

**Test Valley Borough Council**  
**Infrastructure & Developer Contributions Supplementary Planning**  
**Document (SPD)**  
**Statement of Representations and Responses**

**Formal Public Consultation 18<sup>th</sup> April to 23<sup>rd</sup> May 2008 (5 weeks).**

**List of Respondents**

<b>Number</b>	<b>Respondent</b>
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Non-Statutory Consultees

0003	Raglan Housing Assoc
00033	Mr J Jones
00496	White Young Green
00791	Hampshire Primary Care Trust

Keep Informed

KI0011	Romfield Holdings Ltd
KI0046	The Theatre Trust
KI0158	Turley Associates on behalf of The Trustees of the Barker Mill Estate
KI0238	CBRE on behalf of Easter Group Ltd
KI0285	Pegasus Planning Group on behalf of The Abbotswood Consortium
KI0304	Pegasus Planning Group on behalf of The Hunt Family

Statutory Consultees

SC014	Chilworth Parish Council
SC015	East Dean Parish Council
SC030	Melchet Park & Plaitford Parish Council
SC035	North Baddesely Parish Council
SC036	Nursling & Rownhams Parish Council
SC041	Romsey Extra Parish Council
SC081	Chilworth residents Committee
SC116	Environment Agency
SC133	Hampshire County Council – Children's Service
SC134	Hampshire County Council – Estates
SC143	Highways Agency
SC147	Home Builders Federation Ltd
SC163	Natural England
SC196	South East England Development Agency
SC196	South East England Regional Assembly
SC208	Southern Water
SC210	Sport England
SC228	Peacock and Smith on behalf of WM Morrison Supermarkets Plc

Member

M58	Cllr Ward
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No Comment

<b>Summary of Comments</b> No comment (SC015).
<b>Response</b> Comment noted.
<b>Change</b> No change.

General Comments

<b>Summary of Comments</b> Supportive of SPD (SC041, SC116, KI0238, SC163, SC197, SC210, SC196).
<b>Response</b> Support noted.
<b>Change</b> No change.

<b>Summary of Comments</b> Development in rural areas has a number of effects including additional burden on existing facilities, demands on highways/transport, need for additional facilities etc- it is not unreasonable for S106 agreements to address such effects (M58).  The impact on facilities is often underestimated- e.g. halls and recreational/sports facilities are placed under greater strain with every new household. Our Core Strategy intends to support these facilities over the next 20 years- it is reasonable and understandable that development should support these facilities through S106 agreements (M58).
<b>Response</b> Comments noted.
<b>Change</b> No change.

<b>Summary of Comments</b> The loss of open space issue is often difficult to justify in rural areas where open space is in abundance (M58).
<b>Response</b> Loss of public open space is covered by policy ESN 21 of the adopted Borough Local Plan 'retention of recreational areas and facilities'. Para 6.6.16 states that the loss of such areas may be permitted if there is adequate provision of recreational areas/facilities in the local area or if it can demonstrated that the site is no longer suitable for its current use.
<b>Change</b>

No change.

**Summary of Comments**

Document is generally well aligned to the Regional Economic Strategy (RES). Specifically welcome use of planning obligations to fund skills training initiatives & sustainable transport measures (SC196).

**Response**

Comment noted.

**Change**

No change.

**Summary of Comments**

Where necessary, developers must make provision for improved healthcare either through the enabling of new facilities or the extension of existing facilities (00791).

No references to considering the need for contributions to health care services and whether there has been any liaison with the providers of these services (SC197).

**Response**

Para 1.15 recognises that contributions to health are sometimes necessary. The provision of healthcare facilities will be considered on a case by case basis with consultation with the relevant organisations. Contributions and/or provision of new facilities will usually be sought from strategic sites where justified.

**Change**

No change.

**Summary of Comments**

Is there a need for a specific reference to contributions to libraries & other key public services i.e. emergency services (SC197).

**Response**

HCC have produced a draft 'South East Public Library Tariff' which is due for completion and adoption by HCC in 2009. Its inclusion within this SPD will be reviewed after this time.

**Change**

No change.

**Summary of Comments**

'Natural' green space and green infrastructure should be included within open space provision (SC163).

