

Statement of Consultation for Draft Supplementary Planning Document on Planning Obligations February 2007

Background

The Planning and Compulsory Purchase Act 2004 sets out the requirements of a Local Development Framework as part of the new planning system. This enables Supplementary Planning Documents (SPD) to be prepared to further planning policy. The draft SPD on Planning Obligations outlines in more detail policies contained within the Unitary Development Plan (UDP) regarding the use and implementation of planning obligations.

Regulation 17 of the Town and Country Planning (Local Development) (England) Regulations 2004 relates to public participation and states that the Local Planning Authority should prepare a consultation statement when preparing or developing planning policy. The requirement is for the consultation statement to set out the standards to be achieved by Herefordshire Council in involving the community in the preparation, alteration and continuing review of planning policy.

In furtherance of community involvement, the Council has prepared its Statement of Community Involvement to show how it will involve the community in its Plan making process.

This statement details how and when the community were involved in the preparation of the draft SPD on Planning Obligations.

It sets out:

- evidence gathering and initial consultation undertaken in preparing the draft so far
- the programme for public participation
- who was consulted in the initial stages of preparing the draft
- the forms of consultation and how further consultation will take place; and
- a summary of the main issues raised in the initial consultation and how they have been addressed in the SPD to date.

Consultation undertaken in preparing the Draft SPD

Extensive public consultation has been carried out during the preparation of the Herefordshire Unitary Development Plan (UDP) (which is nearing adoption) on Policies S2 (9) & DR5 on Planning Obligations. The Inspector at the Public Inquiry into the UDP endorsed these policies subject to reference to the new Circular 5/05.

In addition, an Initial Consultation paper detailing four options to approaching an SPD on Planning Obligations was prepared in Summer 2006. The four options listed below, were

developed from an analysis of the current situation within Herefordshire Council and situations used by other authorities.

The options considered through consultation were:

- 'No SPD Approach'
- 'Qualitative Guidance'
- 'Quantitative Guidance'
- 'Tariff Approach'

The detailed options can be found in Appendix 1 – an extract taken from the Initial Consultation Paper. This initial consultation exercise took place over a four-week period ending on 31st August 2006.

Each consultation response was considered and helped the preparation of the draft version of the SPD. Comments made from this consultation can be found in summary in Appendix 2 and in detail in Appendix 3.

In addition, a Member Seminar was held on 13th November 2006 to inform members on the procedure for the Planning Obligations SPD and the options being considered. Internal consultations between departments of the Council on the production of a draft SPD on Planning Obligations were also carried out. These involved discussions on affordable housing, open space and education provision, issues around economic development, biodiversity and nature conservation as well as highway infrastructure.

Main Issues arising as a result of the initial consultation and how the issues have been addressed in the SPD.

Following the initial consultation period, all written comments were recorded in a single document, along with a response as to how the issue had been addressed in the draft SPD - see Appendix 3.

The main issues arising from the consultation can be summarised as:

1. There is general agreement that a Code of Practice on Planning Obligations is necessary;
2. There is general support for Option 3, in the initial consultation paper, to be followed, which proposes a quantitative approach on the size and type of contributions to be sought;
3. Many responders considered thresholds for obligations should be considered on a case-by case basis; and
4. There is general agreement as to the type of contributions to be sought.

Next Steps

The draft SPD on Planning Obligations along with a Sustainability Appraisal, is being published for formal public consultation in accordance with the programme set out in the Council's Local Development Scheme (as amended, Jan 2007). Comments received from the formal consultation exercise will be considered and reported along with a final SPD in accordance with the timetable below. (All documents can be viewed on the Council's website at www.Herefordshire.gov.uk).

Table 1: Timetable for SPD production

Timetable for SPD production	2006											2007										
	J	F		M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S
Information gathering					■	■	■															
Initial Consultation on options for SPD and Scoping SA								■	■													
Preparation of draft proposals										■	■	■	■	■								
Public Participation on Draft SPD and SA															■	■						
Consideration of representations																	■	■	■			
Adoption of SPD																					■	

Source: Local Development Scheme

Appendix 1 – SPD Options

6. Developing the Options

6.1 This section describes options developed from analyses of the existing situation at the Council as well as plans and proposals used by other authorities, highlighting their key features, advantages and disadvantages. Each option is illustrated by an example with references to websites where further information can be obtained.

