

TABLE 1 LIST OF CONSULTEES

Reference Number	Consultee
RES1	Neil Warren - Pelham Holdings Limited
RES2	Georgie Cook - Thames Water Property Services
RES3	Pauline Nash - Health and Safety Executive (HSE)
RES4	Ian Lindon - LA21 Bexley and Crayford Forum
RES5	Peacock and Smith Limited on behalf of Wm. Morrison Supermarkets plc
RES6	Lucy Owen - Port of London Authority
RES7	Bill Ripper - on behalf of the Ramblers' Association.
RES8	Michael Russell - Nathaniel Lichfield and Partners on behalf of St James's Investments and Tesco Stores Ltd.
RES9	Alison Fairhurst - Government Office for London
RES10	Rose Freeman - The Theatres Trust
RES11	Adina Brown - English Heritage
RES12	Patrick Blake - Highways Agency
RES13	Deb Stephens - CgMs Consulting on behalf of the Metropolitan Police Authority
RES14	Joe McClenaghan - Blue Sky Planning Consultancy Ltd on behalf of Tilfen Land Ltd
RES15	Jabed Rahman - NHS London Healthy Urban Development Unit (includes later response received 19 th June 2008)
RES16	Steve Baughen - Barton Willmore on behalf of Riverdale Developments Ltd
RES17	Greater London Authority
RES18	James Stevens - Home Builders Federation Ltd
RES19	Charles Muriithi - Environment Agency
RES20	Wendy Wong Chang - Berkeley Homes (South East London) Ltd
RES21	Zoe Dillon - Icen Projects Ltd on behalf of Gallions Housing Association (As updated)
RES22	David Hammond - Natural England
RES23	Paul Hitchins - Sidcup Congregation of Jehovah's Witnesses

TABLE 2: SPD RESPONSES

	Comments	Action suggested by Consultee	Response	Proposed Changes
RES1	I like the idea of the new look draft "unilateral undertaking" but would it not be easier and more public and small developer friendly if you just had a roof top tax that way even the small developer could prior to finalising a land deal know exactly what he was in for regarding financial obligations. This is the main issue surrounding land deals. This may already have been discussed and so apologise if this is the case.	That consideration is given to a 'roof tax' approach to s106 planning obligations in preference to the formulaic based approach proposed.	A 'standard charge' was considered but was not favoured, at this point in time, due in part to the LDF being under preparation. It should be noted, that the Council has prepared the planning obligations calculator to assist developers in understanding the level of financial contribution likely to be sought, so that these costs can be taken into account in any subsequent land deal.	None
RES2	Regarding the funding of water and sewerage infrastructure, it is our understanding that Section 106 Agreements can not be used to secure water and waste water infrastructure upgrades. However, it is essential to ensure that such infrastructure is in place to avoid unacceptable impacts on the environment such as sewage flooding of residential and commercial property, pollution of land and watercourses plus water shortages with associated low-pressure water supply problems. Water and sewerage undertakers also have limited powers under the water industry act to prevent connection ahead of infrastructure upgrades and therefore rely heavily on the planning system to ensure infrastructure is provided ahead of development either through phasing or the use of Grampian style conditions. Paragraphs B3 to B8 of PPS12 place specific emphasis on the need to take account of infrastructure such as water supply and sewerage in preparing Local Development Documents. Paragraph B3 in particular states: <i>"The provision of infrastructure is important in all major new developments. The capacity of existing infrastructure and the</i>	That the Council consider the adequacy of infrastructure in their determination of an application and, where necessary, impose appropriate conditions.	The issues raised by Thames Water Utilities Ltd are outside the scope of the Planning Obligations Guidance SPD. Thames Water Utilities Ltd is a statutory water and sewerage undertaker, and is consulted by all relevant planning authorities in the preparation of development plans. It is through this process that the capacity, and any limitations, of the existing network need to be identified and agreement reached with the service provider on the investment needed in infrastructure to match the growth identified in the development plan. As stated in the representation, where there are site specific concerns regarding the capacity of the network to serve a proposed development site, developers will make direct contracted arrangements to contribute to the delivery of needed services by the utility provider. Such arrangements are normally, and preferably, dealt with as planning conditions. Where appropriate, the Council may add	None

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<p><i>need for additional facilities should be taken into account in the preparation of <u>all</u> local development documents. Infrastructure here includes water supply and sewers, waste facilities...."</i></p> <p>Paragraph B4 of PPS 12 also states that the adequacy of infrastructure can be a material consideration in deciding whether permission should be granted.</p> <p>The water companies' investment programmes are based on a 5 year cycle known as the Asset Management Plan (AMP) process. We are currently in the AMP4 period which runs from 1st April 2005 to 31st March 2010 and does not therefore cover the whole LDF period. AMP5 will cover the period from 1st April 2010 to 31st March 2015 and we are currently preparing our business plan submission to OFWAT.</p> <p>As part of our five year business plan Thames Water advise OFWAT on the funding required to accommodate growth in our networks and at all our treatment works. As a result we base our investment programmes on development plan allocations which form the clearest picture of the shape of the community (as mentioned in PPS12 paragraph B6). Where the infrastructure is not available we may require an 18-month to three-year lead in time for provision of extra capacity to drain new development sites. If any large engineering works are needed to upgrade infrastructure the lead in time could be up to five years. Implementing new technologies and the construction of new treatment works could take up to ten years.</p> <p>It is essential that developers demonstrate that adequate capacity exists both on and off the site to serve the</p>		<p>informatives to planning decisions asking that applicants contact other statutory bodies, for example, where Thames Water make representations to a planning application.</p>	

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	<p>development and that it would not lead to problems for existing users. In some circumstances this may make it necessary for developers to carry out appropriate studies to ascertain whether the proposed development will lead to overloading of existing water & sewerage infrastructure. Where there is a capacity problem and no improvements are programmed by the water company, then the developer needs to contact the water authority to agree what improvements are required and how they will be funded prior to any occupation of the development.</p> <p>We rely heavily on the planning process to ensure we have the necessary infrastructure in areas where development is clearly identified and seek planning conditions where it is not. Capacity problems, possibly leading to flooding, could occur in some cases if we have not been given the opportunity, either through advance planning or through conditional planning approvals, to provide the capacity prior to the development taking place.</p> <p>If the developer fails to consult with Thames Water in the early planning stages then, as noted above, this will lead to us requesting a Grampian style condition or potentially objecting to the application.</p>			
RES3	<p>The HSE is a statutory consultee for certain developments within the consultation distance of major hazard sites and major hazard pipelines. Whilst we do not have any specific comments on the guidance we would encourage the Council to make use of planning obligations to encourage developers and owners of sites with hazardous substances consent to reach agreements which reduce the risk to the public to a level where HSE would not advise</p>	<p>Use planning obligations to manage the risk to the public of sites with hazardous substances.</p>	<p>The Health and Safety Executive, along with the Environment Agency, is a statutory consultee on applications for hazardous substances consent made under the Planning (Control of Major Accidents) Regulations 1999. It is preferable that the management and use of hazardous substances be dealt with through planning conditions, such as those outlined in the Government guidance</p>	None

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	against development thus enabling developments to proceed.		'Hazardous Substances Consent: A Guide for Industry - Annex 2 Standard Deemed Consent Conditions', September 2000. There may be circumstances where a site specific s106 agreement could enable the HSE to withdraw an objection.	
RES4	That any future Planning letters that are sent out to interested parties - once the SPD is adopted - should clearly show exactly what is entailed in the resulting s106 agreements so that it can be clearly seen what is on offer and how much cost is actually involved (using the Contribution Table) and thus allow comment to be made.	That community groups be able to comment on the content of the planning obligation agreement.	The Council's Statement of Community Involvement, December 2006, encourages applicants to undertake pre-application consultation with affected parties and interested community groups. It is via this process that community groups should seek to have input into, and influence the content of, particular planning applications.	None
	Although it is perfectly correct and proper that the Council should be recompensed for advice, time and assistance. In order to prevent any future accusation of improper payment in order to 'pass an application' costs received by the Council must be open to scrutiny. It could be included in any planning application details, either on the web or on paper documents or possible in an Annual disclosure.	Provide an annual report on the financial contributions received and how these have been spent by the Council or service providers.	Paragraph 3.31 of the SPD addresses the need to monitor and report on planning obligations. It is proposed that a quarterly report be provided to the Planning Committee, the papers and minutes of which will be available to be viewed from the Council's website.	None
RES5	Morrisons are a major food and grocery superstore retailer, who trade from stores in Sidcup and Erith within the Borough. Morrisons support a flexible approach to planning obligations and would like to see the delivery of planning obligations through the use of a negotiated agreement (section 106) for all development sites, regardless of their size and nature.	That the delivery of planning obligations through the use of a negotiated agreement (section 106) for all development sites, regardless of their size and nature.	Paragraph B33 of Circular 2005/05 specifically encourages LPAs to employ formulae as part of their published framework for negotiating and securing planning obligations. The intention is to assist to speed up negotiations and to provide a level of predictability, with regard to the size and type of some contributions likely to be sought.	None

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	<p>Morrisons consider that by requiring financial contributions for employment facilities the five tests set out in Circular 05/05 will not be met. Wm Morrison would comment that they provide a number of in house and external training events for its employees. It therefore considers the proposal to be unduly onerous.</p>	<p>That the requirement for planning applications for new food stores or extensions to existing food stores to make contributions to Employment Training is removed from the Planning Obligations Guidance SPD</p>	<p>The Council acknowledges that most employers provide in-house training to their staff. However, the purpose of the obligation towards training is to help those members of the community who are currently unemployed to gain employment by providing the skills necessary to enter or re-enter employment.</p>	<p>None</p>
	<p>With regards to contributions to sports and leisure facilities, Morrisons does not consider that an extension to or the creation of a new food store would result in an additional burden on sport and leisure facilities, Morrisons therefore consider this requirement to be unreasonable.</p> <p>Paragraph B9 (annex B) of Circular 05/05 states:</p> <p><i>“Planning obligations should not be used solely to resolve existing deficiencies in infrastructure provision or to secure contributions to the achievement of wider planning objectives that are not necessary to allow consent to be given for a particular development.”</i></p> <p>We would therefore request that the requirement for planning applications for new food stores or extensions to existing food stores to make contributions to Employment</p>	<p>That the requirement for planning applications for new food stores or extensions to existing food stores to make contributions to Sport and Leisure Facilities is removed from the Planning Obligations Guidance SPD</p>	<p>A key objective of the Council is to ensure that increased housing provision is matched by growth in local job numbers. As such, it is expected that the steady increase in job numbers, within the main town centres and employment areas, will result in increased demand for sports and leisure facilities within these areas to serve both residents and the local workforce. In most town centres, and especially within employment areas, existing provision will not be sufficient to meet the anticipated levels of demand. Therefore, further provision will be required. It is entirely reasonable that employment generators should make an appropriate contribute towards the costs of such provision.</p>	<p>None</p>

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	Training and Sport and Leisure Facilities are removed from the Planning Obligations SPD.			
RES6	<p>The PLA would question whether the SPD has enough flexibility to allow for the circumstances that the PLA occasionally encounters. As you will be aware, the PLA owns land within the Borough (it owns the Riverbed and foreshore up to mean high water). The unilateral undertaking requires amongst other things the owner to pay the Council the legal costs incurred by the Council in the negotiation, preparation and finalising of the undertaking. It highlights how planning obligations are enforceable against the owner and its successor in title and it requires the owner to comply with the obligations and to be bound by the restrictions set out in the Schedule.</p> <p>If the PLA was undertaking a development itself it would be happy to comply with these requirements however, occasionally Section 106 agreements are negotiated which involve land owned by the PLA but they are not PLA developments i.e. the PLA is not the applicant. In these cases it would be unfair to require the PLA as landowner to pay the legal costs of the Section 106, to enforce against the PLA in relation to the planning obligations and to require the PLA to comply with the obligations. In these cases it would be more appropriate for these requirements and costs to be met by the applicant.</p>	That the SPD should provide for circumstances where obligations should not be enforceable against the landowner.	Planning obligations are binding contractual agreements that are necessarily attached to the land to ensure they continue to apply even after a change of ownership. All parties with an interest in the land are normally, party to any section 106 planning agreement. This would include the PLA where its' land is an essential part of the application site. Any agreement can only be enforced against particular parties to the extent that it is within their power to meet the covenants imposed.	None
RES7	We are generally consulted on planning applications where a public right of way is directly affected. We trust this will continue with the addition of public rights of way being affected indirectly, i.e., not necessarily within a development but with links to public rights of way, open spaces, shops, schools, bus stops, etc. outside of it.	That footpaths, with common law rights, be identified and recorded on the Definitive Map and Statement to	<p>The identification and recording of footpaths and other right of ways on the Definitive Map and Statement is outside the scope of the Planning Obligations Guidance SPD.</p> <p>The protection of footpaths or other public right of ways is a site specific matter that would need to be</p>	None

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	<p>We also trust that where a footpath is being made into a cycle track, the proper legislation is followed. However, we would much prefer any cycle track to run alongside a footpath, rather than its status be changed.</p> <p>There are many options within the borough for footpaths which have common law rights and are used in the main by residents of the borough as alternatives to a tortuous road walk but which are not recorded on the Definitive Map and Statement. These are sustainable routes but vulnerable and could be lost when development takes place unless they are prioritised under the Boroughs green transport policies. The safest option for protection is to have them recorded on the Def. Map & Statement.</p> <p>Most, no, all developers, only consider footpaths or other public rights of way if they are recorded on the Def. Map & Statement. It is important that the Council are aware where the non-recorded ones are to pre-empt any conflict of interest and concerns of local residents.</p> <p>I trust you will give this consideration when a section 106 agreement is implemented under the planning obligations.</p>	<p>ensure their protection and continued use.</p>	<p>dealt with by the Council in its consideration of a planning application. Where provision is to be made on a development site, it may be acceptable to secure an obligation towards the long-term management and maintenance of the footpath or right of way. Such matters are provided for in paragraph 3.3 of the SPD, which enable the Council to consider any additional obligations that may need to be sought specific to the development.</p>	
RES8	<p>Legislative and national guidance We welcome the addition of the section of the guidance, the context of which we refer back to in some instances when making comment on the draft SPD</p>	<p>None</p>	<p>None</p>	<p>None</p>
	<p>The Introduction of a Community Infrastructure Levy We agree with the comment that the SPD may need to be reviewed in light of the published regulations for the Community Infrastructure Levy. This should be made clear in the SPD.</p>	<p>It should be made clear that the SPD may need to be reviewed in light of published regulations for</p>	<p>Arrangements and grounds for the review of the SPD are clearly stated in paragraph 5.2. While any review may necessarily take account of the published regulations for CIL, it should be noted that it is currently the intention of Government that LPAs should have the discretion whether or not to</p>	<p>None</p>

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	CIL.	adopt CIL arrangements, in due course.	
<p>Changes to the Mayor of London's Powers The Town and Country Planning (Mayor of London) Order 2008 came into force on 6th April 2008. The SPD needs to make is clear how the Mayors powers impact in terms of the SPD, to again provide applications certainty on this issue.</p>	<p>Update the SPD to reflect the changes to the Mayor of London's powers.</p>	<p>The Council agrees that the SPD should set out the new requirements of referable applications in respect of any section 106 planning agreement.</p>	<p>That paragraph 2.12 be deleted and replaced with the following text and footnote:</p> <p><i>"The Town and Country Planning (Mayor of London) Order 2008 sets out the powers that the Mayor has in relation to planning decisions in London. The Order states that the Mayor's powers extend to direct approval as well as refusal of certain strategic applications and to act as 'lead' negotiator in any section 106 planning agreements.</i></p> <p><i>The Mayor expects referable planning applications (1) to be accompanied by a statement, where a Borough Council is inclined to grant permission, outlining any conditions the Council is seeking to impose and, as applicable, a draft of any planning obligations the Council proposes to enter into and the details of any proposed planning contributions."</i></p> <p>Footnote: <i>"(1) Referral criteria for strategic planning applications are contained in Statutory Instrument 2008 No. 580 of the Town and Country Planning (Mayor of London) Order 2008, and include developments comprising more than 150 dwellings or occupying more than 10 hectares; consisting of more</i></p>

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				<i>than 15,000m² outside central London; buildings more than 30m high outside central London; and alterations to an existing building to increase its height by 15m where the completed building would exceed 30m in height."</i>
	Sustainable Community Strategy – consultation draft 2007 The SPD is to take account of the Sustainable Community Strategy, when it is adopted. However, the adopted form of that document is not currently available. We and others cannot therefore comment of any issues that the Council may wish to bring forward from this adopted document into the SPD. This effectively negates the consultation process on the draft SPD.	That the SPD remove reference to the Sustainable Community Strategy – consultation draft 2007.	Public consultation on the draft Sustainable Community Strategy took place from the 1 st of November 2007 until the 15 th December 2007. The Sustainable Community Strategy has now been adopted by the Council and it is therefore appropriate to refer to this document in the SPD. All references to the old Community Strategy however, need to be removed.	Delete reference to the Community Strategy – Our Vision for Bexley 2003-2013 at paragraph 2.15. Update, as appropriate, paragraphs 2.16 to 2.18 to reflect that the Sustainable Community Strategy has now been adopted.
	Planning Obligations that may be sought It is recognised that there may be circumstances on proposals where other obligations may arise from proposed development. However, it is also the case that the purpose of the guidance as set out in paragraph 1.5 is to establish a transparent, fair and consistent process for negotiating planning obligations. Paragraph 3.10 for example, acknowledges that providing greater certainty is a benefit of a formulae-lead approach to negotiation. If the guidance is to achieve this objective, in the context of providing transparent advice to those developing in the Borough, then only exceptionally should additional section 106 contributions be sought, where a need that fully meets the relevant Circular tests can be clearly demonstrated by the Council.	That the SPD should state that only in exceptional circumstances should additional section 106 contributions (i.e. beyond those set out in the SPD) be sought.	The types of impact likely to arise are dependant on the type, scale and nature of the proposed development. While the purpose of the SPD is to provide clarity around the types of planning obligations typically sought, where necessary, the Council will need to seek specific obligations, not listed in the SPD, to appropriately manage the impact of a proposed development. In this respect, there should be no restrictions on the kinds of planning obligations that the Council might necessarily seek to appropriately manage the potential impacts identified in any respect of any individual planning application.	None
	Viability considerations and relative priorities We welcome the acknowledgement that viability considerations will apply to new development. We also	None	None	None

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note and welcome the prioritising of obligations in those cases where due to viability concerns, it is not possible to secure in full the obligations sought by the Council.			
<p>Recovery of administration costs</p> <p>The cost of monitoring the Section 106 Agreement at 6% of the total costs seemingly has no relation to the cost of monitoring the agreement. No explanation is given as to how the 6% figure is derived. Large schemes are often the subject of substantial Section 106 agreements, but often these agreements are written such that the external monitoring by the Council is limited and applies to key events on site only. Furthermore, if the Council wants all contributions to be paid on commencement of development (an issue we have concerns about), it begs the question what monitoring is an applicant paying for? If financial sums have been paid by an applicant and obligations to bring forward facilities arising from the development then fall on the Council, why should the applicant pay for the Council to monitor whether the Council are carrying out obligations in a Section 106 Agreement?</p>	<p>Requires clarification of the 6% monitoring cost figure and why this should apply to financial contributions made to the Council where the onus is on the Council or another service provider to make the necessary provision in respect of the section 106 planning agreement.</p>	<p>Planning obligations only arise as a result of the need to manage the potential impacts of a proposed development. The responsibility and cost of monitoring the obligations set out in an agreement fall to the Council. These costs are incurred regardless of whether it is the applicant, the developer, the landowner, the Council or a service provider who ultimately has to make the provision as required by the agreement. It is therefore, reasonable that the cost of monitoring the section 106 planning agreement should be met entirely by the applicant or landowner.</p> <p>The 6% monitoring costs has been derived based on an estimate of the staff cost of monitoring the total revenue expected by way of financial contributions. While based on the financial contribution portion of an agreement, the 6% figure also accounts for those reasonable costs incurred in monitoring compliance of non-financial obligations. It does not however, cover the cost associated with monitoring obligations in respect of affordable housing provision or to pay for reporting of monitoring to Council committees. The use of a percentage over a fixed fee is preferred, as this more accurately reflects the magnitude of the obligations included within an agreement.</p>	<p>Delete the third bullet point in paragraph 1.6 of Annex H.</p> <p>Replace the second sentence in paragraph 1.15 of Annex H with the following:</p> <p><i>"The cost will be 6% of the total cost of the financial or in kind contributions payable by the applicant in respect of the section 106 planning agreement. The 6% monitoring costs is an estimate of the staff costs of monitoring the total revenue expected by way of financial or in kind contributions and those reasonable costs incurred in monitoring compliance of non-financial obligations, excluding monitoring obligations in respect of affordable housing provision, where such cost will be met by the RSL, the applicant and the Council as they are incurred. The cost of reporting the findings of monitoring to the Planning Control Committee will be met entirely by the Council."</i></p>
<p>Site Specific Considerations</p> <p>We welcome the acknowledgement that site specific consideration will apply in negotiations on schemes.</p>	None	None	None
Unit Size Details (paragraph 3.14 – 3.17)	That the formulae,	Where possible the formulae are based on dwelling	None

