within the Council area. A mixture of funding sources may be necessary to the fund supporting infrastructure for development and future growth.

How are Contributions Secured?

- 2.4 Developer contributions are usually secured through a planning obligation made under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended). Planning obligations are legal agreements between the relevant parties, normally between the Council, landowner, applicant and any parties directly involved in fulfilling the agreement. They run with the land, and are used specifically where a planning condition or another form of legal agreement would not be appropriate to address the development's impacts or overcome a barrier to granting planning permission.
- 2.5 Depending on the circumstances, the Council may use an alternative legal mechanism to secure developer contributions. Provision under Section 69 of the Local Government (Scotland) Act 1973 provides the Council with a general power to enter into an agreement with developers connected with the discharge of any of its functions. This type of agreement (or S69 agreement) can include payment of money but, unlike planning obligations, is not limited in its purpose to the regulation and restriction of development.

2. Legal and Policy Context

National Policy

- 2.6 Scottish Planning Policy (SPP) sets out Scottish Ministers' expectations for the operation of the planning system and for the development and use of land across Scotland. SPP states the aim of the planning system is to achieve the right development and in the right place, and that policies and decisions should be guided by supporting delivery of infrastructure. It expects plans and associated documents, such as supplementary guidance and action programmes, to indicate how new infrastructure or services are to be delivered and phased and how and by whom any developer contributions will be made.
- 2.7 Circular 3/2012 Planning Obligations and Good Neighbour Agreements details the Scottish Government's policy on the use of planning obligations. It states planning obligations made under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) should only be sought where they meet all the following policy tests:
- **Necessary** to make the proposed development acceptable in planning terms;
 - **Serve a planning purpose**, and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
 - **Relate to the proposed development** either as a direct consequence of the development or arising from the cumulative impact of development in the area;
 - **Fairly and reasonably** relate in scale and kind to the proposed development;
 - **Be reasonable in all other respects**.

- 2.8 The Council will have regard to these tests when considering the suitability of a planning obligation and the contributions to which the planning obligation relate.
- 2.9 Circular 3/2012 states, when developing planning obligations, consideration should be given to the economic viability of proposals. Chapter 8 of this SG sets out to Falkirk Council's approach to development viability issues linked to any type of contribution.

Falkirk Local Development Plan 2 (LDP2)

- 2.10 LDP2 is an important document, guiding the area's future development and growth up to 2040. The plan's long term vision seeks to create thriving communities, a growing economy and a sustainable place in which to live, work visit and invest. The vision is underpinned by a spatial strategy which makes future provision for business, transport, infrastructure, recreation and community facilities and some 8,100 homes between 2017 and 2030. Good quality infrastructure is integral to the vision, helping to attract people and new inward investment, unlock development and regeneration and improve the appeal and sustainability of a place.
- 2.11 The LDP2 spatial strategy gives a strategic overview of the infrastructural needs of the Falkirk Council area at the time of the plan's preparation. While other major items of infrastructure may emerge over the plan's lifespan, the spatial strategy does identify most of the strategic level infrastructure required to grow the area in a co-ordinated and sustainable manner. Together with other funding sources, developer contributions will continue to play a positive and crucial role in delivering additional infrastructure needed to support business and residential development. Key infrastructure projects are signposted throughout the spatial strategy.
- 2.12 At an early stage, when allocating sites in LDP2, the Council took into account the potential impacts of development on communities, the environment and local infrastructure. The Proposals and Opportunities Schedule of LDP2, and accompanying Action Programme, flag potential contributions requirements to mitigate particular development impacts, for example on education or the transport network. These requirements are not exhaustive and may change over time as growth pressures and infrastructure priorities change. Other requirements may be identified within the specific circumstances of the planning application.

2. Legal and Policy Context

2.13 Policy IR02 (Developer Contributions) sets out the Council's general approach to developer contributions while providing the policy hook for SG13. The accompanying Table 4.1 identifies the potential areas for developer contributions, and forms the structure of this SG.

IR02 Developer Contributions

Developers will be required to contribute to the provision, upgrading and, where appropriate, the maintenance of infrastructure where development will create or exacerbate deficiencies in, or impose significantly increased burdens on, existing infrastructure. The types of infrastructure where contributions may be required are set out in Table 4.1. The nature, scale and phasing of developer contributions will be determined by:

1. Guidance and contribution rates set out in SG13 'Developer Contributions';
2. Site specific requirements set out in the LDP or relevant development brief; and
3. The principles contained in Circular 3/2012 'Planning Obligations and Good Neighbour Agreements'.

In assessing applications where developer contributions are required, the economic viability of proposals will be taken into account as a material consideration where supported by a Development Viability Statement. Developer contributions for education and open space will be waived for flatted residential development, or conversions of buildings for residential use, of up to 50 units within town centre boundaries.

Table 4.1 Potential Areas for Developer Contributions

Green Infrastructure	
Open Space and Play Areas	Where open space requirements are to be met through off-site provision, informed by the Open Space Strategy
Habitat Creation and Management	Where mitigation/compensation of ecological impacts is required, or opportunities exist to reinforce the green network, informed by Habitat Surveys and Ecological Impact Assessments
Sustainable Water and Flood Management	Where opportunities exist to provide sustainable flood management or water environment enhancement measures, informed by Flood Risk Management Plans or the River Basin Management Plan
Transport Infrastructure	
Active Travel	Where routes or infrastructure are needed to promote sustainable transport options, informed by Transport Assessments and Travel Plans, or opportunities exist to enhance the green network
Public Transport Facilities and Services	Where access to public transport needs to be secured to promote sustainable transport options, informed by Transport Assessments and Travel Plans
Road Network Improvements	Where improvements to the road network are required to mitigate the impacts of development, informed by Transport Assessments
Community Infrastructure	
Schools and Nurseries	Where school/nursery capacity needs to be enhanced to mitigate the impact of children generated by new development
Community Space	Where there are deficiencies in the quantity or quality of local provision
Healthcare Facilities	Where the physical capacity of healthcare facilities needs to be enhanced to mitigate the impact of additional patients generated by new development
Placemaking and Historic Environment	
Environmental Improvements and Public Art	Where opportunities exist to improve the environment and place quality of communities
Archaeological Investigation and Interpretation	Where archaeological sites or remains are affected by development
Historic Building Conservation	Where mitigation of impacts on historic buildings or conservation area is required, informed by a Heritage Impact Assessment

3. Green Infrastructure

Open Space & Play Areas

Background

- 3.1 Open space, can take many forms, including formal sports pitches, amenity greenspace within a development, public parks, playspace for children and teenagers, and natural greenspace. It contributes to the quality of places and fulfils a range of functions for new development including recreational, landscape, ecological, surface water management and active travel.

Policy Context

- 3.2 The Council's Open Space Strategy is based on a comprehensive audit of open space in the area. It sets out standards and policies for the provision of different types of open space and identifies priority actions for the improvement of the open space resource.
- 3.3 Policy PE13 (Green and Blue Network) requires development to contribute to the green and blue network, where appropriate, through the integration of green infrastructure into masterplans or through enabling opportunities for opportunities for green and blue network improvements on adjacent land.
- 3.4 Policy PE16 (Protection of Open Space) sets out criteria against which proposals involving loss of open space will be judged. The criteria provide provision for compensating the loss of recreational open space.
- 3.5 Policy PE17 (Open Space and New Development) requires new residential development to address identified deficiencies in open space provision through either the provision of new on-site recreational open space or contributions towards the improvement of off-site open space.