6.2 Option 1 – “No SPD approach”

Key Features

This option is generally characterised by ‘ad hoc’ negotiations on a case-by-case basis on what is necessary to overcome a specific obstacle to development or secure compliance with an adopted national or local planning policy. Although policy and/or established practice may be developed in one or two areas e.g. affordable housing, it is not comprehensive and there is no clear process for identifying other service requirements or prioritising the contributions sought. This can often lead to protracted negotiations and lack of clarity for all parties concerned.

6.3 **Advantages and Disadvantages.**

It can be argued that this option allows the authority to concentrate on its key priorities at the time, and channel a greater proportion of contributions received into these areas. Officers may build up considerable expertise in negotiations, and there is clearly compliance with the tests for planning obligations set out in government guidance. On the other hand, the process is often time-consuming and may have a detrimental effect on development control performance. The approach places considerable responsibility on planning case officers and policy officers in other services to recognise opportunities as and when they arise, and have sufficient expertise to negotiate without the benefit of comprehensive policy guidance and established procedures. The absence of comprehensive policy guidance means the process is not fully transparent, resulting in uncertainty for developers and the public. It is also likely that the limited range of contributions sought leads to the full potential of developer contributions from planning obligations not being met.

Example: Herefordshire Council (Current Situation)

The Council’s current approach reflects many of the characteristics of Option 1. Although detailed policy has been developed for affordable housing and systems are in place for collecting contributions, guidance in other areas is less well developed or absent. Discussions on planning obligations have identified a number of other areas where developer contributions might be appropriate, but there is as yet no formal mechanism for evaluating or prioritising them.

6.4 Option 2 – ‘Qualitative Guidance’

Key Features

This option is characterised by a comprehensive framework of guidance, often in the form of a portfolio of documents, specifying the type of contributions that will be sought in respect of particular forms and sizes of development. However, there is generally a lack of information on how contributions will be calculated or the use of standard formulae, and often a lack of guidance on how particular needs will be prioritised. As with Option 1, this can lead to lengthy negotiations and uncertain outcomes.

6.5 Advantages and Disadvantages.

Option 2 can facilitate inter-departmental working in the process of identifying and justifying the types of contributions sought and the development of formal channels of communication to ensure that a wide range of community needs are considered in seeking developer contributions from planning obligations. The testing of Supplementary Planning Guidance (SPG) or SPDs through public consultation can also contribute to community involvement and test compliance with government and regional guidance. However, as with Option 1, the process of negotiation is often time-consuming and may have a detrimental effect on development control performance. The lack of quantitative information on contributions sought results in uncertainty for developers and the public and a lack of transparency. Circular 5/05 encourages local authorities to use formulae and standard charges as part of their framework for negotiating and securing planning obligations.

Example: London Borough of Hillingdon

The Council has published SPG (currently being updated) in the form of a portfolio of papers on specific issues brought together under an umbrella document setting out the Council's overall strategy for planning obligations. Of the areas covered by the SPG, only education, health facilities and particular elements of employment training include figures for contributions likely to be sought. (Information can be viewed at www.hillingdon.gov.uk following links to Environment & Planning, Planning, and Planning Publications).

6.6 Option 3 – 'Quantitative Guidance'

Key Features

This approach involves comprehensive guidance not only on the type of contributions that will be sought but also on the size of contribution to be sought. SPG/SPDs provide precise information on the particular elements of infrastructure and community facilities for which contributions will be sought in respect of particular forms and sizes of development, and how contributions will be calculated (generally following a formula). The information can be conveniently set out in the form of a matrix.

6.7 Advantages and Disadvantages.

Like Option 2, Option 3 can facilitate inter-departmental working and the development of formal channels of communication to ensure that a wide range of community needs is considered in seeking developer contributions from planning obligations. The testing of SPG/SPDs through public consultation can contribute to community involvement and test compliance with Government and Regional guidance. Once the guidance is adopted, contributions can be easily calculated, reducing the need for extensive negotiations and contributing to improved development control performance. There is greater certainty for developers on what contributions will be sought, and it becomes relatively easy to pool contributions for specific projects. However, the approach requires a considerable amount of work to identify, justify and cost the infrastructure requirements.

Example: Wycombe District Council

The Council has published Draft SPD in the form of a single document in three parts addressing context, strategy and then separate "topic papers" on different areas where developer contributions will be sought. The approach lists the infrastructure and facilities which will normally be sought and their relationship to the type, scale and impact of the development. Formulae for off-site contributions are detailed for all types of proposal with related thresholds. Information can be found at www.wycombe.gov.uk and following the links to consultation for the new LDF via Imagine the Future3.