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	<p>It is noted that the formulae in the SPD for residential contributions is based on a 'per dwelling' basis. This is due to the unit size possible not being defined in outline schemes, where the size of the units is provided, then the basis of all residential contributions should be on the size of the units proposed, rather than a nominal 'per dwelling' basis. Even when applying for outline planning permission, unit's size details are routinely sought.</p>	<p>used to calculate the level of contribution in respect of each type of obligation, be based on a 'unit size' basis.</p>	<p>size and tenure, such as the calculations for Education and Health provision. The formulae for Sports and Leisure are derived on the basis of the provision requirement and costs per person and then multiplied by the average housing density. For contributions towards Transport, Access and Public Realm these are based on that proportion of the total cost of provision for which it is reasonable to apportion to new development. In such circumstances it is not possible to disaggregate this figure beyond a per dwelling basis, where the overall housing mix to be provided for over the plan period remains unknown. As a result, where unit size cannot be applied, it is necessary that the formulae be based on a per dwelling basis.</p>	
	<p>In paragraphs 3.15 to 3.17, we welcome the acknowledgement that any contributions must relate to the impact of development over and above that generated through the existing development on site, by the use of the net increase in floor space on site. In relation to paragraph 3.17, no detail of how intensification of uses will be assessed in cases where there is no net increase in commercial floor space.</p>	<p>That the SPD provide information on how the intensification of use will be assessed.</p>	<p>The Council agrees that further information needs to be included in the SPD to clarify how intensification of use is to be assessed.</p>	<p>Insert at the end of paragraph 3.17 the following: <i>"In such cases, the intensification of commercial use will be assessed on the basis of the net increase in employee numbers and traffic movements, including foot traffic."</i></p>
	<p>Existing Facilities (Paragraph 3.19) We welcome the assurance given that any contributions relate only to the additional needs that will arise from the new development.</p>	<p>None</p>	<p>None</p>	<p>None</p>
	<p>On / Off site provision (Paragraph 3.21 and 3.22) We welcome the acknowledgement that there will be circumstances where provision other than on site will be appropriate. We also welcome the assurance that where facilities are provided on site, then the level of contribution required in respect of the provision of these</p>	<p>None</p>	<p>None</p>	<p>None</p>

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facilities will be reduced or waived.			
<p>Maintenance payments (paragraph 3.22 and 3.24)</p> <p>We note and endorse Circular guidance that where an asset is intended for wider public use, the costs of subsequent maintenance and other recurrent expenditure should normally be borne by the body in which the asset is vested.</p>	None	None	None
<p>Pooled Contributions (paragraph 3.25 to 3.27)</p> <p>It is critical that pooled contributions are used within an appropriate timescale and on schemes that geographically relate to the development from which the Section 106 contributions arises. Individual Section 106 Agreements should therefore identify the location and timescale for spending any Section 106 contribution.</p>	<p>Financial contributions are spent on projects that are geographically related to the development from which the contribution arises, and be spent within an appropriate timeframe.</p>	<p>The Council has set up internal account arrangements so that Section 106 monies are pooled by area code, and within each code, by service area. Where the Council deems a project benefits an area, the pooled funds for that service area will then be allocated to that particular project. The Council agrees that this should be explained within the SPD.</p> <p>As specified in paragraph 3.29 of the SPD, where any money is not spent within an agreed timeframe, usually 10 years, the Council will arrange to return the unspent money.</p>	<p>Insert the following at the beginning of paragraph 3.27: <i>"The Council has set up accounting arrangements so that each Section 106 payment is separately identified. The contributions will then be applied to initiatives in the relevant geographical area of the Council."</i></p> <p>Insert the following at the end of the second sentence in paragraph 3.28: <i>" for which the Council deems the development from which the contribution arose will directly benefit."</i></p>
<p>How money will be spent (paragraph 3.28 and 3.29)</p> <p>Contributions received must be invested in programmes that geographically relate to the impacts of a scheme. Borough wide strategies for spending pooled contributions must be broken down into separate geographical areas, so that a contribution arising from the impact of a scheme in one location mitigates the impacts of that development in that locality, rather than on a Borough wide basis. We welcome the assurance that money provided by developers, but not spent within agreed timescales, is returned to the applicant.</p>	<p>Financial contributions are spent on projects that are geographically related to the development from which the contribution arises, and be spent within an</p>	<p>The Council has set up internal account arrangements so that Section 106 monies are pooled by area code, and within each code, by service area. Where the Council deems a project benefits an area, the pooled funds for that service area will then be allocated to that particular project. The Council agrees that this should be explained within the SPD.</p> <p>As specified in paragraph 3.29 of the SPD, where any money is not spent within an agreed timeframe, usually 10 years, the Council will arrange to return</p>	<p>Insert the following at the beginning of paragraph 3.27: <i>"The Council has set up accounting arrangements so that each Section 106 payment is separately identified. The contributions will then be applied to initiatives in the relevant geographical area of the Council."</i></p> <p>Insert the following at the end of the second sentence in paragraph</p>

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		appropriate timeframe.	the unspent money. 3.28: <i>“ for which the Council deems the development from which the contribution arose will directly benefit.”</i>
The Council’s commitments and covenants (paragraph 3.30) We welcome guidance on the wording to be used in Section 106 Agreements in paragraph 3.30.	None	None	None
Monitoring of planning contributions and compliance (Paragraphs 3.31 and 3.34) In paragraph 3.33, the applicant is required to provide an accurate record of the scheme content. This is not a concern. However, if the applicant is effectively monitoring the scheme, why is the Council’s request for payment to monitor the Section 106 Agreement so high?	Clarify why the costs of monitoring the Section 106 planning agreements is so high	The requirement to provide an accurate record of the scheme content is to provide the baseline against which to then monitor the performance of the agreement. The provision of an accurate record of the scheme content does not in itself constitute monitoring. The 6% monitoring costs has been derived based on an estimate of the staff cost of monitoring the total revenue expected by way of financial contributions. While based on the financial contribution portion of an agreement, the 6% figure also accounts for those reasonable costs incurred in monitoring compliance of non-financial obligations. It does not however, cover the cost associated with monitoring obligations in respect of affordable housing provision or to pay for reporting of monitoring to Council committees. The use of a percentage over a fixed fee is preferred, as this more accurately reflects the magnitude of the obligations included within an agreement.	Delete the third bullet point in paragraph 1.6 of Annex H. Replace the second sentence in paragraph 1.15 of Annex H with the following: <i>“The cost will be 6% of the total cost of the financial or in kind contributions payable by the applicant in respect of the section 106 planning agreement. The 6% monitoring costs is an estimate of the staff costs of monitoring the total revenue expected by way of financial contributions or in kind and those reasonable costs incurred in monitoring compliance of non-financial obligations, excluding monitoring obligations in respect of affordable housing provision, where such cost will be met by the RSL, the applicant and the Council as they are incurred. The cost of reporting the findings of monitoring to the Planning Control Committee</i>

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				<i>will be met entirely by the Council."</i>
	<p>Procedure (paragraph 4.1 to 4.10) The production of a 'Statement of Planning Obligations' in a form to yet be made available, is supported in principle. Support is given to the submission of unilateral undertakings, although this should also extend to all Section 106 Agreements and not just those requiring payment of financial contributions.</p>	<p>The giving of unilateral undertakings should also extend to all Section 106 Agreements, not just those requiring payment of financial contributions.</p>	<p>The procedures outline in the SPD relate to both unilateral undertakings and section 106 planning agreements, as specifically stated in paragraphs 4.3. There is no restriction in the SPD, or in law for that matter, that would prevent a unilateral undertaking being made in respect of non-financial planning obligations.</p>	<p>None</p>
	<p>Title information (paragraphs 4.11 to 4.14) It is not understood why satisfactory title information must be submitted to ensure a planning application is validated. This is both unnecessary and unworkable. It is unnecessary as applicants certify landownership details on the submitted application form and unworkable as in 'validating' applications, validation officers, who presumably are not legally trained must both assess whether a section 106 agreement is going to be required and then study the title to the land to check that this is satisfactory (whatever satisfactory is defined as for the purposes of validation). In addition, applicants for planning permission for not need to own sites and in this respect, they may not have access to the title to the land at the time an application is made.</p>	<p>That the SDP remove the requirement to submit title information to ensure a planning application is validated.</p>	<p>Any applicant seeking a planning permission, that is likely to give rise to the need for a planning obligation that binds the land through a section 106 agreement, will need to have the authority to do so. It is necessary that the Council is provided with the title information so that it can confirm who has the authority to enter into any such agreement. The absence of title information is one element that can create significant delays in concluding agreements. It is therefore right and proper that the Council ask applicants at an early stage, to provide this information, which will be passed to the Council's Solicitor for detailed review.</p>	<p>None</p>
	<p>Submission of planning application (paragraph 4.15 to 4.19) Only the Council's 'Reasonable' legal costs should be paid in preparing a Section 106 Agreement.</p>	<p>That the SPD refer to the 'reasonable' legal costs to be paid to the Council in preparing a Section 106 Agreement</p>	<p>The Council agrees that it should only seek to recover the reasonable costs associated with preparing, monitoring and enforcing individual section 106 planning agreements</p>	<p>Insert the word "reasonable" before 'costs' in the second line and before 'legal' in the third line of paragraph 3.11.</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>Timing of Payment (paragraph 4.22 to 4.23)</p> <p>It is not necessary for all financial obligations to be paid on commencement of development. This is not the trigger for may of the contributions being required. Timing of the payment of contributions needs to relate to the delivery of the development, from which the need for the Section 106 Agreement arises. Phased payments tied to development 'trigger' should therefore be the starting point for the timing of the payment of any Section 106 contributions.</p>	<p>That the timing of the payment of contributions needs to relate to the delivery of the development.</p>	<p>In order for the Council to provide the necessary services sought by an agreement in a timely manner, it is necessary to secure early payment of any financial contributions. Generally, the Council will seek full payment of contributions upon commencement of development. However, it is acknowledged that for larger development schemes, with long build out periods, it may be necessary to phase payment of contributions based on development triggers, which will need to be specified in the Section 106 planning agreement.</p>	<p>Create a new paragraph following the first sentence in paragraph 4.23, and insert the following at the beginning of this sentence:</p> <p><i>"For large development schemes, with a long build out period,"</i></p>
	<p>In addition, the transparent and consistent process for negotiating Section 106 Agreements is lost, if for Council owned sites, payments are made through a Development Agreement, where there is potentially less public scrutiny, rather than in a Section 106 Agreement. There is no planning reason for the difference of approach between Council owned sites and any other sites in the Borough. No reason for this approach is given in the SPD. It appears to be uniquely proposed in Bexley. It also raises concerns that the 'contributions' sought in a Development Agreement would not accurately reflect the need arising from the development, if the detail of the development of the policy bases for any contribution changes between the signing of any development agreement and the submission and determination of any subsequent planning application.</p>	<p>That the Council applies the requirements of the SPD to Council owned land.</p>	<p>The reason for the variation in process between Council owned sites and that of other landowners, is simply because the Council cannot legally enter into a Section 106 planning agreement with itself. However, the Council will, in preparing a Development Agreement, apply the requirements of this SPD to Council owned land. The Council agrees that this needs to be made more explicit in the SPD.</p>	<p>Insert the following at the end of the first sentence at paragraph 4.23:</p> <p><i>"The reason for a Development Agreement is that, where the Council is the landowner, it cannot legally enter into section 106 planning agreement with itself. However, in preparing the Development Agreement, the Council will seek to secure planning obligations in accordance with the requirements of this SPD and to publish those elements of the development agreement that relate to planning obligations."</i></p>
	<p>Consideration of viability issues (paragraph 4.27 to 4.29)</p> <p>We welcome the consideration of viability issues as part of the overall delivery of development in the Borough. We suggest that a standard model to assess viability, such as the Three Dragons Model is used. We agree with the prioritising of Section 106 contributions. We do not</p>	<p>None</p>	<p>None</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	disagree with the appointment of an independent expert to assess contributions in the case of disagreement with the LPA and applicant. However, it is important that any such expert must be in a position to have regard to the GLA's views, the final determination possible resting with the GLA. Again, it is important that any costs paid by the applicant are reasonable.			
	Post decision resolution Paragraph 4.31 – 'application' in line 3 should be replaced by 'applicant'.	That 'application' in line 3 of paragraph 4.31 is replaced by 'applicant'.	Agree	Replace ' <i>application</i> ' in line 3 of paragraph 4.31 with ' <i>applicant</i> '.
	Paragraph 4.32 – the failure of Council sites to be secured through Section 106 Agreements, will mean they will not be placed on the local land charges register, contributing to the seeming absence of a transparent, fair and consistent process for Council owned sites, in conflict with the purpose of this document (see paragraph 1.5). There is no planning reason why section 106 contributions on Council owned sites should be hidden away in Development Agreements rather than publically accessible Section 106 Agreements, unless such Development Agreements are to be made fully accessible to the public as part of any subsequent planning application submission. No planning reason for the difference in approach between Council owned sites and other landowner's sites is given.	That the Council applies the requirements of the SPD to Council owned land.	The reason for the variation in process between Council owned sites and that of other landowners, is simply because the Council cannot legally enter into a Section 106 planning agreement with itself. However, the Council will, in preparing a Development Agreement, apply the requirements of this SPD to Council owned land. To ensure transparency, the Council will look at opportunities to allow relevant extracts of the Development Agreement to be published or included on the statutory register alongside section 106 agreements, as good practice.	None
	Affordable Housing As with all contributions and noted in paragraph 1.18, the provision of affordable housing on site can only be achieved on individual sites 'as far as is practical'.	None	None	None
	Transport Access and Public Realm Any contributions must have regard to specific	Where obligations are met by the	As stated in paragraph 3.21, where the developer makes appropriate provision on-site, the level of	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	transportation, access and public realm improvements that are being brought forward as part of any scheme. Where major enhancements to the public realm, transportation or access are to be brought forward through site developments, then financial contributions must be reduced at a pro-rata level. There may be a case for specific measures identified by the applicant to be brought forward in the Section 106 Agreement, rather than the provision of a contribution.	developer then the financial contributions for such service areas should be reduced at a pro-rata level.	contribution required will be reduced or waived. Paragraph 3.20 also reiterates the presumption in favour of planning obligations being provided 'in-kind' and 'on-site'.	
	The link between any contributions made and the spending of contributions must be clear. Section 106 monies should not be used to fund Council preferred schemes, just because other sources of finance may not be forthcoming as intimated in paragraph 1.23. Where contributions are sought, these must be for identified schemes geographically linked to the site which is proposed to be developed. Therefore, in principle it is accepted that a scheme in Bexleyheath town centre could contribute to public realm in Bexleyheath town centre. However, it would be inappropriate for the same scheme to contribute towards investment programmes in say Crayford or Erith.	Financial contributions are spent on projects that are geographically related to the development from which the contribution arises, and be clear where money has been spent.	The Council has set up internal account arrangements so that Section 106 monies are pooled by area code, and within each code, by service area. Where the Council deems a project benefits an area, the pooled funds for that service area will then be allocated to that particular project. The Council agrees that this should be explained within the SPD. Paragraphs 3.31 and 5.1 of the SPD addresses the need to monitor and report on planning obligations, including on what services or projects s106 money has been contributed towards.	Insert the following at the beginning of paragraph 3.27: <i>"The Council has set up accounting arrangements so that each Section 106 payment is separately identified. The contributions will then be applied to initiatives in the relevant geographical area of the Council."</i> Insert the following at the end of the second sentence in paragraph 3.28: <i>" for which the Council deems the development from which the contribution arose will directly benefit."</i>
	Education It should be made clear that where intermediate housing is provided as part of the affordable housing offer, that the child yield for such housing reflects that generated for private housing. Again, the link between contributions provided and how they relate directly to the proposed development must be clear.	Annex C should state that the child yield for intermediate housing reflects that for private housing	As stated in Annex C, paragraph 1.16, the social housing rate for child yield will apply to all forms of affordable housing. When more comprehensive survey data becomes available, that is either relevant or applicable to Bexley, such information will be considered in any subsequent review of the SPD.	None
	Contributions should only be provided where a need	Contributions	The Council has established forward programmes	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	arising from the development in the principle catchment area of local schools serving the site is demonstrated.	should only be provided where a need arising from the development in the principle catchment area of local schools serving the site is demonstrated.	for investment within each service area, including education. Such programmes met the requirement upon the Council to demonstrate the need for such provision. As provided for in paragraph B22 of Circular 05/2005, where there is spare capacity in existing provision, this should not be credited to earlier developers.	
	<p>Employment Training</p> <p>Employment training wholly ignores any training that an applicant will deliver as part of any development proposal. Where an applicant is meeting the training needs arising from the development through their own training schemes, then additional contributions for training not directly related to the development must not be sought.</p>	The employment training contribution should take account of training provided by the applicant as part of any development proposal.	The Council acknowledges that most employers provide in-house training to their staff. However, the purpose of the obligation towards training is to help those members of the community who are currently unemployed to gain employment by providing the skills necessary to enter or re-enter employment.	None
	In addition, the use of formulae as a basis for employment densities is not appropriate where a bespoke employer proposes a development and they are able to accurately provide details of employment numbers based on their experience at similar premises elsewhere.	For bespoke commercial development, the employment densities use in the calculation should be those provided by the applicant.	The employment densities provide a consistent basis for calculating the training contribution requirement of particular types of commercial development. Where an application does not fit comfortably into one of the categories provided, the Council will rely on experience elsewhere as well as on information submitted in support of the planning application.	None
	<p>Health Service and Facilities</p> <p>Any community based facility proposed as part of the development, must reduce any contributions towards healthcare on the site.</p>	Where obligations are met by the developer then the financial contributions for such service areas	As stated in paragraph 3.21, where the developer makes appropriate provision on-site, the level of contribution required will be reduced or waived. Paragraph 3.20 also reiterates the presumption in favour of planning obligations being provided 'in-kind' and 'on-site'.	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
		should be reduced at a pro-rata level.		
	Payment of revenue costs for health facilities should be borne by the health-care provider, rather than the applicant, the asset of the healthcare facility being intended for wider public use, rather than just the occupiers of a given development, who in any event, will be future Council tax paying residents of the Borough.	There should be no revenue costs included in the contribution towards health facilities.	The Council agrees that contributions towards health services should not include 100% of the revenue costs associated with these facilities. However, it does acknowledge the need for 'pump priming' of new or enhanced health facilities, at 10% of the total revenue costs sought by HUDU, to cover any initial gap funding in health sector financing streams, as provided for in paragraph B19 of Circular 05/2005.	None
	Open Space, Sports and Leisure Facilities Using the GLA average household size in paragraph 1.32 is not appropriate, where unit sizes are known. More accurate details of the estimated number of persons per household can be provided based on unit's sizes where these are provided and should be used in preference to an average global household size figure.	That unit size be used as the basis for calculations in respect of Annex F.	It is entirely reasonable that the Council applies an average household figure in the calculation as this reflects the reality of persons per household than necessarily unit size would.	None
	Reference is made to NPFA standard rate of 2.4 hectares of open space per 1,000 population. Paragraph 2.17 in the draft GLA SPG October 2006 'Providing for Children and Young People's Play and Informal Recreation' states: <i>"Consultation with the London Boroughs indicates that limited practical use is currently being made of existing standards because they do not accurately assess local needs or reflect local characteristics in terms of population profile and existing provision. Where standards are being applied, they tend to be used as aspirational standards or to measure deficiency in existing provision. It is also generally considered that current standards are not achievable within existing highly urbanised areas and at a time when emphasis is being placed on the promotion of higher density residential and mixed use development schemes. However, it is recognised that standards are useful as benchmarks against which progress can be evaluated and as planning tools"</i> .	That the NPFA open space standards are inappropriate for use in the London context and should be replaced.	The NPFA is a national standard, and as such can and should be applied nationally. However, the Council is currently undertaking an Open Space Assessment in support of the LDF. This will include Borough specific standards for open space requirements. The Council intends to include such standards in any future review of the SPD.	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>Given the above, we consider the quoted standard in the Council's draft SPD is of a limited practical use in the context of development in London, where a 'standard' rate applicable to the whole of the UK is being applied. We would welcome the opportunity afforded through the SPD to have the opportunity for off-site provision to be made.</p>			
	<p>Local and Community Facilities and Services On site provision made and secured through planning applications must reduce pro-rata the requirement for any contributions to be made to meet any need arising from a development. In addition, where community facilities are provided in close proximity to a site, then the need to provide a contribution for further facilities must be fully demonstrated by the Council.</p>	<p>Where obligations are met by the developer then the financial contributions for such service areas should be reduced at a pro-rata level. In addition, contributions should only be provided where a need arising from the development in the principle catchment area of local schools serving the site is demonstrated.</p>	<p>As stated in paragraph 3.21, where the developer makes appropriate provision on-site, the level of contribution required will be reduced or waived. Paragraph 3.20 also reiterates the presumption in favour of planning obligations being provided 'in-kind' and 'on-site'.</p> <p>The Council has established forward programmes for investment within each service area, including community facilities and services. Such programmes meet the requirement upon the Council to demonstrate the need for such provision. As provided for in paragraph B22 of Circular 05/2005, where there is spare capacity in existing provision, this should not be credited to earlier developers.</p>	<p>None</p>
	<p>Professional, Legal and Monitoring Fees For major applications, a substantial fee is frequently paid. A Section 106 agreement is frequently a 'normal' cost associated with the approval of a major application and as such, the negotiation of a Section 106 agreement is part of the 'normal' costs incurred by the LPA in dealing with such applications. Indeed, the Council's own advice notes</p>	<p>That the costs associated with preparing a section 106 planning agreement is a 'normal' cost associated with</p>	<p>It is clear that the reasonable costs incurred by the Council in association with processing a development application, should be met by the applicant. The Council has therefore set out its fee rates applicable to various tasks. These include the costs associated with providing pre-application discussions, the cost of processing the application,</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	on Major applications advises that such agreements will form part of major applications in such cases. As such, the presumption that the applicant should pay all such fees, for a negotiation on Section 106 Agreements is not agreed with and should not be the starting point for any contributions to such costs by an applicant for planning permission.	processing a major application and should not be subject to additional fee requirements.	and the costs of preparing the section 106 planning agreements. It is necessary that these costs be identified as individual costs as each application has different requirements.	
	Any monitoring fee should be limited to the reasonable monitoring required for the development. However, in many cases, Section 106 Agreements can be self-monitoring. The Council's own monitoring and reporting of Section 106 Agreements to various Committees is determined by the Council and is not a cost that should be borne by the applicant. No explanation behind the potentially huge 6% of total costs associated with contributions is given. This is considered excessive. The SPD also does not explain what 6% of costs are. For example, is it 6% of total Section 106 costs, such as affordable housing or on-site community facilities or is it 6% of any financial contributions only?	Requires clarification of the 6% monitoring cost figure.	The 6% monitoring costs has been derived based on an estimate of the staff cost of monitoring the total revenue expected by way of financial or in kind contributions. While based on the financial contribution portion of an agreement, the 6% figure also accounts for those reasonable costs incurred in monitoring compliance of non-financial obligations. But does not however, cover the cost associated with monitoring obligations in respect of affordable housing provision or to pay for reporting of monitoring to Council committees. The use of a percentage rather than a fixed fee is preferred, as this more accurately reflects the magnitude of the obligations included within an agreement.	Delete the third bullet point in paragraph 1.6 of Annex H. Replace the second sentence in paragraph 1.15 of Annex H with the following: <i>"The cost will be 6% of the total cost of the financial or in kind contributions payable by the applicant in respect of the section 106 planning agreement. The 6% monitoring costs is an estimate of the staff costs of monitoring the total revenue expected by way of financial or in kind contributions and those reasonable costs incurred in monitoring compliance of non-financial obligations, excluding monitoring obligations in respect of affordable housing provision, where such cost will be met by the RSL, the applicant and the Council as they are incurred. The cost of reporting the findings of monitoring to the Planning Control Committee will be met entirely by the Council."</i>
RES9	2.12 - Changes to the Mayor of London's Powers - This	Update the SPD to	The Council agrees that the SPD should set out the	That paragraph 2.12 be deleted and

