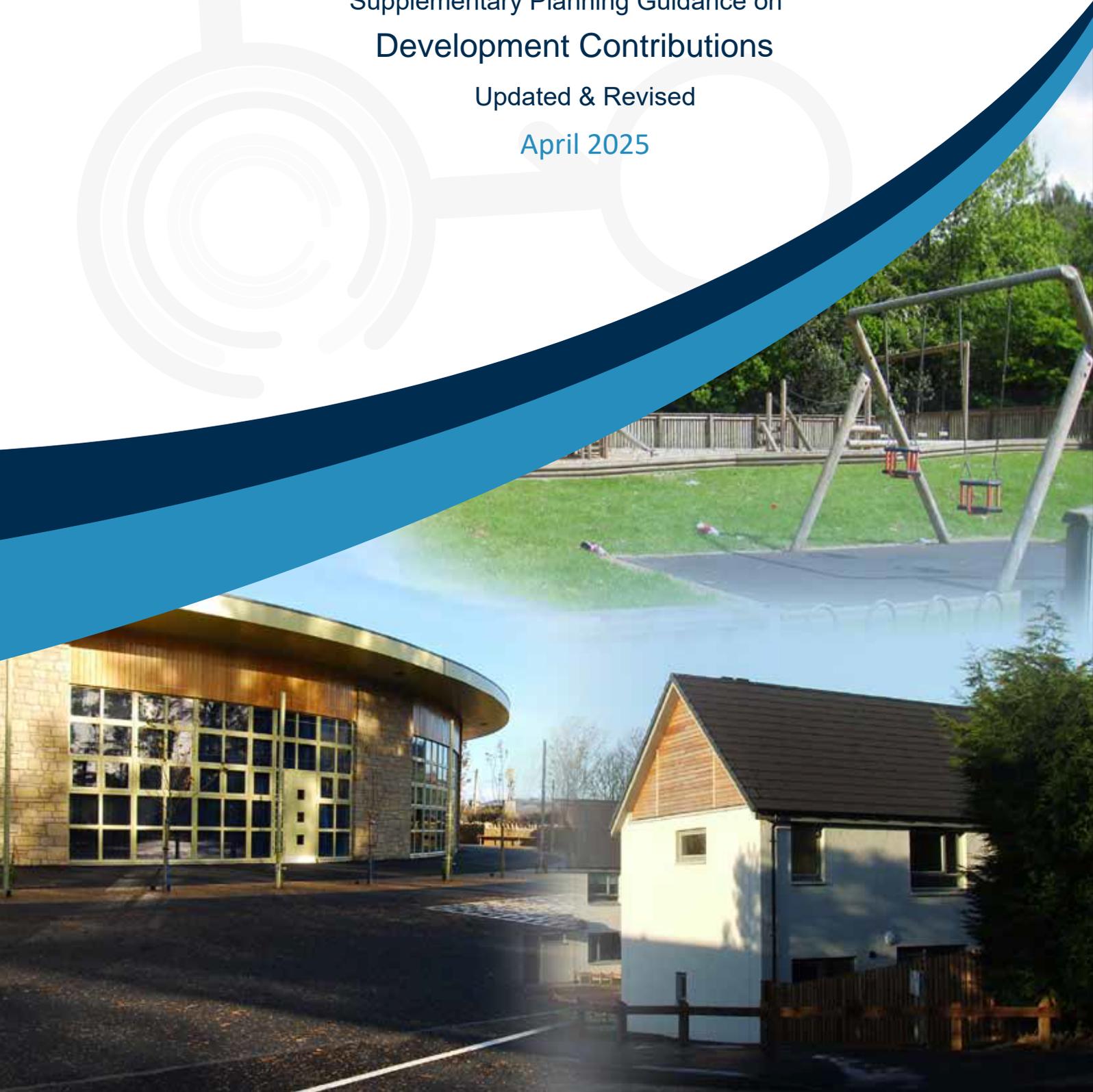


Scottish Borders Local Development Plan

Supplementary Planning Guidance on
Development Contributions

Updated & Revised

April 2025



**Building a Better
Scottish Borders**

Scottish Borders Local Development Plan

Supplementary Planning Guidance No. 9 on

Development Contributions

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1 Introduction and Purpose

1.1 Introduction

- 1.1.1 Scottish Borders Council (SBC) is looking forward to further facilitating sustainable growth within the Scottish Borders local authority area. A combination of unique built and natural environments combined with first class services, infrastructure and facilities assures the Scottish Borders as a premiere location in which to live and conduct business.
- 1.1.2 However, in order to ensure that the rich quality of life enjoyed in the Scottish Borders is not compromised by development, SBC considers that it is necessary not only to sustain the level of services, infrastructure and facilities provided to existing residents, but also to expand them to accommodate pressures emanating from additional commercial and residential investment.
- 1.1.3 In order to achieve the necessary balance of facilitating development whilst preserving the qualities that make the Scottish Borders so special, the consistent and equitable application of sensitive yet robust planning policy is required. Central to this philosophy is the understanding that development cannot be endorsed by SBC unless the necessary services, infrastructure and facilities are either in place, or can be put in place, to accommodate them. Consequently, development contributions may be sought to mitigate against the projected impacts on service delivery that may result from development activity. These can include contributions not only towards the provision of services, facilities and infrastructure but also, where appropriate, their on-going associated costs.
- 1.1.4 SBC recognises that, whilst the Scottish Borders has experienced strong development growth, sectoral downturns and associated challenges facing the development industry inevitably comprise part of development cycles. Consequently, from policy inception and initial implementation, an understanding of the requirement to accommodate changing economic factors that may influence development activity prevailed. Wherever possible, SBC will, upon request and subject to negotiation, collaborate with applicants to structure contribution requirements by phasing in line with development activity in a way that will both provide the services, facilities and infrastructures that development necessitates whilst simultaneously assisting with the facilitation of conditions required for development to occur.
- 1.1.5 Development Contribution policy is not unique to SBC and is applied by most local authorities. The policy is widely accepted by the development industry as constituting a legitimate and necessary development cost and is typically factored into their development appraisals as a matter of course. SBC fully recognises the symbiotic relationship between prospective developers and planning authority and consequently promotes a collaborative approach towards Development Contribution policy implementation.
- 1.1.6 Historically, and relative to other local authority areas, the scale of development proposals in the Scottish Borders have been comparatively small, often comprising developments of less than ten residential units. Consequently, the anticipated

cumulative impacts of all developments on service provision are required to be considered when assessing development contribution necessity. As a result, even single residential unit planning proposals may have identifiable impacts upon service delivery that require development contributions to accommodate them.