6.8 **Option 4 – ‘Tariff Approach’**

Key Features

This scenario is being pioneered in the Growth Areas identified in the government’s Communities Plan. In essence, it involves identification of all the elements of infrastructure expected to be required in an area, and costing those elements that are attributable to growth in housing and employment. After discounting those elements, which are funded from other sources, the remaining costs are divided by the number of new houses (and/or commercial premises) to be built in the plan period. The resultant sum is then applied to each new unit built.

6.9 **Advantages and Disadvantages.**

The comprehensive nature of the approach ensures that a wide range of community needs and infrastructure requirements are considered in seeking developer contributions, and partner organisations are involved in the process. In some cases contributions can overcome a particular constraint and allow development to proceed earlier than would otherwise be possible. Once the guidance is adopted, contributions can be easily calculated, reducing the need for extensive negotiations and contributing to improved development control performance. There is greater certainty for developers from the outset and contributions can be earmarked for specific projects. However, the approach requires a considerable amount of work to identify, justify and cost the infrastructure requirements reflecting the range of infrastructure to be provided for, and the need to involve service providers outside of local government. Furthermore, the approach is at an early stage of development, and is also questionable whether it is appropriate to areas outside defined ‘Growth Areas.’

Example: Milton Keynes Growth Area

The Milton Keynes Partnership – the delivery vehicle for housing growth in the city, has developed the approach. It applies specifically to the designated MK Urban Development Area; although it is possible it may be rolled out to a wider area in the future. Agreement has been reached with developers to pay a charge of £18-29k per dwelling. Under the system, developers would not only pay the tariff, but also provide land for local requirements such as schools and health centres. They would have to agree to make 30% of all homes in their schemes affordable. In return, developers and landowners would be guaranteed that no further contributions would be expected of them, either through traditional s106 or by planning gain supplement. Half the money raised by the tariff would be used to fund local infrastructure needs, whilst half would be spent on strategic infrastructure. The government has agreed to initially fund the infrastructure and recoup the expenditure through tariff contributions.

Appendix 2: Summary of responses to Initial Consultation Questions

- Q1. Should the Council develop a Code of Practice setting out the processes it intends to follow in seeking planning obligations and the standard of service developers can expect in dealing with planning applications?**

There is a unanimous agreement that a Code of Practice should be developed.

- Q2. Which of the scenarios set out in Options 1-4 should the Council follow, or do you have any suggestions for different scenarios?**

There is a general preference towards Option 3, with some organisations also suggesting a move towards Option 4. Overall a combination of different options is suggested, depending on individual situations. A number of organisations have also stressed the need for transparency and clarity whatever option is decided upon.

- Q3. What is an appropriate threshold size of development for housing proposals at which planning obligations should be requested?**

Some organisations feel that obligations should be sought for all developments, although there is a large agreement that obligations should be looked at on a case-by-case basis and related to the expected impact.

- Q4. Should the threshold vary for different locations e.g. between urban and rural?**

It is largely agreed that thresholds should not vary between locations; however it has been pointed out that situations should be looked at on a case-by-case basis, with different areas requiring different obligations depending on the infrastructure and expected impact.

- Q5. At what threshold should planning obligations be sought from commercial development?**

It is largely agreed that planning obligations should be sought for all commercial development; however it has been pointed out that development should be looked at on a case-by-case basis, and obligations sought should depend on the expected impact of the development. It is also suggested that a highly desirable development should not be deterred by excessive costs.

- Q6. Should the number of topic areas for which contributions are generally sought be extended? If so, which particular topic areas should be brought within the scope of the SPD?**

It is largely agreed that the number of topic areas currently listed is adequate. Some point out however, that there should be an emphasis on highway safety and affordable housing along with other topic areas in accordance with Parish Plans. In contrast, others note that the extent of contributions sought should depend on whether they are actually required to allow the development to proceed, and that contributions should directly relate to the impact of development. Furthermore, it is pointed out that planning obligations should not be a means of securing a share of the profits from development for the local community.

Q7. Could more use be made of standard agreements?

The majority agree that more use could be made of standard agreements. It has been pointed out that agreements should be common within a County so no area is disadvantaged, and should follow the advice laid out in Circ 05/05.