Contributions

- 3.6 SG05 - Green Infrastructure and New Development will provide the primary guidance on contributions to open space and play areas, and reference should be made to it for information about when contributions will be sought, and their scale. A summary of the main circumstances in which contributions may be sought is provided below.

Strategic Green and Blue Network Opportunities

- 3.7 Policy PE13 states that new development should contribute to the green and blue network. The LDP Spatial Strategy identifies the key components and corridors which make up the network, as well as specific opportunities for improvement. The Council will seek in kind or financial contributions where proposed development presents opportunities to mitigate or compensate for impact through contributions to the network e.g. through habitat creation or improved active travel links. The nature and level of these contributions will be determined on a case by case basis, depending on the scale of the development and the nature of the opportunity.

Compensation for the Loss of Open Space

- 3.8 Policy PE16 requires developers to compensate for the loss of open space, resulting from their development, if this loss would have a significant adverse effect on the overall recreation provision in the local area. Compensation will usually involve the developer paying a financial sum towards qualitative improvements to other open space in the local area. SG05 provides guidance for calculating the financial sum.

Off-site Open Space Provision

- 3.9 In accordance with Policy PE17, residential developments should contribute positively to the provision of open space in the area. The Open Space Strategy recognises that there is an abundance of open space and that the main issue is quality not quantity of provision. In many places, the priority for development should be to improve the existing open space resource rather than create new open spaces and play areas. SG05 will describe the process for determining a development's recreational open space requirements, and how off-site open space contributions will be calculated.

3. Green Infrastructure

Habitat Creation and Management

Background

- 3.10 Falkirk Council has a duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. An important part of this duty is the safeguarding of identified sites, habitats and species which are protected under national legislation and international obligations. The Council area has several non-statutory local conservation sites, including Wildlife Sites, Sites of Importance for Nature Conservation and Geodiversity Sites and also a Local Biodiversity Action Plan, which identifies priority species and habitats.
- 3.11 New development should be sited and designed to avoid significant impacts on local biodiversity. Proposals for new development are expected to incorporate measures to ensure that the potential impacts on local biodiversity are satisfactorily addressed. Impacts can happen in different ways: for example, a development could result in the degradation of habitats or the loss of connectivity between habitats or species.
- 3.12 Mitigation refers to the avoidance or reduction of adverse impacts. For example, corridors, buffers and stepping stones between habitats can help mitigate the barrier effect of development on wildlife movement. Other forms of mitigation can include enhanced management and maintenance of habitats.
- 3.13 Compensatory measures, on the other hand, are used where it is not possible to adequately mitigate the adverse impacts. These measures can include the creation of new habitats or the enhancement of existing habitats. The objective is to ensure significant losses to the local nature conservation resource are acceptably offset.

- 3.14 On-site measures are usually achieved through the use of planning conditions, requiring the developer to carry out specified activities. Financial contributions toward off-site measures may be necessary where it is not possible for a developer to implement these measures e.g. conservation works on land not within the developer's control.

Policy Context

- 3.15 Policy PE19 (Biodiversity and Geodiversity) provides general support for biodiversity as a consideration within the planning process, and sets out the level of protection which will be afforded to the hierarchy of sites, species and habitats.
- 3.16 Supplementary Guidance SG07 'Biodiversity and Development' provides further guidance on how biodiversity should be safeguarded and promoted through development.

Contributions

- 3.17 Contributions will generally be required where off-site mitigation and/or compensation is necessary. Requirements will be determined on a case by case basis taking into account the mitigation required, the scale and type of any habitat loss which has to be compensated for, and opportunities that the locality and development may present. The nature and level of contributions will be informed by ecological surveys and/or impact assessments detailing proposed measures with estimated costs independently verified by a suitably qualified professional.
- 3.18 If the purchase of land is required to implement an off-site measure, the value of the land will be assessed by a suitable, independent valuer and will be incorporated within the overall developer contribution.

3. Green Infrastructure

Sustainable Water and Flood Management

Background

- 3.19 A site's development can be affected by a number of water-related issues from flood risk to the adequate provision of water, wastewater and drainage infrastructure. This section describes the local policy context for sustainable water and flood management and the circumstances in which the Council may seek contributions for appropriate flood risk mitigation and the protection or enhancement of the water environment.

Policy Context

- 3.20 Policy PE22 (The Water Environment) aims to ensure that water quality, habitat/species integrity and quality, and the recreational amenity of the water environment are safeguarded by development proposals. The same policy requires proposals to exploit opportunities to improve the ecological status of the water environment, for example restoring water courses which have been culverted or modified.
- 3.21 Policy PE24 (Flood Management) adopts the Scottish Planning Policy's Flood Risk Framework to development. It has a presumption against development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere.
- 3.22 Policy IR10 (Drainage Infrastructure) sets the local planning policy requirements for surface water management and sewerage infrastructure associated with new development.
- 3.23 The River Basin Management Plan, or the relevant Flood Risk Management Strategy and Plan, may also inform the basis for which contributions will be sought towards sustainable flood management or water environment measures.

Contributions

- 3.24 The nature and level of contributions required for sustainable water and flood management will be site and development specific. Any need for contributions will, therefore, be determined on a case-by-case basis:

Catchment Improvement Works

- 3.25 Developers may be required to provide financial contributions towards, or carry out themselves, off-site works to manage flood risk within the catchment where their development is taking place. Measures may be identified through flood risk assessments or through consultation with SEPA, Scottish Water and the Council's Roads, Bridges & Flooding Team. They may include, among other things, culvert or debris screen improvements, the construction or upgrading of sustainable drainage systems (SUDs) and erosion control mitigation measures.

Flood Protection Schemes

- 3.26 Flood schemes are usually designed to protect existing development from flood risk rather than to facilitate new development. In other words, an existing or planned scheme may not provide the appropriate standard to protect a new development from flooding. The Council may seek developer contributions towards improving a flood protection scheme to a higher standard of protection that is necessary, and appropriate, to mitigate the vulnerability of development to flood risk. The contributions may involve payment of financial sums and/or a developer transferring land in their control.

Safeguarding or Enhancement of the Water Environment

- 3.27 A key consideration for development is controlling the quality of surface water run-off during construction and the lifetime of the development. In some cases, new development may be required to provide appropriate water pollution control measures and/or consider opportunities to improve water environment including naturalising modified watercourses, improving the biodiversity and ecological connectivity of watercourses, safeguarding and enlarging river buffers with appropriate habitat. Developer contributions will be sought for the off-site safeguarding or enhancement of the water environment where this is considered appropriate.
- 3.28 Specific contributions for the water environment will be informed by consideration of relevant surveys and/or impact assessments detailing the proposed measures with estimated costs independently verified by a suitably qualified professional.

3. Green Infrastructure

Public Water and Waste Water Infrastructure

- 3.29 At the present time, the Council does not envisage a situation where it would seek financial contributions towards public water and waste water infrastructure. The responsibility for financing this infrastructure rests with the developer and/or Scottish Water depending on the type of asset¹ and if this asset will be vested by Scottish Water.
- 3.30 Developers may be entitled to a reasonable cost contribution from Scottish Water towards upgrading of local level assets such as existing mains, sewers, waste pumping stations and some sustainable urban drainage systems. Scottish Water is funded for growth at their water and wastewater treatment works. If growth is required to meet the demands of new development, the developer will be asked to provide evidence to show they meet Scottish Water's five growth criteria, which will allow a growth project to be initiated.
- 3.31 Developers should work with Scottish Water to ensure their development has adequate public water and waste water infrastructure. Scottish Water strongly recommends that developers submit a 'Pre Development Enquiry Form' to identify potential requirements and network costs at the outset.