**Response**

The open space requirements are based on the adopted Borough Local Plan policy ESN 22. In certain circumstances it can be justified to seek works or contributions towards green infrastructure as part of the scheme.

**Change**

No change.

**Summary of Comments**

Lack of inclusion of Green Infrastructure in SPD (SC116, SC163).

No mention of PUSH Green Infrastructure (GI) Strategy. Recommend a statement is included relating to TVBC's contribution to delivery of the PUSH GI Strategy (SC116, SC163).

**Response**

The PUSH GI Strategy is still in draft form and therefore it is inappropriate to include it within the SPD. When the SPD is reviewed it will be amended to reflect any additional guidance produced.

**Change**

No change.

**Summary of Comments**

Issue of infrastructure could be expanded beyond transport- e.g. water, sewerage treatment works, green infrastructure (multifunctional green space networks) (SC116).

**Response**

Para 1.15 recognises that works relating to water supplies, surface water disposal and sewage are sometimes necessary. The provision of these works is a matter between the statutory undertaker and the developer and should be considered on a case by case basis.

**Change**

No change.

**Summary of Comments**

The Council should require green infrastructure corridors to be secured through developer contributions (SC116, SC163).

**Response**

In certain circumstances it can be justified to seek works or contributions to green infrastructure as part of the scheme, under policy ESN 22 of the adopted Borough Local Plan.

**Change**

No change.

**Summary of Comments**

Care needs to be taken to ensure scheme viability is not compromised by over burdening developer with costs (00003).

SPD should make specific reference to the cumulative affect of such obligations on a scheme's viability (KI0285).

Amend SPD to include additional section that recognises that where a full package of planning obligations cannot be delivered on viability grounds, this must be justified through the submission of an 'open book development appraisal' (KI0285).

Concern that contributions would have significant impact on value of HCC land. Could prejudice viability of providing necessary improvements. Need for negotiation & flexibility in providing contributions (SC134).

**Response**

It is agreed that reference to viability and the 'open book' approach should be included.

**Change**

Change section 7 from 'Conclusion' to 'Development Viability' and renumber Conclusion as section 8.

Section 7 'Development Viability' shall contain the following wording:

**7.1 In certain cases the cumulative impact of planning obligations may affect the viability of developing a site (e.g. when contamination results in high remediation costs). A developer must consider the overall cost of development, including obligations, prior to purchasing a site.**

**7.2 If a developer cannot deliver all of the planning obligations required by a proposed development, it is their responsibility to demonstrate how this would threaten the development's viability. The developer must identify all the relevant issues and costs and provide sufficient financial justification for the reduction in contributions (any financial information will be treated as confidential). The financial justification (including data on construction type, materials and local examples) will be assessed by the Council's Valuer or an independent expert.**

**Summary of Comments**

May need to prioritise the obligations/contributions sought depending upon the needs that are most pressing (KI0285).

**Response**

All obligations sought are required equally and cannot be prioritised. However, if an 'open book' approach was taken then the level of contributions may need to be considered.

**Change**

No change.

**Summary of Comments**

Could consider a maximum time period for completion of properties (00003).

**Response**

It is unreasonable to require properties to be completed within a specified timeframe. A developer has 3 years to implement a planning permission.

**Change**  
No change.

**Summary of Comments**

Include definition of geographical extent of Andover, Northern & Southern Test Valley- for clarification purposes (SC134).

**Response**

It is not considered necessary to include a definition of the geographical extent of these areas. Reference should be made to the insert maps contained within the adopted Borough Local Plan.

**Change**  
No change.

**Summary of Comments**

Procedures for the submission of contributions should be simplified e.g. using unilateral agreements or planning conditions for 'minor' applications (00496).

The existing use of planning conditions by TVBC as a mechanism to secure contributions demonstrates a willingness to accept contributions by means other than legal agreements (00496).

**Response**

Para 4.3 refers to the submission of unilateral undertakings. Planning conditions cannot be used to obtain obligations. Circular 11/95 states that permission cannot be granted subject to a condition that the developer enters into a planning obligation.