Appendix 3: Individual Comments Received from Consultees and Council's Response

Organisation	Question No.	Comments Made	How addressed in the SPD
Hereford City Council (Town Clerk's Office)	1	Yes	Noted
	2	Members feel there is scope for different scenarios with a tariff being applicable south of the river, whilst the north should be subject to options 2 & 3.	County-wide approach considered most consistent / applicable.
	3	This can be varied according to the type of scheme, i.e. is it through a developer (cumulative basis) or just on an individual basis.	Varied according to type.
	4	This would be dependent on factors such as infrastructure availability.	County-wide approach considered most appropriate.
	5	This could be as low as a single threshold in respect of any commercial development.	Dependent on life of scheme.
	6	Among potential areas suggested - were road safety, parish plans, area regeneration programmes, to meet transport needs & non-catchment schools.	Noted
	7	Yes.	Noted
Herefordshire Council	General	An overall well-balanced document.	Noted
	2	Option 3 provides the best combination of clarity & flexibility	Noted
Herefordshire Council (Cllr. WJ Walling)	General	Other documents produced by Hereford Planning Dept. have been easier to follow. Language used in the document is impenetrable in places.	Noted
	2	Option 1 is best, although it seems unimaginative. The other options are not suitable for Hfdshire. The Milton Keynes example seems demanding & high handed.	Need to make approach more transparent than current system.
Herefordshire Council (Cllr. J Guthrie)	1	(para 4) Yes - code of practice (DR5).	Noted
	2	(para 7.3) Yes.	Noted
	4	Most development should be in Urban areas with some in main villages for affordable housing. Open country should not be included.	Noted
Herefordshire Council (Cllr. Wilson)	1	Yes.	Noted
	2	Option 3.	Noted
	3	One.	Considered administration costs would outweigh benefits.
	4	No.	Noted
	5	All.	See 3
	6	No.	Noted
	7	Yes.	Noted
Herefordshire Council (Cllr. KG Grumbley)	1	(Para 4.1-4.7) Yes. UDP commits the Council to producing such guidance. It is in effect supplementary planning guidance.	Noted
	2	(Para 6.6-6.8) All of the options are too prescriptive and are effectively stealth taxing of building and development. (Para 6.2-6.5) Possibly a combination of options. Contributions should relate to requirements in areas where applications are made.	Noted – scheme of works proposed. Noted – scheme of works proposed.
	3	There should be no prescribed thresholds. Obligations should be related to expected impact of a planned development.	Considered needed for transparency
	4	There should be no threshold, although Urban and Rural areas will require different obligations.	Considered needed for transparency
	5	There should be no threshold. Contributions should be sought depending on the potential impact of a development on local infrastructure.	Considered needed for transparency
	6	(Para 5.1) No. They are fine.	Noted

Organisation	Question No.	Comments Made	How addressed in the SPD
	7	(7.4-7.5) Not likely that a 100% standard agreement could be achieved. Outlines would however be helpful. Monitoring would need to be done using existing resources; contributions should not be used to fund more Council staff.	Disagree, requirement to monitor will need Monitoring Officer to be appointed.
Herefordshire Council (Cllr. M Cunningham)	1	A code of practice may be necessary to protect the Council from allegations of unfair treatment by developers?	Noted
	2	A combination of options should be used to ensure the best possible outcome, depending on situation.	Options 2 and 3 favoured.
	3	All housing developments should contribute to planning obligations, even if only a modest tariff payment.	Administration costs would outweigh benefits.
	4	Tariff threshold should be governed by ratio of development cost to approximate value of the finished development.	All obligations will be calculated using transparent formulae where possible, but these will still form basis for negotiation.
	5	Similar to above. A highly desirable development e.g. a factory, must not be deterred by excessive additional costs. Greater risks taken by developers of commercial property should be reflected in lower contributions.	Noted
	6	No additional topic areas needed. Greatest emphasis along with highway safety, should be on affordable housing for low-paid workers.	Noted
Herefordshire Council (Cllr. A.L.Williams)	1	Yes.	Noted
	2	(para 6.2) Option 1 - should be a basic policy for development contributions but with room to manoeuvre in different parts of the county depending on community type.	Option 2 and 3 favoured with proviso that contributions will still be negotiable.
		(para 6.4) Option 2 - would be easy if only one element was being considered. A list of obligations would be desirable.	Option 2 and 3 favoured with proviso that contributions will still be negotiable.
		(para 6.7) Option 3 - Agree with para 6.7 but worry about the use rigid formulae in very rural areas.	Option 2 and 3 favoured with proviso that contributions will still be negotiable.
		(para 6.9/7.4) Option 4 - Milton Keynes example ok for such an area, but average Hfdshire wages are not the same and must be taken into consideration.	Option 2 and 3 favoured with proviso that contributions will still be negotiable.
		Developers should have an idea of the contributions required by planning authorities. Will require a lot of work to be fair to all.	Option 2 and 3 favoured with proviso that contributions will still be negotiable.
	3	As it is presently in Herefordshire.	No threshold at present – need to determine.
	4	Yes.	County-wide approach considered most appropriate
5	Discussion needed.	Noted	
6	No.	Noted	
7	Yes.	Noted	
Ross Town Council	1	Yes.	Noted
	2	(para 8) This should make for transparency so developers and the Council are aware of contributions, and can plan accordingly.	Noted
		Parish councils should be involved in where the income is spent.	Noted
	3	5 houses.	See SPD – determined by existing policies.
	4	Can see no reason to differentiate between urban & rural.	Noted
	5	All commercial developments above privately owned, single projects.	Noted
	6	Yes, for large developments.	Noted
7	Definitely, all developments affect the local community, so the community should benefit.	Noted	
Leominster Town Council	1	(para 4.1) Yes. Parish Council should be consulted on community & infrastructure needs prior to any negotiations. A 'wish list' could be held by the Planning dept. for each parish, updated annually & used each time an application of suitable size is made - contents to be constrained to the Council priorities set out in para 5.1.	Consultation allowed for in 'Figure 2' procedure. Scheme of works is proposed in SPD (page 4).