- 1.1.7 SBC is firmly of the opinion that new development should not adversely impact upon existing levels of service provision. The fundamental policy premise is that those developments identified as being potentially responsible for any increased burdens upon services, infrastructure or facilities should provide contributions towards the financial costs of enhancing them to appropriate levels. As a result, the release of planning consent may be conditional upon a legal agreement between the applicant and local authority being entered into. This would regulate the delivery of appropriate development contributions necessitated by the anticipated increased burdens resulting from their proposed development.
- 1.1.8 Generally, where the anticipated impacts of development can be mitigated by planning conditions, this option will be exercised in preference to the requirement for legal agreements.
- 1.1.9 Development contributions are sought by SBC for instances where the projected impacts of proposed cumulative development cannot be accommodated by existing services, infrastructure and facilities. They are also necessary where infrastructure has been provided by SBC in advance of additional burdens being generated by development until such time as the costs of providing the identified additional capacity have been fully recovered. Forward funded infrastructure provision can facilitate development when otherwise it would be precluded. It is therefore appropriate that such development enabling investment made by SBC is retrospectively recouped from subsequent developments which utilise this increased service, infrastructure and facility capacity. However, where existing capacity exists that has not been forward funded by SBC, and anticipated additional burdens created by proposed developments can be adequately absorbed, contributions will not be sought.
- 1.1.10 Contributions are required to be utilised specifically for the purpose sought and disbursed in full compliance with the terms of the associated legal agreement from which they are derived. They should not be used for any other purpose or to subsidise non-related local authority activities. Any contributions not disbursed within the terms of the associated legal agreement are required to be returned to the contributor with the addition of stipulated interest.
- 1.1.11 Any services, infrastructure or facilities may require contributions towards their expansion to absorb the anticipated increased burdens generated by cumulative development activities. However, the current predominant contribution requirements in SBC are, in no priority ranking, for:
- Access & Countryside
 - Affordable Housing (AH)
 - Education and Lifelong Learning (E & LL)
 - Green Space and Play Areas
 - Transport infrastructure
 - Waverley line re-instatement
 - Miscellaneous e.g. landscape and open spaces, trees and woodland, sport, recreation and community facilities, built and natural heritage, crime prevention,

recycling and waste management, street furniture, art and ancillary equipment.

- 1.1.12 SBC requires all its staff and members to observe the highest ethical standards when carrying out its business. It accordingly undertakes to treat all applicants fairly and equitably, negotiating strictly within the boundaries of the appropriate regulatory framework and with due regard to its own Code of Conduct.

1.2 Purpose

- 1.2.1 This Supplementary Planning Guidance (SPG) sets out the basis for a consistent and transparent approach to implementing the Council's policy on development contributions. The information provided will be of particular interest to landowners, developers and other stakeholders engaging with the planning process. It should, however, be noted that this information is essentially for indicative purposes only providing general guidance on policy and associated potential implications for proposed development in the Scottish Borders.
- 1.2.2 Development contribution policy and other relevant SBC documents can be accessed via the Council's website (www.scotborders.gov.uk).
- 1.2.3 A key objective of providing guidance on development contribution policy is to facilitate informed decision making by those involved in the development process. This allows potential financial implications to be factored into development appraisals prior to commercial decisions and actions being undertaken.

2 Legal authority/Government guidance and Policy context

2.1 Legal authority and Government guidance

- 2.1.1 The key government legislation and guidance pertinent to development contributions are:
- [Planning Circular 3/2012: Planning obligations and good neighbour agreements](#) (revised 2020) - this document provides a statement of Government policy, containing guidance on policy implementation
 - Section 75 (s75) of the [Town & Country Planning \(Scotland\) Act 1997 \(as amended\)](#)
 - Section 69 (s69) of the Local Government (Scotland) Act 1973.
 - [The Waverley Railway \(Scotland\) Act 2006](#), sections 38 and 40 of which govern planning agreements and contributions required by the Waverly Railway re-instatement project.
- 2.1.2 Other legislative and guidance instruments may also be relevant, though for more

specific contributions:

- [Planning Advice Note 2/2010](#): Affordable Housing and Housing Land Audits is a government advice note on affordable housing

2.1.3 SBC policy reflects the requirements and guidance set out in these relevant documents.

2.1.4 The provision of a financial payment or other “in-kind” contribution should never be used as a reason to approve a development proposal that contravenes planning policy and is unacceptable on planning grounds. However, where a development is otherwise acceptable in policy terms, development contributions can provide a mechanism for applicants to fund or contribute to the provision, enhancement and/or maintenance of services, infrastructure and facilities to overcome constraints thereby enabling their development to proceed.

2.1.5 The Use of Planning Agreements: Scope and Limitations are set out in paragraphs 12 – 13 of Circular 3/2012:

“12. Planning authorities must consider each planning application on its merits and reach a decision in accordance with the terms of the development plan, unless material considerations indicate otherwise. Planning obligations have a limited, but useful, role to play in the development management process where they can be used to overcome obstacles to the grant of planning permission. In this way development can be permitted or enhanced and potentially negative impacts on land use, the environment and infrastructure can be reduced, eliminated or compensated for. Planning obligations should be agreed between the parties involved; developers should not be required to enter into a planning obligation. Where known in advance, the need for a planning obligation can usefully be set out in the development plan or as part of pre-application discussions.

13. It is not possible to indicate all circumstances in which planning obligations are appropriate. Planning authorities should take decisions based on the relevant development plan, the proposed development, and the tests set out in this circular. Where a planning obligation is considered essential, it must have a relevant planning purpose and must always be related and proportionate in scale and kind to the development in question. These principles are central to the guidance that follows.”

2.1.6 The principles enshrined in Circular 3/2012 are reflected by SBC policy and its implementation:

- Legal agreements are necessary
- Legal agreements serve a planning purpose
- Planning agreements relate to the development being proposed
- Planning agreements terms are proportionate in scale and kind to the proposed development
- Planning agreements satisfy a test of reasonableness reflecting the circumstances of particular applications. Full cognisance is taken of the following questions when the requirement for a contribution is assessed:
 - Is an agreement needed to enable a development to go ahead?

- In the case of financial payments, will these contribute to the cost of providing necessary facilities required as a consequence of or in connection with the development in the near future?
- Is the requirement in the agreement so directly related to the regulation of the proposed development that it should not be permitted without it?

2.2 Policy context

2.2.1 All relevant legislation and associated guidance is reflected in SBC policy and associated documents. Development Contribution policy is enshrined in the statutory Development Plan which includes both the [National Planning Framework 4](#) (NPF4) and the Adopted [Scottish Borders Local Development Plan \(2024\)](#).

2.2.2 The date of registration for a planning application is the general determinant of policy applicability, though advice from the planning authority should be sought in instances where dubiety about policy implications for specific applications exists.

National Planning Framework 4 (NPF4)

2.2.3 Planning decisions must be made in accordance with the Development Plan, unless material considerations indicate otherwise. NPF4 sets out 33 national planning policies which are to be read as a whole. It is for the decision maker to determine what weight to attach to policies on a case by case basis. Whilst NPF4 policies are to be read as a whole, there are a number of specific policies which have particular relevance to development contributions.

2.2.5 *NPF4 Policy 13 Sustainable Transport* – this policy aims to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably. **(NB: the geographical area from which contributions are sought were last updated on 31 October 2006)**

2.2.6 *NPF4 Policy 16 Quality Homes* – this policy aims to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.