**Change**  
No change.

**Summary of Comments**

Make specific references to the South East Plan Implementation Plan & revisions to the Sub-Regional Investment Framework (SC197).

Mention that developer contributions may be required to part fund key strategic needs for the sub-region (SC197).

**Response**

The SPD will need to be reviewed and the inclusion of the Implementation Plan/ Investment Framework will be considered at that time.

Contributions will be sought for key strategic projects but only where justified under the 5 tests of Circular 05/05.

**Change**  
No change.

**Summary of Comments**

Commercial developments (i.e. retail, hospitals, hotels) should also be subject to

planning obligations as they can place pressure on existing sport & recreation facilities (SC210).

**Response**

A contribution can only be sought if it meets the 5 tests as set out in Circular 05/05. It is considered unreasonable to seek contributions towards public open space from those proposals listed. In addition, policy ESN 22 only requires contributions towards/provision of public open space from residential developments.

**Change**

No change.

**Summary of Comments**

For the avoidance of doubt, there should be specification of where development contributions might be spent (i.e. pitches, drainage) and specific exclusions (i.e. landscaping for aesthetic purposes) (SC210).

**Response**

The purpose of this SPD is to provide general guidance for applicants, agents and developers. It is not necessary to give further examples as each case will be negotiated on its own basis.

**Change**

No change.

**Summary of Comments**

Reference to improvements in the quality of facilities, in lieu of additional provision, both for its own sake and to increase capacity for users, would be a useful addition (SC210).

**Response**

This issue is covered in the supporting text of policy ESN 22 of the adopted Borough Local Plan (para 6.6.23). It not considered necessary to replicate it in this SPD.

**Change**

No change.

**Summary of Comments**

The inclusion of HCC generated elements of the SPD (transport, education) is inappropriate & highly objectionable (KI0158).

Both the education & transport contribution sections have been prepared in a manner that fails to accord with PPS12- insufficient public consultation & constructed within the context of a Structure Plan that will shortly be replaced. Little weight can be given to their content & they should be removed from the SPD. Failure to address this issue could give rise to a potential legal challenge (KI0158).

Both sections fail to be based on local policies & fail to take into account local circumstances & specific needs within the Borough. Contribution figures too high & unreasonable (KI0158).

**Response**

<p>All contributions are based on adopted Borough Local Plan policies (e.g. TRA 04, ESN 30).</p> <p>HCC, as Highways and Education Authority, would be responsible for negotiating works and/or contributions on a site by site basis. Their inclusion within the SPD informs the user of the formula approach that HCC will be undertaking in negotiations. The negotiations will take account of local circumstances and will be on a case by case basis.</p>
<p><b>Change</b> No change.</p>

<p><b>Summary of Comments</b> Useful for SPD to include a statement acknowledging that revisions may need to be made to take account of proposed changes to the planning system (SC196).</p>
<p><b>Response</b> It is agreed that a reference will need to be included to acknowledge that the SPD will have to be revised as appropriate.</p>
<p><b>Change</b> Add last sentence to para 1.7: <b><u>'It may also be required to revise the document following monitoring of its implementation and update of the Core Strategy.'</u></b></p>

<p><b>Summary of Comments</b> Requiring financial contributions for employment facilities would not meet the 5 tests set out in circular 05/05. Morrisons provide in house &amp; external training events for employees- considers the proposal unduly onerous (SC228).</p>
<p><b>Response</b> Seeking financial contributions from employment is justified. Each proposal should demonstrate why an obligation should not be required.</p>
<p><b>Change</b> No change.</p>

## Section 1: Introduction

<p><b>Summary of Comments</b> Para 1.3: reference to 'saved' SPD should be removed- it is only possible to 'save' local plan policy, not SPG (SC147).</p>
<p><b>Response</b> Comment noted.</p>
<p><b>Change</b> Amend para 1.3 to read: <b>'...the Development Plan and other saved Supplementary Planning Guidance or Document such as...'</b></p>



**Summary of Comments**

Para 1.4: sole reliance upon using legal agreements to secure 'appropriate benefits' can take considerable time to produce & agree- may unnecessarily restrict the determination of applications (00496).