Organisation	Question No.	Comments Made	How addressed in the SPD
	2	(para 6.4) Option 2	Option 2 and 3 considered most appropriate.
	7	(para 7.4) Yes	Noted
Colwall Parish Council	2	Option 1 is preferred as greater flexibility for all can be achieved using this option. Parish & Town Councils should have input to, and make use of, Planning Gain opportunities.	Options 2 and 3 considered most transparent and appropriate, see Figure 2.
Bromyard & Winslow Town Council	1	Yes	Noted
	2	Option 4	Options 2 and 3 considered most appropriate.
	3	One - Every property or development	Higher threshold considered most appropriate for administrative reasons.
	4	Yes	Noted
	5	Big businesses	Noted
	6	Yes all topics, especially those contained in any Parish Plan	Noted
	7	No, each Parish is different - requiring different needs.	Noted
Shobdon Parish Council	1	Yes.	Noted
	2	Option 4 is the best scenario, as it is more defined and transparent.	Options 2 and 3 considered to provide greater flexibility
	3	In Rural areas one dwelling should be the threshold for the requirement of housing proposals.	Administration costs considered prohibitive.
	4	Yes, the threshold in Urban areas should start at 2/3 dwellings.	Administration costs considered prohibitive.
	5	Any commercial development should have planning obligations.	Administration costs considered prohibitive.
	6	The list of topic areas as shown in para 5.1 should be adequate.	Noted
	7	Standard agreements are in essence a transparent way of informing all upfront about intended aspects of planning. Must be common within a County so that no area is disadvantaged.	Noted
Crest Strategic Projects Ltd.	1	Yes. Any code of practice should follow the planning guidance published by the Dept. for Communities & Local Government. (In particular ch.4 of the guidance)	Noted
	2	Refer to the Practice Guide & Para B33 of Circular 05/05, also B34 & B35. Levels of charges must be transparent & related to actual impact of proposed development. Not applied in a blanket form regardless of impact. The document should also be subject to independent scrutiny for true transparency.	Done – Section 1.5.4. Formal consultation will be carried out.
	3	There should be no threshold size applied. Request of planning obligations depends on impact of proposal on community. Each case should be considered individually.	Threshold considered necessary for administrative purposes.
	4	As above.	Threshold considered necessary for administrative purposes.
	5	As above.	Threshold considered necessary for administrative purposes.
	6	The extent of topic areas depends on the impact of a proposal. The inclusion of a topic area depends whether it is reasonable & necessary for a development to proceed. A danger of widening topic areas is that contributions will be sought where they are not required.	Agree – flexibility exists in document. Noted
	7	(Refer to B36 of Circ 05/05 & para 6.6 of Practice Guide). The Council's approach is to be welcomed, but it must follow the advice in Circ 05/05 & the Practice Guidance. In addition, more use could be made of unilateral undertakings.	Noted
	1	Yes, as this is in line with current Government advice.	Noted
	2	Each case should be looked at individually but a SPD of some sort should be put into place. Option 3 is preferred although each has its merits.	Agree