Comments	Action suggested by Consultee	Response	Proposed Changes
section will need to be updated before adoption.	reflect the changes to the Mayor of London's powers	new requirements of referable applications in respect of any section 106 planning agreement.	<p>replaced with the following text and footnote:</p> <p><i>"The Town and Country Planning (Mayor of London) Order 2008 sets out the powers that the Mayor has in relation to planning decisions in London. The Order states that the Mayor's powers extend to direct approval as well as refusal of certain strategic applications and to act as 'lead' negotiator in any section 106 planning agreements.</i></p> <p><i>The Mayor expects referable planning applications (1) to be accompanied by a statement, where a Borough Council is inclined to grant permission, outlining any conditions the Council is seeking to impose and, as applicable, a draft of any planning obligations the Council proposes to enter into and the details of any proposed planning contributions."</i></p> <p>Footnote: <i>"(1) Referral criteria for strategic planning applications are contained in Statutory Instrument 2008 No. 580 of the Town and Country Planning (Mayor of London) Order 2008, and include developments comprising more than 150 dwellings or occupying more than 10 hectares; consisting of more than 15,000m² outside central London; buildings more than 30m</i></p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
				<i>high outside central London; and alterations to an existing building to increase its height by 15m where the completed building would exceed 30m in height."</i>
	This comment also applies to paragraph 2.16 on your draft Sustainable Community Strategy	Update the SPD to reflect the adoption of the Sustainable Community Plan.	Agree	Delete reference to the Community Strategy – Our Vision for Bexley 2003-2013 at paragraph 2.15. Update, as appropriate, paragraphs 2.16 to 2.18 to reflect that the Sustainable Community Strategy has now been adopted.
	2.14 - It would be helpful to the reader to explain what you mean by 'saved policies'.	Provide an explanation of what is meant by 'saved policies'.	An explanation of 'saved policies' is already provided in the addendum to the UDP, it is unnecessary to repeat this again within the SPD.	None
	3.18 Planning Obligations calculator - Will you be adding a link to the website where this can be found?	That a web link be provided to the planning obligations calculator, in the final on-line version of the SPD.	For easy of access, a web link will be provided in the adopted SPD, that is made available on the Council's webpage, to the other relevant documents also provided on the Council's website.	A web link will be provided in the adopted SPD, to be made available on the Council's webpage, to the other relevant documents also provided on the Council's website.
	4.9 - We suggest that you explain what is meant by a 'unilateral undertaking' or provide a cross reference as to where this can be found.	Provide an explanation of what is meant by a 'unilateral undertaking' or provide a cross reference as to where this can be found.	The Council agrees that the SPD should provide an explanation or definition of a 'unilateral undertaking'.	Insert a footnote to the reference to 'unilateral undertakings' at paragraph 1.3, which states: <i>"A unilateral undertaking is where planning obligations are offered by the applicant, and accepted by the Council, but without the need for a formal agreement between the parties."</i>
	Figure 4.1 - To aid those that are not too familiar with the	Provide an	There is sufficient information already provided	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	planning system it would be helpful to explain what an 'LDF' is.	explanation of what an 'LDF' is.	elsewhere on the LDF, so there is no need to repeat this again in the SPD. As with all Council documents, relevant contact details will be provided on the back cover of the SPD, which will assist those wanting to understand the LDF and the plan making process, with knowing where such information can be obtained.	
	4.27 - We suggest that you clarify what 'open book' means.	Provide an explanation of what 'open book' means	The Council agrees that the SPD should provide a definition of an 'open book' appraisal.	Insert in the following footnote after 'open book' at paragraph 4.27: <i>"An open book appraisal means providing the valuations undertaken to show the likely cost and value of the proposed development. Where necessary, the Council may agree that the appraisal is reviewed in confidence by a nominated third party valuer."</i>
	Annex A - H (general comments): The second paragraph of each Annex refers to 'qualifying developments'. You may want to add a cross reference here to the 'Development for which contributions will be sort' section which is further on in the annex.	Cross reference 'qualifying developments' with 'Development for which contributions will be sought ' in each of the annexes.	Disagree. It is evident that the two terms mean the same thing.	None
	Annex A - H (general comments): We welcome the inclusion of the text detailing London Plan and your UDP policies.	None	None	None
	Annex A - H (general comments): Paragraph 1.20 refers to a financial contribution 'in-lieu' of an element of affordable housing. How will this be calculated?	Provide an explanation of how financial contribution 'in-lieu' of an element of affordable	Such matters are already included in the Council's Affordable Housing SPD.	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
		housing will be calculated.		
	Annex B - Paragraph 1.21 refers to 'LIP'. It would be helpful to explain what this is.	Provide an explanation of what the LIP is.	For clarity, the SPD should provide a brief explanation of the LIP.	Insert in Annex B, paragraph 1.12 the following footnote at the end of bullet point one: <i>"The LIP is a statutory document required to be prepared by each London borough under the Greater London Authority Act 1999. Its purpose is to put forward the policy context and proposals of the borough for the implementation of the Mayor of London's Transport Strategy (MTS) in its area. In essence, it is a five-year plan for the improvement, enhancement and maintenance of a sustainable transport system in the Borough."</i>
	Annex B - In paragraph 1.27 what is meant by 'adoptable standard'?	Provide an explanation of what is meant by 'adoptable standard'.	'Adoptable standard' in the context of this paragraph means the construction standards applicable to any works undertaken on the street.	Insert the word 'construction' after the term adoptable in paragraph 1.27 of Annex B.
RES10	The Theatres Trust is The National Advisory Public Body for Theatres. The Town & Country Planning (General Development Procedure) Order 1995, Article 10, Para (v) requires the Trust to be consulted on planning applications which include ' <i>development involving any land on which there is a theatre.</i> ' It was established by The Theatres Trust Act 1976 ' <i>to promote the better protection of theatres</i> '. This applies to all theatre buildings, old and new, in current use, in other uses, or disused. It also includes buildings or structures that have been converted	That the SPD be amended to include reference to arts and cultural facilities as being appropriate for planning obligations.	Planning obligations could potentially be used to secure appropriate provision of arts and cultural facilities but not in the terms outlined by the Theatre Trust in their representation. Where a proposed development might adversely impact on or result in the loss of an existing arts or cultural facility, an obligation could be sought, in respect of that particular planning application, to ensure such use was either safeguarded or replacement provision provided. Such provision is provided for in	Insert specific reference to arts and cultural provision in paragraph 3.3 as an example of an additional obligation that could be sought in relation to individual applications.

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>to theatre, circus buildings and performing art centres. Our main objective is to safeguard theatre use, or the potential for such use, but we also provide expert advice on design, conservation, property and planning matters to theatre operators, local authorities and official bodies.</p> <p>Due to the specific nature of the Trust's remit we are concerned with the protection and promotion of theatres and therefore anticipate matters relating to cultural facilities.</p> <p>On page 9 at 2.15 one of the aims of your Community Strategy is quoted as <i>developing leisure, arts and cultural opportunities across Bexley</i>.</p> <p>On page 11 at 3.2 there is a list of items requiring planning obligations which includes leisure but not the arts and culture. For clarity please include arts and cultural facilities.</p> <p>We have looked within Annexes F and G but there is no mention of arts or cultural facilities being included as a leisure or community facility and we suggest that the word 'cultural' is included at 1.4 on page F1 within Sports, Leisure and Cultural Facilities.</p> <p>Planning obligations are important to assist theatre owners in becoming more self-reliant and to obtain better buildings by using the planning system and working with the private sector. We are concerned that theatre buildings do not benefit appropriately under the terms of S106 and other agreements, and that it will increasingly be necessary to unlock new sources of funding to help pay for significant improvements to them.</p>		<p>paragraph 3.3 of the SPD.</p> <p>The Council may be in a position to review this situation through the LDF and any future arrangements if the Community Infrastructure Levy is implemented by the Council or any standard charge is later imposed. Under such arrangements it would be necessary for the Council to assess the arts and cultural provision required to match the needs of the community over the plan period and take account of other funding streams available to meet a programme of investment.</p>	

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>The London Plan states at 3.235 that ‘Cultural facilities such as local theatres, tourist attractions and libraries are vitally important to all London’s town centres and central London. They are particularly valuable as a means of engaging younger people in wider community activity. ... New cultural provision of local and sub-regional importance should be developed in town centres and the Thames Gateway for residents and to create new tourist attractions away from central London. They should be integrated with wider town centre renewal proposals, especially those to rejuvenate suburban centres.</p>			
RES11	<p>English Heritage is disappointed that the historic environment is not included in the types of planning obligations that will be sought by LB of Bexley in the draft SPD and that it is not referenced in the definition of any of the other potentially related planning obligations. How this relates to the analysis carried out in the sustainability appraisal is not clear and we would urge LB of Bexley to review this before the final SPD is produced.</p> <p>Planning obligations in relation to the historic environment are a valuable and widely used tool to ensure development proposals are acceptable in planning policy terms. The outcome of these planning obligations should be to ensure the proposed development protects and enhances the historic environment, helping achieve genuinely sustainable development, as set out in Planning Policy Statement 1 paragraph 5. Where appropriate, types of contribution can include; repair, restoration or maintenance of a heritage asset(s) and their setting; increased public access and improved signage to and from heritage assets; interpretation panels/ historical</p>	<p>That the SPD be amended to include reference to the historic environment as being appropriate for planning obligations.</p>	<p>Where a proposed development might adversely impact on an identified heritage asset or the setting of an historic environment, appropriate planning obligations might be sought, in the forms outlined in the representation, to ensure the values or features of the historic environment are appropriately managed. Such provision is provided for in paragraph 3.3 of the SPD.</p>	<p>Insert specific reference to the historic environment in paragraph 3.3 as an example of an additional obligation that could be sought in relation to individual applications.</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>information and public open days; production and implementation of up-to-date Conservation Area management plans and appraisals; measures for preservation or investigation and recovery of archaeological remains and sites; display of archaeological sites and dissemination of information for public/ school education and research; and sustainability improvements (such as loft insulation) for historic buildings. This list is by no means exhaustive but provides an indication of the type of planning obligations that are used and could be incorporated in this SPD.</p> <p>Potential beneficiaries of historic environment planning obligations could include heritage assets currently at risk from neglect, decay, under-use or redundancy. Each year English Heritage publishes a <i>Register of Buildings at Risk in London</i>, which comprises information on all Listed Buildings and Scheduled Ancient Monuments that are vulnerable due to disrepair (www.english-heritage.org.uk/BAR). There are a number of examples in the LB of Bexley (which you have already identified in the SA for this SPD). English Heritage will be launching a 'Heritage Assets at Risk' initiative this year, which will include historic Parks and Gardens, as well as Conservation Areas.</p>			
	<p>Contributions to the historic environment can also be signposted in the other types of planning obligation included in the SPD in paragraph 3.2 which includes access, public realm, education, open space and leisure facility planning obligations. For example English Heritage would expect potential contributions towards public realm obligations to include enhancement of historic squares and spaces, registered parks and gardens,</p>	<p>That the definition of access, public realm, education, and open space and leisure facilities be expanded to include the historic</p>	<p>The Council does not think that it is appropriate to extend the definition of access, public realm, education, and open space and leisure facilities to include the historic environment. Obligations towards these service areas are calculated based upon the capital cost of provision. Funds collected in respect of each of these services area should therefore be spent on the capital costs of providing</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	historic pavement materials, street furniture, removal of street clutter and installation of sympathetic lighting etc.	environment.	these services. However, it is anticipated that the provision of such services will necessarily need to take account of any historic environmental considerations in their design.	
	<p>Conclusion</p> <p>Finally, English Heritage would strongly advise that the local authority's conservation staff are involved throughout the preparation and implementation of the LDF, as they are often best placed to advise on: local historic environment issues and priorities, sources of data; and consideration of options relating to the historic environment.</p> <p>This advice is based on the information provided by you and for the avoidance of doubt does not affect our obligation to advise you on, and potentially object to any specific development proposal which may subsequently arise from this or later versions of the Draft Planning Obligations SPD and its sustainability appraisal, and which may have adverse effects on the historic environment.</p>	That the local authority's conservation staff are involved throughout the preparation and implementation of the LDF.	Whilst outside the scope of the Planning Obligations Guidance SPD, the Council would like to assure the respondent that their conservation staffs are fully engaged in the formulation and implementation of the Council's LDF as well as in the consideration of planning applications that relate to or have potential to impact on the historic environment.	None
RES12	The HA, on behalf of the Secretary of State for Transport, is responsible for managing and operating a safe and efficient Strategic Road Network (SRN) (i.e. the Trunk Road and Motorway Network) in England as laid down in the Department for Transport (DfT) Circular 02/2007 (Planning and the Strategic Road Network). In the case of Bexley, this relates to the M25 Junctions 1a to 3, which are approximately 7 miles from Bexleyheath Town Centre, and the A2 east of the Bexley's Borough boundary. It should be noted that all of these roads and junctions are currently operating at a high level of stress.	It should be noted that all of the SRN and junctions, in the case of Bexley, are currently operating at a high level of stress.	Noted. The Council is also aware that the A20 trunk road runs east to west along the south boundary of Bexley and that development within this area may impact on junctions 4 and 5 of the M25.	None
	Relative Priorities	In order to ensure	As set out in paragraph 3.20 there is a presumption	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>The HA welcomes Bexley Council's view that transport and access be considered a high priority when establishing planning obligations. In order to ensure that the SPD complies with the objectives of PPG13, it is recommended that improvements to sustainable transport should be a particular focus for developer contributions.</p>	<p>that the SPD complies with the objectives of PPG13, it is recommended that improvements to sustainable transport should be a particular focus for developer contributions.</p>	<p>in favour of planning obligations being provided 'in-kind' and 'on-site'. Where such obligations relate to transport, the provision requirement will necessarily relate to the mitigation of impacts arising from the development but will of course take account of planning policy and the priority to securing sustainable forms of transport provision, where possible and appropriate. Where contributions are received towards transport services, such contributions will go towards funding the schemes set out in the LIP, which includes public transport, walking, cycling and other sustainable transport initiatives.</p>	
	<p>Basis for Calculation of Contributions The HA is supportive of proposals in paragraph 3.17 to acquire contributions from mixed use developments which while not resulting in a net increase in floorspace still lead to the intensification of uses. It is recommended that the Borough should seek to clarify this point further and hence secure contributions from mixed use developments which incorporate several land use types below the thresholds in Table 3.1. This would help to ensure the cumulative impacts of such developments are adequately mitigated.</p>	<p>That paragraph 3.17 clarify that mixed use development, the elements of which are individually below the thresholds set out in Table 3.1, may cumulatively result in impacts that require management, and therefore should be subject to the requirements of the SPD.</p>	<p>The Council agrees that this potential issue needs to be addressed in the SPD.</p>	<p>Insert the following as a new paragraph to follow on from paragraph 3.17: <i>"Where one or all of the individual land uses that make up a mixed use development are below the thresholds set out in Table 3.1, the Council may still require obligations to be secured to manage any cumulative impacts arising as a result of the development. In such circumstances, planning obligations will need to be negotiated on a case by case basis, taking account of the requirements of this SPD where appropriate."</i></p>
	<p>Pooled Contributions It is noted that paragraph 3.25 of the SPD promotes the pooling of contributions where the combined impact of a</p>	<p>Following the adoption of the LDF, it is</p>	<p>As stated in paragraph 5.2, a key trigger for the review of the SPD will be the adoption of emerging LDF documents. The Council will, at that time,</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>number of developments will create a demand for infrastructure. The Highways Agency welcomes this approach which is in line with guidance set out in the DfT Circular 02/2007.</p> <p>In addition we would direct you to paragraph 5.12 of the DfT's Guidance on Transport Assessment which states that the cumulative impacts of all developments in an area should be reviewed at both the LDF and the Planning Application stage. It is recommended that a Borough-wide evaluation of transport impacts should be produced in support of the LDF which should identify the impacts of all planned development on the strategic road network (SRN). This will help to identify the most appropriate mitigation measures to reduce impacts on the SRN and to reduce dependence on the private car. Following identification of transport improvements and the adoption of the LDF, it is recommended that the SPD (in particular Table B1 of Annex B) is updated to reference these transport improvements / mitigation measures. Pooled contributions should then be directed towards the measures proposed by this evaluation. This would ensure that contributions can be directed towards transport improvements that will best mitigate the cumulative impact of developments in the area.</p> <p>It is recommended that LDF policy should set out the need for developers to produce Cumulative Transport Assessments. These assessments should identify schemes to effectively mitigate the combined impacts of all developments coming forward in that area. Such an approach would also be in line with paragraph 5.12 of DfT Circular 02/2007.</p>	<p>recommended that the SPD (in particular Table B1 of Annex B) is updated to reference the transport improvements or requirements needed to support the implementation and delivery of the Core Strategy.</p>	<p>update the SPD to take account of the LDF policies and any assessments undertaken in support of those policies.</p>	
	<p>With regard to the pooling of contributions for improvements to the SRN, it is recommended that</p>	<p>That a joint fund would have to</p>	<p>As stated in paragraph 5.2, a key trigger for the review of the SPD will be the adoption of emerging</p>	<p>None</p>