**Response**

S106 agreements are appropriate tools for securing obligations. The Council has promoted the pre-application discussion process to help speed the determination of planning applications.

**Change**

No change.

**Summary of Comments**

Para 1.5: amend '*other service body*' to 'public sector agency' and 'public sector infrastructure providers' (SC134).

**Response**

Comment noted. It is considered that only one reference is required.

**Change**

Amend para 1.5 to read: '**...or County Council or other public service body...**'

**Summary of Comments**

Para 1.7: include reference to Community Infrastructure Levy (CIL) in SPD (SC143).

Para 1.7: request that any amendments regarding the proposed CIL are available for consultation prior to being agreed (KI0238).

Para 1.7: CIL will change the way that planning obligations operate- at this stage time may be better spent on developing a good evidence base on infrastructure needs & priorities, prior to developing a charging schedule (KI0304).

**Response**

It is recognised that the creation of the CIL will require the SPD to be revised (see section 1.7). Any revision will be consulted on and any obligations will be justified.

**Change**

No change.

**Summary of Comments**

Para 1.8: the national policy quoted as 'obligations are intended to make acceptable development which would otherwise be unacceptable in planning terms' sounds rather like bribery (SC081).

**Response**

The quote is taken from Circular 05/05 and should remain unchanged.

**Change**

No change.

**Summary of Comments**

Para 1.9: the necessity tests are somewhat subjective & dependent on the interpretation of the word 'reasonable'. Would be helpful if tests could be more tightly worded, with reference to measurable parameters (SC014, SC081).

**Response**

The wording of the necessity tests is taken from Circular 05/05 and should remain unchanged.

**Change**

No change.

**Summary of Comments**

Para 1.15: provision of new physical transport infrastructure should be a last resort. Every effort should be made to manage down the demand for private car trips & encourage public transport usage (SC143).

**Response**

The Council will seek works or contributions towards the creation/promotion of non car modes of transport where appropriate. However, it is necessary to recognise that additional highway measures may be required.

**Change**

No change.

**Summary of Comments**

Para 1.16: flexibility should be retained in the form of payments as this may depend on the scale & nature of the development as to whether payments or works are appropriate (KI0304).

**Response**

The inclusion of a reference to an 'open book' approach will provide flexibility with regards to payments.

**Change**

No change.

**Summary of Comments**

Para 1.18: Highways Agency seeks assurance that these policies are carried forward within Core Strategy (SC143).

**Response**

The Highways Agency will be consulted on the content of the Core Strategy including the core policies and development control policies. It is intended that the policies referred to in para 1.18 are saved until the Core Strategy is adopted.

**Change**

No change.

**Summary of Comments**

Para 1.21: further clarification of what is meant by 'pressure'. What about education contributions for normal dwellings in an area with surplus capacity at existing schools? (SC147).

Para 1.21: would be helpful if this context of 'pressure' could be extended to refer to the nature & extent of existing provision of any given facility/service in a locality (SC147).

**Response**

Contributions for schools are a matter for HCC and will only be sought where justified.

It would be unreasonable to include the proposed level of information within the SPD- contributions are sought on a case by case basis taking into account local factors etc.

**Change**

No change.

## Section 2

**Summary of Comments**

The Council's Objectives for Community Benefits should make more explicit reference to the natural environment (SC163).

**Response**

The content of Section 2 is taken from other corporate documents. It is inappropriate to amend or add further objectives in the SPD.

**Change**

No change.

## Section 3

**Summary of Comments**

Para 3.1(a): In accordance with Circular 02/2007, developers should be made aware that:

'improvements required to mitigate the impact of traffic generated by developments will also need to address any existing issues at that location, unless the Agency already has a firm commitment to do so' (SC143).

**Response**

Comment noted.

**Change**

Include additional paragraph after para 1.10: **In certain circumstances the Highways Agency will need to be consulted and obligations sought following guidance in Circular 02/2007 Planning and the Strategic Road Network (para 28) which states that 'improvements required to mitigate the impact of traffic generated by developments will also need to address any existing issues at that location, unless the Agency already has a firm commitment to do so.'**

**Summary of Comments**

Para 3.1(b): Parish Council involvement at pre-app stage (SC041).