Organisation	Question No.	Comments Made	How addressed in the SPD	
Sport England	3	Planning obligations should also be applicable to retail, commercial & industrial developments, not just housing - (See para 2 of PPG17). Each case should be looked at on its own merits.	Noted - Agree	
		The needs of those working in and visiting areas, as well as residents should be included. (ref to Redditch UDP -31 May 2006, in policy R5 para 3).	Noted	
Sport England	4	Each case should be looked at on its own merits.	Noted – although County-wide approach favoured.	
	5	Each case should be looked at on its own merits, but in some cases it could be based on the number of people occupying a building, rather than on its 'footprint'.	This was considered, but a formula for commercial uses was not considered appropriate.	
	6	No	Noted	
	7	Yes. We have examples on our website which a number of LPA use.	Noted	
	General		As contributions are sought for maintenance of playing pitches, play areas (etc), they should also be sought for new facilities which are provided.	Noted
			Contributions could also be used to fund sports development officers and community liaison workers.	Noted
A full PPG17 audit should be undertaken and constantly reviewed, in order for the SPD to work with respect to sports & open space.			Noted – this is being carried out.	
Hereford Access Group & Pedestrian Forum	1	Yes.	Noted	
	2	Option 3 - quantitative guidance would be a fair & reasonable approach.	Agree	
	3	Threshold for housing developments would need to be agreed in line with National guidelines.	No guidelines provided nationally, need to determine.	
	4	Yes. Urban & Rural requirements would be different.	Consider County-wide approach most appropriate.	
	5	Commercial developments like supermarkets & larger commercial schemes	Agree	
	6	Yes. Affordable housing, Accessible environments including leisure facilities & Canal developments.	Agree	
	7	Yes.	Noted	
Countryside Agency (LAR)	General	Welcome the topic reference: Safeguarding/Enhancing the Natural Environment, and encourage specific references to the Malvern Hills AONB & Wye Valley AONB throughout the SPD.	Will consider incorporating post consultation.	
CPRE	1	In principle yes, but it would depend on the content.	Noted	
	2	Option 3 seems the most transparent, consistent and suitable, so we support this. Quantitative approaches only practical where impacts can be identified and measured in advance (i.e. generic developments that are broadly unchanging, such as housing).	Noted – Options 2 and 3 favoured at this stage.	
		For other development types, impacts should be assessed case by case in the form of Option 2.	Noted – Options 2 and 3 favoured at this stage.	
		Impact of retail & office development may be quantified in same way as housing, but only makes sense in areas where they are the predominant economic activity. Hfdshire has a varied economy in terms of size, type & location so County-wide formulae would be inappropriate. Formulae for specific areas could come under the Area Action Plan.	Noted	
		A general formula for retail & office development would introduce bias in comparison to other economic activity for which formulae are inappropriate.	Noted	
		Whatever option, there needs to be clear proposals for dealing with impact. Also needs to be clear audit trails linking developer's contributions to associated development impacts, to avoid undermining public confidence in the process.	New database will be set up to monitor contributions.	
		Option 1 is not favoured, as it does not appear to be transparent, consistent or suitable.	Agree	