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	<p>improvements to the SRN should only be considered following a full review of sustainable alternatives. This would be in line with national guidance set out in paragraph 8 of DfT Circular 02/2007. However should such improvements to the SRN be required, the HA will also seek to facilitate mechanisms to collect and distribute payments for the measures needed. As mentioned in our response to the LDF Core Strategy preferred options, the HA would not expect to be 'purse holder' and for legal reasons cannot be a party to agreements under Section 106 of the Town and Country Planning Act 1990. A joint fund would have to reimburse the HA using Section 278 of the Highways Act 1980 for any measures on the trunk road and motorway and network.</p>	<p>reimburse the HA using Section 278 of the Highways Act 1980 for any measures on the trunk road and motorway and network.</p>	<p>LDF documents. The Council will, at that time, update the SPD to take account of the LDF policies and any assessments, including a detailed assessment of the overall transport needs required to match development over the plan period. It will be possible at that time to disaggregate local transport needs, to be reflected in the LIP, and strategic transport needs, for which TfL and the HA will be responsible for delivery. Contributions received could at that stage be pooled towards the proportional costs of both local and strategic transport infrastructure, and provided to the end service provider on that basis.</p>	
	<p>Overall Procedure for Agreeing Planning Obligations Parallel to Consideration of Planning Applications Paragraph 4.7 notes that appropriate consultation will be undertaken in relation to the proposed development. For strategic applications the SPD states that this will include the Greater London Authority, Transport for London and the London Development Agency. Given that the Highways Agency is the highway authority for the A2 trunk road immediately east of Bexley's Borough boundary, it is essential that we are consulted on applications that are considered to have the potential to impact the trunk road network. This is in line with paragraph 26 of the DfT Circular 02/2007. It is therefore recommended that the Highways Agency be named as a consultee in this SPD to ensure that the transport implications associated with new developments are mitigated as far as possible from the outset.</p>	<p>That the Highways Agency be named as a consultee in this SPD.</p>	<p>The Council's procedures and standards for consultation on planning applications is set out in its Statement of Community Involvement December 2006, which acknowledges the Highways Agency as a statutory consultee to be formally consulted on major and other planning applications. It is not necessary to repeat that requirement again in this SPD.</p>	<p>None</p>
	<p>Timing of Payments The HA welcomes proposals to require payment (in full)</p>	<p>That paragraph 3.27 is re-worded</p>	<p>The Council agrees that the wording in paragraph 3.27 should be stronger. As stated in paragraph 2.6,</p>	<p>Replace the term 'may' with 'will' in paragraph 3.27.</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>of contributions prior to the commencement of development, as set out in 4.22 and 4.23. In addition it is essential that the measures required to mitigate the transport impacts of a development on the SRN are delivered prior to the occupation of the development. To this end the HA is supportive of the proposal in paragraph 3.26 to enable contributions to be pooled to enable infrastructure to be delivered when required. Paragraph 3.27 highlights that in some instances infrastructure will be provided in advance by the London Borough of Bexley or by relevant service providers. Where this does occur it is essential that developers continue to contribute to the costs of mitigation measures, and therefore it is suggested that paragraph 3.27 is re-worded to state:</p> <p><i>"...developers will be required to contribute to the relevant proportion of those costs."</i></p> <p>In instances where this approach is impractical, it is recommended that the SPD should specify that planning conditions will continue to be required to ensure that transport mitigation measures are delivered prior to the occupation of new developments. This will ensure that development is phased appropriately with transport improvements to ensure that the SPD is in line with PPG13.</p>	<p>to state:</p> <p><i>"...developers will be required to contribute to the relevant proportion of those costs"</i> and where this is impracticable, that the SPD specify that planning conditions will continue to be required to ensure that transport mitigation measures are delivered prior to the occupation of new developments.</p>	<p>the use of a planning condition is always preferable. Where the Highways Agency considers a condition should be sought to ensure necessary transport improvements take place prior to the occupation of new developments, it should include such a recommendation in its response to its assessment of an individual planning application, in accordance with its role as a statutory consultee.</p>	
	<p>Section 5 – Review and Monitoring of the SPD</p> <p>The HA welcomes proposals to regularly review the SPD. It is strongly recommended that the SPD should be reviewed near the time of adoption of the LDF Core Strategy. This will help to ensure that sufficient monies are acquired to enable the delivery of the transport improvements required to support development in the LDF.</p>	<p>It is strongly recommended that the SPD should be reviewed near the time of adoption of the LDF Core Strategy.</p>	<p>As stated in paragraph 5.2, a key trigger for the review of the SPD will be the adoption of emerging LDF documents. The Council will, at that time, update the SPD to take account of the LDF policies and any assessments undertaken in support of those policies.</p>	<p>None</p>
	<p>Annex B</p>	<p>It is recommended</p>	<p>The Council agrees with the recommendation.</p>	<p>Insert the following bullet point in</p>

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	<p>Further requirements for Transport Contributions</p> <p>It is noted that the production of Travel Plans has not been identified as a requirement within the SPD. The production of a comprehensive Travel Plan should be a requirement from all developments exceeding the thresholds set out in TfL Guidance on Workplace Travel Planning and TfL Guidance on Residential Travel Planning. It is recommended that all Travel Plans should be produced in line with the appropriate TfL Guidance and should include targets, enforcement mechanisms, details of monitoring arrangements, details of funding streams and details of remedial action plans should Travel Plan targets not be met. It is therefore recommended that the following bullet point is added to paragraph 1.10 of the SPD.</p> <p><i>“Ensure Travel Plans are produced in line with TfL Guidance on Workplace Travel Planning and Residential Travel Planning by all developments exceeding the thresholds set out in London Plan Policy 3C.2.”</i></p> <p>It is noted that paragraph 1.10 also states that where appropriate, site specific obligations may be sought over and above the contributions required by the formulae in Annex B. The Highways Agency welcomes this approach. This will help to ensure that in instances where a development is likely to have a significant impact on the SRN, sufficient funds will be contributed to adequately mitigate this impact.</p>	<p>that the following bullet point is added to paragraph 1.10 of the SPD.</p> <p><i>“Ensure Travel Plans are produced in line with TfL Guidance on Workplace Travel Planning and Residential Travel Planning by all developments exceeding the thresholds set out in London Plan Policy 3C.2.”</i></p>		<p>paragraph 1.10 of Annex B: <i>“Ensure Travel Plans are produced in line with TfL Guidance on Workplace Travel Planning and Residential Travel Planning by all developments exceeding the thresholds set out in London Plan Policy 3C.2.”</i></p> <p>Insert footer at paragraph 1.10 of Annex B to provide the thresholds set out in London Plan Policy 3C.2.</p>
	<p>Investment Programmes, Action Plans and Strategies in the Borough</p> <p>It is noted that Table B1 of Annex B sets out the planned transport improvement for the London Borough of Bexley, and the likely total cost of implementation. The HA welcomes the inclusion of this information in the SPD and is supportive of the proposed improvements to public</p>	<p>Following the adoption of the LDF, it is recommended that the SPD (in particular Table B1 of Annex B) is</p>	<p>As stated in paragraph 5.2, a key trigger for the review of the SPD will be the adoption of emerging LDF documents. The Council will, at that time, update the SPD to take account of the LDF policies and any assessments undertaken in support of those policies.</p>	<p>None</p>

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	transport. The HA also welcomes the adoption of standard charges based on the total money required to deliver these improvements. This will help to ensure there is no shortfall in the money required to fund transport improvements. However, as noted, it is recommended that the SPD should be updated in due course to incorporate details of the transport improvements required to support development in the LDF. It is essential that sufficient funding is secured to enable the delivery of all LDF proposals.	updated to reference the transport improvements or requirements needed to support the implementation and delivery of the Core Strategy.		
	Development for which contributions will be sought It is noted that paragraph 1.15 states that transport contributions will be sought from “ <i>All applications which include the creation of 500m² or more additional floorspace in Town Centre uses; and ...All applications which include the creation of 500m² or more additional floorspace in other business uses</i> ”. Following this, it is not clear whether retail developments outside of the town centre will be required to contribute. In order to avoid ambiguity, it is recommended that further guidance is give on contributions that will be sought from non-town centre retail developments.	It is recommended that further guidance is give on contributions that will be sought from non-town centre retail developments.	Provision for retail development outside the town centres is no longer provided for by the UDP (as amended). Such development would therefore represent a departure from the plan and would be assessed in accordance with PPS6, the London Plan and the ‘saved’ policies of the UDP. It is therefore not appropriate to provide guidance within the SPD on the types of planning obligations that might be sought by the Council for such development.	None
RES13	National Policy The MPA are mindful that PPS1 states that Councils should prepare development plans which promote inclusive, healthy, safe, and crime free communities. Also Circular 05/05 paragraph B9 advises that developers may be expected to pay for or contribute to the cost of all, or part of additional infrastructure provision which would not have been necessary but for their development. Strategic Policy At the strategic level, paragraph 3.99 of the London Plan (consolidated with Alterations since 2004) states ‘ <i>initiatives</i>	That the needs of the MPA are reflected within the SPD.	Contributions need to be based on the known requirement. At this point in time the requirement for policing facilities in Bexley remains unknown. This situation may change as the emerging policy of the LDF firms up and further consultation is undertaken with the MPA. As stated in paragraph 5.2, a key trigger for the review of the SPD will be the adoption of these LDF documents. The Council will, at that time, update the SPD to take account of the LDF policies and any assessments undertaken in support of those policies.	None

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<p><i>relating to policing and community safety and crime reduction are seen as increasingly important in improving the quality of life for many Londoners'.</i></p> <p>Policy 3A.17 addressing the needs of London's diverse population states that the diverse population needs should be met through the general and specific policies relating to the provision of social infrastructure including 'policing facilities'. This policy has been altered from its original form (policy 3A.14) in the 2004 version of the plan to recognise that the provision of police facilities is defined as an element of social infrastructure.</p> <p>This is also reflected in Policy 3A.18 (formerly Policy 3A.15 in 2004 version) which states: 'Policies in DPDs should assess the need for social infrastructure and community facilities in their area, and ensure that they are capable of being met wherever possible. These needs include primary healthcare facilities, children's play and recreation facilities, services for young people, older people and disabled people, as well as libraries, sports and leisure facilities, open space, schools, nurseries and other childcare provision, training facilities, fire and policing facilities, community halls, meeting rooms, places of worship, public toilets, facilities for cyclists, convenience shops, banking facilities and post offices'. Policy 3A.18 further notes that development plan policies should seek to ensure that appropriate facilities are provided and that the net loss of such facilities must be resisted.</p> <p>Policy 3A.26 also highlights the importance of '<i>ensuring communities benefit from development including through Section 106 agreements</i>' and improving safety and security. The London Plan (Consolidated with Alterations since 2004) defines policing as a material consideration when assessing the impact of significant development upon policing and when formulating relevant development plan</p>			

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	policy. It is therefore appropriate to ensure that the needs of the MPA are reflected within the S106 SPD.			
	Annex G (Local Community Facilities and Services) of the SPD does not list 'policing facilities' as a community facility. The MPA recommend including policing in the definition of community facilities, as the London Plan (policy 3A.18) refers to policing in this way.	That planning obligations towards 'policing facilities' be included in Annex G, within the definition of community facility.	The Council does not think that this is appropriate to extend the definition of community facilities to include the policing facilities. Obligations towards these service areas are calculated based upon the capital cost of provision, for which the requirement for policing facilities is currently unknown. Nevertheless, obligations towards public realm improvements will necessarily address public safety and crime prevention, including provision for CCTV within town centres as part of the Town Centre investment programmes.	None
	Annex A of the SPD (Affordable Housing) does not refer to key workers within its affordable housing annex. A proportion of officers and civilian staff of the MPA are considered key workers. The MPA recommend that the term 'key worker' is included within this annex and their need for affordable housing.	That the term 'key worker' is included within the definition of affordable housing in Annex A.	The definition of affordable housing provided in this SPD is consistent with the definition provided in the Council's Affordable Housing SPD, adopted March 2006. It is not appropriate for an SPD on planning obligations to introduce a new definition of affordable housing.	None
	Having regard to the above the MPA request that the Property Services Department of the Metropolitan Police Department are formally consulted when any major planning applications are submitted to Council. The MPA are mindful; that significant development proposals could have direct implications for policing. A need for additional operational facilities can arise due to a range of development proposals, such as significant residential or mixed use proposals, and new or improved public transport interchanges. In response to this other London Borough's have agreed to consult the MPA on all planning applications concerning such significant development proposals. The MPA's suggested threshold for	That the MPA be formally consulted on strategic planning applications submitted to Council,	The Council's procedures and standards for consultation on planning applications is set out in its Statement of Community Involvement (SCI) December 2006, which acknowledges the Metropolitan Police Authority as a specific consultation body to be formally consulted on preparation of LDF documents and notified of relevant planning applications. It is not necessary to repeat that requirement again in this SPD nor to introduce additional consultation arrangements beyond those set out in the SCI.	None

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	<p>consultation on significant planning applications for Inner London Boroughs is:</p> <ul style="list-style-type: none"> • Over 200 residential units; • Over 10,000m² floorspace; or • Over 250 car parking spaces. <p>It would be helpful if the planning application consultation arrangements could be instigated as soon as possible.</p>			
RES14	We welcome the aim of the document which is to provide guidance, transparency and consistency in respect of the use of planning obligations.	None	None	None
	The SPD contains a number of Annexes which set out a range of planning obligations payments which proposed development may be required to pay. Rather than provide a detailed response on each annex, our client has requested that we provide a more strategic response to the document as a whole.	None	None	None
	Clearly, if the financial demands imposed on a development are too high, the development will not proceed.	The level of obligations sought should not prevent development proceeding.	As stated in paragraph 3.5, viability considerations have been taken into account in ensuring that, on average, development would be able to carry the obligations sought and still remain financially viable.	
	Given the current economic climate, it is undoubtedly the case that the financial viability of a number of development schemes will be more marginal than previously. This in turn will affect the ability to pay additional significant planning obligations. We would encourage the Borough Council to have full regard to market factors when considering the extent of planning obligations which will be imposed on any particular development.	That the Council have full regard to market factors when considering the extent of planning obligations imposed on any particular development.	Provision is made at paragraph 4.27 to enable the Council to take into consideration the viability of a proposed development where the applicant considers the extent of planning obligations would render the scheme financially unviable.	None
	We welcome the Borough Council's approach to planning	That the Council	Noted	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	obligations (in paragraphs 2.3 and 2.5) that individual applications will continue to be considered on their merits and that planning obligations must meet the five tests contained Circular guidance. However, we would urge the Borough Council to ensure that this approach is adopted in practice. Based on experience elsewhere, when a SPD on Planning Obligations has been adopted, a formulaic approach is then often applied to planning obligations regardless of other considerations.	take account of the provisions of the SPD when it is implemented in practice.		
	With regard to development in and around Thamesmead, you will be aware that there are substantial costs associated with the remediation of contaminated land; abnormal construction costs associated with ground conditions; and also significant infrastructure costs. In addition, you will be aware that the environmental and sustainability criteria which Tilfen are seeking to achieve at Thamesmead also have financial costs attached. We request that the Borough Council take these factors into account when considering the extent of planning obligations.	That the Council take account of exceptional costs associated with site remediation and any additional infrastructure requirements necessary to bring certain sites forward for development. Where appropriate environmental enhancements and higher build quality standards should also be acknowledged.	As set out in paragraph 3.2, the Council will consider each application on its merits, taking account of policy, guidance and any other material considerations. In addition, provision is made at paragraph 4.27 to enable the Council to take into consideration the viability of a proposed development where the applicant considers the extent of planning obligations would render the scheme financially unviable.	None
RES15	Review of the comments made in context of the Community Infrastructure Levy (section 2.7 of the draft SPD). Coherency is required, in particular explaining that CIL forms part of a wider package of funding for infrastructure to support housing and economic growth.	Update the statements on CIL in the SPD.	The Council agrees that the section dealing with Community Infrastructure Levy (CIL) needs to be amended to recognise that there remain significant matters on the operation of CIL, which will be addressed in the as yet unpublished Regulations.	Replace after 'Community Infrastructure Levy (CIL)' in the second sentence of paragraph 2.7 with the following: <i>"the purpose of which is to 'ensure that costs incurred in providing</i>

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<p>Further, authorities seeking to charge CIL will need to identify what infrastructure is needed and how much it will cost (including priorities and evaluation of what contribution each development should make to that cost). Reference to “charge paid in respect of land development in reliance of any land uplift value arising from the grant of planning permission” needs to be also reviewed in light of point 59 and 61 of the CIL document produced by CLG in January 2008.</p>		<p>The Council will consider full implications of CIL once the draft regulations are enacted. Draft regulation allow local authorities to determine whether CIL will be appropriate or not, they will not be a mandatory requirement according to the current draft regulations.</p>	<p><i>infrastructure to support the development of an area can be funded (wholly or partly) by owners or developers of land’.</i></p> <p><i>Planning authorities will apparently be given a discretionary power to implement CIL. The Department for Communities and Local Government (CLG) issued a Briefing Paper on CIL, in January 2008, which indicates the extent to which the Government has still to resolve the practical and technical issues in implementing CIL, including:</i></p> <ul style="list-style-type: none"> <i>• defining who among landowners and developers is liable to pay CIL;</i> <i>• the requirement that CIL will still be payable whether or not the land increases in value as a result of the development;</i> <i>• arrangements for deciding the amount of CIL to be levied locally, including having regard to the actual or expected costs of infrastructure or increases in value;</i> <i>• set out the basis on which CIL is or can be levied (eg per dwelling, per unit of floorspace);</i> <i>• ensuring that CIL collected is applied to funding</i>

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				<p><i>infrastructure;</i></p> <ul style="list-style-type: none"> <i>requiring charging authorities to prepare and publish a list of projects that are to be funded, wholly or partly by CIL; and</i> <i>arrangements for collecting, enforcing and applying CIL."</i>
	<p>Policy Context (2, p.8) refers to "Affordable housing and public transport improvements should generally be given the highest importance with priority also given to tackling climate change, learning and skills and health facilities and services and childcare provision." The list is not consistent with Table 3.1 in order of transport and access, affordable housing, education, and health.</p>	<p>That the list of priorities in Table 3.1 is not consistent with Policy 6A.4 of the London Plan (2008).</p>	<p>The Council is seeking obligations consistent with those service areas listed in the London Plan policy 6A.4 and has given the highest priority to affordable housing and transport, where viability concerns are raised. The only areas of inconsistency, as raised by the GLA, are in respect of the need for additional obligations towards tackling climate change and childcare facilities.</p>	<p>None</p>
	<p>In reference to 3.2, consideration of each application on its merits may not be compatible with a tariff base approach to S106.</p>	<p>The consideration of each application on its merits may not be compatible with a tariff base approach to S106.</p>	<p>The SPD is formulae based, consistent with paragraph B33 of Circular 05/2005, and is not a tariff or standard charge. As set out in paragraph 3.2, the Council will consider each application on its merits, taking account of policy, guidance and any other material considerations.</p>	<p>None</p>
	<p>There seems to be a contradiction or potential for confusion in context of points 3.8 to 3.10 (Relative priorities) where the document outlines that the Council expects to secure contributions towards planning obligations with a high priority as listed in Table 3.1 but in section 3.10 the document states that the Council will retain flexibility to negotiate priority.</p>	<p>Clarification is required between the allocation of priorities to each obligation and the provision giving flexibility to negotiate priority.</p>	<p>It is clearly stated, in paragraph 3.8, that priorities only apply in those circumstances where the applicant is able to demonstrate that the level of contribution sought would impact on the viability of the proposed development. While the Council will seek to secure obligations accorded with a high priority it still needs to retain a degree of flexibility in those obligations it might seek to ensure that the most significant impacts arising as a result of the development are managed, as well as to take account of site and local circumstance and needs.</p>	<p>None</p>
	<p>In Table 3.1 the threshold level is set at 5 dwellings and</p>	<p>The SPD needs to</p>	<p>In principle, the Council agrees with the comments</p>	<p>Insert at the end of paragraph 3.5</p>

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<p>above, the reason as to why needs to be explained. Considering the quantum of potential development in Bexley and size range (which is low) there is an inherent need to capture and maximise contributions from all developments. The accumulative effects overtime is also likely to have an impact on infrastructure provision later on. A per unit tariff pooling system may be preferable.</p>	<p>explain why the threshold level for residential development is set at 5 dwellings and above.</p>	<p>raised by the respondent. However, the Council considered a threshold of five units is appropriate based on financial testing, which demonstrated that smaller developments have higher unit construction costs, which means that, on average, these smaller developments would not be able to carry the level of contributions sought and remain viable. This threshold can be re-visited when the SPD is revised in light of LDF documents and new policy, legislation emerging. However, the SPD does need to clarify that Council will still continue to negotiate appropriate planning obligations where specific requirements arise as a result of individual applications for development below the relevant threshold.</p>	<p>the following: <i>"The fact that a development falls below the thresholds in Table 3.1 does not necessarily mean that such development would not be the subject of appropriate planning obligations needed to manage any specific requirements arising as a result of that development."</i></p>
<p>There is reference to a planning obligations calculator (3.18), the component variables underpinning the calculator needs to be detailed.</p>	<p>That the component variables underpinning the calculator need to be detailed.</p>	<p>The component variables used in the Planning Obligations Calculator are those set out in the formulae provided in each Annex.</p>	<p>None</p>
<p>A more in-depth explanation needs to be outlined in context of 3.21 regarding on-site services of facilities and level of contribution being reduced or waived. This could potentially prevent pooling of contributions.</p>	<p>Further explanation is required of off-setting the level of contribution where on-site services are provided.</p>	<p>The level to which contributions will be reduced or waived, where 'on-site' provision is to be made, will depend on whether the obligation is being met in part or wholly by the 'on-site' provision offered. As such it will need to be assessed on a case by case basis. It is therefore not possible to provide further detail. The Council does not consider that such provision could potentially prevent pooling. As set out in paragraphs 3.26, contributions are pooled where the proposed development does not justify the immediate provision of new infrastructure. This obviously does not apply where development</p>	<p>None</p>