2.2.7 *NPF4 Policy 18 Infrastructure First* - this policy aims to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.

Adopted Local Development Plan (2024) (LDP)

2.2.8 *Policy HD1* – Affordable Housing Delivery sets out SBC policy requirements incumbent upon applicants of relevant development proposals.

2.2.9 *Policy IS2* - Developer Contributions sets out the requirement, premise and authority for Development Contributions.

- 2.2.10 *Policy IS3 - Development Contributions Related to the Borders Railway* seeks developer contributions towards the re-instatement of the Waverley Railway Line in accordance with the provisions of the Waverley Railway (Scotland) Act 2006.
- 2.2.11 *Planning Briefs* are Supplementary Planning Guidance (SPG) documents which summarise the Planning Authority's guidelines and requirements for the development of a particular site or collection of sites. A Planning Brief is generally produced for housing sites of a significant size or for particularly sensitive sites which require more detailed guidance. Details of likely development contribution requirements are specified within these documents.
- 2.2.12 Some policy requirements are the subject of their own specific SPGs and they should be considered in conjunction with these SPGs:
- Affordable Housing
 - Greenspace

3 Policy implementation

3.1 The planning process

- 3.1.1 Development contribution requirements will be assessed within the context of prevailing planning policy, allocated development sites and planning applications received.
- 3.1.2 Predominantly, but not exclusively, development contributions will be necessitated by residential developments in areas where cumulative impacts are anticipated to have a detrimental affect upon existing services, infrastructure or facilities. Such requirements do not exclusively result from large scale developments and the cumulative potential impacts of small and medium-scale developments also necessitate accommodation into service provision assessments.
- 3.1.3 Although the nature and scale of proposed development is one consideration in determining the requirement for contributions, the geographical location of proposed development relative to existing service/facility/infrastructure capacity and prevailing policy are critical influences determining contribution requirement.
- 3.1.4 If the requirement for a legal agreement is identified through the determination of a planning application, it's draft will be instructed by the Planning Officer (normally, an application may be approved subject to the applicant entering into a legal agreement, consent being withheld until satisfactorily concluded).

3.2 Contribution levels

- 3.2.1 Contribution requests are derived from an analysis of costs identified for the satisfaction of policy compliance and as assessed by the service provider making that request. For example, the contribution levels sought in instances where E & LL identify

a requirement for a school extension are derived from an analysis of the costs of providing school extensions.

- 3.2.2 Most contribution costs are indexed annually with effect from 1st April in line with Building Cost Information Service (BCIS) and Retail Price Index (RPI) indices and, where possible, taking cognisance of tender prices. The contribution amount payable will be the amount in force at the time of settlement.

3.3 Contribution disbursement

- 3.3.1 Contributions can only be disbursed or allocated within the terms of the associated legal agreement. Legal agreements stipulate not only the service, infrastructure or facility to be provided or enhanced, but also the timeframes within which they should be undertaken. If the timeframe is not met, this will result in the return of the relevant contribution by SBC with the addition of stipulated interest.
- 3.3.2 Generally, contributions are required by the terms of the relevant legal agreement to be disbursed within five years of receipt. However, there are occasions where the spend deadlines can vary:
- Some service providers, e.g. E & LL, may in certain instances require a longer period of capital programming for major projects than the five year norm would accommodate. Spend deadlines exceeding the five year norm may therefore require to be negotiated on an application by application basis.
 - Waverley contributions are regulated by the The Waverley Railway (Scotland) Act 2006, s40(2) stating that contributions are required to be applied within 12 months of receipt. In practice, this requires the contributions to be placed within a dedicated and ring-fenced account within 12 months of receipt, not to be actually “spent”.
 - Some contributions require on-going cost provision e.g. Play Areas require a 10 year inspection, maintenance and depreciation contribution. Clearly, such contributions necessitate programming for the specified purpose and will require legal agreements that accommodate the timeframes for their spend schedules.
- 3.3.3 In accordance with Circular 3/2012, paragraph 44, SBC will undertake to confirm that infrastructures and facilities to be provided under planning agreements are delivered.

3.4 Policy exemptions

- 3.4.1 Some types of development may, in terms of relevant policy, be exempt from contribution requirements. For example, most developments, or units within them, that satisfy SBC Affordable Housing Policy definitions would generally not be required to make development contributions.

NB: contributions sought for Green Space and Play Areas are not exempt from contribution requirements on the grounds of satisfying SBC Affordable Housing Policy definitions.

- 3.4.2 In addition to developments, or units within them, that are fully compliant with Affordable Housing Policy definitions, the following types of development are exempt from Education & Lifelong Learning (E & LL) contribution requirements:
- Residential units with only 1 bedroom
 - Pensioner bungalows or developments prohibitively restricting non-occupation by school age children
- 3.4.3 Generally, but not exclusively, new industrial and business development will only be required to meet the costs of any transport and environmental (particularly landscaping) works directly related to the proposed development. However, this could include instances where such developments, in association with others, are considered to have a resultant cumulative impact which justifies contributions.
- 3.4.4 Scottish Borders Council takes a proactive approach towards the facilitation of new development. Depending upon the prevailing economic climate, housing markets and the availability of development finance, factors that are understood and acknowledged by SBC, commercial project viability can be significantly affected. SBC appreciates that the effective co-ordination of development costs with revenues can be critical to project viability. Consequently and where appropriately demonstrated, the contribution settlement point(s) within anticipated development programmes will be negotiated, agreed and factored into a S75 legal agreement in a manner that will assist with facilitating the building out of proposed projects.
- 3.4.5 Should it be satisfactorily demonstrated that even the sympathetic scheduling of a contribution settlement point(s) would inhibit development, SBC can, where appropriate, vary identified contribution requirements to assist with facilitating the project's commercial viability. If an applicant can satisfactorily demonstrate to SBC on a confidential "open book" basis that the strict application of policy would render an otherwise commercially viable project commercially unviable, then contribution requests may, where appropriate, be negotiated and varied.
- 3.4.6 Comprehensive development appraisals demonstrating the negative impact that contributions would have upon project viability are required to be fully disclosed to the Planning Officer. Such information is required to be presented utilising a residual valuation methodology that illustrates the relationship between the anticipated development value of the proposed project against the global costs of project delivery. Development costs would include contribution requirements and acceptable levels of developer's profit in addition to construction, site acquisition, finance and professional costs and fees. Any such submissions may require to be tested by an independent third party, subject to client confidentiality, at the applicant's expense, in order to corroborate any commercial non-viability.

It should be noted that, deviation from policy requirements, including development contributions, cannot in most instances be endorsed under delegated authority and would need to be referred to the Planning and Building Standards Committee. Any "open book" analysis would be available to Committee members as a private report. The Committee will determine the

application on the basis of its specific merits and the benefits of facilitating its delivery, weighed against the costs to SBC of reducing development contribution liability.