Organisation	Question No.	Comments Made	How addressed in the SPD	
CPRE		Option 4 is not favoured as it may be suitable for very large-scale development from scratch, but otherwise would lead to distancing between developments and their impact, and encourage the view that planning permission can be 'bought'.	Agree	
	3	We assume that any formula under option 3 will identify the marginal impact per dwelling - in which case it should apply to every dwelling and thus a threshold would be inappropriate. Some types of dwellings could be excluded such as homes for students the elderly or lone individuals that are unlikely to generate pressure on social infrastructure - in-line with DCLG Practice Guidance.	Disagree – administrative costs would be prohibitive. Agree	
	4	We oppose a threshold, but if one is used it should be kept low in rural areas, as dwellings are often built in small batches and so rural infrastructure would miss out on critical funding; also the relative impact of development in rural areas is greater, as rural infrastructure is commonly smaller than in urban areas. For any threshold it would be essential to include a policy that identifies and prevents attempts to evade it by breaking down developments into smaller batches.	Consider County-wide approach is most consistent. Noted – see Affordable Housing section.	
	5	We do not favour the use of thresholds - as above.	Noted	
	6	The implication of this question and of Section 5 is contrary to Circ 05/05 and mis-leading to consultees. The Circ states that 'planning obligations should never be used purely as a means of securing for the local community, a share in the profits of developments..' (para B7) We can find no reference to the government suggesting that development contributions should be 'based on achieving the policy priorities for a particular area.' Planning obligations should be identified by ref to LDF (para B8) and by reference to tests set out in para B5 of the Circ (also in para B5 of consultation doc) - making it clear there must be a direct link between the impact of development and the obligation. The Consultation document also fails to make clear that planning obligations are not the primary or preferred method of rendering developments acceptable. We question the statement at para 4.1. as Circ 05/05 (para B4) states that 'planning obligations are unlikely to be required for all developments..' The Council should first consider if negative impacts can be avoided or mitigated by planning conditions. Only after should planning obligations be considered, and if the impacts still conflict with LDF policies, the development should be refused outright. The aims of the community strategy listed in para 5.2 are irrelevant to determining planning obligations unless they coincide with the impacts of a development. i.e. reduced levels of crime, drugs etc are extremely desirable - but should only be funded through planning obligations to the extent that the development generates increases in these.	Noted Noted It makes sense to use contributions on locally defined needs – only when necessary or directly related etc. as per Circ 5/05. This is made clear in the consultation draft – section 1.1.4 and 1.4 This is made clear in the consultation draft. This is made clear in the consultation draft – section on Code of practice Agree – no changes considered necessary however.	
	7	No comment.		
	Environment Agency	2	The SPD should incorporate both options 3 (quantitative) and 4 (tariff approach), where applicable.	Options 2 and 3 preferred.
		SEC 3.1	We would welcome consultation on the SA Scoping Report, to provide comments on relevant key issues, baseline data, plans and programmes, indicators, objectives etc.	Done
		SEC 5.1	We support the inclusion of open space and safeguarding/enhancing the built and natural environment. The need to ensure infrastructure is in place to protect from any environmental impacts is paramount.	Agree
Flood Defence		In certain circumstances development contributions may be appropriate for the provision of defence or mitigation works. (Ref to para 61 of PPG25 for guidance). It may also be appropriate for development contribution to be sought for the mitigation of fluvial flood risk for the provision of temporary or permanent flood defences.	Covered in general in Consultation Draft. Covered in general in Consultation Draft.	

Organisation	Question No.	Comments Made	How addressed in the SPD
Environment Agency		It may be appropriate to seek development contribution for major applications proportionate to the increased burden on the flood warning system, and emergency services for the lifetime of the development.	Covered in general in Consultation Draft.
		A contribution should also be sought for the maintenance of flood defences for the lifetime of the development - we recommend 100 years be included for residential development and 60 years for commercial and other uses.	Covered in general in Consultation Draft.
		Contribution should be sought for 'flood risk management.' The relevant Local Plan policy is Policy DR7 of the emerging UDP.	Covered in general in Consultation Draft.
		Example: Work carried out for the Nottingham Flood Defence Scheme - the cost for maintenance of defences for 50 years was calculated at £160 per dwelling - for 100 years (with inflation) the figure may reach £500. For flood warning, the cost was calculated at £140 per dwelling for 50 years, possible £300 for 100 years. Detailed calculations could be produced to inform the SPD.	Covered in general in Consultation Draft.
	Surface Water	Sustainable urban Drainage Systems for surface water run-off, including adoption and long-term maintenance costs for the lifetime of the development (as above) - relevant UDP policy is DR4, point 4. The LPA could produce a figure for contribution, or deal with on a case-by-case basis.	Covered in general in Consultation Draft.
	Groundwater/Contaminated Land/Foul Drainage	Planning obligations could be imposed to ensure that remediation works are carried out, and to require notification of any significant unsuspected contamination encountered during development.	Covered in general in Consultation Draft.
Groundwater/Contaminated Land/Foul Drainage		The need for continued groundwater and surface water monitoring and any further remediation (after planning conditions are discharged).	Covered in general in Consultation Draft.
		Foul Drainage upgrades to facilitate new sewer capacity (mains sewer connections) / AMP schemes. Relevant local plan policy is Policy QL27 - sec 4.7.12.	Covered in general in Consultation Draft.
Highways Agency	1	Yes. The HA would welcome a code of practice SPD on planning obligations, as proposed in ODPM Circ 05/05	Noted
	2	Given the Government's current review of planning obligations and PGS, the HA does not consider itself to be in a position to give a view to options 1-4.	Noted
	3-5	The HA does not favour the extensive use of thresholds in determining planning obligations - on the basis that the transport and traffic impact of each scheme needs to be considered on its own merits.	Noted
	6-7	No comment	-
RPS Planning	1	Yes. Key objectives for the code of practice should be to provide certainty and transparency for the Council and developers/landowners; and to speed up the delivery of planning consents.	Agree
		The code of practice should make it clear that where there is a choice between imposing conditions and entering into a planning obligation, a condition which satisfies the policy tests of Circ 11/95 is preferable - further, the terms of conditions imposed on a planning permission should not be restated in a planning obligation.	Covered in Consultation Draft.
		A planning obligation must satisfy the 5 tests set out in Circ 05/05.	Agree – covered in Consultation Draft.
		The code of practice should make it clear that where there is a choice between imposing conditions and entering into a planning obligation, a condition which satisfies the policy tests of Circ 11/95 is preferable.	Agree – covered in Consultation Draft.
	2	The use of formulae and standard charges where appropriate would provide a useful framework for negotiating and securing planning obligations. (To be used as a starting point, with an emphasis is on negotiation).	Agree
		A combination of option 2, option 3 and option 4 would be appropriate with scope for general negotiation where specific guidance is not available (option 1).	Options 2 and 3 approach favoured.