Para 3.1(b): proposed late introduction of 'community benefits & infrastructure' requirements after pre-app discussions & at planning committees could delay S106 process & result in refusals (SC134).

Para 3.1(b): the checklist should be driven by the parish plan (SC035).

**Response**

There is no duty on TVBC to consult with Parish Councils at the pre-application stage. PPS1 (para 12) only makes reference to Local Planning Authorities and the applicant. There is no reference to 3<sup>rd</sup> parties being involved including statutory and non-statutory consultees. Parish Councils should not be involved with the negotiation of obligations. This is a matter for the Local Planning Authority and statutory bodies e.g. highways authority to discuss. Should a request be made by a Parish Council or another external body for a scheme then this money can be released subject to the appropriate tests i.e. that the money is not allocated for another scheme and is justified.

Para 3.1(b) is clear that pre-application discussions with developers will include a checklist of the community benefits & infrastructure likely to be required, however there may be certain circumstances where justified contributions are sought following consultation on planning applications. Such requirements should be sorted out prior to applications being determined at planning committees.

Parish plans are useful in providing information to the Council about schemes that the community is in need of. Accessing the contributions is dealt with in para 6.3.

**Change**

No change.

**Summary of Comments**

Para 3.1(c): Add wording: Satisfactory water supply & drainage are essential requirements in all new development. If existing capacity in the local sewerage system and/or the water supply network is insufficient to meet the anticipated demand, the developer will need to requisition a connection to the nearest point of adequate capacity, as defined by Southern Water. The requisitioning process is covered by sections 41 & 98 of the Water Industry Act (1991) and is the legal mechanism by which developers should provide the local infrastructure required to service their site. (SC208).

Para 3.1(c): amend sentence to end '...and the SPD with respect to affordable housing (SC134).

**Response**

Comment is noted and it is proposed to include the additional wording.

It is not considered necessary to amend the end of para 3.1(c) as proposed.

**Change**

Include a footnote within para 1.15 to read: '**Satisfactory water supply & drainage**

**are essential requirements in all new development. If existing capacity in the local sewerage system and/or the water supply network is insufficient to meet the anticipated demand, the developer will need to requisition a connection to the nearest point of adequate capacity, as defined by Southern Water. The requisitioning process is covered by sections 41 & 98 of the Water Industry Act (1991) and is the legal mechanism by which developers should provide the local infrastructure required to service their site.'**

No change.

#### **Summary of Comments**

Para 3.1(d): the type of 'infrastructure' in the last sentence could be made more explicit (SC134).

#### **Response**

It is agreed that an example could be included.

#### **Change**

Amend para 3.1(d) to read: '**...construction of the infrastructure (e.g. community building) and of...**'

#### **Summary of Comments**

Para 3.1(f): should include the words 'within the Parish' or 'commencing within the Parish' at end of sentence (SC014, SC081).

Para 3.1(f) & (g): pooling of contributions- should be directly relevant to the development and to planning (KI0304).

Para 3.1(f) & (g): can contributions be held and added together from small developments for larger projects? Who will hold the finances and will the parish be notified? (SC035).

#### **Response**

It is agreed that para 3.1(f) should include reference to the Parish.

The Council will ensure that planning obligations meet the tests set out in Circular 05/05, which include being directly related to the development and relevant to planning. Certain obligations will be required to mitigate the cumulative impact of development so it is therefore appropriate to pool contributions.

Contributions can be pooled together to fund larger schemes. This will be managed and monitored by TVBC who will notify each Parish Council of any contributions that have not been allocated to another scheme/strategy.

#### **Change**

Add wording '**within the Parish**' to the end of para 3.1(f).

No change.

#### **Summary of Comments**

Para 3.1(g): states that contributions will be used within parish or adjacent parishes.

6.1 states 'parish or ward'. Extended in 6.2 to 'contributions may be pooled...' 6.3(b) includes Council schemes. Should be clearer exactly who has first call on S106 funding (SC030).

Parish Council should have first call on S106 funding from small scale development (SC030).