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			warrants and can make the necessary provision 'on-site'.	
	In 3.23 "pump priming" is referred to in context of maintenance payments - this is incorrect, it is there to provide initial support of facilities (including revenue) until mainstream running costs is secured or established.	That the SPD not refer to 'pump priming' in the context of maintenance payments.	'Pump priming' is referred to in the context of maintenance payments because Circular 05/2005 also refers to 'pump priming' in the context of maintenance payments in paragraph B19.	None
	In sections 3.25 to 3.27 reference is made to pooled contributions - refer to the comment made in context of 3.2. Further with a threshold level of 5 plus dwellings, there is likely to be a cumulative deficit in infrastructure funding (from letting development under the threshold 'free ride'), how this can be covered through other potential forms of funding needs to be explained. There is also a need to review section 3.19 in context of cumulative development over time and provision of facilities provided in advance of development.	The SPD should clarify how the infrastructure required for development under the 5 dwelling threshold is to be funded, and the cumulative requirement of development on existing facilities and those provided in advance of development.	It is considered that development below the thresholds set out in Table 3.1, on average, would not be able to carry the level of contributions sought and remain viable. In addition, the Council receives only a few small residential developments (including conversions) each year. However, the SPD does need to clarify that Council will still continue to negotiate appropriate planning obligations where specific requirements arise as a result of individual applications for development below the relevant threshold. It should also be noted that, due to viability considerations, the levels of obligations sought by this SPD represent only a portion of the total cost of the service provision (e.g. the contribution sought towards transport represents approximately 5% of the total cost of implementing the transport schemes listed in the LIP). As necessary, any funding gap that results will still need to be met, in general, through the main stream funding sources.	Insert at the end of paragraph 3.5 the following: <i>"The fact that a development falls below the thresholds in Table 3.1 does not necessarily mean that such development would not be the subject of appropriate planning obligations needed to manage any specific requirements arising as a result of that development."</i>
	In 4.6, it is unlikely that Council officers for instance would know what type or level of health contribution is required, it is therefore important that input of other service providers including the PCT is sought at the pre-application rather than the application stage.	That input of other service providers including the PCT is sought at the pre-application	A key purpose of pre-application discussions with the Council is to advise applicants of those bodies with whom they should consult and to encourage applicants to undertake such consultation. Where appropriate, this would include the PCT. Such	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
		stage.	matters are already addressed in the Council's Statement of Community Involvement, December 2006.	
	In section 4, there is reference to external consultees, those entities such as the PCT that are critical service providers and part of the LSP and LAA should not be considered as being external in a borough context. They should be consulted at the pre-application rather than at application stage where they are likely to have reduced potential to input.	Those critical service providers, including the PCT, are included in pre-application consultation.	The Council can only encourage applicants to undertake pre-application discussions and consultation. Where an applicant does engage with the Council at the pre-application stage, the Council will encourage the applicant to also undertake pre-application consultation with service providers. Such matters are already addressed in the Council's Statement of Community Involvement, December 2006.	None
	In 4.17, reference needs to be made as to what type of application and when specifically the Mayor of London may intervene.	That reference is made to the types of application referable to the Mayor and when specifically the Mayor of London may intervene.	Reference to the types of development that are referable to the Mayor, will be set out in a footnote to the updated section on 'Changes to the Mayor of London's powers' at paragraph 2.12, which will also address the requirements of the Town and Country Planning (Mayor of London) Order 2007.	<p>That paragraph 2.12 be deleted and replaced with the following text and footnote:</p> <p><i>"The Town and Country Planning (Mayor of London) Order 2008 sets out the powers that the Mayor has in relation to planning decisions in London. The Order states that the Mayor's powers extend to direct approval as well as refusal of certain strategic applications and to act as 'lead' negotiator in any section 106 planning agreements.</i></p> <p><i>The Mayor expects referable planning applications (1) to be accompanied by a statement, where a Borough Council is inclined to grant permission, outlining any conditions the Council is seeking to impose and, as applicable, a draft of any planning obligations the Council proposes to enter into and</i></p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
				<p><i>the details of any proposed planning contributions."</i></p> <p>Footnote: <i>"(1) Referral criteria for strategic planning applications are contained in Statutory Instrument 2008 No. 580 of the Town and Country Planning (Mayor of London) Order 2008, and include developments comprising more than 150 dwellings or occupying more than 10 hectares; consisting of more than 15,000m² outside central London; buildings more than 30m high outside central London; and alterations to an existing building to increase its height by 15m where the completed building would exceed 30m in height."</i></p>
	<p>Within the flow-chart (Figure 4.2) the consultation stage (informal/formal) is missing.</p>	<p>That the consultation process be included in Figure 4.2.</p>	<p>Figure 4.2 is intended to deal only with the procedure for agreeing planning obligations. How planning applications are consulted on, and how representations are dealt with, is provided in the Council's Statement of Community Involvement, December 2006.</p>	<p>None</p>
	<p>In 4.23 regarding payment of contributions, there is reference to "full on commencement of development" what "full on" refers to needs to be explained.</p>	<p>"full on" referred to in paragraph 4.23 needs to be explained.</p>	<p>The reference is to contributions being made 'in full'. The Council agrees that this needs to be clarified.</p>	<p>Insert a comer after 'full' in paragraph 4.23.</p>
	<p>4.27 a criteria needs to be set in terms of assessment.</p>	<p>The SPD should set out the criteria for use in the assessment of a development's</p>	<p>There are numerous models in use by the development industry, so it is not appropriate to single out one model to be the standard for use in Bexley. However, the Council does require the model used to conform to the RICS 'Red Book'.</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
		viability.		
	In Annex E, the heading refers to “Health Services and Facilities”, instead it is preferable just to have health contributions – reference to services should be deleted.	Annex E should refer to ‘health contributions’ in preference to ‘health services and facilities’.	The Council considers that the current heading is appropriate.	None
	1.2 refers to health services and facility – it should instead refer to health contributions.	Paragraph 1.2 of Annex E should refer to ‘health contributions’ in preference to ‘health services and facilities’.	The Council considers that the current reference is appropriate.	None
	1.3 refers to “primary costs of healthcare”, reference to primary should be deleted.	Reference to ‘primary’ should be deleted in paragraph 1.3.	The Council considers that the current reference is appropriate.	None
	Again in 1.4, there is reference to services this should also be deleted.	Paragraph 1.4 of Annex E should refer to ‘health contributions’ in preference to ‘health services and facilities’.	The Council considers that the current reference is appropriate.	None
	In 1.5, revenue funding should be mentioned.	Revenue contributions should be mentioned in paragraph 1.5.	Revenue contributions is addressed at paragraph 1.16 of Annex E.	None
	In 1.6 instead of “demand for local health services” it should refer to “demand for healthcare provision”. Also existing provision in terms of space or service provision	Paragraph 1.6 of Annex E should refer to ‘demand	The Council considers that the current reference is appropriate and adequately covers the provision of both services and facilities for health care.	None

Comments	Action suggested by Consultee	Response	Proposed Changes
should ideally be outlined. Further, increased demand may not necessarily mean investment in healthcare facilities is automatically required.	for healthcare provision' in preference to 'demand for local health services', and should take account of provision of space or service not just facilities.		
As outlined in Policy 3A.18 of the London Plan (the statement reproduced in E2), policies in DPD should assess the need for social infrastructure.	Policies in DPD should assess the need for social infrastructure.	In accordance with PPS12, an SPD should not introduce policy. Such matters will however, be addressed in the LDF.	None
In 1.11, there is reference to "25 or additional bed spaces in context of hospitals, nursing homes and other residential care facilities" triggering the need for contributions, why the figure of 25 has been selected needs to be explained.	The SPD needs to explain why the threshold for residential care facilities is set at 25 or more bed spaces.	This was set to be broadly consistent with the threshold for free-standing dwellings. It is unlikely, for commercial reasons, that schemes below this size will be promoted.	None
1.12 refers to increase in the number of people over the age of 55 - there is a requirement to reference this. Provision for new facilities and services or enhanced capacity of existing facilities as outlined also needs to be referenced. Issues related to health capacity within the borough should be mentioned.	Provide a reference to support the statements in paragraph 1.12 of Annex E.	Noted, but the formula being used is based on the London-wide HUDU Model, which takes the demographic factors into account.	None
In context of 1.14 it is recommended that Council Officers communicate with Steve Town at Bexley PCT (Steve.Town@Bexley.nhs.uk) regarding proposed capital projects.	That the Council talks to Bexley PCT about the PCT investment delivery programme.	Noted	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	In 1.17 it refers to tenure breakdown, this should be outlined as well as its interrelationship with the 35% affordable housing figure.	The tenure breakdown and the relationship to the 35% affordable housing requirement should be outlined in the SPD.	The tenure breakdown and the relationship to the 35% affordable housing requirement, was used in the HUDU model, run for the London Borough of Bexley by the NHS London Healthy Urban Development Unit, the output of which are already provided in Annex E.	None
	1.19 states that the Council expects the developer to pay at minimum 10% of the revenue costs associated with running such facilities. Reason as to why 10% has been selected in particular for health and not others needs to be given (the PCT could legally challenge this if it is minded to). Rather than specifying 10% it would be more helpful to state that revenue funding will be negotiated. Seeking of revenue funding (for example up to three years in context of health) until mainstream funding is established is acceptable within the context of pump priming under circular 05/05.	That reference to the minimum 10% be removed in preference to revenue funding being negotiated on an application by application basis.	The purpose of the SPD is to provide certainty as to the potential level of obligation that the Council may seek in respect of individual planning application. It is therefore important that the SPD be specific about the revenue contribution that is likely to be sought in respect of healthcare provision. However, the Council does agree that the SPD should explain the reason why only a partial revenue contribution is being sought.	Insert at the end of paragraph 1.19 of Annex E: <i>"This level of contribution towards revenue costs was derived based on viability considerations and the need to secure obligations towards other service areas in addition to healthcare, to ensure new development in Bexley contributes to the creation of safe, sustainable, liveable and mixed communities in accordance with PPS1."</i>
	In 1.20 the worked example for instance outlines a contribution of £36,779 for 25 new dwellings, this works out at £1,471 per dwelling for health (for education Bexley is requesting £2,087.14). This is a significant decrease from the £4.144 per unit identified in Table E.1, 90% of the revenue cost required (a critical factor) is ignored. Effectively only 35% of healthcare cost requirement is considered, leaving a gap funding of 65% or the majority of the costs for health (this contrasts significantly with education where the full amount is requested by the Borough). HUDU have worked out from the London Development Database (covering dwelling mix, type and tenure input data from 2006/7 and gross housing completions) Bexley's	That the level of contribution sought towards healthcare provision amounts to only 35% of the healthcare cost requirement.	As stated in paragraph 3.5 of the SPD, viability consideration were considered in setting the level of obligations to be sought, to ensure that development within Bexley still remained viable. The Council considered that if the full cost of health care provision was sought (i.e. capital and revenue costs), that development would not be able to carry this level of contribution as well as that sought towards other service areas. In accordance with PPS1, and in general, the Council has sought to secure obligations towards a range of services and facilities that would ensure new development in Bexley supports and contributes to providing a safe, sustainable, liveable and mixed community.	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>housing target of 3450 from 2007/8 to 2016/17 should generate a total of £13,991,222 (capital and three year revenue costs) for health. This works out at £4,055 (combined) per new dwelling or £1,399,122 per annum contribution to health. Using the figure identified in 1.20 generates only £5,074,950 leaving a gap funding of £8,916,272 which is required to offset the impact of development on health.</p>			
	<p>LATE CORRESPONDENCE RECEIVED FROM HUDU Jabed Rahman dated 19 June 2008 14:54</p> <p>Explaining why revenue (limited) is important and giving examples of appeals where capital and revenue funding for health from developments have been accepted.</p>	<p>Level of revenue for health should be increased.</p>	<p>While the Council recognises that the PCT will experience some funding shortfall towards revenue costs over a three year period between funding allocations, it also recognises that this revenue funding shortfall is temporary and will be met in the subsequent funding allocation. It is the Council's intention that planning obligations should be sought to secure the provision of new or enhanced health service provision. As such the Council is seeking the total capital costs of healthcare provision, as set out in the HUDU assessment, and in recognition of there being a short-term funding gap, a 10% contribution towards revenue in recognition of the need for 'pump priming' <u>of these new or enhanced facilities.</u> Such an approach takes account of viability considerations and the need to secure obligations towards other essential infrastructure and services required to support new development."</p>	<p>None</p>
<p>RES16</p>	<p>In submitting our representations, we are particularly mindful of both Circular 05/2005 Planning Obligations, and the Government's planning policy commitments of ensuring delivery, whether it is:</p> <p>PPS1: Delivering Sustainable Development; PPS3: Housing - which introduces the concept of "deliverability";</p>	<p>Support use of net increase in dwelling / floorspace as the basis for the formulae.</p>	<p>None</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>PPS3 Sister Paper: Delivering Affordable Housing.</p> <p>A) Basis for Calculation of Contributions Table 3.1 of the Draft SPD indicates the range of planning obligations that will normally be sought for particular types and scales of developments. Paragraph 3.14 details that the basis of calculating the level of contributions to be sought are formulae based on a “per dwelling” basis (for residential development), taking into account any existing dwellings on the site. This is qualified by Paragraph 3.16, which sets out that the number of dwellings to be used in these calculations is the “net increase” – i.e. the contributions sought will only apply to the net increase in dwellings. Subject to our comments below (see Section B) on the relationship of the contributions sought with the availability of existing local facilities, the approach of basing the calculation on the net increase in houses as part of a development is supported. In particular, we feel that this recognises that on sites containing existing houses which will be subject to more intensive residential development, it is only those additional houses which could have an impact on existing services and facilities, and thereby require mitigation in the form of contributions.</p>			
	<p>B) Conformity with Circular 05/2005 Paragraph B5 of Circular 05/2005 (Planning Obligations) requires that planning obligations are only sought where they meet all of the following tests:</p> <p>(i) Relevant to planning; (ii) Necessary to make the proposed development acceptable in planning terms;</p>	<p>That the SPD should assess the existing facilities associated with transport, access, education, health, leisure, sport and local community</p>	<p>As set out in paragraph 3.19, the Council’s objective is to seek obligations required to accommodate the demand that new development will place on existing services and facilities. The Council has established forward programmes for investment within each service area. Such programmes meet the requirement upon the Council to demonstrate the need for additional provision within each of the</p>	<p>None</p>

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<p>(iii) Directly related to the proposed development; (iv) Fairly and reasonably related in scale and kind to the proposed development; (v) Reasonable in all other respects.</p> <p>We consider that the rigid application of “per dwelling/per business floorspace” formulae in the calculation of planning obligations will not always conform with the following tests:</p> <p>(ii) Necessary to make the proposed development acceptable in planning terms, and; (iii) Directly related to the proposed development; (iv) Fairly and reasonably related in scale and kind to the proposed development.</p> <p>In particular, Paragraph B8 of Circular 05/2005 states that: “Obligations must be so directly related to proposed developments that the development ought not to be permitted without them – for example, there should be a functional or geographical link between the development and the item being provided as part of the developer’s contribution.”</p> <p>The rigid application of a formulae based approach as calculated on a “per dwelling/per floorspace” basis does not accurately reflect the different sustainability characteristics and availability of existing local facilities between application sites. For example, if a site is located within an area where there were sufficient existing education (Annex C of the Draft SPD), health (Annex E) and local community facilities (Annex G) to accommodate the additional numbers of people associated with the increased level of housing, then it would not be relevant for contributions to be sought in relation to these matters</p>	<p>matters against the impact of a development for all proposals and that, contributions will only be sought where there is an identified deficiency in the level of provision, in accordance with Circular 05/2005. As such, the degree to which the formulae will be used as a basis for subsequent discussions with developers should be emphasised in the content of the Draft SPD.</p>	<p>service areas. In addition, the Council has set up internal account arrangements so that Section 106 monies are pooled by area code, and within each code, by service area. Where the Council deems a project benefits an area, the pooled funds for that service area will then be allocated to that particular project. This ensures that contributions arising from a development are spent on service provision related to the development. While the Council does consider the current approach to be robust, it also recognises that the SPD will benefit from the more detailed assessments of service and facility needs that will be undertaken in support of the LDF. As such, a key trigger for the review of the SPD will be the adoption of these LDF documents, at which time, the SPD will be update to take account of the LDF policies and any assessments undertaken in support of those policies.</p>	

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	<p>i.e. there are sufficient available facilities for planning permission to be granted without the need for obligations/contributions. Depending on the location, availability of local facilities and characteristics of a site, the level of contributions sought in regard to Transport, Access and Public Realm Improvements and Open Space, Sports and Leisure Facilities may also be lower than that calculated through the application of the formulae contained in the Draft SPD.</p> <p>As such, the rigid application of a per dwelling based formulae approach, which seeks the full raft of contributions as set out in Annexes A-H of the Draft SPD for all sites regardless of local characteristics, is contrary to Paragraph B9 of Circular 05/2005:</p> <p>“Planning obligations should not be used solely to resolve existing deficiencies in infrastructure provision or to secure contributions to the achievement of wider planning obligations that are not necessary to allow consent to be given for a particular development.”</p> <p>The SPD hints at a degree of flexibility in the levels of contributions sought on a site-by-site basis: Paragraph 3.10 sets out that the Council will retain the flexibility to negotiate the priority given to planning obligations, based on identified local needs. However, this is associated with cases where the financial viability of the delivery of a site is an issue. Paragraph 3.13 also states that the formula based approach will be used by the Council to calculate a required level of contribution “which will be used as the basis of negotiations” with developers.</p> <p>However, we consider that the SPD should be clearer in setting out that the Council should assess the existing facilities associated with transport, access, education, health, leisure, sport and local community matters against the impact of a development for all proposals, and that</p>			

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	contributions will only be sought where there is an identified deficiency in the level of provision, in accordance with Circular 05/2005. As such, the degree to which the formulae will be used as a basis for subsequent discussions with developers should be emphasised in the content of the Draft SPD.			
	<p>C) Viability</p> <p>Paragraph 3.8 of the Draft SPD recognises that in some cases, due to viability issues, the Council will not seek the full raft of obligations, but will give priority to those obligations necessary to manage the most significant impacts of the development. Such an approach is supported by our Client, as the scale of the full raft of financial contributions which would “normally be sought” (Paragraph 3.4) may impact on the overall deliverability of sites, and the overall quality of the development to be provided. If the level of contributions required is too high, the quality of design of residential developments, in particular, may be compromised in order to make the development financially viable.</p> <p>This would have the effect of countering the overall aims and objectives of PPS3, which seeks to achieve both the provision of high quality housing and bring about a step-change in the deliverability of housing.</p>	None	None	None
RES17	The SPD is generally supported, however, there are a number of changes that should be made: Paragraph 2.9 - The SPD should refer to the London Plan as “The London Plan – Spatial Development Strategy for Greater London (Consolidated with Alterations since 2004). Reference to the London Plan should be consistent throughout the document.	That the SPD should refer to the London Plan as “The London Plan – Spatial Development Strategy for Greater London (Consolidated with	The Council agrees with the respondent in part. Reference will be made to the London Plan as “The London Plan – Spatial Development Strategy for Greater London (Consolidated with Alterations since 2004) in paragraph 2.9 but will be referred to thereafter as the ‘London Plan (2008).	<p>Amend the first bullet point in paragraph 2.9 to state “The London Plan – Spatial Development Strategy for Greater London (Consolidated with Alterations since 2004), herein referred to as the London Plan (2008)”</p> <p>Update all other reference to the London Plan to state ‘London Plan (2008)’.</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
		Alterations since 2004).		
	Paragraph 2.12 - The SPD can confirm that the Mayor of London Order 2008 has now come into effect.	Update the SPD to reflect the changes to the Mayor of London's powers.	Agreed.	<p>That paragraph 2.12 be deleted and replaced with the following text and footnote:</p> <p><i>"The Town and Country Planning (Mayor of London) Order 2008 sets out the powers that the Mayor has in relation to planning decisions in London. The Order states that the Mayor's powers extend to direct approval as well as refusal of certain strategic applications and to act as 'lead' negotiator in any section 106 planning agreements.</i></p> <p><i>The Mayor expects referable planning applications (1) to be accompanied by a statement, where a Borough Council is inclined to grant permission, outlining any conditions the Council is seeking to impose and, as applicable, a draft of any planning obligations the Council proposes to enter into and the details of any proposed planning contributions."</i></p> <p>Footnote: <i>"(1) Referral criteria for strategic planning applications are contained in Statutory Instrument 2008 No. 580 of the Town and Country Planning (Mayor of London) Order 2008, and include developments comprising more than 150 dwellings or occupying more</i></p>