- 3.4.7 In addition, there may be special circumstances, due to exceptional site costs associated with developing a difficult site, where it would be appropriate for contributions to be varied. It is, however, incumbent upon the applicant to not only transparently demonstrate the negative impact that such costs would have upon project viability, but also that such costs could not reasonably have been foreseen prior to site purchase and were not therefore reflected in site acquisition.
- 3.4.8 In the event that reduced contribution liability is agreed, then SBC will be solely responsible for ascertaining the prioritisation of contributions accruing to relevant service, infrastructure and facility providers.

4 Legal agreements

4.1 Legal agreement mechanisms

4.1.1 S69 of the Local Government (Scotland) Act provides that, “a local authority shall have power to do any thing which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions”. Under this Section, therefore the Authority can enter into a contractual agreement with a developer in respect of the payment of development contributions. These Agreements are relatively quick and straight forward to complete and generally facilitate a faster conclusion to the application process than the S75 equivalent. They can not however be registered as a burden against title to the application site. Therefore the Authority, whilst promoting the benefits of utilising this legal mechanism whenever appropriate, will only do so where the relevant contribution is to be paid in full prior to the issue of planning consent. S69 Legal Agreements do not attract a charge for SBC legal and administrative costs.

Applicants should note that they may incur and be liable for their own legal expenses resulting from the requirement for and conclusion of a S69 agreement.

4.1.2 As a responsible and responsive local authority, SBC recognises that some proposed developments may not be able to fully support the settlement of contribution requirements in advance of the issue of planning consent. Consequently, and though not obliged to do so, the deferral of contributions to a mutually agreeable future date, or point in the development process, can sometimes be negotiated and incorporated into a S75 legal agreement. By agreeing to defer contribution settlement to an agreed point **after** the issue of planning consent, S75s can assist with applicant cash-flow considerations that may otherwise render a proposed development problematic or even unviable.

4.1.3 For some development proposals, service delivery mechanisms, infrastructure and facilities will require to be in situ prior to the completion of the development in order to accommodate the increased burden generated at that time. In such instances, there may be less flexibility available to SBC with regard to the necessary timing of contribution payments. However, in other instances, deferral may be more feasible within the requirements of service delivery. Generally, such considerations will vary on an application by application basis and should be negotiated with the Planning Officer.

4.1.4 S75 negotiations should be entered into with the Planning Officer early in the planning process in order to establish the heads of terms of a proposed agreement in advance of application determination.

4.1.5 There are four main implications for the applicant should they successfully negotiate acceptable heads of terms for a S75, these stem from the requirement to register the agreement as a burden against title. Registration is necessary in order to compel the future performance of the terms of agreement either by the applicant or their successors in heritable title.

1. As a more complex legal document relative to the S69 equivalent, there is a charge for SBC’s legal services, currently £315 per standard S75 agreement, £525

for a complex S75, plus a £60 recording due. **Applicants should note that they may also incur and be liable for their own legal costs as a result of the S75 process.**

2. The S75 process is more time-consuming generally resulting in the delayed release of planning consent relative to the S69 equivalent.
3. Most development contributions are reviewed on an annual basis with effect from 1st April with the amount liable being that in force at the point of payment, not that applicable at the time of negotiation or necessarily agreement signature. Consequently, the amount of contribution payable may vary from that stipulated in the S75 legal agreement.
4. In agreements where contributions are phased, time limits for spend deadlines will not commence until the full payment of each contribution requirement has been received.

4.2 Drafting Legal Agreements

- 4.2.1 Although the heads of terms should be unambiguously established between applicant and planning authority prior to the determination of a planning application, the drafting of legal agreements will not commence until after application determination. **Under no circumstances will agreements be entered into by SBC prior to application determination unless an explicit clause is inserted to the effect that the terms of the agreement will only become valid upon the subsequent grant of permission.**
- 4.2.2 SBC's Legal Services team endeavour to conclude all agreements in a manner that does not impact unduly upon the release of planning consent. Nevertheless, applicants should be aware that progression of agreements is not entirely within SBC's own jurisdiction and effective communications with the applicant's legal representatives are critical to satisfactory progression and conclusion.
- 4.2.3 Where SBC legal workloads may implicate upon their ability to dedicate priority status to specific agreements, drafts and standard clauses can be supplied to an applicant's legal representatives upon request in an effort to maximise the efficiency of agreement delivery.
- 4.2.4 In the case of S75 agreements, it is inappropriate for planning consent to be issued until confirmation of registration has been received by SBC from the Keeper of the Registers of Scotland (Sasines and Land Registers). However, in an effort to further streamline the application process, should sufficient comfort be received from the applicant's legal representatives that the terms of agreement will be honoured upon ratification of the agreement in the form of an official letter of undertaking, consent may be released in advance of Keeper notification.
- 4.2.5 Whilst applicant's legal representatives are encouraged to liaise consistently and

timeously with SBC's Legal Services team, applicants are not encouraged to contact them directly to enquire about drafting progression.

5 Information

5.1 Contacts

Designation	Contact	Telephone	Web Form
Development Management	Council HQ	0300-100-1800	https://www.scotborders.gov.uk/xfp/form/1003

5.2 Web links

5.2.1 Scottish Borders Council:

- Scottish Borders Council's website: <http://www.scotborders.gov.uk/>
- National Planning Framework 4 (NPF4): <https://www.gov.scot/publications/national-planning-framework-4/>
- Adopted Local Development Plan (2024) including:
Policy HD1 - Affordable Housing Delivery
Policy IS2 - Developer Contributions
Policy IS3 - Developer Contributions related to the Borders Railway
<https://www.scotborders.gov.uk/plans-guidance/local-development-plan>
- Supplementary Planning Guidance (including Planning Briefs) https://www.scotborders.gov.uk/directory/14/supplementary_planning_guidance/category/28

5.2.2 Government and Legislature:

- Planning Circular 3/2012: Planning obligations and good neighbour agreements: <https://www.gov.scot/publications/planning-circular-3-2012-planning-obligations-good-neighbour-agreements-revised-2020/>
- Section 75 of the Town & Country Planning (Scotland) Act 1997 (as amended): <https://www.legislation.gov.uk/ukpga/1997/8/section/7>
- Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits <https://www.gov.scot/publications/planning-advice-note-2-2010-affordable-housing-housing-land-audits/>
- The Waverley Railway (Scotland) Act 2006: http://www.opsi.gov.uk/legislation/scotland/acts2006/asp_20060013_en_4

5.3 SBC hard copy documents

Hard copies of some of the relevant SBC documents can be accessed to view at Scottish Borders Libraries. Library opening hours may vary in different locations and potential users are advised to contact Library Headquarters (01750 20842) for details.