**Response**

As Local Planning Authority TVBC will seek obligations and allocate the contributions as justified. The areas where contributions are spent depend on the type of obligation and location of the site. For rural areas of the borough this is usually by Parish. Within the urban areas it will be by ward.

The involvement of Parish Councils is set out in Section 6.

**Change**

No change.

**Summary of Comments**

Para 3.1(h): amend sentence to read: 'the provision of appropriate infrastructure will apply not only to housing and all other types of development sites allocated in the Local Plan but also to windfall sites not specifically identified (SC134).

**Response**

It is agreed to amend the text as proposed.

**Change**

Amend para 3.1(h) to read: **The provision of appropriate infrastructure will apply not only to housing and all other types of development sites allocated in the Local Plan but also to windfall sites not specifically identified.**

**Summary of Comments**

Para 3.1(i): there needs to be parish involvement at the early stages (SC035).

**Response**

In certain cases, planning briefs or position statements prepared by the Council could benefit from parish involvement or public consultation. Also parish plans could provide advice about the needs of the local community.

**Change**

No change.

**Summary of Comments**

Para 3.1(j): the Council should provide details of their commitment to ensuring the S106 agreements are completed in time e.g. performance indicators (SC134).

Para 3.1(j): unclear what the term 'completed' S106 agreement means in relation to the 8/13 week deadline- para 4.5 states the S106 should be 'agreed in final draft stage' & para 4.6 allows 6 months from committee date for the S106 to be 'completed' (SC134).

Para 3.1(j) & 4.6: need to ensure that timescales are realistic & achievable for both the developer and the Council (KI0238).

Para 3.1(j): the start of the period to which 'the 8 or 13 weeks' refers needs to be clarified- for the benefit of the lay person (00033).

Para 3.1(j): for major applications with Environmental Statements, the decision may not be made until 16 weeks- reference should be made to this in refusing applications where a S106 has not been completed (KI0304).

#### **Response**

Targets for determining planning applications (including completed S106 agreements) are set by CLG and provide a necessary performance indicator.

In all cases a completed (i.e. signed) S106 agreement is required prior to planning permission being granted within the 8/13 week deadline. The Council recognises that some issues may be complex and therefore has recommended that pre-application consultation is undertaken. However, with the written agreement of the Council extensions to this deadline for the completion of S106 agreements may be permitted as an exception.

The start of the 8/13 week period begins when the planning application is registered.

Major applications with Environmental Statements should be determined within 16 weeks.

#### **Change**

No change.

Add last sentence to 3.1(j): '**Major applications with Environmental Statements should be determined within 16 weeks.**'

### Section 4

#### **Summary of Comments**

Para 4.2: amend text: 'He/she will carry out consultations within the Council and the highways authorities (where applicable) to ascertain the likely site specific requirements' (SC143).

Para 4.2: sufficient time should be given to the applicant to address any changes in contribution figures during the planning process- allow flexibility over the deadline in exceptional circumstances (SC134).

Para 4.2: states no external consultation will be undertaken during pre-app stage- inconsistent with checklist (Annex 8) which includes reference to consultation with Parish Council. In interest of confidentiality no consultation should be undertaken with the Parish Council at pre-app stage (00496).

Para 4.2: the Parish Council need to be consulted as well (SC035).

#### **Response**

Para 4.2 already refers to the Highway Authority.

<p>The issue of time deadlines has been dealt with in the previous section.</p> <p>It is agreed that the wording in the checklist in Annex 8 should be amended.</p> <p>There is no duty on TVBC to consult with Parish Councils at the pre-application stage. PPS1 (para 12) only makes reference to Local Planning Authorities and the applicant. There is no reference to 3<sup>rd</sup> parties being involved including statutory and non-statutory consultees.</p>
<p><b>Change</b> No change.</p> <p>Delete last section of the checklist in Annex 8.</p>

<p><b>Summary of Comments</b></p> <p>Para 4.3: might need to be more strongly worded/tightly defined in order that developers don't fall down on their undertakings. Suggested wording: 'The Council will need to be assured by written undertaking that...' or 'The Council will only accept an application if it has received a prior, written undertaking...' (SC014, SC081).</p>
<p><b>Response</b></p> <p>The wording in para 4.3 'The Council will <i>expect</i> a unilateral undertaking...' is considered strong enough. It is therefore not considered necessary to change the wording to that proposed.</p>
<p><b>Change</b> No change.</p>