¹ *A guide to considering Water and Waste Services, Scottish Government and Scottish Water (2011)*

4. Transport Infrastructure

Background

- 4.1 Good transport infrastructure is essential to support the future growth of the area. It is important that new development can be accommodated within the transport network and in particular that access by sustainable travel modes such as walking, cycling and public transport is prioritised, in line with national and local policies. LDP2 includes a programme of strategic transport interventions which seek to improve the network, which will be delivered through a variety of funding mechanisms, including developer contributions. At the same time, each individual development will have its own specific localised impacts on the network which need to be assessed through Transport Assessments and Travel Plans, with mitigation identified and funded by the developer.

Policy Context

- 4.2 Policy IR01 (Strategic Infrastructure) indicates the Council's support for the provision of infrastructure as set in the Spatial Strategy and detailed in the Proposals and Opportunities Schedule. Proposals IN01-IN18 relate to transport proposals.
- 4.3 Policy IR05 (Travel Hierarchy and Transport Assessment) outlines the requirement for Transport Assessments, and the identification of suitable transport network mitigation.
- 4.4 Policy IR06 (Active Travel) sets out the Council's commitment to safeguard, improve and extend the walking and cycling network in the area, and ensure that development contributes appropriately to that network.
- 4.5 Policy IR07 (Bus Travel) requires that development should have good access to bus services, which may require links to bus stops, new bus infrastructure, or contributions to support bus services serving the development.

Contributions

Strategic Transport Proposals

- 4.6 LDP2 identifies a number of transport proposals which are of strategic importance in the area. Several of these will enable a range of development sites through the removal of network constraints and it would be expected, in principle, that these sites would contribute proportionately to the overall project. However, the Council has committed to deliver some schemes through funding mechanisms which will relieve development proposals of this burden. In particular the Tax Increment Finance initiative is funding infrastructure required to deliver economic development in the Falkirk and Grangemouth Investment Zones, while funding has been secured through the Scottish Government's Housing Infrastructure Fund for the improvement of M80 Junction 7.
- 4.7 Where developer contributions from several sites are required cumulatively to deliver either a single transport project or a co-ordinated programme of mitigation measures in an area, the requirement to contribute will be based on whether the proposed development will have an impact on, or will use, the infrastructure in question. The level of contributions will be proportionate to the scale of the impact, which will be related to the size and trip generation pattern of the development, and its proximity to the project. The Council will carry out an exercise to determine the proportion of the cost to be borne by all the committed developments which are linked to a particular project.
- 4.8 Figure 1 on Page 10 shows the identified funding mechanism for each strategic transport proposals and which sites would be expected to fund particular proposals through developer contributions.

4. Transport Infrastructure

Figure 1: Strategic Transport Proposals: Developer Contributions Requirements

Ref.	Strategic Transport Proposal	Estimated Cost	Funding Mechanism	Contributing Sites	Responsible for Delivery	Comments
IN01	M9 Junction 3 Improvement	£8.5 million (2Q 2019)	Developer funded (West Lothian Council)	-	West Lothian Council	Land safeguarded for northern west-facing slip in LDP2, but no developer contributions will be sought from sites in Falkirk Council area unless it can be demonstrated that such sites contribute significantly to network capacity issues. West Lothian Council preparing supplementary guidance for contributions for sites in West Lothian.
IN02	M9 Junction 4 Improvement	£1.4 million (2020)	Developer funded	BUS02 Manuel Works MU06 Gilston H29 Whitecross Any relevant windfall sites	Falkirk Council	Contributions and improvements will be phased in agreement with Transport Scotland.
IN03	M9 Junction 5 Improvement	£3.5 million (2020)	TIF funded	-	Falkirk Council	No developer contributions will be sought.
IN04	M80 Junction 7 Improvement	£3.5 million (2020)	Developer funded/ Housing Infrastructure Fund	H08 Banknock South H09 Dennyloadhead H12 Garngrew Road H53 Cumbernauld Road MU04 Banknock North Any relevant windfall sites	Falkirk Council	Improvement to be funded by contributions and the Scottish Government's Housing Infrastructure Fund. The Banknock & Haggs SIRR Development Framework gives an indication of the apportionment of contributions.
IN05	A801 Avon Gorge Improvement	£51 million (2020)	TIF funded	-	Falkirk and West Lothian Councils	No developer contributions will be sought.
IN06	Falkirk A904 Corridor Improvement	£54.3 million (2020)	TIF funded	-	Falkirk Council	No developer contributions will be sought.
IN07	Falkirk A803 Corridor Improvement	See Comments	Developer funded	MU11 Portdownie H43 Westburn Avenue Any relevant windfall sites	Falkirk Council as part of the Forth Valley Bus Alliance	Updated A803 corridor study required to identify and cost improvements and apportion to allocated or prospective development.
IN08	Grangemouth Access Improvements	See Comments	Growth Deal/ Developer funded	BUS15 Grangemouth Docks West BUS16 Bo'ness Road Any relevant windfall sites	Falkirk Council	Detailed scope of works to be confirmed and will be dependent on Falkirk-Grangemouth Investment Zone Growth Deal. Mitigation required in association with closure of Bo'ness Road will contribute to scheme. Requirement for developer contributions will be assessed in the context of outcome of Growth Deal.
IN09	Denny Eastern Access Road (DEAR)	£7.6 million (2020)	Developer funded (front funding from Council)	H08 Banknock South H30 Former Denny High School H31 Mydub 1 H32 Mydub 2 H34 Stirling Street H35 Rosebank, Dunipace H59 Rosebank North MU09 Broad Street MU10 Denny Town Centre Any relevant windfall sites	Falkirk Council	Current agreement from Council to front fund the scheme. Developer contributions will continue to be sought to recoup cost of scheme. The contributions will be pro-rata shared among the remaining contributing sites based on the percentage of total hourly flows attributed to each site (Appendix 2, Figure 8).

4. Transport Infrastructure

Local Road Network Improvements

- 4.9 Apart from the strategic proposals highlighted above, development proposals may have more localised impacts on the road network which will require mitigation. This may include addressing capacity or safety issues, which will generally be identified through Transport Assessments.
- 4.10 Mitigation measures which developers may be asked to fund will include junction improvements, road widening or realignment, traffic calming, or other traffic management measures. The scale of contributions will be based on the cost of the improvements required to mitigate the impact of the development. Where only one proposed development is involved, the cost will be borne by that development. Where cumulative impact from more than one proposal is involved, the cost will be apportioned according to the impact of each development.

Active Travel

- 4.11 The promotion of active travel (walking and cycling) in new development is a priority in order to reduce vehicle trips, reduce emissions, and promote healthy lifestyles. In line with Policy IR06 (Active Travel), Transport Assessments and Travel Plans should identify opportunities to improve active travel linkages which are necessary to connect the development with schools, community facilities, local amenities, town and local centres, public transport, the green network, and the wider active travel network, including the core path network.
- 4.12 Mitigation measures which developers may be asked to fund will include new or widened footways, new or improved off road paths, pedestrian crossings, route lighting, or cycle facilities. The design of these facilities will be in line with the criteria set out in Policy IR06(2). The scale of contributions will be based on the cost of the improvements deemed necessary to ensure that sustainable active travel will be promoted in the development.