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				<i>than 10 hectares; consisting of more than 15,000m² outside central London; buildings more than 30m high outside central London; and alterations to an existing building to increase its height by 15m where the completed building would exceed 30m in height."</i>
	<p>Paragraph 3.2 – The Council should consider the employment space requirements for the Council, and the need for planning obligations to safeguard any intentions to address these needs, such as where a development proposes to provide incubator units, employment space for SMEs, or affordable employment space where suitable (where a development results in the loss of existing employment space, for example). Policy 3B.2 of the London Plan (2008) states that the Mayor will seek the provision of a variety of type, size and cost of office premises to meet the needs of all sectors, including small and medium sized enterprises. To be effective, the inclusion of safeguards with a section 106 agreement could include:</p> <ul style="list-style-type: none"> • a minimum floorspace to be used as studio workshops or commercial units • a maximum floorspace that can be leased to any one organisation/business • targeted marketing of units through local agents, Council website, Arts Council website for the creative industries sector, or other specialist press • capping of rental rates for a specified number of years • where affordable employment space is encouraged, provide for cascading rates of 	<p>The SPD should consider the employment space requirements for Bexley, and the need for planning obligations to safeguard any intentions to address these needs.</p>	<p>Contributions need to be based on known requirements. At this point in time the employment space needs for Bexley are unknown, especially in respect of required premises size or the need for affordable employment space. As part of the evidence base for the emerging LDF, the Council will prepare a Commercial Property and Employment Land Assessment. As stated in paragraph 5.2, a key trigger for the review of the SPD will be the adoption of these LDF documents. The Council will, at that time, update the SPD to take account of the LDF policies and any assessments undertaken in support of those policies.</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>affordable commercial rent over a specific period which provides for a percentage reduction of the identified market value. Affordability should also consider the service charges.</p> <p>A major issue for start ups and small businesses is the availability of affordable premises. This could be facilitated by developer subsidy through a mediator such as the Council, or capping of rents over a defined period.</p>			
	<p>Paragraph 3.4 – In accordance with Policy 6A.5 of the London Plan (2008), the Council is encouraged to consider a comprehensive list of planning obligations, rather than just those which trigger financial contributions. Safeguarding intentions to create space for SMEs and incubator units such as those for the creative industries, providing affordable employment space, as well as utilising goods and services from SMEs and local business, are examples of where planning obligations could apply, but may not necessarily trigger the need for financial contributions. It is important that such obligations are adequately justified through the SPD in order to assist applicants with understanding these requirements.</p>	<p>The Council is encouraged to consider a comprehensive list of planning obligations, rather than just those which trigger financial contributions.</p>	<p>As set out in paragraph 3.2, the Council will consider each application on its merits, taking account of policy, guidance and any other material considerations. While the purpose of the SPD is to provide clarity around the types of planning obligations typically sought, where necessary, the Council will need to seek specific obligations, not listed in the SPD, to appropriately manage the impact of a proposed development. Such provision is provided for in paragraph 3.3 of the SPD and would extend to the consideration of non-financial obligations, such as those mentioned by the respondent.</p>	<p>None</p>
	<p>Table 3.1 – The table of prioritised obligations partially reflects London Plan policy 6A.4 in listing affordable housing and transport/access as having the highest priority, as well as learning and skills and health facilities and services as additional priorities. However, several of the additional priorities set out in the London Plan, specifically those relating to tackling climate change or childcare provision are not reflected. The table should be revised to ensure all strategic priorities set out in the London Plan with regards to planning obligations are addressed and prioritised in the SPD.</p> <p>The range of contributions sought from certain uses is also</p>	<p>That Table 3.1 be revised to ensure all strategic priorities set out in the London Plan with regards to planning obligations are addressed and prioritised in the SPD.</p>	<p>Contributions need to be based on known requirements. At this point in time, the requirement for childcare facilities within Bexley is unknown. As part of the evidence base for the emerging LDF, the Council will consult widely on this and other requirements, which will then be reflected in LDF policy and any subsequent review of the Planning Obligations Guidance SPD.</p> <p>In addition, the Council considers that planning obligations towards sustainable transport and open space provision will contribute to tackling climate change. However, it is also acknowledged that</p>	<p>Insert specific reference to the need to tackle climate change in paragraph 3.3 as additional obligations that could be sought in relation to individual applications, especially in regard to meeting the requirements of the London Borough of Bexley’s Sustainable Design and Construction SPD, adopted in October 2007.</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>somewhat limited, such as contributions to employment, training and childcare, which should be sought from all uses. Policy 3B.12 of the London Plan, 'Improving the skills and employment opportunities of Londoners' applies to all major development uses (including residential, retail and leisure uses etc) and the SPD should similarly require all major developments to contribute to employment, training and childcare.</p>		<p>building design and construction is also a key area by which to reduce the impacts of climate change. The Council is therefore proposing to include a cross-reference to the Council's Sustainable Design and Construction SPD, adopted in October 2007.</p>	
	<p>Paragraph 3.13 – The Council should consider employment and training initiatives for all forms of development, including residential and residential education institutions. Whilst these developments may be limited in their scope to provide business and employment opportunities in the operational phases of the development, local residents as well as businesses could benefit from the creation of jobs resulting from the construction phase. Policy 3B.11 of the London Plan (2008) aims to improve the skills and employment opportunities from Londoners. As such, initiatives to create training and employment opportunities and to utilise the goods and services of SMEs and local businesses could be formalised through a section 106 agreement between the applicant and the London Borough of Bexley. The Council could also consider opportunities for requesting financial contributions towards established initiatives such as Resource Plus, in lieu of addressing needs on-site. This could be particularly effective from development of lower thresholds where it would otherwise prove unviable to meet employment and training on-site or to provide an on-site workplace co-ordinator during the construction phase. An employment and training strategy could cover the</p>	<p>The SPD should consider employment and training initiatives for all forms of development, including residential and residential education institutions.</p>	<p>The Council did consider seeking obligations from all forms of residential development towards employment and training initiatives but considered, based in part on viability considerations, that obligations from residential development should focus on those service areas that, typically, manage the greatest impacts arising from residential development.</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>following elements:</p> <ul style="list-style-type: none"> • Timing and arrangements for its implementation including funding arrangements • Minimum local recruitment targets for employees and targets for the involvement of local businesses during the construction phase and measures to be undertaken by the applicant to meet these targets • Periodic workforce and business monitoring and reporting of the results to the Council and such other parties as may be set out in the approved strategy • A programme for skills training for local residents and/or businesses, including the potential for the provision of suitably equipped training premises • Local publicity, awareness raising proposals and methods for advertising employment opportunities and impending contacts which includes: <ul style="list-style-type: none"> - initiatives to promote the involvement of local businesses including sub-contracting and the supply of good and services - initiatives to promote the employment of small and medium businesses - initiatives to promote the employment of black and ethnic minority owned business. <p>The delivery of such initiatives will assist in ensuring the regeneration benefits of the proposed development are maximised for local residents, and that the objective of tackle barriers to employment set out in the Economic Development Strategy is met.</p>			
	<p>Paragraph 3.25 – This paragraph should also reflect that the GLA strongly supports the pooling of section 106 contribution, as set out in Policy 6A.4 and paragraph 6.23</p>	<p>That paragraph 3.25 reflects the GLA’s support for</p>	<p>Agreed.</p>	<p>Insert in paragraph 3.25, after ‘Circular 05/2005’, the following: “and Policy 6A.4 of the London</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	of the London Plan.	pooling contributions.		<i>Plan (2008)</i> ".
	Paragraph 4.6 – Mention should be made of the pre-application advice service offered by both TfL and the GLA for referred applications, which should include discussions relating to section 106 contributions. The accompanying table and discussion of procedure should reflect consultation with the GLA and TfL for application of potential strategic importance, particularly in light of the extension of Mayoral powers introduced in April 2008.	Mention should be made of the pre-application advice service offered by both TfL and the GLA for referred applications, which should include discussions relating to section 106 contributions.	The Council agrees that the SPD should refer to the GLA and TfL pre-application advice service offered for referable applications.	Insert a new paragraph following paragraph 4.6: <i>"For planning applications that are referable to the Mayor of London, the Greater London Authority and Transport for London also offer a pre-application advice service."</i>
	Paragraph 4.17 – The SPD should be more specific with regards to the specific circumstances in which the Mayor of London will determine strategic planning applications; it is appropriate to provide more detail on this procedure and should highlight that in those circumstances, the Mayor will be responsible for negotiating and signing the Section 106 agreement but will do so in consultation with the Council. Given the potential for this to occur, it is essential that for those strategic planning applications that the applicant engages with the GLA as well as Bexley at the pre-application stage as noted above. The SPD also should refer to the process to deal with the reporting process in relation to referred major applications.	The SPD should be more specific with regards to the specific circumstances in which the Mayor of London will determine strategic planning applications.	The Council considers that it is preferable for the Council's Statement of Community Involvement to outline the process for planning applications, which are referable to the Mayor of London, in preference to including this in the Planning Obligations Guidance SPD. Nevertheless, the Council does consider that further reference can be provided in the SPD to ensuring applicant's are aware of the need to consult with the GLA and TfL at pre-application stage.	Insert at the end of paragraph 4.17 the following: <i>"In those circumstances, where the Mayor will be responsible for negotiating and signing the Section 106 agreement, in consultation with the Council, the applicant is encouraged to engage with the GLA as well as the London Borough of Bexley at the pre-application stage."</i> Insert at Figure 4.1, under 'Major development', reference to the GLA and TfL.
	Paragraph 4.30 – The drafting of the Model Planning Agreement is welcomed as a means of standardising agreements and ensuring consistency. It would be useful for the Council to provide more detail in the Model Planning Agreement prior to the adoption of the Planning Obligations SPD to allow more in-depth consultation (particularly with the LDA), which could assist in	Welcomes the drafting of the Model Planning Agreement but would like to have this put out to consultation.	The Council does not consider it necessary to consult on the Model Planning Agreement, and is satisfied that the terms and clauses of the Agreement adequately reflect the requirements of the Planning Obligations Guidance SPD.	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	ensuring that the wording of agreements are accurate and effective.			
	Annex A, Paragraph 1.3 – The definition of affordable housing should also include the definition of affordable housing in the London Plan and highlight that the London Plan does not include low-cost market housing.	The definition of affordable housing should also include the definition of affordable housing in the London Plan.	The definition provided in the SPD accords to that set out in the Council’s adopted SPD on Affordable Housing, March 2006. The Council does not consider it appropriate for the Planning Obligations Guidance SPD to introduce a new definition of affordable housing.	None
	Annex A, Paragraph 1.17 – Reference should also be made to the London Plan policies and Supplementary Planning Guidance to the London Plan for Housing (2005).	The SPD should refer to London Plan policies and Supplementary Planning Guidance to the London Plan for Housing (2005).	The London Plan policies are already set out in paragraph 1.9 of Annex A. However, the Council does agree that a reference to the SPG to the London Plan for Housing (2005) is appropriate, especially in respect of referable applications.	Insert a new paragraph following paragraph 1.18 of Annex A: <i>“For planning applications referable to the Mayor of London, regard should also be had to the Supplementary Planning Guidance to the London Plan for Housing (2005).”</i>
	Annex A, Paragraph 1.18 – This paragraph incorrectly references the UPD policies and the Council’s own affordable housing SPD with regards to the level of affordable housing sought. Whereas the current draft SPD suggest that the Council has set a target of 35% for the provision of affordable housing, the Council’s affordable housing SPD makes it clear that the 35% target is on indicative, should be applied flexibly, and is considered as a minimum number as the Council’s approach will be to “secure at least 35% of housing as affordable” subject to viability assessments. In their nature, planning obligations are specific to individual application, and the London Plan sets out that borough councils should seek the maximum reasonable amount of affordable housing when negotiating on individual sites. In the context of the current draft SPD for planning obligations, which is intended to be applied to individual sites, this flexibility	That the SPD accurately reflect the UDP Policy for affordable housing.	Agreed.	In paragraph 1.18 of Annex A, replace “apply a target of” with “seek at least”.

	Comments	Action suggested by Consultee	Response	Proposed Changes
	should be highlighted and clearly stated, as well as the London Plan policy 3A.10 that boroughs should seek the maximum reasonable amount of affordable housing when negotiating on individual schemes, and that the Council may subsequently achieve a greater percentage of affordable housing.			
	Annex A, Paragraph 1.20 – It is unclear on what basis the amount of financial contribution ‘in-lieu’ of affordable housing provision will be provided.	Clarify the basis on which the ‘in-lieu’ contribution of affordable housing provision will be calculated.	The ‘in-lieu’ requirement for affordable housing is set out in the Council’s adopted SPD on Affordable Housing, March 2006. The Council does not consider it necessary to repeat this again in the Planning Obligations Guidance SPD.	None
	Annex B, Table B1 – It is understood that Table B1 is a reflection of the Council’s aspirations. Not all of the projects listed have been endorsed by Transport for London.	Not all of the projects listed in Table B1 have been endorsed by Transport for London.	The projects listed in Table B1 are taken from the Bexley LIP, for which the Mayor announced his approval of in January 2007.	None
	Annex B, Paragraph 1.21 and 1.22 – Use of the LIP to determine the level of transport funding through the calculator only captures those local improvements that the Council is seeking to deliver. It does not take into account any strategic transport contributions that may be required. Paragraph 3.18 refers to the calculator as the starting point for negotiations which may address this point. It might be useful to add a reference to major developments requiring a Transport Assessment (TA) which TfL would recommend are in line with TfL’s Transport Assessment best practice guidance document May 2006. The results of the TA should also be used to inform the level of s106 contributions and/or the appropriate mitigation measures to be sought.	Add a reference in Annex B to major developments requiring a Transport Assessment (TA) which TfL would recommend are in line with TfL’s Transport Assessment best practice guidance document May 2006.	Agreed.	Insert a further bullet point in paragraph 1.10 of Annex B: <i>“Ensure Transport Assessments are undertaken in line with the TfL Transport Assessment Best Practice Guidance, May 2006 by all developments exceeding the thresholds set out in London Plan (2008) Policy 3C.2.”</i>
	Annex D – Policy 3B.11 of the London Plan (2008) aims to	The Council	The purpose of the obligation towards training is to	Insert specific reference to the

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	<p>improve the skills and employment opportunities for Londoners. The Council should consider widening the scope of employment training to include utilising the goods and services of SME and local businesses. This is likely to take the form of an obligation rather than a financial contribution. Businesses should also benefit from the creation of jobs resulting from the construction and operational phases of the development. Initiatives to utilise the goods and services of SMEs and local businesses could be formalised through a s106 agreement between the applicant and the London Borough of Bexley in the same manner as set out in point 6 of this response, relating to the level of contribution sought.</p>	<p>should consider widening the scope of employment training to include utilising the goods and services of SME and local businesses.</p>	<p>help those members of the community who are currently unemployed to gain employment by providing the skills necessary to enter or re-enter employment. However, in respect of particular planning applications, an obligation could be sought to ensure the construction and operational phases of the development utilise the goods and services of SME and local businesses. Such provision is provided for in paragraph 3.3 of the SPD.</p>	<p>utilisation of the goods and services of SME and local businesses in paragraph 3.3 as an example of an additional obligation that could be sought in relation to individual applications.</p>
	<p>Annex E, Paragraph 1.17 - An assumption of 35% affordable housing provision in the calculation of health contributions might result in an under-estimation of projected need and resulting reduction in capital contributions from developers. Given the discussion above, as 35% affordable housing provision is merely indicative and a minimum, the assumption relating to affordable housing provision in the calculation of health contributions should be based in the London Plan strategic target of 50% affordable housing provision to ensure it accounts for cases where affordable housing provision achieved is greater than the 35% minimum.</p>	<p>That the assumption relating to affordable housing provision in the calculation of health contributions should be based in the London Plan strategic target of 50% affordable housing provision.</p>	<p>The Council's approach will be to secure at least 35% of housing as affordable as the starting point for any negotiation. It is therefore appropriate that the healthcare formulae use this as the basis for the calculation of any contribution towards health services and facilities.</p>	<p>None.</p>
	<p>Annex F, Paragraph 1.12 - The SPD should make reference to London Plan policy 3D.13, children and young people's play and informal recreation strategies.</p>	<p>The SPD should make reference to London Plan policy 3D.13, children and young people's play and informal recreation</p>	<p>The NPFA is a national standard, and as such can and should be applied nationally. However, the Council is currently undertaking an Open Space Assessment in support of the LDF. This will include Borough specific standards for open space requirements. The Council intends to include such standards in any future review of the SPD.</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
		strategies.		
	Annex F, Paragraph 1.17 – Reference should be made to the guidance in the Mayor’s Supplementary Planning Guidance on providing for children and young people’s play and informal recreation (March 2008); the guidance in this SPD and space requirements should cross-reference those set out in the Mayor’s SPG.	Reference should be made to the guidance in the Mayor’s Supplementary Planning Guidance on providing for children and young people’s play and informal recreation (March 2008	The NPFA is a national standard, and as such can and should be applied nationally. However, the Council is currently undertaking an Open Space Assessment in support of the LDF. This will include Borough specific standards for open space requirements. The Council intends to include such standards in any future review of the SPD.	None
	Annex G – Further consideration should be given to the need for childcare facilities. Whilst the SPD mentions childcare facilities in the background to Annex G, it is not clear through the justification that it has been taken into account and it is not evident that this has been calculated as part of the planning obligation likely to be sought. Childcare facilities are an important measure in tackling barriers to employment and overcoming labour market disadvantages faced by women, as stated in the Mayor’s Economic Development Strategy, and set out in Policy 3A.18 of the London Plan (2008).	Consideration should be given to the need for childcare facilities.	Contributions need to be based on known requirements. At this point in time, the requirement for childcare facilities within Bexley is unknown. As part of the evidence base for the emerging LDF, the Council will consult widely on this and other requirements, which will then be reflected in LDF policy and any subsequent review of the Planning Obligations Guidance SPD.	None
RES18	The comments on the document are set out below. These focus mainly on the general principles rather than the detailed provisions of each ‘service area’. Circular 5/2005 Our chief objection to this document is that it is an attempt to introduce a tariff style system in advance of the Community Infrastructure Levy. It is clearly the council’s intent to finance core public services via contributions from developments which are then pooled at the district	Object to the SPD on the basis that it seeks finance core public services via contributions from developments which are then pooled at the district level.	Paragraph B33 of Circular 2005/05 specifically encourages LPAs to employ formulae as part of their published framework for negotiating and securing planning obligations. The intention is to assist to speed up negotiations and to provide a level of predictability, with regard to the size and type of some contributions likely to be sought. In determining the level of obligations to be sought from development, the Council has had regard to	None

Comments	Action suggested by Consultee	Response	Proposed Changes
<p>level. Moreover it intends to levy additional charges to finance the administration. The high costs associated with this tariff will act as a barrier to housing delivery in Bexley by rendering many sites unviable. We need not remind you that the people who will suffer most as a result of the council's policy will be those in need of housing – social as well as market – either because houses will not be built or because these costs will have to be passed onto residents in the form of higher prices and rents. We can only conclude that the real intention behind this document is to obstruct housing delivery, while attempting to politely disguise this by deploying the language of 'community need'.</p> <p>We also cannot imagine how such a low housing target (3,450 additional homes by 2016 – one of the lowest targets in London) could generate such an increase in demand in Bexley to justify the level of obligations being demanded?</p>	<p>Moreover it intends to levy additional charges to finance the administration. The high costs associated with this tariff will act as a barrier to housing delivery in Bexley by rendering many sites unviable.</p>	<p>viability considerations. The levels of obligations sought by this SPD represent only a portion of the total cost of the service provision (e.g. the contribution sought towards transport represents approximately 5% of the total cost of implementing the transport schemes listed in the LIP). As necessary, any funding gap that results will still need to be met, in general, through the main stream funding sources.</p> <p>With regard to pooling contributions, the Council has set up internal account arrangements so that Section 106 monies are pooled by area code, and within each code, by service area. Where the Council deems a project benefits an area, the pooled funds for that service area will then be allocated to that particular project.</p>	
<p>Betterment?</p> <p>Until the Community Infrastructure Levy is introduced it is necessary to remind the council that according to paragraph B7 of Circular 5/2005 planning obligations should <i>"never be used purely as a means of securing for the local community a share in the profits of development"</i>. Because this tariff levies a sum from all new housing developments in all locations without regard to existing provision and capacity this amounts to "betterment levy".</p>	<p>The requirements of the SPD amounts to "betterment levy".</p>	<p>The SPD is formulae based, consistent with paragraph B33 of Circular 05/2005, and is not a tariff or standard charge. As set out in paragraph 3.2, the Council will consider each application on its merits, taking account of policy, guidance and any other material considerations.</p> <p>With regard to existing provision, the Council has established forward programmes for investment within each service area. Such programmes meet the requirement upon the Council to demonstrate the need for additional provision within each of the service areas.</p>	<p>None</p>
<p>This document is also contrary to paragraph B9 on Circular 5/2005 which states that: <i>"Planning obligations should not be used solely to resolve existing deficiencies in infrastructure provision"</i>. In many places in this document it</p>	<p>That the SPD is contrary to paragraph B9 on Circular 5/2005.</p>	<p>As clearly set out in paragraph 3.19, the Council has set formulae or standards which relate only to the additional needs that will arise as a result of new development. The levels of obligations sought by</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	is unclear where other funds will be provided to match developer contributions, and in the section on health the developer is expected to pay 100% of the capital costs of building new health premises.		this SPD represent only a portion of the total cost of the service provision. For example the health contribution is approximately only 35% of the total cost of provision, which the PCT have calculated at £4,515 per dwelling. As necessary, any funding gap that results will still need to be met, in general, through the main stream funding sources.	
	It is also pertinent to ask why new housing and new residents should be singled out in this way, yet residents of existing housing are exempted? The changing make-up of households within the existing stock could have as much an impact on altering the demand for council services? The most equitable way to ensure that council services are adequately supported without punishing new and increasingly financially strained first-time buyers and social housing residents, would be to ensure that council services are paid for through local and national taxation.	Asking why new housing and new residents should be subject to such requirements, yet residents of existing housing are exempted?	This is a legitimate view but the Council's intentions are set out in the SPD and are lawful and in accordance with national and regional guidance.	None
	<p>Tests of reasonableness</p> <p>Of particular concern to the HBF is the way this document completely disregards Circular 5/2005 and the need for planning obligations to meet the five tests of reasonableness. The HBF does not object to the principle of developer obligations, nor their application to secure appropriate and necessary additional infrastructure in association with new residential development. However, as Circular 5/2005 makes clear, developers can only be expected to provide for those facilities which are made necessary by the development and obligations should not be levied to make good any existing deficiencies in provision or to provide benefits for the community at large which this document is clearly attempting to do by pooling contributions at district level (as distinct from pooling contributions at a local level which is allowed by</p>	That the requirements of the SPD disregard Circular 5/2005 and the need for planning obligations to meet the five tests of reasonableness.	As clearly stated in paragraph 3.1, the SPD focuses on development of a scale and type provided for by the UDP, and the types of obligations likely to arise as a result of applying the relevant UDP policies relevant to the whole Borough. The intention of the SPD is to meet the needs arising from new development, not to make good any existing deficiencies. With regard to ensuring any s106 monies are spent on the services areas for which the financial contribution was sought, and on services and facilities geographically related to the development, the Council has set up internal account arrangements so that Section 106 monies are pooled by area code, and within each code, by service area. Where the Council deems a project benefits an area, the pooled funds for that service area will then be	<p>Insert the following at the beginning of paragraph 3.27:</p> <p><i>"The Council has set up accounting arrangements so that each Section 106 payment is separately identified. The contributions will then be applied to initiatives in the relevant geographical area of the Council."</i></p> <p>Insert the following at the end of the second sentence in paragraph 3.28:</p> <p><i>" for which the Council deems the development from which the contribution arose will directly benefit."</i></p>