Alternative format/language paragraph

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APPENDIX A - Access & Countryside

- A.1 Scottish Borders Council fully supports and actively promotes the creation, enhancement and maintenance of sustainable access routes. The provision of on-site transport infrastructure is an integral part of any development proposal and this is normally provided by the developer and where necessary controlled through the use of planning conditions. However developments may also have implications for off-site transport infrastructure and may give rise for the need to provide or enhance, cycleways, footpaths, equestrian routes and access points to water recreation both within and out-with the development site.
- A.2 Contributions for such infrastructure provision, enhancement and, where appropriate, maintenance will be sought on an application by application basis dependent upon proposed development size and location following consultation with the Access & Countryside team. All necessary works will be required to be completed to SBC agreed standards. Specifications and timing of provision should be sought from the Access & Countryside team via the DM Planning Officer.
- A.3 Residential units satisfying SBC's Affordable Housing policy definitions are generally exempt from contributions for access provision, though will be reviewed and considered on an application by application basis.

APPENDIX B - Affordable Housing

- B.1 The Council is committed to the delivery of good quality affordable housing in a variety of tenures to meet the needs and aspirations of individuals and communities in the Scottish Borders.
- B.2 Affordable Housing SPG specifically details all pertinent aspects of relevant SBC policy.

APPENDIX C - Education and Lifelong Learning (E & LL)

- C.1 The potential requirement for contribution towards educational facilities will fall primarily on new residential developments. The key considerations will be the anticipated propensity of residential units to generate children of school age and the envisaged impact of cumulative development on the catchment of primary and secondary schools.
- C.2 It is widely acknowledged that the high quality of education provision is seen as a prime attraction in the Scottish Borders and is promoted by developers as a tool to further enhance the marketability of their new homes. The Authority currently provides 49 nursery facilities, 58 primary schools and 9 secondary schools, many of which are operating at or near maximum capacity. Development contributions may be required to re-model or extend existing schools or to build new schools where existing facilities do not have sufficient capacity or where existing accommodation is considered to be of an inappropriate format.
- C.3 The following types of development are exempt from E & LL contribution requirements:
- Residential developments that fully comply with SBC Affordable Housing policy definitions
 - Residential units with only 1 bedroom

- Pensioner bungalows or developments prohibitively restricting non-occupation by school age children
- C.4 The Authority's threshold for notional maximum capacity is a capacity level of above 90% for primary and secondary schools. Above this level efficient operation of the school is compromised. Likewise, above this threshold sports and games facilities for many schools are also pushed beyond optimum utilisation. The increased pressure on schools from additional pupils from new housing developments may therefore affect both classroom, ancillary accommodation and sports facilities. A list of the catchment areas where it is likely that developer contributions will be sought is included in Appendix C20. **Due to highly dynamic nature of the development industry, and consequently the direct impact that it has upon school capacity projections, this information is regularly updated, though is strictly for indicative purposes only. In all instances, applicants are encouraged to seek provisional guidance about the potential for development contribution requirements that their proposals may generate on an application by application basis.**
- C.5 The level of contributions sought to accommodate capacity issues (C.24) are derived from a combination of the cost of providing additional or new facilities (C.21) and the pupil product ratio (C.23) i.e. the number of additional pupils anticipated to be generated from new homes.
- C.6 The Director of Education & Lifelong Learning has provided an assessment of the costs of both expanding existing provision and building new schools. These costs are shown in Appendix C.21 on a per pupil basis and reflect the need for expansion to take place in increments of 25 pupil places for a primary school (one composite classroom) and 20/33 pupil places for a secondary school depending on the type of accommodation required. Costs will be reviewed and applied annually on 1st April in line with the BCIS TPI UK Index and Retail Price Index (RPI).
- C.7 In some instances where the requirement for an extension to an existing facility has been identified, the infrastructure expansion can be restricted to classroom space only. However, in others, ancillary accommodation may also be required and supplementary contributions will be sought in addition to the classroom provision costs.
- C.8 In a number of reports dating back to September 2004, the Council agreed to provide three new high schools in Duns (Berwickshire), Eyemouth and Earlston to expand capacity and ease accommodation issues in advance of anticipated and forecast growth in pupil numbers from new homes. These schools have now been built. The capital cost of these new schools was £50m at 2002 prices. The Council started making payments towards these new facilities in September 2006 and are scheduled to make payments until 2038. It is therefore considered that any residential developments in these catchment areas should contribute to the new schools (pro rata to size of their developments and the relevant pupil product) until such time as the Council's costs are recovered. Details of settlements in these catchment areas are given in Appendix C.20.
- C.9 It should be noted that a developer might be expected to fund a new primary school in

its entirety for any development (even if developed on a phased basis with multiple developments) with 500 or more homes.

- C.10 Contributions towards a new school may be a requirement in circumstances where it is impossible to extend the existing school to meet additional demand from new residential development.
- C.11 A single development that might trigger the need for an extension may not in itself generate sufficient funds to meet the full cost of any required extension. As it is impossible to build half or part of a classroom, it is therefore likely that the Council would have to fund part of the expansion work. It is therefore appropriate that the Council will seek to request contributions from subsequent developments benefiting from that investment until its costs have been recovered.
- C.12 Denholm Primary School has been replaced following a fire in 2006. In addition to the replacement of the facilities previously in place, a requirement for additional classroom space was identified on the basis of residential development sites incorporated into the Local Plan and anticipated increased burdens on the school that were reasonably expected to be generated as a result. This increased capacity was forward funded by SBC via Public Sector borrowing in advance of applications being determined and associated legal agreements concluded in order to provide the necessary increased capacity that would facilitate future development with maximum cost efficiency. SBC will therefore seek contributions to recoup the associated borrowing and expenditure until such time as the costs of providing the additional capacity have been fully recovered.
- C.13 Where a development contribution is unable to meet the whole cost of providing the required additional accommodation, and existing accommodation issues are so severe, the Authority may ask for consent to be phased in line with the Authority's ability to provide the balance of the funding required to extend or remodel a school through the Council's Capital Plan. Where an applicant wishes to progress development in advance of the Council's planned programme, they will be required to meet the full costs associated with the project.
- C.14 Payment of development contributions are ordinarily requested to be settled on receipt of planning consent, thereby enabling the Authority to upgrade school facilities ahead of any additional children arriving at the school. Notwithstanding, contributions can, where appropriate, be scheduled in line with development programmes if the proposed settlement deadline is mutually agreeable to the Education and Planning authorities.
- C.15 The contribution requirement for each residential unit is derived from a function of the cost of provision of new facilities and the pupil product ratio. The current contribution requirements for non-denominational schools are shown in Appendix C.24.

NB: These should be regarded as indicative figures as the requirements for individual schools will need to be assessed to take account of special site conditions and/or the accommodation issues with each school.

- C.16 Three high school catchment areas in the Borders currently have denominational

schools: Galashiels, Peebles and Selkirk. If any of these schools are projected to be over capacity, any new housing developments will also be expected to contribute to these schools.