Public Transport

- 4.13 Development should benefit from good access to public transport. The quality and sufficiency of access to bus services, and the likelihood that they will be used by the occupiers of the development, will depend on access to bus routes, and the frequency of the service on those routes, which will be assessed within Transport Assessments and Travel Plans. Most bus services are run on a commercial basis, but the Council does subsidise some routes, and with Council budgets under pressure account needs to be taken of the risk that such subsidies will be reduced in the future.
- 4.14 Where access to services needs to be improved, contributions may be sought for new bus infrastructure such as bus stops or bus lay-bys, or to provide subsidy to services to increase their frequency, extend or alter their routes or to create new routes. Contributions will be in the form of an annual sum to be paid for a set number of years. The phasing of the contributions will be determined having regard to the phasing of the development. The first contribution will be set at a point early enough in the life of the development to ensure that bus use has the opportunity to become part of the travel habits of the occupiers, but not so early that there are only a minimal number of additional customers for services.
- 4.15 The Falkirk Council area is served by a number of mainline railway stations and good access to these stations is important. For large developments, contributions to the improvement of bus services linking to train stations, the provision of bespoke shuttle bus services or the improvement of station parking may be sought.

5. Community Infrastructure

School and Nurseries

Background

- 5.1 Falkirk Council has been managing an overall growth in primary and pre-school rolls for a number of years as a result of community growth and a sustained period of high birth rates. School capacity has been a particular issue in areas such as Larbert and the Braes where growth has been strongest. Recent high birth rates led to a peak in primary rolls which is now feeding through to secondary school rolls. Although birth rates have now dropped, they are cyclical and may increase again over a sustained period in the future. While the Council has invested substantially in the school estate in recent years, developer contributions will still be required in some catchments to mitigate the impact of housing led growth on education provision.

Policy Context

- 5.2 Policy IR03 (Education and New Housing Development) provides the specific policy basis for education developer contributions.

IR03 Education and New Housing Development

Where there will be insufficient capacity within catchment schools to accommodate children from proposed new housing development, or where Council nursery provision will be adversely affected, developer contributions will be sought in line with Policy IR02 to mitigate these impacts. In the rare circumstances where such mitigation cannot be achieved in a manner which is consistent with the Council's education policies, the proposed development will not be supported.

5. Community Infrastructure

Establishing the need for school contributions

- 5.3 Developer contributions for education will be sought where they are necessary to manage and mitigate the impacts of development on the area's educational infrastructure. They will be required for proposed housing developments in the catchment areas of schools which are experiencing, or are projected to experience, capacity problems. They will apply to both allocated sites, where the need for contributions may or may not have been stated in LDP2, and to windfall sites.
- 5.4 The need for contributions will be established with reference to the school roll projections which are produced annually by the Council's Children's Services. These projections take into account actual school enrolment figures, future P1 intakes based on birth data, and new housing programmed in the Housing Land Audit (including allocated LDP2 sites and sites with planning permission). Windfall sites with granted or minded to grant status, following the housing land audit's approval, may also be factored into the projections. Proposals for housing development over and above the existing commitments will be tested by re-running the projections with the proposed development included.
- 5.5 The Council's threshold for notional maximum occupancy for both primary and secondary schools is a capacity level of 90% and above. This figure takes into account rural schools, schools with composite classes and the design of old school buildings which can restrict the number of pupils a school can accommodate.
- 5.6 The Council will provide further information on school capacity and rolls in an annual school capacity statement. This statement will list school catchment areas where capacity levels are or projected to be above 90% and the likelihood that education contributions will be sought. It will also include details of committed school upgrades. However, the information in the statement will be indicative only as school capacity issues are subject to change and are influenced by a number of variables.
- 5.7 The impact of development will be assessed on the available capacity at the schools affected, and the estimated number of pupils which will be generated by the development, based on the pupil product ratio (PPR). This is the average ratio of pupils per house or flat within a new housing development. Figure 2 shows the current pupil product ratios that are used by the Council. The ratios are derived from the Council's 2018 PPR ratio analysis, which can be found on the Council's website. The PPRs are regularly reviewed.
- 5.8 School catchment rezoning may exceptionally be used to manage and mitigate school capacity issues. However, this process is far from straightforward, involving wide consultation, with an uncertain outcome. While the Council as education authority may decide to propose catchment changes in response to recent or anticipated community growth, rezoning will rarely provide a solution in respect of individual residential proposals.
- 5.9 There may be school specific factors, such as space, and quality of ancillary accommodation, that mean increasing capacity is not a practical solution. If it is technically impossible to provide extra capacity, the Council may resolve the issue through the use of suspensive conditions to control the phasing of development or, in extremis, may refuse planning permission.

Figure 2: Pupil Product Ratios by type of school and type of dwelling

Type of Dwelling	Non Denominational Primary ratio	Roman Catholic Primary ratio	Non Denominational Secondary ratio	Roman Catholic Secondary ratio	Nursery ratio
House	0.32	0.06	0.15	0.03	0.10
Flat	0.11	0.01	0.04	0.01	0.03

5. Community Infrastructure

Establishing the need for nursery contributions

- 5.10 New housing development can create extra demand for early learning and childcare places, requiring in some cases additional nursery capacity. The Scottish Government has funded an expansion of nursery capacity within the area as part of the national expansion of early learning and childcare care entitlement from 600 to the 1,140 hours for all 3 and 4 year olds. This funding, however, was not intended to resolve nursery capacity issues created by future development. Developer contributions will still be required for nursery provision where capacity pressures are anticipated to arise as a result of development.
- 5.11 The Council will consider contributions for nursery provision on a case-by-case basis, taking into account the following questions:
- Will the development by itself, or in combination with other developments, require a further, and material, increase in nursery provision? What constitutes a “further and material increase” will depend on individual circumstances such as scale and phasing of development, catchment and capacity of nursery provision;
 - Does the contribution meet all the policy tests within Circular 3/2012?

Exemptions

- 5.12 Development falling into any one of the following categories will be exempt from education developer contributions:
- (a) All proposed one bedroom dwellings;
 - (b) Proposals for fewer than 4 houses, and/or fewer than 10 flats;
 - (c) Changes of use, conversion or redevelopment schemes in which there would be no net increase in the number of residential units at the site;
 - (d) Dwellings which would not place an additional burden on existing schools by virtue of the type of occupant, for example, housing exclusively for the elderly, or student accommodation linked with a college or university;
 - (e) Non-residential development, including Class 8 Residential Institutions;
 - (f) Flatted residential developments, or conversions of buildings for residential units, of up to 50 units within town centre boundaries.
- 5.13 In applying the exemptions (b) or (f) to any application, the capacity of the whole site allocated in the LDP, or consented for housing development, of which the application site is part, will be used. This is to prevent avoidance of contributions through sub-division of sites.

5. Community Infrastructure

Contribution rates

5.14 Figure 3 lists the baseline contribution rates for flats and houses and for each type of school. The baseline contribution rates only relate to permanent extensions which are likely to be the required solution in the majority of cases. They have been carried over from Revised SG10: Education and New Development. All the baseline rates are index-linked to the BCIS 'General Building Cost Index' and are updated by the Council in April in each year using this index. You can find the current indexed rates on the Council's website. Please refer to the current indexed rates, not the baseline contribution rates, for the standard changes in relation to education provision. Further guidance on indexation is given in paragraphs 7.12-7.14.