Comments	Action suggested by Consultee	Response	Proposed Changes
<p>Circular 5/2005. Contrary to what the council states in paragraph 3.25 this is a misreading of the meaning of Circular 5/2005, paragraph B21).</p> <p>To assess this, it is necessary that any planning obligation levied on a particular site satisfies Circular 5/2005's five tests of reasonableness. Thus, while obligations can be levied to make a development acceptable, they must also be:</p> <ul style="list-style-type: none"> - Necessary - Relevant to planning - Directly related to the proposed development - Fairly and reasonably related in scale and kind to the proposed development; and - Reasonable in all other respects. <p>Circular 5/2005 (paragraph B5) goes onto clarify that in order to be lawfully sought planning obligations must satisfy <u>all</u> five of these tests.</p> <p>While the forthcoming Community Infrastructure Levy may well change the way financial contributions from developments are levied, under the existing regime, we are concerned that many of the proposals contained in this document would not satisfy these five tests because the obligations are collected at district level for district-wide application.</p> <p>The need to test these provisions in the core strategy Under the circumstances, because of the costs on development that could be imposed as a consequence of this document, we feel that this planning obligations tariff must be introduced via the core strategy so that the council can set-out what are the primary infrastructure needs in its preferred locations for development. This would also allow the council's planning obligations tariff to be tested through the statutory examination process. We would therefore expect to see these proposals tested in</p>		<p>allocated to that particular project. This will be further clarified in the SPD.</p> <p>As stated in paragraph 5.2, a key trigger for the review of the SPD will be the adoption of the LDF documents. At that time, it will be necessary to update the SPD to take account of the LDF policies and any assessments undertaken in support of those policies. The Council anticipates and accepts that the LDF policies, and the requirements of this SPD will be legitimate matters that will tested in the EIP</p>	

	Comments	Action suggested by Consultee	Response	Proposed Changes
	due course as part of the council's emerging core strategy.			
	<p>Existing provision of facilities and amenities</p> <p>The HBF is also deeply concerned that this SPD appears to be starting from the presumption that there are no existing facilities in the borough and that all new development will need to make full provision for the needs that new development will putatively generate. This is very unlikely to be the case.</p> <p>Where there are deficiencies in provision and new development generates additional pressure on existing facilities, it is of course, reasonable for new development to make additional provision. However, the nature and extent of that additional provision (or the payment of a financial obligation towards its provision) should relate primarily to the extra demand created by the new development rather than the extent of the existing deficiency in provision.</p> <p>Conversely, while there are likely to be areas suffering deficiencies in provision, there will be other areas showing a surplus of provision (whether this is open space, school places, GP surgeries or an adequacy of public transport) when assessed against the same standards. In those areas, there is no justification for seeking the same full provision/financial payment as some of the pressure generated by the new development can be absorbed by the surplus capacity of the existing infrastructure and services. It is for such reasons that we feel that this document should not be introduced until the council has calculated through area actions plans or similar documents, what the actual increased infrastructure needs are likely to be in its preferred locations for residential development. This reinforces our argument that the main principles of this document should be tested through the core strategy</p>	<p>The nature and extent of additional provision (or the payment of a financial obligation towards its provision) should relate primarily to the extra demand created by the new development rather than the extent of the existing deficiency in provision.</p>	<p>While there is currently limited evidence upon which to determine the levels of spare capacity, as clearly stated in paragraph 3.1, the SPD focuses on development of a scale and type provided for by the UDP, and the types of obligations likely to arise as a result of applying the relevant UDP policies relevant to the whole Borough. The intention of the SPD is to meet the needs arising from new development, not to make good any existing deficiencies. Where there might exist some spare capacity, the Council notes that, in respect of Circular 05/2005, paragraph B22 clearly states that <i>"in these cases, spare capacity in existing infrastructure provision should not be credited to earlier developers."</i> In addition, the Council has established forward programmes for investment within each service area. Such programmes meet the requirement upon the Council to demonstrate the need for additional provision within each of the service areas. It should also be noted that, based on the viability testing, the types and level of obligations, or any financial contributions, sought, represent only a portion of the total provision requirement.</p>	<p>None</p>

Comments	Action suggested by Consultee	Response	Proposed Changes
<p>process. In the meantime the council should amend this SPD to ensure that the nature and extent of any planning obligation sought takes account of any existing surplus or deficiency in provision <i>in given locations</i> rather than simply looking at the total expected demand generated by Bexley's housing target across the whole borough. What is sought by way of planning obligations must be done on the basis of a locationally-specific calculation of any deficiency or surplus in services rather than applying fixed borough-wide formulae. To fail to do so would be contrary to Circular 5/2005 and its five tests of reasonableness. This is not to say that we do not recognise the benefits of a standard tariff approach in terms of clarity, consistency and simplicity. Nevertheless, any tariff must not undermine the principles underlying Circular 5/2005 and the tests contained therein. Standard charges can be applied but they must be applied flexibly taking into account the existing degree of local provision.</p>			
<p>Priorities and viability Sounding a more positive note, we do welcome the decision by the council to prioritise obligations to support the delivery of specific needs (page 13) as set out in table 3.1. – namely affordable housing and transport. This is in accordance with the London Plan. Similarly, we welcome the consideration to be given to site viability (page 22).</p>	<p>Supports prioritising of obligations and the consideration to be given to site viability.</p>	<p>Noted.</p>	<p>None</p>
<p>Professional, legal and monitoring fees At a time when planning application fees continue to rise and local authorities receive higher settlements from Government through the Planning (and Housing) Delivery Grant, the HBF objects to the levying of additional fees (including £150 per hour for legal fees to</p>	<p>Object to the recovery of legal and monitoring fees.</p>	<p>It is clear that the reasonable costs incurred by the Council in association with processing a development application, should be met by the applicant. A key objective of the SPD is to manage more effectively the legal arrangements for negotiating and securing s106 agreements. The use</p>	<p>Delete the third bullet point in paragraph 1.6 of Annex H. Replace the second sentence in paragraph 1.15 of Annex H with the following: <i>"The cost will be 6% of the total</i></p>

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	<p>administer s106 agreements!) for carrying out what should be carried out as part of the statutory planning process for which local authorities are more than adequately funded and for which developers and applicants for planning permission already pay. We are also concerned that the precise fees are unspecified in the document with the exception of the aforementioned hourly legal fee. This is unreasonable. The monitoring fees are unjustified and this section should be deleted from the document.</p>		<p>of a Model Legal Agreement should substantial limit/reduce the legal fees likely to be incurred by the applicant.</p> <p>The 6% monitoring costs has been derived based on an estimate of the staff cost of monitoring the total revenue expected by way of financial or in kind contributions. While based on the financial contribution portion of an agreement, the 6% figure also accounts for those reasonable costs incurred in monitoring compliance of non-financial obligations. But does not however, cover the cost associated with monitoring obligations in respect of affordable housing provision or to pay for reporting of monitoring to Council committees. The use of a percentage rather than a fixed fee is preferred, as this more accurately reflects the magnitude of the obligations included within an agreement.</p>	<p><i>cost of the financial or in kind contributions payable by the applicant in respect of the section 106 planning agreement. The 6% monitoring costs is an estimate of the staff costs of monitoring the total revenue expected by way of financial or in kind contributions and those reasonable costs incurred in monitoring compliance of non-financial obligations, excluding monitoring obligations in respect of affordable housing provision, where such cost will be met by the RSL, the applicant and the Council as they are incurred. The cost of reporting the findings of monitoring to the Planning Control Committee will be met entirely by the Council."</i></p>
	<p>Conclusion In the light of these comments we would strongly urge that this document is withdrawn and redrafted to bring the council's policy into line with the Government's guidance in Circular 5/2005. This letter is copied to the Greater London Authority for information.</p>	<p>That the SPD be withdrawn and redrafted to bring the Council's policy into line with the Government's guidance in Circular 5/2005.</p>	<p>The Council considers the SPD to be lawful and in accordance with national and regional guidance.</p>	<p>None</p>
<p>RES19</p>	<p>Environmental Infrastructure Bexley's Service Areas A - G and related investment programmes do not appear to provide sufficient scope for planning obligations for environmental infrastructure (as shown in Annex A-G of draft SPD document). Therefore we agree with the statement in the Sustainability</p>	<p>That the SPD provide sufficient scope for planning obligations for environmental infrastructure.</p>	<p>The SPD represents a formulae based approach to planning obligations, where it is necessary to establish the level of obligation based on the known requirement to manage the typically known impacts that arise from development in accordance with the development plan. The requirement for</p>	<p>None</p>

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	<p>Appraisal Report (SA report) section 7.9 that ' further improvement may be achieved if the SPD is revised to include a broader scope of obligations on the Boroughs environmental objectives', and the specific reference to inclusion of obligations on sustainable drainage systems and related water management and infrastructure. This should be expanded to include not only contributions towards SUDs but also maintenance commitments. We recommend an additional option for environmental infrastructure on paragraph 5.11 of the Sustainability Appraisal Report. Circular 5/05 paragraphs B19 and B20 provide more guidance on maintenance payments. SA appendices refer to Environment Agency's previous response to the scoping report, but there doesn't seem to be anything similar in the draft SPD document.</p> <p>We consider that where new developments place extra pressure on capacity of strategic environmental infrastructure for the wider area, then a contribution to a central fund is an appropriate model. The scope of environmental infrastructure should include surface water management / drainage, flood risk management, waste infrastructure, water resources. Funds could be targeted towards improving capacity of existing infrastructure, new infrastructure, or other mitigation measures. Examples of mitigation measures could include river restoration in the borough to manage local flooding, retrofitting of water efficiency measures to existing stock and waste minimisation programmes. All environmental infrastructure programmes will need to be climate proofed to ensure infrastructure will have capacity to deal with any additional pressures from climate change, for example, modifications to existing flood management measures to adapt to climate change within the lifetime of the development.</p>	<p>Where new developments place extra pressure on capacity of strategic environmental infrastructure for the wider area, then a contribution to a central fund is an appropriate model. The scope of environmental infrastructure should include surface water management / drainage, flood risk management, waste infrastructure, water resources. Requirement for contributions towards a central fund could be based on a case by case basis or as a flat tariff / unit.</p>	<p>environmental infrastructure within Bexley is unlikely to be known. As such, environmental infrastructure remains to be dealt with on a case by case basis. Provision is provided in paragraph 3.3 of the SPD for the Council to consider additional planning obligations where these are required to manage the impacts or other requirements that relate specifically to a development. The Council therefore considers there is sufficient scope to consider planning obligations for environmental infrastructure where applicable to manage the impacts arising from a development.</p> <p>The Council may be in a position to review this situation through the LDF and any detailed evidence of the environmental infrastructure requirement to match the needs of the community over the plan period, as well as investment or works programmes prepared, that cover all or specific parts of the Borough and take account of other funding streams, to justify securing obligations based on formulae.</p> <p>It should also be noted that ERM, who prepared this SPD on behalf of the London Borough of Bexley, also advised LTGDC on the Standard Charge arrangements.</p>	

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<p>Requirement for contributions towards a central fund could be based on a case by case basis or as a flat tariff / unit. For example London Thames Gateway Development Corporation has set a standard charge of £6000 / residential unit in London Riverside and £10000/unit (for all permitted applications). Commercial and other developments do not have a standard charge. The London TGDC model would be a useful source of information. The Environment Agency is on the management board that will advise the LTGDC Board on where planning obligation fund should be spent. Early investment and careful planning may be required to ensure expanded or improved infrastructure will have the capacity to cope with additional demands, particularly with climate change. See our report '<i>Hidden Infrastructure: The Pressures on Environmental infrastructure</i>'. The borough's infrastructure for flood protection (tidal defences, river flood defences) must be considered. Climate change could exacerbate the impacts of growth on environmental infrastructure. Developers costs for meeting national, London and borough policy requirements (including required environmental infrastructure within development footprint) would not offset any requirements for appropriate contributions to wider environmental infrastructure - unless on site infrastructure contributed to increasing capacity for the wider area. Therefore we support principle in section 3.26 of draft SPD that contributions from individual developments will be</p>			

Comments	Action suggested by Consultee	Response	Proposed Changes
<p>pooled to enable infrastructure to be delivered when required.</p> <p>Work undertaken so far by Thames Estuary 2100 (TE2100) indicates that the present system of flood risk management for the tidal flooding can continue to provide an acceptable level of risk management up to 2030. Beyond 2030 more actions will be needed. These actions would be easier and more affordable and sustainably delivered if they are planned now. The London Plan, <i>Spatial Development Strategy for Greater London - consolidated with Alterations since 2004</i> was published in February 2008. It states inter alia that "<i>The Mayor will, and boroughs and other agencies should, take fully into account the emerging findings of the Thames Estuary 2100 Study, the Regional Flood Risk Appraisal and the Thames Catchment Flood Management Plan</i>" page 211</p> <p>Planning Policy Statement 25: Development and Flood Risk (PPS25) makes it clear that it is the responsibility of those planning development to fully assess flood risk, propose measures to mitigate it and demonstrate that any residual risks can be safely managed. Annexe G provides guidance to Local Planning Authorities regarding the contribution developers should make. Paragraph G5 states that:</p> <ul style="list-style-type: none"> • <i>'it may be appropriate to vest the resulting flood risk management measures, which have been constructed to the operating authority's satisfaction, in the operating authority, with a dedicated commuted sum to fully fund whole life maintenance and future climate change adaptability costs;'</i> • <i>'... the local planning authority, having taken advice from the Environment Agency and any other relevant operating authority, should negotiate an appropriate contribution from the developer. If agreement cannot be reached on the provision of that contribution, the application should be refused'.</i> 			