- C.17 Where a school has some spare capacity, but this is insufficient to meet all of the additional pupils from a proposed development, contributions would be sought against every applicable dwelling with a discount applied to the level of the contribution. The discount will reflect the number of existing spare places as a proportion of the overall number of places required.
- C.18 Where the level of revenue generated is insufficient to fund the construction of an additional classroom or general purpose space, the authority might, at its discretion, use appropriate development contributions to ease accommodation issues by refurbishing or re-modelling existing accommodation.
- C.19 To assist applicants with the preparation of development costs, a schedule showing the 'likelihood' of a developer contribution being sought is shown for each of the authority's school catchment areas. This schedule (published in April each year) is based on the cumulative impact of all anticipated developments within the Council's Local Plan upon each school's occupancy level. **The 'likelihood' schedule is merely to provide initial guidance and is subject to on-going change and review.** If, for example, the number of new homes developed in a catchment area is materially higher or lower than anticipated, or there are other changes to a school's occupancy level, then the requirement for development contributions may change accordingly.

C.20: Likelihood of developer contribution requirements for individual schools

Likelihood of developer contribution requirements for individual schools

Updated: 31 March 2024

Berwickshire High School (3PPP)	Will be sought for each development in the catchment area
Earlston High School (3PPP)	Will be sought for each development in the catchment area
Eyemouth High School (3PPP)	Will be sought for each development in the catchment area
Galashiels Academy	Will be sought for each development in the catchment area
Hawick High School	Unlikely
Jedburgh Grammar	Unlikely
Kelso High School	Will be sought for each development in the catchment area
Peebles High School	Will be sought for each development in the catchment area
Selkirk High School	Unlikely

Berwickshire Catchment Area	
Chirnside Primary School	Will be sought for each development in the catchment area
Coldstream Primary School	Unlikely
Duns Primary School	Will be sought for each development in the catchment area
Greenlaw Primary School	Unlikely
Swinton Primary School	Unlikely
Earlston Catchment Area	
Channelkirk Primary School	Unlikely
Earlston Primary School	Will be sought for each development in the catchment area
Gordon Primary School	Unlikely
Lauder Primary School	Will be sought for each development in the catchment area
Melrose Grammar	Will be sought for each development in the catchment area
Newtown Primary School	Will be sought for each development in the catchment area
St Boswells Primary School	Will be sought for each development in the catchment area
Westruther Primary School	Will be sought for each development in the catchment area
Eyemouth Catchment Area	
Ayton Primary School	Unlikely
Cockburnspath Primary School	Unlikely
Coldingham Primary School	Unlikely
Eyemouth Primary School	Will be sought for each development in the catchment area
Reston Primary School	Will be sought for each development in the catchment area
Galashiels Catchment Area	
Balmoral Primary School	Will be sought for each development in the catchment area
Burgh Primary School	Will be sought for each development in the catchment area
Clovenfords Primary School	Will be sought for each development in the catchment area
Fountainhall Primary School	Unlikely
Glendinning Primary School	Will be sought for each development in the catchment area
Heriot Primary School	Unlikely
Langlee Primary School	Will be sought for each development in the catchment area
St Margaret's Primary School (G)	Unlikely
St Peter's Primary School	Will be sought for each development in the catchment area
Stow Primary School	Possible depending on size of proposed development
Tweedbank Primary School	Will be sought for each development in the catchment area

Hawick Catchment Area	
Burnfoot Primary School	Unlikely
Drumlanrig Primary School	Unlikely
Newcastleton Primary School	Unlikely
Stirches Primary School	Unlikely
Trinity Primary School	Unlikely
Wilton Primary School	Unlikely
Jedburgh Catchment Area	
Ancrum Primary School	Unlikely
Denholm Primary School	Will be sought for each development in the catchment area
Kelso Catchment Area	
Broomlands Primary School	Will be sought for each development in the catchment area
Edenside Primary School	Unlikely
Ednam Primary School	Unlikely
Morebattle Primary School	Unlikely
Sprouston Primary School	Unlikely
Yetholm Primary School	Unlikely
Peebles Catchment Area	
Broughton Primary School	Possible depending on size of proposed development
Eddleston Primary School	Unlikely
Halyrude Primary School	Unlikely
Kingsland Primary School	Will be sought for each development in the catchment area
Newlands Primary School	Possible depending on size of proposed development
Priorsford Primary School	Will be sought for each development in the catchment area
St Ronan's Primary School	Will be sought for each development in the catchment area
Walkerburn Primary School	Unlikely
West Linton Primary School	Will be sought for each development in the catchment area
Selkirk Catchment Area	
Ettrick Primary School	Unlikely
Kirkhope Primary School	Unlikely
Knowepark Primary School	Unlikely
Lilliesleaf Primary School	Unlikely
Philiphaugh Primary School	Unlikely
St Joseph's Primary School	Unlikely
Yarrow Primary School	Unlikely

Appendix C.21: Costs per pupil - updated April 2025 in line with BCIS & RPI (next update April 2026)

BCIS Rates

- £9,072 per pupil for a secondary school extension
- £29,583 per pupil for a new secondary school (PPP)
- £10,519 per pupil for a primary classroom extension – other additional facilities required by a school to cope with additional pupils from new houses may be sought
- £32,200 per pupil for a new primary school plus land. In addition, a developer may be required to meet the Council’s open space, parking, landscaping, legal and design costs proportionate to the pupil product.

RPI Rates

- £10,490 per pupil for a secondary school extension
- £34,214 per pupil for a new secondary school (PPP)
- £27,124 per pupil for Kelso High School new secondary school
- £12,166 per pupil for a primary classroom extension – other additional facilities required by a school to cope with additional pupils from new houses may be sought
- £37,240 per pupil for a new primary school plus land. In addition, a developer may be required to meet the Council’s open space, parking, landscaping, legal and design costs proportionate to the pupil product.

Appendix C.22: Public-Private Partnership Catchments

New high schools have been constructed in Duns (Berwickshire), Earlston and Eyemouth. For each development in the whole of the high schools catchment areas a contribution will be sought for the new schools. The requirement will be based on £5,133 per house, £1,027 per flat.

Appendix C.23: Children per property

Pupil product ratio	Secondary Schools	Primary Schools
Private housing developments	0.15	0.30
Private flatted development	0.03	0.06
General social rented housing	0.1	0.4

**Appendix C.24: Costs per property (non denominational schools)
Updated April 2025 (next update April 2026)**

BCIS Rates

Secondary school extensions

- £1,361 for each new house
- £272 for each new flat

New secondary schools (PPP)

- £4,438 for each new house
- £887 for each new flat

Primary school extensions

- £3,156 for each new house
- £631 for each new flat

New primary schools

- £9,660 for each new house
- £1,932 for each new flat

RPI Rates

Secondary school extensions

- £1,573 for each new house
- £315 for each new flat

New secondary schools (PPP)

- £5,133 for each new house
- £1,027 for each new flat

New secondary school (Kelso High School)

- £4,069 for each new house
- £814 for each new flat

Primary school extensions

- £3,650 for each new house
- £730 for each new flat

New primary schools

- £11,172 for each new house
- £2,235 for each new flat

APPENDIX D - Green Space

- D.1 Green Spaces are widely accepted as offering lasting social, economic, cultural, educational, and environmental as well as health benefits. In addition these spaces are a vital part of urban and rural communities which improve the overall appearance of settlements as well as enhancing the quality of life for those who live and work around them.
- D.2 The Council recognises the importance of well designed and sustainable developments that incorporate green space. Investment in well planned and maintained green spaces is key to the development of sustainable communities that will enhance the Scottish Borders as a place to live, work and visit. Consequently, the provision and maintenance of green space facilities should be treated as a key, not peripheral, consideration for all planning applications of sites comprising of one or more family dwellings.
- D.3 Reflecting the importance that SBC attaches to green space, a separate SPG has been published to provide more specific guidance for the discharge of this issue.