5.15 The baseline contribution rates were derived using the following formula:

$$\begin{aligned} &\text{Contribution rate per type of dwelling} = \\ &\quad \text{Pupil product ratio (Figure 2)} \\ &\quad \times \\ &\quad \text{Average construction cost per pupil (Figure 4)} \end{aligned}$$

Figure 3: Baseline Contribution Rates *

Type of Dwelling	Non Denominational Primary rate per dwelling (index linked)	Roman Catholic Primary rate per dwelling (index linked)	Non Denominational Secondary rate per dwelling (index linked)	Roman Catholic Secondary rate per dwelling (index linked)	Nursery rate per dwelling (index linked)
House	£4,398	£825	£2,334	£467	£1,566
Flat	£1,512	£137	£622	£156	£470

* The current index linked of the sums stated in Figure 3 can be found on the Council's website. Please also read Paragraph 5.14.

5. Community Infrastructure

Average construction costs per pupil

- 5.16 Average construction costs per pupil are derived from data supplied by the Scottish Futures Trust (SFT) which monitors school construction costs nationally. Figure 4 provides the costs for permanent extensions based on 2018 prices.
- 5.17 Large scale housing proposals involving a new school, or a substantial remodelling of a school, may sometimes require a bespoke approach, and in such circumstances the scale of contribution will be calculated on an individual basis, based on project specific costs, rather than through the application of the rates.
- 5.18 There may be instances where the Council decides to 'front fund' school improvements necessary to meet the demands of new development, in advance of contributions being secured from sites which will contribute to the particular capacity issue. In these circumstances, the Council will continue to collect contributions from these sites up until such time as the Council's costs have been recouped.

Figure 4: Average Construction Cost per Pupil

Non Denominational Primary construction cost per pupil	Roman Catholic Primary construction cost per pupil	Non Denominational Secondary construction cost per pupil	Roman Catholic Secondary construction cost per pupil	Nursery construction cost per pupil
£13,744	£13,744	£15,577	£15,577	£15,660

5. Community Infrastructure

Community Space

Background

- 5.19 Community space is indoor space which can be used by members of the community for meetings, clubs, recreational and sporting activities. It can comprise space which is available for use or hire by members of the public, whether owned and managed by the Council or Falkirk Community Trust (e.g. community halls or sports centres) or by private or voluntary organisations (e.g. church halls).
- 5.20 Most communities have access to a range of facilities of varying quality. Work undertaken through the Council's Strategic Property Review indicates that, given the condition, maintenance backlog and running costs of Council properties, there is a need to rationalise the portfolio, with investment focused on a smaller number of facilities which will be more efficient and cost effective to maintain going forward. There are also opportunities to make greater use of school buildings for community use outwith school hours. In this context, the focus for developer contributions is likely to be the adaptation and improvement of existing public facilities which are to be retained, rather than funding additional buildings which are likely to impose additional maintenance and management burdens in the future.

Policy Context

- 5.21 Policy IR04 (Community Facilities) indicates the criteria which need to be met in proposals which would involve the loss of community facilities, as well as criteria which proposals for new community facilities will have to meet.

Contributions

- 5.22 The provision of contributions for community space should be considered in the following circumstances:

Loss of a community facility through development

- 5.23 Where a development results in the loss of a community facility, the criteria in Policy IR04(1) will be applied. Such loss may be justified where it is demonstrated that there is no longer a need for the facility, the facility is no longer financially viable, or the services offered by the facility will be delivered satisfactorily in alternative ways. If the last of these criteria is invoked, this may involve a replacement facility, or upgrading of another facility, in which case compensatory payments may be appropriate. The contributions will be determined on a case by case basis, and will be related to the cost of the works required. In the case of Council or Falkirk Community Trust facilities being closed, and the sites marketed for alternative uses, for example under the Strategic Property Review, consideration of these factors and any compensatory provision is likely to have been undertaken by the Council outwith the planning process.

Meeting the demands of a large residential development

- 5.24 Large developments may generate considerable additional demands on community space which cannot be satisfactorily be met by existing provision. For developments of around 200 units or more, an assessment of provision will be required to confirm whether existing facilities are adequate taking account of:
- (i) the scale, quality, location of those facilities;
 - (ii) the level of current and projected demand for space; and
 - (iii) the Council's strategy for the rationalisation and improvement of facilities, referred to above.
- 5.25 If there is a deficiency, the assessment will determine the measures required to mitigate these impacts. In most cases this would consist of contributions to the upgrading of an existing facility to improve its capacity or suitability. A new facility is only likely to be the preferred solution where there will be no additional revenue burden for the Council (e.g. a replacement public facility, a facility run and managed by the community, or a private facility). The contributions will be determined on a case by case basis, and will be related to the cost of the works required.

5. Community Infrastructure

Healthcare Facilities

Background

- 5.26 Health care is an important consideration when considering the sustainability of a new development both in terms of access to facilities and sustaining health and wellbeing. Primary care services are usually the first point of contact for people using the healthcare system. General practice, pharmacies and dental surgeries are the most common primary care services found throughout the Council area. They are based in the community within a range of settings including local health centres or privately leased or owned premises. NHS Forth Valley is responsible for the provision of all NHS primary care across the Council area.
- 5.27 Primary care services are under increasing pressure, not just from new residential development. The healthcare system is caring for a growing and aging population with increasingly complex, and on-going, healthcare needs. Nationally and locally, there are major challenges in recruiting and retaining primary care professionals such as GPs and nurses. Furthermore, the model of primary health delivery is changing with the Forth Valley Primary Care Improvement Plan 2018 - 2021, resulting in more practitioners needing to be accommodated.
- 5.28 In 2019, NHS Forth Valley carried out a review² of each GP practice in the Council area, taking into account the potential impact of demographic change, future housing growth, new models of care delivery and more smarter working on GP practice accommodation. To address capacity issues, the review recommended investment priorities for NHS Forth Valley, including new build, extended or reconfigured facilities in the Council area. Primary health care contributions will be sought where development creates a direct need for improved facilities.

² NHS Forth Valley Primary Care Services and Premises Review - (October 2019)

Policy Context

- 5.29 Policy IR02 provides the planning policy basis for seeking developer contributions in respect of primary healthcare facilities.

Contributions

Establishing the need for healthcare contributions

- 5.30 NHS Forth Valley will assess existing primary care provision, proposals under the Primary Care Improvement Plan and the extent of proposed new development to establish those areas which are subject to capacity issues and within which contributions will be sought. This exercise will be informed by the Housing Land Audit, providing the extent and programming of future housing commitments, and by NHS Forth Valley data on patient numbers, premises capacity, and improvement plans. This information will be captured in a primary care capacity statement, which will also report progress on projects that will provide additional capacity.
- 5.31 The number of patients generated by a development will be calculated by multiplying the number of proposed dwellings by the average household size in the Council area (2.15 for year 2026³, this being the midway point of the initial 10 year period of LDP2).
- 5.32 The following patient/WTE (whole time equivalent) ratios have been adopted by NHS Forth Valley and will be used in capacity calculations unless otherwise agreed. The ratios were provided by NHS Forth Valley.