Organisation	Question No.	Comments Made	How addressed in the SPD
RPS Planning		Example: Barons Cross Camp, Leominster - where Qualitative guidance (opt 2) was used to inform provision of public open space in the form of the emerging UDP. Financial contributions were the subject of pre-application negotiation with the Parks & Leisure Dept. Quantitative guidance (opt 3) was provided from the Council for the affordable housing, in the form of the adopted SPG on affordable housing, which prescribed the level & mix of affordable housing to be provided, and formed the basis of negotiations.	-
		Tariff approach (opt 4) was adopted by the Council for contributions to off-site highway works which covered matters such as off-site junction improvement, cycle & walking provision and public transport - (In Leominster £1500 was negotiated per dwelling).	-
		Where guidance not available, negotiations took place specific to requirements (opt 1), which is appropriate for flexibility.	-
		There is a duty upon the Local Authority & developer for planning obligations to be clearly justifiable & transparent & satisfy the tests of Circ 05/05.	Noted
	3	The imposition of a threshold would be contrary to the provisions of Circ 05/05. Planning obligations can be applicable to any type or scale of development.	Thresholds considered necessary for consistency, transparency and cost effectiveness.
		It will be down to the Council to decide about the formulation of a policy, in relation to the use of formulae and/or standard charges, to see how they work in relation to different sizes of development.	Covered in Consultation Draft.
	4	No. The threshold should not vary between different locations. (See above).	Agree
	5	No threshold should be applied for any obligations being applicable to commercial development. (See Q3 above).	Disagree – See 3
	6	The topic areas listed in para 5.1 are sufficient, although we would query the relevance of the 8th bullet point (safeguarding/enhancing the built environment); and the 10th bullet point (town centres).	Noted
		All topic areas should be clearly identifiable & specific.	Agree
7	Yes, more use could be made of standard agreements, both in the form of standard Section 106 Agreement and in the form of a range of standard clauses - such standardisation would assist in the drafting of legal agreements & should assist in speeding up the process.	Noted	
Tetlow King Planning	2	Option 1 - this is not an acceptable approach, as there will be no consistency in the negotiations dealt with on a site-by-site basis -this will mean that the process is not fully transparent, and so places pressure on officers to identify opportunities and needs which could be satisfied by planning obligations.	Agree
		Option 2 - We are concerned that there would be a lack of information on how the contributions will be calculated as this will result in uncertainty for developers and the general public.	Agree
		Option 3 - We support this method as it involves comprehensive guidance both on the type and size of contributions that will be sought. There will be greater certainty for developers and members of the public, and contributions can be easily calculated thus reducing the protracted negotiations that are involved with the other 2 options.	Agree
		Option 4 - We object to this approach, which provides no mechanism for on-site provision of affordable housing. PPG3 and draft PPS3 requires that this is normally provided on-site and in kind rather than via a financial payment - This approach would be at odds with Government advice.	Agree
	General	(Para 5) We support the areas for which planning obligations might be appropriate, in particular in the sphere of affordable housing. We consider that affordable housing units should be exempt from other planning contributions.	Agree for rural exception sites.
		The delivery of affordable housing should not be expected to contribute to the fulfilment of other less important objectives.	Agree for rural exception sites.

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