APPENDIX E - Play Areas

- E.1 Play, both structured and informal, is a vital element for the rounded development of all children. If appropriately accommodated, quality play areas can facilitate learning, problem solving and social skill development within the fundamental premise of being both safe and fun. Investment in well planned and maintained play provision supports the key foundations of healthy lifestyles as well as the intellectual and social development of future generations of Scottish Borders residents.
- E.2 SBC fully recognises the critical importance that well equipped and maintained facilities in the right locations have to fulfil these responsibilities. Specific guidance on play areas are included in the SPG on Green Space.

APPENDIX F - Transport Infrastructure

- F.1 The provision of on-site transport infrastructure is an integral part of any development proposal and this is normally provided by the developer and, where necessary, controlled through the use of planning conditions. These should be regarded as standard development costs. However developments may also have implications for off-site transport infrastructure and may give rise to the need to provide or improve roads, footpaths, cycleways, car parks or public transport services and facilities outwith the immediate development site.
- F.2 The potential requirement to fund the provision of off-site transport infrastructure will apply to all new development. For larger developments the requirement will be based primarily on the findings of an agreed Transport Assessment. For smaller developments, the requirement will be based on the cost of meeting the Council's, or Transport Scotland's, prevailing standards.
- F.3 Where a development proposal gives rise to a need, or contributes towards the need, for off site works, developers will be required to fund, either wholly or in part, the costs associated with the implementation of those works including:

- acquisition of any land or buildings,
- construction, engineering, design and landscape works,
- legal, professional and administrative costs attributable to the project,
- provision and subsequent maintenance of a service or facility designed to maintain or improve transport choice or reduce the need to travel by car.

- F.4 The standards and levels of off-site parking, roads, footpaths, cycleways and other construction works, will be to the prevailing standard specified by the Council or Transport Scotland. The Council or Transport Scotland will give particular encouragement to the implementation of green travel plans and will seek development contributions, either wholly or in part, towards their funding through agreements of new and improved public transport services and facilities which reduce the need to travel by car.
- F.5 Applicants may be required to make contributions, either wholly or in part, towards the development and implementation of safer routes to school and other road safety measures in the vicinity of development sites or linking any development site to local services and facilities.
- F.6 A transport study for Peebles (and subsequent addendum) commissioned by the Council in 2005/2006 concluded that - without a second river crossing in the town to take intrusive traffic away from the town centre, the addition of development traffic to the network would have congestion and environmental issues for the High Street and could compromise road safety. Furthermore, Tweed Bridge would start to experience capacity problems. Bridge options are now being appraised to serve medium to long term development in the town and in due course developers will be required to contribute towards a second river crossing based on projected costs. In the interim period, development sites need to contribute towards improving traffic management in and around the town centre and towards the funding of transport appraisal work in respect of the bridge options. In this regard (in the interim period) applicants for residential development within or adjacent to the Peebles settlement boundary are required to contribute £1,000 per dwelling unit. Other types of development that may have a potential impact on the Peebles traffic network may be assessed for appropriate development contributions.
- F.7 Residential units satisfying SBC's Affordable Housing policy definitions are generally exempt from contributions for transport and traffic infrastructure provision.

APPENDIX G - Waverley Railway Line Re-instatement

- G.1 On 29 June 2004 the SBC Executive Committee endorsed the Outline Business Case (OBC) submitted to the Scottish Parliamentary Committee in support of the draft Waverley Railway (Scotland) Bill. The OBC gives an undertaking that Scottish Borders Council will contribute £7.4M towards the £129.6M capital cost (at 2002 prices) of the railway and that this funding will be obtained through securing development contributions from housing developments, primarily in the Central Borders Housing Market Area (HMA) over a 30 year period.
- G.2 On 17 October 2006, Executive Committee decreed that, in view of the introduction of the requirement to provide a station at Stow, it was considered appropriate to extend the area

within which development contributions will be sought to include the North Ettrick and Lauderdale Housing Market Area. Any applications determined after 31 October 2006 are liable for this development contribution if falling within the extended geographical area. Post codes included in the contribution area are identified in Annex A.

- G.3 The Waverley Railway (Scotland) Act 2006 provides the legal authority for associated development contributions, sections 39 and 40 governing planning agreements and contributions required by the Waverley Railway re-instatement project.
- G.4 Contributions are sought from every additional new residential unit to be developed within the areas identified on the map in Annex A. Residential units satisfying SBC's Affordable Housing policy definitions are exempt from contributions for Waverley Railway line re-instatement contributions.
- G.5 The contribution sought for the period until 31/03/2026 is **£2,820** per unit. This contribution figure will be reviewed in line with RPI indices on an annual basis with effect from 1st April.

APPENDIX H – Selkirk Flood Protection Scheme

- H.1 The Selkirk Flood Protection Scheme was approved by SBC in June 2012. In August 2012, the Selkirk Flood Protection Scheme became the first major flood protection scheme with an environmental statement to be approved under the Flood Risk Management (Scotland) Act 2009. One of the outcomes of this scheme is that land, which would otherwise have been constrained in planning terms, has become feasible for both residential and commercial development.
- H.2 Developer contributions were started when scheme funding was confirmed and a programme set in place, this occurred on the 28th March 2014.
- H.3 Contributions are sought for every additional new residential unit at £1000 per unit to be developed within the area identified on the map in Annex B.
- H.4 Residential units satisfying SBC's Affordable Housing policy definitions are generally exempt from contributions relating to flood protection schemes.

APPENDIX I - Miscellaneous Development Contributions

- I.1 Any service, facility or infrastructure provided within SBC's geographical jurisdiction can legitimately attract development contribution requests if implicated by proposed development activity. Those itemised in appendices A to H currently comprise the more commonly identified contribution requirements. However, depending on the nature, scale and location of proposed development, other contribution requests may be put forward.
- I.2 **Landscaping and open spaces**
 - I.2.1 In submitting planning applications for any development, applicants will be required to include appropriate provision for the landscape treatment of the site. This may include proposals for protecting or enhancing existing landscape features and proposals for establishing new areas of planting or open space. The specific requirements for individual sites will be stipulated in planning conditions and/or through legal agreements. Reference should be made to the Green Space SPG.

I.2.2 Applicants will also be required to make adequate provision for the long term maintenance of landscaped areas and areas of open space. It is anticipated that predominantly this responsibility will be discharged via private factoring arrangements or through agreements with specialist companies providing land management solutions. The terms of such agreements will require to be approved by the planning authority.