³ Household Projections - 2016 Based, Falkirk Council (July 2018)

Figure 5: Primary Care WTE/Patient Ratios

Primary Care Service	Service/Patient Ratios
Pharmacotherapy Services	1 Pharmacist per 5,000 people
Primary Care Mental Health Nurses (PCMHN)	1 PCMHN per 15,000 people
Advanced Practice Physiotherapists (APP)	1 APP per 20,000 people
Urgent Care - Advanced Nurse Practitioners (ANP)	1 ANP per 11,000 people
General Practitioner (GP)	1 GP per 1,500 people

5. Community Infrastructure

Exemptions

- 5.33 Residential development, including residential institutions such as care homes, will potentially be eligible for contributions except in the following circumstances:
- (a) Proposals for fewer than 50 units;
 - (b) Changes of use, conversion or redevelopment schemes in which there would be no net increase in the number of residential units at the site;
- 5.34 In applying exemption (a) to any application, the capacity of the whole site allocated in the LDP, or consented for housing development, of which the application site is part, will be used. This is to prevent avoidance of contributions through sub-division of sites.

Contribution rates

- 5.35 If a capacity issue is identified, NHS Forth Valley will confirm the broad nature of the solution required to deal with the issue. The solution will likely have emerged from the Primary Care Services and Premises Review, and may be progressing through the business case process. It may take the form of a new facility, an extension of an existing facility, or reconfiguration of space within an existing building. Contributions, however, will only be sought for new and extended facilities.
- 5.36 The contribution rate for new facilities will be derived from appropriate and suitably verified cost metrics. These will ensure that contributions are proportionate to the impact of the particular development, and the number of patients it will generate. The rates should be based on:
- The average household size of 2.15 to give the number of patients that the proposed development will generate;
 - The number of patients per WTE as indicated in Figure 5 to give the number of WTE required;
 - The Scottish Futures Trust guidance on m² of clinical and support space required per WTE (taking into account the total WTE that will be required to be accommodated in the facility, not just the WTE generated by the development), or any other appropriate and suitably verified metric;
 - Build cost metrics appropriate to the type of project (e.g. new build, extension etc.), or actual build costs per m² for the project if available.
- 5.37 NHS Forth Valley will also provide information on the likely phasing of the project to assist the Council in establishing the phasing of contributions.
- 5.38 Primary care contributions can involve in kind works on or off site, land transfer or financial contributions depending on the provision required. In some cases, it may be necessary for NHS Forth Valley to front fund new provision and recoup its costs through receipt of contribution payments.
- 5.39 NHS Forth Valley will be party to any legal agreement for primary health care contributions and will be obliged to use the contribution for the agreed purpose within the agreed time period.
- 5.40 Figure 6, on the next page, provides a worked example to illustrate how primary care contributions may be calculated when actual costs for a new facility have not yet been established.

5. Community Infrastructure

Figure 6: Worked Example

NHS Forth Valley has published a primary capacity statement, confirming that a new build facility accommodating 6 primary care practitioners (working time equivalents – WTE) is required to address capacity pressures in a particular community, taking into account future growth. While no actual costs have yet been established for the facility, the healthcare contribution for a 250 unit residential development can be calculated using the following standard assumptions:

Number of patients from development = 538 [no. of dwellings multiplied by the average household size (2.15)]

Total of Whole Time Equivalents (WTE) required for 538 patients = 0.5 after rounding.

Primary Care Service	Service/Patient Ratios	WTE for Development
Pharmacotherapy Services	1 Pharmacist per 5,000 people	0.1
Primary Care Mental Health Nurses (PCMHN)	1 PCMHN per 15,000 people	0
Advanced Practice Physiotherapists (APP)	1 APP per 20,000 people	0
Urgent Care - Advanced Nurse Practitioners (ANP)	1 ANP per 11,000 people	0
General Practitioner (GP)	1 GP per 1,500 people	0.4
	Total	0.5

Scottish Futures Trust's guidance* (Page 4, Table 1- Metric A) provides the sliding scale below for calculating the gross internal area required per GP, for new buildings. This sliding scale is applicable to other primary care practitioners as they generally have the same floorspace requirements as GPs.

No of GPs	Gross Internal Area per GP (sqm)
3	160
4	152
5	137
6	130
7-9	123
10-11	116
12-16	109
17-20	105
21>	100

Using this scale, a new building accommodating 6 WTE would require 130 sqm per WTE. 0.5 WTE (the proportion related to the proposed development) therefore equates to $130 \times 0.5 = 65$ sqm.

Floorspace costs = £3,850 per sqm. [This is the Scottish Futures Trust (SFT) 2012 cost metric of £2,350 per sq.m for a new build of 1,001-5,000 sqm indexed to 2019 (SFT's guidance*, page 6, Table 2- Cost Metric)]

The healthcare contribution required for the 250 units is **£250,250** (65 sqm x £3,850 per sqm) or **£1,001 per unit**. The contribution is index-linked to keep pace with inflation.

**The Hub Programme Delivery Office Guidance Note - Implementation of Performance Metrics for Primary Health Care, Scottish Future's Trust 29th October 2013.*

6. Placemaking and Historic Environment

Background

- 6.1 Placemaking is the art of creating good places. Scottish Planning Policy identifies six qualities of successful places which should form the basis of good placemaking and these principles are embedded in LDP2, particularly through Policy PE01 (Placemaking). The LDP2 Spatial Strategy also focuses on place by identifying spatial priorities for placemaking, i.e. areas where there is a particular need or opportunity for improvement, or where the social and economic impact of investment will be greatest. Generally, development will deliver good placemaking through the design of the development itself, but sometimes, where development has wider regeneration objectives or mitigation of certain environmental impacts is needed, contributions to wider on- or off-site environmental improvements may be sought. The provision of public art in association with new development is a particular example of this which can help to reinforce the distinctiveness and identity of places.
- 6.2 LDP2's suite of historic environmental policies seek to protect and enhance the area's rich diversity of architectural, cultural and archaeological assets. In some instances, mitigation or compensation of the impacts of development may involve the payment of contributions.

Policy Context

- 6.3 Policy PE01 (Placemaking) expands Scottish Planning Policy's six qualities of successful places into a number of principles which will apply to all development and seek to create places which are distinctive, safe and pleasant, welcoming, adaptable and resource efficient. The policy references the requirement that developments of significant scale should contribute to public art.
- 6.4 Policies PE05 to PE12 state that the Council will protect and enhance the various types of historic environment resources in the area, including the Antonine Wall WHS, archaeological sites, listed buildings, conservation areas, areas of townscape value, historic gardens and designed landscapes, battlefield sites and canals.

Contributions

Environmental Improvements and Public Art

- 6.5 The need for contributions for off-site environmental improvements will be determined on a case by case basis. Generally, these will be associated with larger developments and will relate to measures designed to improve the environment or strengthen the sense of place in the community affected by the development. Frequently they will be identified in LDP2, in development frameworks or briefs, and may have been identified through consultation with the local community on the proposal. In determining where contributions may be appropriate, the contribution which a development can make to the 'place priorities' outlined in the LDP2 Spatial Strategy will be relevant.
- 6.6 Policy PE01 states that developments of a significant scale should contribute to public art either through a contribution to an existing local project, or through provision of public art within the development, guided by a strategy prepared by the developer in consultation with the Council and Falkirk Community Trust. This provision will apply to residential developments of 200 houses or more, and retail/commercial leisure/community/civic developments of 2,500 sqm or more. The scale of investment/contributions will be broadly proportionate to the scale of the development, and geared towards the public art opportunities identified within the strategy. A guide to the procurement of public art will be produced by Falkirk Community Trust, and will provide further information on the definition and scope of public art, as well as good practice in developing and delivering public art projects.