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>We do recognise that UDP Policy G3 (Environmental Improvements) is not strong enough to address environmental infrastructure including flood risk management issues. There is need for the SPD to consider London Plan flood management policies and also draw from the emerging Core Strategy to address environmental infrastructure. London Plan <i>Policy 6A.4 Priorities in planning obligations</i> states inter alia that <i>'The Mayor will, and boroughs should, reflect the policies of this plan and include appropriate strategic as well as local needs in their policies for planning obligations (see Circular 05/05)'</i>.</p>			
	<p>Surface Water Management We are pleased to note that the SA recognises the need to extend the scope of the SPD to incorporate our recommendations on surface water storage and infiltration infrastructure, sustainable drainage systems and river enhancements. For development with large roof area it would be prudent to design in surface water storage areas to cope with heavy localised storms. This could be done through maximising surface water storage and/or by building in oversized drainage pipework. New development will be expected to include a provision for the adequate environmentally acceptable measures to deal with surface water run-off or discharge. Green roofs and other surface water storage or infiltration may help to reduce the flood risk, these are actively encouraged in London Plan policies and the council should seek contribution from the developer for this purpose. Planning permission for development that includes non-sustainable methods of surface water drainage should not be granted unless it can be demonstrated that sustainable techniques are not feasible on the grounds of practicability. PPS25 Annex F sets guidance on management of surface</p>	<p>Extend the scope of the SPD to incorporate obligations towards surface water management.</p>	<p>Surface water management is to be dealt with on-site as part of the application.</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>water. Para F11 states: <i>.' For new development, it may be necessary to provide surface water storage and infiltration to limit and reduce both the peak rate of discharge from the site and the total volume discharged from the site. There may be circumstances where it is appropriate for infiltration attenuation storage to be provided outside the development site, if necessary through the use of a Section 106 agreement.'</i></p>			
	<p>River Enhancements We support the emphasis on river enhancements both recognised by SA Objective 9- climate change and SA Objective 11 and welcome the opportunity of the SPD to extend its scope to seek funding agreements on river renaturalisation. This would be supported by PPS 25 Paragraph G5 which states that: • <i>'authorities may wish to consider entering into an agreement under Section 106 of the Town and Country Planning Act 1990 to ensure that the developer carries out the necessary works and that future maintenance commitments are met. They may also apply planning conditions, which would require completion of the necessary works before the rest of the development can proceed;</i> Rivers form an important wildlife corridor, linking features in urban and rural areas. Where a river has been culverted and engineered, opportunity should be taken to reverse this state, turning it into a valuable amenity, heritage and wildlife asset. The Council should seek to maintain and look for opportunities to enhance the setting of and increase space for the River Thames and its tributaries. In considering development proposals it will among other considerations seek opportunities to improve public access to and alongside the rivers and ensure that existing public access is maintained.</p>	<p>That the SPD extend its scope to seek funding agreements on river renaturalisation.</p>	<p>Provision is provided in paragraph 3.3 of the SPD for the Council to consider additional planning obligations where these are required to manage the impacts or other requirements that relate specifically to a development. The Council therefore considers there is sufficient scope to consider planning obligations in respect of river renaturalisation, where such obligations are required to manage the impacts arising from a development or developments within a specific river basin for which there is a costed renaturalisation programme.</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>Biodiversity</p> <p>We would recommend the SPD to reflect the London Plan policies on the Blue Ribbon Network and protection and enhancement of biodiversity making sure that any loss is compensated. London Plan Policy 4C.3 'The natural value of the Blue Ribbon Network' states that the Mayor will and boroughs should protect and enhance the biodiversity of the Blue Ribbon Network by:</p> <ul style="list-style-type: none"> • resisting development that results in a net loss of biodiversity • designing new waterside developments in ways that increase habitat value • allowing development into the water space only where it serves a water-dependent purpose or is a truly exceptional case which adds to London's world city status • taking opportunities to open culverts, naturalise river channels • protecting the value of the foreshore of the River Thames. 	<p>That the SPD reflect the London Plan policies on the Blue Ribbon Network and protection and enhancement of biodiversity making sure that any loss is compensated.</p>	<p>Provision is provided in paragraph 3.3 of the SPD for the Council to consider additional planning obligations where these are required to manage the impacts or other requirements that relate specifically to a development. The Council therefore considers there is sufficient scope to consider planning obligations in respect of the protection and enhancement of biodiversity within the Blue Ribbon Network, where such obligations are required to manage the impacts arising from a development on the Blue Ribbon Network.</p>	<p>None</p>
	<p>Open Space</p> <p>We welcome the SPD proposal to seek developer contributions for provision and enhancement of open space and public realm. We see development as an opportunity for the green spaces to become a major educational and community resource. Contributions would be sought for providing new and attractive green grid style development, improving entrance ways and knowledge of parks, enhancing and possible extension of the existing green spaces. Open spaces within development can be designed to accommodate flood</p>	<p>Supports the SPD proposal to seek developer contributions for provision and enhancement of open space and public realm.</p>	<p>Noted</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	waters.			
	<p>Energy efficiency We welcome the proposal to extend the scope of the SPD to include energy efficiency. We recommend that to ensure that energy is used efficiency and carbon emissions reduced; the SPD should require low and zero carbon developments throughout the Borough. The London plan states that London boroughs should in their DPDs require all developments to demonstrate that their heating, cooling and power systems have been selected to minimise carbon dioxide emissions (Policy 4A.6). Regarding renewable energy on site, the London Plan states that boroughs should in their DPDs adopt a presumption that developments will achieve a reduction in carbon dioxide emissions of 20% from onsite renewable energy generation (which can include sources of decentralised renewable energy) unless it can be demonstrated that such provision is not feasible. Boroughs in their DPDs should identify broad areas where the development of specific renewable energy technologies is appropriate- Policy 4A.7 The SPD should ensure that a significant proportion of the energy supply of substantial new development is gained on-site and renewably, and/or from decentralised, renewable or low carbon energy supply and support the use of renewables, CHP and biofuels. It should promote the use of recycled building materials and materials that have low embodied energy and also promote retrofitting existing buildings to make them more energy efficient.</p>	<p>The SPD should require low and zero carbon developments throughout the Borough. The SPD should also ensure that a significant proportion of the energy supply of substantial new development is gained on-site and renewably, and/or from decentralised, renewable or low carbon energy supply and support the use of renewables, CHP and biofuels. It should promote the use of recycled building materials and materials that have low embodied energy and also promote retrofitting existing buildings to make them more energy efficient.</p>	<p>Provision is provided in paragraph 3.3 of the SPD for the Council to consider additional planning obligations where these are required to manage the impacts or other requirements that relate specifically to a development. The Council therefore considers there is sufficient scope to consider planning obligations relating to energy efficiency where applicable to manage the impacts arising from a development. However, it should be noted that an SPD cannot be used to advance new and more stringent policies in advance of the Core Strategy. Council will take account of the London Plan (2008) and the Supplement to PPS1 Planning and Climate Change and the recently published working Draft of the Practice Guide (prepared for CLG by ERM).</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
RES20	<p>1. Annex B – Transport, Access and Public Realm Improvements</p> <p>A) Bullet point 1 of paragraph 1.15 of Annex B states that transport contributions will be sought from residential developments of five dwellings or more, including mixed use schemes. The Council needs to take into consideration the varying scale of such developments. For example the impact of a 5 no. 1 bedroom flat with no parking would be different to that generated from a development consisting of 5 no. 5 bedroom house with ample parking spaces. We would therefore request the Council to consider first and foremost whether a development would make an impact on its surrounding.</p> <p>London Plan Policy 6A.5 suggests that development should make ‘contributions towards requirements that are made necessary by and are related to, the proposed development’ and that ‘such provision is fairly and related in scale’. Contributions should only be requested from the developer if it is necessary therefore we would suggest the Council rephrase the first bullet point such that it will read as follows:</p> <p><i>‘Residential developments of five dwellings or more, including mixed schemes, where there will be an impact on the surrounding transport network’.</i></p>	Reword SPD to reflect the levels of transport impact from residential development according to dwelling size, not just numbers.	In principle, this point is valid. However, the likely yield from contributions towards transports needs will only be a small proportion and, for simplicity and fairness, a per dwelling formula is being proposed.	None
	<p>1. Annex B – Transport, Access and Public Realm Improvements</p> <p>B) Paragraph 1.18 states the Council will seek planning obligations for public realm improvements from commercial development proposals within the defined town centres and employment areas. We would encourage the Council to assess the impact caused by the development and take into consideration the level of public realm incorporated as part of the scheme design prior to calculating the financial contributions.</p>	Council should take account of quality and quantity of public realm improvements incorporated in applications.	Agreed. Where schemes include significant public realm improvements, these will be treated as in-kind provision, and off set need for financial contributions. On site provision and off set need for financial contributions is provided for in paragraphs 3.20 and 3.21 of the SPD.	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>1. Annex B – Transport, Access and Public Realm Improvements</p> <p>C) Paragraph 1.29 states that ‘A development will be expected to contribute to the improvement and management of the public realm to which it is closely related’. Policy 6A.5 of the London Plan suggests that a development should make ‘contributions towards requirements that are made necessary by and are related to, the proposed development’. The Council should not expect a development to make a contribution before assessing whether there is a need.</p> <p>In addition, we would urge the Council to consider the other contributions set out within the SPG. It is important to take into account how the resulting costs of the contributions will impact on the viability of the scheme in question.</p>	<p>Public realm provision should be directly related to scheme specific need. Generally, contributions required should take account of development viability.</p>	<p>Where schemes have a significant public realms impact, the Council will expect these schemes to make appropriate provision. The contributions formula is principally intended to secure contributions where there is a small diffuse impact.</p>	<p>None</p>
	<p>2. Annex E – Health Services and Facilities</p> <p>A) Bullet point 1 in paragraph 1.11 seeks contributions for health services and facilities from residential developments of 5 dwellings or more, including mixed use schemes. Rather than setting a threshold, we would request the Council to assess whether a development would make an impact on its surrounding and secondly, whether there is a shortage of such facilities in the area. London Plan Policy 6A.5 suggests that development should make ‘contributions towards requirements that are made necessary by and are related to, the proposed development’ and that ‘such provision is fairly and related in scale’. Contributions should only be requested from the developer if it is necessary therefore we would suggest that Council rephrase the first bullet point such that it will read as follows:</p> <p><i>‘Residential developments of five dwellings or more,</i></p>	<p>The five dwelling threshold should be replaced by an ‘impact test’.</p>	<p>This is counter to the Councils’ intention to establish a robust and equitable framework. It is reasonable to expect that all residential development will have directly related need for health facilities. The threshold has been applied based on viability testing.</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<i>including mixed schemes, where it has been demonstrated to impact on the existing health facilities in the locality'.</i>			
	2. Annex E – Health Services and Facilities B) The Council sets out the methodology for calculating health contributions in paragraph 1.15-1.18. We would urge the Council in calculating the contribution to consider that each development does not necessarily generate additional demand on existing health facilities. It is important to acknowledge the fact that a certain percentage of the incoming population will originate from inside the Borough and therefore will not generate additional demand for health facilities, because they will already be included in the current funding streams.	Allowance should be made for 'within Borough move' calculating health service contributions.	The focus of the health service contributions is in funding new capital facilities (to meet local growth in need). The previous residence of those occupiers is irrelevant.	None
	3. Annex F – Sports and Leisure Facilities A) Bullet point 1 of paragraph 1.15 seeks contributions towards open space, sports and leisure facilities from residential developments of 5 dwellings or more, including mixed use schemes. We would request the Council to assess whether the a development would increase the demand and usage of these facilities and whether there is capacity to accommodate the new residents in the new development, bearing in mind a percentage of the incoming population will originate from inside the Borough. London Plan Policy 6A.5 suggests that development should make 'contributions towards requirements that are made necessary by and are related to, the proposed development' and that 'such provision is fairly and related in scale'. Contributions should only be requested from the	Allowance should be made for the specific impact of development on demand for open space, leisure facilities etc.	Generally, there is a close relationship between new residential development and the need for accessible leisure and open space. The Councils' approach creates a robust and equitable formula, which will be appropriate in most cases. The Council will, as required by PPS1, consider each case on its merits.	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>developer if it is necessary therefore we would suggest that Council rephrase the first bullet point such that it will read as follows: <i>'Residential developments of five dwellings or more, including mixed schemes, where there will be an impact on the existing sports and leisure facilities'.</i></p>			
	<p>4. Annex G – Local Community Facilities and Services A) The Council states in Paragraph 1.11 that Local Community facilities and Service contributions will be required from all residential schemes, including mixed use schemes. We would request the Council to assess whether the development would increase the demand and usage of these facilities and whether there is capacity within the existing facilities to accommodate the incoming residents, bearing in mind a percentage of the incoming population will originate from inside the Borough. London Plan Policy 6A.5 suggests that development should make 'contributions towards requirements that are made necessary by and are related to, the proposed development' and that 'such provision is fairly and related in scale'. In line with the Policy, we would suggest the paragraph to be rephrased as follows: <i>'Local Community Facilities and Service contributions will be required from residential schemes, including mixed use schemes, where it has been demonstrated to be an impact on the existing facilities'.</i></p>	<p>Allowance should be made for the specific impact of development on the local demand for leisure facilities.</p>	<p>The SPD approach to community facilities is consistent with that for leisure and sports facilities, as explained above.</p>	<p>None</p>
	<p>General S106 contributions should only be required where the Council can demonstrate an actual and realistic impact from the development. The contributions need to be applied flexibly and with a degree of discretion taking into account site constraints, the viability of the proposed</p>	<p>The contributions required should be fairly and reasonably related to the development and take account of</p>	<p>The SPD adopts a robust and equitable approach, which meets the requirements of Circular 05/2005. The viability of development will be taken into account on a site by site basis.</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	development and the overall benefits of the scheme. We would request the Council to take care in calculating these contributions ensuring the development does not become prohibitive which could potentially undermine the overall aspiration for the regeneration in parts of LB Bexley.	viability.		
RES21	<p>Iceni Projects Limited (Iceni) have been instructed by Gallions Housing Association (GHA) to submit representations on the Bexley Planning Obligations Guidance Supplementary Planning Document (Draft). GHA are both a major landowner and developer and have significant interests throughout the Borough. GHA's headquarters site at Harrow Manor Way falls along the Bexley border with Greenwich whereas their traditional core management area is Thamesmead. Gallions therefore have a major interest in the London Borough of Bexley. GHA look to provide affordable homes and are dedicated to building sustainable neighbourhoods. GHA are currently preparing a planning application for provision of 65 (net) residential units with associated car parking as the first phase of a major regeneration project at Yarnton Way, Thamesmead. GHA recognise the important role planning obligations can play in the sustainable growth of areas.</p> <p>GHA have fully considered the proposed SPD in view of their current landholding at Yarnton Way and other prospective developments within the Borough, and are supportive of the Council's approach to establish a priority list of planning obligations for development.</p> <p>GHA recognise that residential developments can deliver benefits to a community through planning contributions in the form of community services, infrastructure improvements, education, health and leisure facilities, depending upon the size, scale and nature of the project.</p>	As an RSL with major land and development interests, supports principles of the SPD but concerned that, because of weal viability, affordable housing is being squeezed out by requirements for other science contributions.	In accordance with the London Plan policies, the Council will give priority to affordable housing and transport, when considering mixed tenure schemes at the margins of viability.	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>However, the extent of 106 Contributions is reduced affordable housing-dominated schemes, especially in deprived areas such as Thamesmead where land values are suppressed and demand for market housing is very low.</p>			
	<p>a) Formula-based Approach to Developer Contributions Icen consider that improvements to transport, access and public realm are key issues in developing sustainable housing and the provision of safe and accessible developments is a pre-requisite for planning permissions. However, it may be more appropriate to assess provision levels on more of a case by case approach as opposed to having overriding formulas. If the Council is to persist with a formula-based approach to planning contributions, the document must state that the formula is indicative only and a starting point for more detailed negotiations. A case by case approach would take into account more of the contextual factors and limitations on or around the site that could potentially impact on the amount of transport, access and public realm improvements that can be provided and ensure the viability of the project is not compromised.</p>	<p>Prefer a case by case rather than formula approach. If formula approach, SPD must be clear that these are indicative only.</p>	<p>The Council will consider application on their merits, taking proper account of the development plan, including this SD, and all other material considerations.</p>	<p>None</p>
	<p>b) Education GHA object to the approach to education provision in the SPD because it fails to recognise or appreciate the approach to affordable housing. A tariff or formula-based approach has also been introduced in Hackney (refer to Appendix 1). In this instance, the tariff is calculated against the net increase in child yield, and this generates a figure which the document rightly states is indicative only and should be a starting point for further consideration. This should also be made explicit within Bexley's Draft Guidance, as it does not allow for flexibility given the circumstances. Another point to note is that the tariff</p>	<p>Education contributions should be based on 'net' child yields and, as in Hackney, provide for a 'local discount' for affordable housing. Refers to particular sites in Bexley where regeneration</p>	<p>The formula proposed already includes a 50% discount, which makes a general allowance for 'net' child yield across market and affordable housing. Viability of particular schemes will be taken into account at the application stage, in which case, reduced education and other contributions may be agreed.</p>	<p>None</p>

Comments	Action suggested by Consultee	Response	Proposed Changes
<p>calculations should be calculated on 'net' increase child yield as opposed to 'total' and should be cleared up within the document.</p> <p>Critically, the Borough of Hackney have used a formula which considers offsets for affordable housing provision. This is calculated by providing discounts on educational contributions by up to 80% for local 'take up' trends with affordable housing. It states:</p> <p><i>'There is a high proportion of local 'take up' of new affordable housing by existing Hackney residents. In recognition of this local 'take up', where a development provides an affordable housing contribution the affordable component of the development will be eligible for a discounted education facilities contribution. The education facilities contribution for private units will not be subject to a discounted rate. The contribution sought for affordable units (both intermediate and social rented units) will be 20% of the contribution calculated in accordance with the formula (based upon an assessment of the local 'take up' of affordable housing).'</i></p> <p>The same circumstances apply in Bexley where there is a high proportion of local 'take-up' of new affordable housing by existing Bexley residents. In this regard, all grant funded affordable has been nominations within the Borough and this trend is set to continue in the future.</p> <p>Whilst a small percentage of the grant funded nominations will be from the sub-region (Bexley, Bromley, Southwark and Lewisham), the vast majority will continue to be from Bexley. If the Council is serious about achieving an acceptable level of affordable housing, it must discount the educational contribution figure or the level of affordable housing being delivered will fall.</p> <p>The case in Yarnton Way is a classic example whereby GHA are trying to regenerate a very poor, deprived area of the Borough where demand for market housing does</p>	<p>and affordable housing is provided.</p>		

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>not presently exist. As such, all the housing provision is for socially rented affordable accommodation for tenants already living and schooling within the Borough. This is not an isolated case. The company is committed to regenerating deprived neighbourhoods across the Borough and there must be a complimentary methodology and delivery mechanism for securing appropriate education contributions for all.</p>			
	<p>c) Health Services and Facilities Health services could be calculated through a similar approach. If a housing association is providing high levels of affordable housing then the amount of health services and facilities as required by the Draft Guidance will be inappropriate. The Hackney Planning Guidance carries a principal that through economies of scale, a developer may be able to build a health facility to an appropriate standard in substitution for monetary contributions. This is another incentive scheme that should be adopted by Bexley for consideration of contributions.</p>	<p>Requirement for health contributions too high when affordable housing is being considered. The Council should allow the developer to make on-site provision.</p>	<p>While there is no detailed evidence available, Affordable Housing is likely to give rise to higher health service needs than market housing (measured per unit). On large schemes, the Council will encourage direct provision on-site by the developer and offset this against contributions required.</p>	<p>None</p>
	<p>Summary and Conclusions GHA support the aims and objectives of the proposed Planning Obligations Guidance SPD. However, we consider that the document should be reviewed in respect of the following summarised below:</p> <ul style="list-style-type: none"> • It must state that the contributions will be considered on a case-by-base basis and all the formulas used in calculating the contributions are indicative only and a starting point for more detailed negotiations. • It must consider that the only way to achieve an acceptable level of affordable housing is to have regard to affordable-led schemes and the marginal business case for them. It must consider incentives to discount the educational and health 	<p>Repeats points made above.</p>	<p>See responses above</p>	<p>None</p>

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>contributions.</p> <ul style="list-style-type: none"> The tariff calculations for education contributions should be calculated on 'net' increase child yield as opposed to 'total' and this should be stated explicitly within the document. 			
RES22	<p>After careful consideration of the information submitted, Natural England has no formal comments to make. However, Natural England is pleased to see the clear links to the London Plan, references made to PPS9 – Biodiversity. There is also clear reasoning of and calculations attached to Planning Gain in respect Open Space as part of Table 3.1, this provides a breakdown of development type with obligation type, and assigned priorities by the Council, all of which should be of use and, help developers identify the potential for together with an estimated cost for planning gain which should be further enhanced by the Council's proposal for a Planning Obligations Calculator. The links to relevant UDP Policies will also be of help to all future developers.</p>	None	None	None
RES23	<p>It is clear that your Council, in preparing its LDF and supporting documentation, has conformed with both National and Regional guidance. I note the following: Policy 3A.18 of the London Plan (protection and enhancement of social infrastructure and community facilities) requires that DPD's assess the need for social infrastructure and community facilities in their area and ensure they are capable of being met wherever possible. This includes places of worship. This is supported by Policies G3, G4 and Com 6 of the Bexley UPD. Policy G3 of the UDP confirms that social and community facilities are included amongst the planning obligations or other commitments which may be sought to meet the needs of future occupiers.</p>	<p>To address the need for land or buildings for community facilities, which include places of worship, through the assessment of needs in the LDF and the appropriate application of planning obligations on major</p>	<p>The provision of community facilities, or contributions towards such provision, secured in accordance with this SPD, does extend to provision for places of worship but in the context of a multi-purpose community facility, which may accommodate a wide range of community needs and uses. In designing extensions to existing facilities, or making provision for new community facilities, the Council will endeavour to consult with all community groups, active within the Borough, to try and ensure that their individual needs are accommodated, where possible.</p>	None

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>Policy H13.4 indicates that developments over 25 units should, where appropriate, have adequate provision or access to community facilities.</p> <p>This is endorsed within the Community Strategy – Vision for Bexley 2003 – 2013, and Bexley’s Approach to Planning Obligations, paragraph 3.2 and 3.3.</p> <p>Table 3.1 places the provision of community facilities as a medium level priority in a wide range of new development, including town centres.</p> <p>Paragraph 1.3 of Annex G includes places of worship amongst the list of facilities or services for which a need may be generated by development.</p> <p>In summary, both national and regional guidance, as well as the relevant UDP and LDF policies, indicate the requirement for community facilities and services, of which places of worship is one, to be protected and enhanced and to be secured through planning obligations where appropriate. Policies also place positive obligations upon Local Authorities to assess and make the necessary provisions within large new developments.</p> <p>You may be interested to learn that there are currently some 131,000 Jehovah’s Witnesses in Britain, a ratio of 1 per 455 of the population. The growth rate is approximately 3% per annum, and the increase is noticeably faster in cities where the populations are more concentrated.</p> <p>Within the Borough of Bexley there are currently some 900 Witnesses, many of which meet in inadequate sized buildings not capable of accommodating the numbers wishing to attend their meetings. With the major growth in new households projected within the Thames Gateway in the next decade, and more specifically in this instance, within the Borough of Bexley, the need for positive</p>	<p>developments.</p>		

	Comments	Action suggested by Consultee	Response	Proposed Changes
	<p>planning obligations to help address the shortfall is apparent. There is a pressing need for land or buildings to be acquired within Thamesmead, Abbey Wood, Erith, Sidcup and Bexley. New premises have been sought in these areas for many years although without success so far.</p> <p>I should welcome the opportunity to meet with your team to outline the urgency of the problem and to discuss how the Council may use emerging LDF policies and the major new developments scheduled to come in Erith, Belvedere and Thamesmead to address it.</p>			

TABLE 3: SA RESPONSES

Respondent	Comment on SA	Suggested Consultee Action	Response	Proposed Changes to the Environmental Report
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Respondent	Comment on SA	Suggested Consultee Action	Response	Proposed Changes to the Environmental Report
RES11	<p>English Heritage notes and welcomes inclusion of the European Landscape Convention, PPGs 15 and 16 in the plans and programmes section. We would encourage LB of Bexley to include any relevant local plans for the historic environment, for example Conservation Area Management Plans. In appendix A it would be useful to consider historic landscapes and the wider historic environment, such as those elements that may not be statutorily protected, yet help define the Boroughs' local distinctiveness. This would be most applicable in the descriptions of your identified themes 'maintain and enhance the quality of open spaces, landscapes and townscapes' and 'preserve cultural heritage including archaeological resources'.</p> <p>Overall the baseline data provided for the historic environment in appendix D is well thought out. For Conservation Areas, it might be useful to also include the number of Conservation Areas with an up-to-date appraisal and management plan as an indicator. LB of Bexley could also consider including information on your local list of heritage assets (if one exists), in addition to the nationally designated assets already identified. It may also be appropriate to identify 'archaeology priority areas', as other Boroughs have done, on the basis of research that indicates these are areas more likely to contain archaeological remains than others. Improving access to the historic environment and use of heritage assets as educational resources could also be explored by LB of Bexley. It is a community benefit that can certainly be promoted through Section 106 agreements. In terms of the data gaps and the need for additional data monitors set out in section 4.14, the use of historic environment indicators could be a component of both 'quality of surroundings and quality of landscape and townscape'.</p>	Amend SA to include further use to plans which deal with historic environment and additional indications such as 'local lists' and APAs.	SA has taken account of all readily available historic environmental data. The indicators will need to be revised as further data becomes available.	None (See Response to RES11 on the SPD)

From the 'Baseline Data' section of the SPD

English Heritage welcomes inclusion of a specific

Respondent	Comment on SA	Suggested Consultee Action	Response	Proposed Changes to the Environmental Report
RES19	<p>Appendix D- Environmental Baseline We noted in our SA scoping representation that more data needs to be compiled for flood risk issues. On pages 78-79 of the SA Report appendices, there is no information on targets and trends for flood risk. This is needed to allow the assessment of change and policy performance against key indicators. Examples include: -the number of dwellings in Flood Zone 3, the number of new or replacement dwellings permitted in Flood Zone 3 and the number of highly vulnerable premises within flood Zone 3 (as per PPS25 Annex D). It may be possible to compile some baseline data using the SFRA. Other indicators would include the number of people and property affected by flooding, the frequency of flood events, the types of development and number of properties which may be affected by subsidence, the nature of the population and the presence and reliability of mitigation measures to manage flood risk.</p>	SA should include key indicators for flood risk and trends.	The Council is continually refining its SA baseline and will include flood risk indicators into the baseline, which will be applied, when available.	None
RES22	<p>In respect of Baseline data for biodiversity as mentioned under paragraph 4.14 of the Sustainability Appraisal the Council should also give consideration to entering into an agreement with Greenspace Information for Greater London (GIGL) for the provision of biodiversity data including details of statutory and non-statutory sites, distribution of protected species and location of habitats and species of nature conservation value. GIGL has a sizable and rapidly expanding database of biodiversity and other green-space data.</p>	LBB should join the GIGL to enhance the biodiversity data available.	The Council are already signed up to GIGL and, working with the London Wildlife Trust, are looking at opportunities how GIGL biodiversity data can be cross referenced to our mapping database and emerging LDF documents.	None