I.2.3 In some instances developments will give rise to the need to provide or enhance facilities and land out-with the immediate development site. In such cases the provision and subsequent maintenance of these areas will require to be funded through development contributions.

I.3 **Trees and Woodland**

I.3.1 In addition to providing new planting, new developments may necessitate adequate protection of existing trees and areas of woodland. Applicants will be required to make comprehensive arrangements for the proper on-going management of trees and woodland within or adjoining their proposed development sites. This will normally be achieved through a factoring or land management arrangement the terms of which will require to be approved by the planning authority.

I.3.2 In exceptional cases, and at its sole discretion, the Council may agree to adopt and maintain trees and areas of woodland subject to the provision of a financial contribution equivalent to a minimum of 10 times the annual maintenance costs paid as a commuted sum. In such instances, the land will remain the responsibility of the developer for one year following completion/provision of the development and will thereafter be adopted by the Council subject to any outstanding issues being rectified by the developer to the satisfaction of the planning authority.

I.4 **Other Sport, Recreation and Community facilities**

In addition to local play and recreational land, developments may, individually or cumulatively, give rise to a need for new or enhanced sports or community facilities e.g. all weather sports pitches and village halls to serve the wider community.

I.5 **Built and Natural Heritage**

I.5.1 Applicants are required to give due consideration to the built and natural heritage when formulating their proposals. Development proposals may be amended during processing and conditions imposed to provide adequate protection to designated sites, buildings and areas. In addition, development contributions may be sought to enhance the physical fabric of an area and to protect, exploit or promote historic and archaeological sites and buildings.

I.5.2 Development contributions may also be sought to ensure the protection, enhancement or promotion of sites of nature conservation interest. The requirement for a development contribution will be established on an application by application basis having regard to policies and supplementary guidance provided in documents such as the Local

Biodiversity Action Plan and Biodiversity SPG.

I.6 Crime prevention

Developers will be required to develop their schemes in a manner that minimises the risk of crime. In addition, development contributions may be required towards the provision of off-site facilities and equipment which minimises the risk of crime or disorder and creates a safer environment. Contributions may be required towards the improvement, provision and maintenance of:

- Lighting and physical security measures,
- CCTV,
- Improving natural surveillance

I.7 Recycling and waste management

All developers will be required to develop their schemes in a manner that makes proper provision for the storage, collection and recycling of refuse and waste. Development contributions may be required towards the provision, improvement, or relocation of communal recycling facilities.

I.8 Street Furniture, Art and Ancillary Equipment

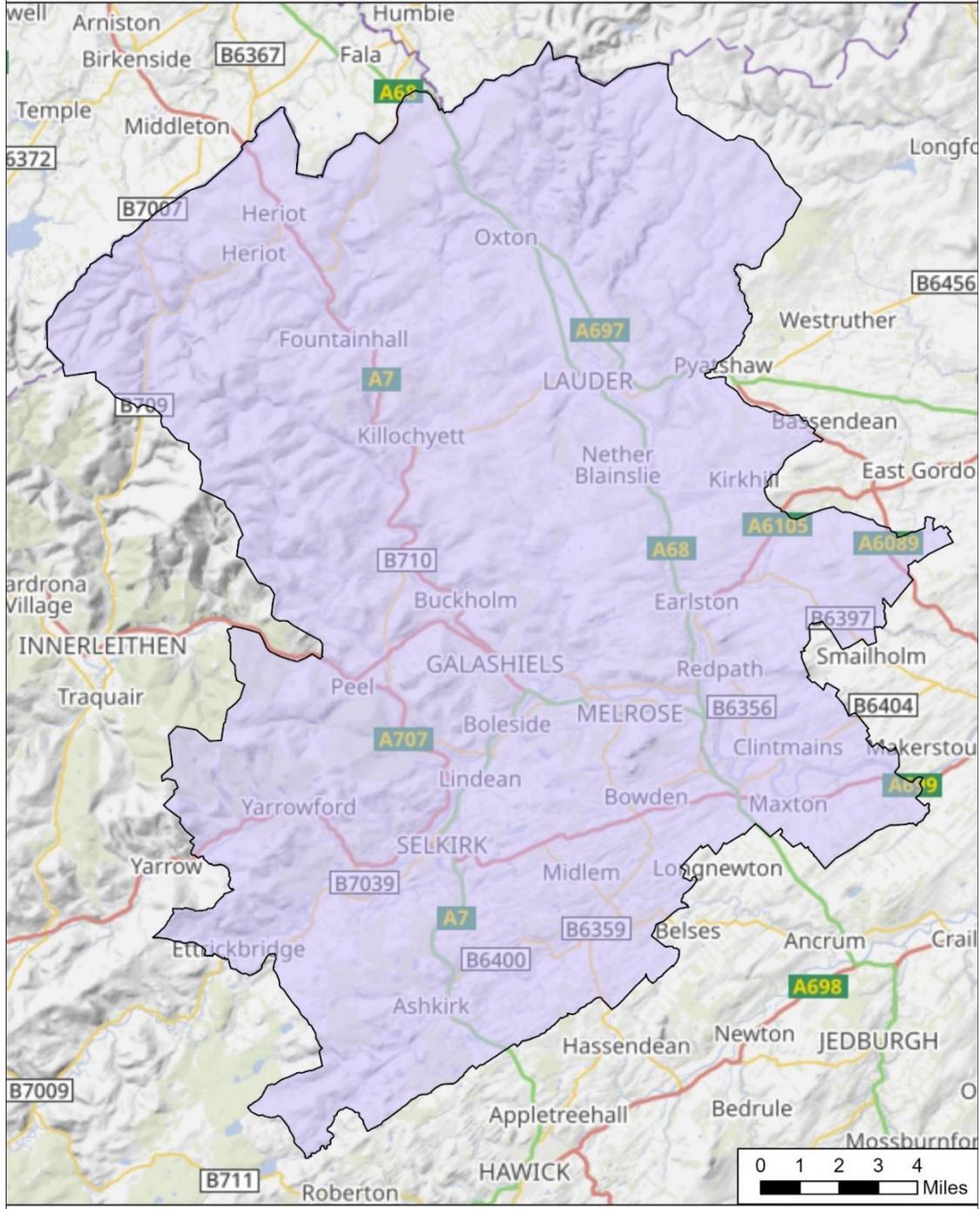
The requirement to provide street furniture, art and ancillary equipment may be a requirement of any new development. Development contributions may be required towards the provision, maintenance and replacement of planters, tubs, seats, litter bins and other street furniture and art. Subject to such equipment being provided to meet the Council's adoptable standards and maintained by the developer for one year, it may thereafter be adopted by the Council subject to the provision of a financial contribution equivalent to 10 times the annual inspection, maintenance and depreciation costs.



Annex A: Waverly Line Contribution Area



1:190,000 (A4)



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Annex B: Selkirk Flood Protection Scheme Development Contribution Area



1:16,500 (A4)



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