6. Placemaking and Historic Environment

Archaeological Investigation and Interpretation

- 6.7 Where archaeological resources may be affected by development, developers will be asked to undertake investigation and evaluation of the impacts of the proposal. Policy PE06 states that where the case for preservation does not prevail, the developer shall be required to make appropriate and satisfactory provision for archaeological excavation, recording, analysis and publication, in advance of development. Facilities for interpretation of the archaeology of the site may also be appropriate. Delivery of such measures may be in the form of developer contributions. The scale of contributions will relate to the necessary measures which will be agreed with the Council, in consultation with Historic Environment Scotland. Provision for contributions to investigation and interpretation may also apply to Historic Gardens and Designed Landscapes, where compensation is required for loss of features or elements of the designed landscape.

Historic Building Conservation

- 6.8 The loss of historic buildings may, exceptionally, be deemed to be acceptable. For listed buildings and unlisted buildings in conservation areas, the relevant criteria in Policies PE07 and PE08 would have to be met. In such circumstances, contributions to compensate the loss may be sought for investment in the conservation of other historic buildings or to support other actions identified in the Council's Historic Environment Strategy.

7. Planning Process

Pre-application

Early pre-app Engagement

- 7.1 It is strongly recommended applicants discuss their proposals with the Council before they prepare a planning application. Pre-application advice can help applicants establish likely contribution requirements for their developments as well as identify at an early stage the need for supporting information to accompany the planning application.
- 7.2 At the pre-application stage, early community engagement can help understand local concerns and also inform potential interventions, including those relating to developer contributions.
- 7.3 A planning processing agreement (PPA) is a good way for applicants, the Council and relevant stakeholders to agree the key stages involved in determining the planning application, including establishing and securing contribution requirements. It identifies what information is required, and what timescales should be met for successful completion of the planning process. The Council's PPA template can be found on the Council's website: www.falkirk.gov.uk.

Planning Application

Decision

- 7.4 After submission and validation of the planning application, the Planning Case Officer will confirm which contributions, if any, are applicable to the application following consultation with relevant services. The Planning Case Officer, however, may require applicants to submit further information in order to establish the contribution requirements. The type and level of developer contributions will usually be indicated in the Planning Case Officer's report with the decision on the application either being made under delegated powers or by the Planning Committee.

Legal Agreement

- 7.5 If the Council is minded to grant the planning application, a decision will be made on the appropriate mechanism for securing any contributions (whether a planning obligation or S69 agreement as described in paragraphs 2.4 and 2.5). Negotiations will take place between the Council and the applicant to agree the Head of Terms for the legal agreement. The agreement will specify the basis on which contributions should be spent.
- 7.6 Where appropriate, the Council may agree to phase payments to mitigate the financial burden on developments. Where contributions are phased, appropriate triggers for payment will be included in the agreement.
- 7.7 Planning permission may be granted once an agreement has been concluded (and in the case of planning obligations, registered in the appropriate Property Register) or if all the contributions have already been paid. Along with the decision notice, the Council will publish the legal agreement on the Council's online planning portal (www.falkirk.gov.uk) with signatures redacted for data protection reasons.

Planning Permission in Principle

- 7.8 Planning permission in principle establishes the acceptability of the principle of a proposal at a site without having to prepare detailed proposals. The permission, however, itself does not give automatic permission for development to take place. Conditions are attached to the permission, requiring further approval, consent or agreement of the Council for detailed aspects of the development such as access arrangements, layout and design.
- 7.9 If contributions are required for an outline proposal, the applicant will be required to enter into a legal agreement which provides the principle for contributions to be calculated and made at an agreed future point in time. The agreement may include the standard formulae and charges to calculate the value of the contributions when more detailed planning applications are submitted at a later date.

7. Planning Process

Indexation of Contributions

- 7.10 Indexation ensures the rates and contributions keep pace with price rises. The following outlines how indexation will be applied:

Indexation of rates and cost values

- 7.11 The baseline contribution rates in Figure 3 are updated in April, each year using the BCIS 'General Building Cost Index'. The current, indexed rates can be found on the Council's website.
- 7.12 The relevant rates or cost values for other types of infrastructure, such as health and transport, are usually updated monthly.

Indexation of developer contributions

- 7.13 Developer contributions specified in the legal agreement are normally index linked to BCIS 'General Building Cost Index'. They will be indexed from the date of the minded to grant decision. In addition, the Council will not index link contributions beyond the point the infrastructure improvements, to which the contributions relate, have been completed.

Post Consent

Contributions Monitoring

- 7.14 The Council tracks legal agreements to ensure contribution monies due are collected and passed to the relevant Council service or infrastructure provider on time. However, it should be noted that developers are responsible for notifying the Council the commencement of development and when the trigger points for contribution payments are reached.
- 7.15 Under Section 36 of the Planning (Scotland) Act 2019, planning authorities will be required to publish an annual report on planning obligations. The report will improve transparency and accountability around planning obligations, reporting the obligations entered into within previous financial years. The Council intends to prepare the report at a future date as soon as practicable after Section 36 comes into force and Scottish Government guidance is published. The report will be published on the Council's website: www.falkirk.gov.uk.

Payment of contributions

- 7.16 The trigger points for contributions payments will be subject to negotiation between all the relevant parties and specified in the legal agreement. All contributions payments are made to the Council in accordance with an agreed process which is intimated to the responsible party at the conclusion of the legal agreement.
- 7.17 Late payment interest will be payable when any contribution payment due by the legal agreement is late. The interest is usually applied from the date payment is due until the date of payment.

Reimbursement of Contributions

- 7.18 Contributions paid to the Council, which are not spent within the time period specified in the legal agreement, will be returned to the payee with the interest accrued, unless agreed otherwise.

Enforcement

- 7.19 The onus is on all parties to timeously meet their obligations within the legal agreement. Where a developer fails to abide by the terms of the legal agreement, the Council will, if necessary, seek to enforce the terms through arbitration or through the Courts.

8. Development Viability

What is Development Viability?

- 8.1 Viability is an important factor in determining whether or not a development proceeds. Defining 'viability' depends on whether the aim of the development is to generate a financial return. If the intention is to make a profit, development viability is the ability of the development to meet its costs, including contributions while ensuring a suitable land value for the landowner and return to the developer. For most public or third sector development, development viability usually depends on meeting costs within a set budget, rather than generating a profit.

Considering Development Viability

- 8.2 Falkirk Council recognises that there may be occasions when not all the required developer contributions can be met without compromising the overall viability of a particular development. Where a developer asserts that the costs of developer contributions will be such as to render a development unviable, it will be for the developer to demonstrate this to the Council's satisfaction through a Development Viability Statement. For private developments, the Council will normally assess viability using the residual valuation approach, which establishes the developer's residual profit once all the development costs of a scheme have been deducted from its gross development value. In the case of affordable housing, the Council will assess the viability implications of developer contributions after discounting all the development costs of the scheme from the maximum available budget including external funding sources.
- 8.3 The following steps outline the development viability process and how the Council will take into account viability issues.

Step 1: Prepare a development viability statement

- 8.4 Developers should inform the Council if they intend to prepare a Development Viability Statement after establishing all the contribution requirements for their development. The statement should be prepared by a suitably qualified professional (such as a chartered valuation surveyor) and follow the guidance set out in the RICS's 'Financial Viability in Planning' guidance where appropriate. The content of the statement will vary from scheme to scheme but should provide the following information as a minimum:
- Proposed scheme details, including the number, type, size and tenure of homes/amount of homes and proposed floorspace;
 - A detailed breakdown of the gross development value of the development, including anticipated market valuations and sales rates;
 - A detailed breakdown of all development costs, including construction costs with specifications, finance costs, professional fees, site value at the time of the planning application submission, all the Council's development contribution requirements and all other anticipated abnormal costs;
 - Development programming, including phasing information and when each property would be marketed and sold or leased;
 - The residual developer's profit after all development costs are deducted from the gross development value. Please note the maximum available budget rather than profit will be used to establish the viability implications for new affordable housing development. This may be determined on a cost per unit basis agreed with the Council as planning authority. Evidence of budgetary limits should be provided.
- 8.5 Appendix 3 provides a more expansive list of information for development viability statements. This list is taken from the 'Financial Viability in Planning' guidance, Appendix 3.

Step 2: Submit the statement for the Council's consideration

- 8.6 The statement should be submitted to the Planning Case Officer. If necessary, the Council will submit the statement to the District Valuer for independent verification.

8. Development Viability

Step 3: Mitigating the costs of contributions

- 8.7 If the Council accepts that developer contributions would make the development unviable following consideration of a verified Development Viability Statement, the Council will consider the following options in turn:
1. **Phased or deferred timing payment of contributions** - This option will be explored first before reduced contributions. 'Pay as you build' arrangements may enable a residential developer to use the income generated from the sale of dwellings to pay the costs of developer contributions;
 2. **Reduced contributions** - Where the above option is not sufficient to enable a development to remain viable, the Council may consider reduced contributions. The reduction in contributions would be limited to the point that would ensure the development would remain viable. If more than one type of contribution is required for the development, the Council will determine which contributions will be reduced and by how much on a case by case basis. Furthermore, the Council may require a review mechanism in the legal agreement that would allow contributions to be increased at a future point taking in account the improved conditions for the development.
 3. **Waived contributions** - If option two is not suitable, the Council may consider waiving a contribution(s) in very exceptional circumstances and as a last resort.
- 8.8 When considering each option in turn, the Council will take into account the Local Development Plan 2 and all other relevant material considerations.

Public Disclosure

- 8.9 The Council generally treats Development Viability Statements in confidence. However, the Council may disclose information where it is obliged to do so, including where it is subject to request under the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004.

Appendix 1 : Useful Contacts

For advice on this supplementary guidance or the Falkirk Local Development Plan 2 contact:

Development Plan Unit

Development Services
Falkirk Council
Abbotsford House
David's Loan
Falkirk FK2 7YZ
Telephone: 01324 504720
Email: ldp@falkirk.gov.uk

For information on planning applications or the arrange pre-application discussions, contact:

Development Management Unit

Development Services
Falkirk Council
Abbotsford House
David's Loan
Falkirk FK2 7YZ
Telephone: 01324 504748
Email: dc@falkirk.gov.uk

For information on school rolls and capacity, contact:

Richard Teed

Children's Services
Falkirk Council
Sealock House
2 Inchyra Road
Grangemouth FK3 9XB
Telephone: 01324 506621
Email: richard.teed@falkirk.gov.uk

Appendix 2 : Apportioning of DEAR Costs

- A1** Falkirk Council has long identified the need for a by-pass to the east of Denny to help alleviate traffic congestion at Denny Cross and support existing and future development within the west locality. This by-pass is called the Denny East Access Road or DEAR for short.
- A2** Two sections of DEAR have already been completed. The north section of DEAR between Broad Street and Denny High School was constructed by Falkirk Council to provide access to the new Denny High School. As part of the developer contribution for the Mydub1 development, Avant Homes constructed the new roundabout at the junction of Glasgow Road and Nethermain Road and also a 430m road section of DEAR.
- A3** In 2018, the Council committed itself to front fund the final phases of DEAR which will link the north section with the new roundabout. Developer contributions will continue to be sought for DEAR until the Council has recouped its proportion of overall costs from the remaining sites.
- A4** The contributions will be pro-rata shared among these sites based on the percentage of total hourly flows attributed to each site (Figure 8). Windfall development is factored into the apportioning of contributions, accounting for 1.28% of the costs. This reflects the modest level of units windfall development is likely to provide within the area.
- A5** However, the figures stated in Figure 8 should be used for indicative purposes only as the actual share of DEAR contributions for a particular development will be established through the planning application process.

Figure 8: Indicative share of DEAR contributions among remaining, contributing sites.

LDP Ref.	Site	No. of Units	Trip Generation	% Assignment	Hourly Flows	%
H32	Mydub2	270	216	100%	216	47.87%
H34	Stirling Street	5	4	30%	1	0.27%
H32	Mydub	3	2	100%	2	0.53%
H31	Rosebank North	130	104	30%	31	6.91%
H08	Banknock South	200	28	10%	3	0.62%
H30	Former Denny High School	216	173	30%	52	11.49%
MU09	Broad Street *	250	200	70%	140	31.03%
	Windfall Allowance		36	16%	6	1.28%
	Total	1074	763		451	100%

* Based on 200 residential units + 50 equivalent residential units for business industry on MU09, Broad Street

Appendix 3 : Outline Requirements for Development Viability Assessment

Proposed Scheme Details

- Floor areas:
 - Commercial: gross internal area (GIA) and net internal area (NIA);
 - Residential: GIA and net sales area (NSA).
- Residential unit numbers and habitable rooms including the split between private and affordable tenures.

Gross Development Value (GDV)

- Any existing income that will continue to be received over the development period;
- Anticipated residential sales values and ground rents (and supporting evidence including deductions for incentives);
- Anticipated rental values and supporting evidence;
- Yields for the commercial elements of the scheme and supporting evidence;
- Details of likely incentives, rent-free periods, voids;
- Anticipated sales rates (per month);
- Anticipated grant funding for affordable housing;
- Anticipated value of affordable units (with supporting evidence/explanation of how these have been valued and assumptions);
- Deductions from commercial GDV to reach;
- NDV (Stamp Duty Land Tax (SDLT), agents, legal + VAT).

Costs

- Expected build cost (a full QS cost report also showing how costs have been estimated);
- Demolition costs;
- Historic costs (as reasonable and appropriate);
- Site preparation costs;
- Vacant possession costs;
- Planning costs;
- Construction timescales, programme and phasing;
- Any anticipated abnormal costs;
- Rights of light payments/party walls/oversailing rights;
- Details of expected finance rates;
- NDV (Stamp Duty Land Tax (SDLT), agents, legal + VAT).
- Professional fees, including:
 - Architect;
 - Planning consultant;
 - Quantity Surveyor;
 - Structural Engineer;
 - Mechanical/Electrical Engineer;
 - Project Manager;
 - Letting Agent fee;
 - Letting Legal fee;
- Site Value;
- Other costs.

Additional Details for Future Phases

- Expected sales growth;
- + Expected rental growth;
- + Expected cost inflation;
- + Credit rate

Development Programme

- Pre-build;
- Construction period;
- Marketing period;
- Viability cashflow;
- Income/value/capital receipt;
- Costs;
- Phasing (where appropriate).

Benchmark Viability Proxies

- Profit on cost;
- Profit on value;
- Development yield;
- Internal rate of return (IRR)

Planning Application Details

- Plans/sections/elevations (as relevant);
- Design and access statement.

Appendix 3 : Outline Requirements for Development Viability Assessment

Sensitivity Analysis

- Two way sensitivity analysis;
- Scenario analysis;
- Simulation analysis.

Accompanying Report (Basic Outline)

- Executive summary;
- Contents outline;
- Introduction and background;
- Description of site location;
- Planning policy context;
- Description of scheme;
- Market information summary;
- Build cost and programme;
- Methodology and approach;
- Outputs and results;
- Sensitivity analysis;
- Concluding statement.