<p><b>Summary of Comments</b></p> <p>Para 4.4: the Parish Council would like to be consulted <i>prior</i> to work starting on the preparation of the S106 agreement. From the outset the Parish Council should have a direct say in the allocation of funds from any development (SC036).</p> <p>Para 4.4: doesn't approval of major schemes rest with members relying on officer recommendations? If so the wording should reflect this (SC081).</p>
<p><b>Response</b></p> <p>Parish Councils should not be consulted on or involved with the negotiation of obligations. This is a matter for the Local Planning Authority and statutory bodies e.g. highways authority to discuss. Should a request be made by a Parish Council or another external body for a scheme then this money can be released subject to the appropriate tests i.e. that the money is not allocated for another scheme.</p> <p>Members do not have to rely on Officer recommendations; they can take a different view provided that their decision is based on material planning considerations.</p>
<p><b>Change</b> No change.</p>

<p><b>Summary of Comments</b></p> <p>Para 4.5: add details of the Council's commitment to ensuring the S106 agreements</p>
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are completed in time e.g. performance indicators (SC134).

Para 4.5: the Parish Council would support this action *only* when they have been consulted prior to work starting on the S106 agreement (see para 4.4) (SC036).

Para 4.5: S106 agreements should be reviewed by Councillors in open planning meetings & approval of an application must be contingent on agreement to the S106 by the developer as amended & approved by Councillors (00033).

**Response**

The Council's commitment to achieving targets has been dealt with previously.

Parish Councils should not be consulted on or involved with the negotiation of obligations. This is a matter for the Local Planning Authority and statutory bodies e.g. highways authority to discuss. Should a request be made by a Parish Council or another external body for a scheme then this money can be released subject to the appropriate tests i.e. that the money is not allocated for another scheme.

The obligations sought by officers of the Council are reported to the planning committees.

**Change**

No change.

**Summary of Comments**

Para 4.6: concern that the Council is proposing to unilaterally decree that applications be withdrawn purely because legal agreements have not been completed within 6 months. Article 25(11) of the TCP(GDP)O 1995 does not confer such power in the specific context of S106 agreements (SC147).

Para 4.6: concern that the Council could misuse such a power to place undue pressure on applicants to agree to things in order to complete an agreement within the specified period which may be unreasonable. Paragraph should be deleted or the period should be more reasonable than just 6 months (SC147).

Para 4.6: the Council should commit in the SPD to doing all within its power to assist in moving the legal agreement process forward as quickly as possible & to a greater use of conditions so that less has to be dealt with by S106 (SC147).

**Response**

The powers conferred to the Council under Article 25(11) allow applications to be 'finally disposed of' if a decision has not been made and if the applicant has not appealed against the non-determination of the application within the given 6 month period. When an application has a committee resolution for permission subject to the completion of a S106, a decision will not be made (i.e. permission will not be granted) until the S106 has been completed. Although Article 25(11) does not specifically refer to S106 agreements, it would still apply to those applications which have not been determined (due to a lack of a completed S106) and which have not been appealed against within 6 months.

It is considered that in the vast majority of cases 6 months is a reasonable length of time for the completion of S106 agreements although it is acknowledged that some larger applications may require longer. In such cases the applicant has the

opportunity to negotiate an extension of time for the completion of a S106 agreement with the Council (as stated in para 4.6).

The Council will seek to actively work with the applicant to ensure that S106 agreements are completed within the 8 or 13 weeks. Planning obligations are used to secure the implementation of planning policy in order to make acceptable a development proposal that would otherwise be unacceptable in planning terms (para. B12 of Circular 05/05). Planning obligations are used in certain situations where it is not possible to use planning conditions e.g. when securing an element of affordable housing in a residential development. Circulars 11/95 and 05/05 provide guidance on when planning conditions or obligations should be used.

**Change**

No change.

**Summary of Comments**

Para 4.7: amend last sentence: 'Unspent contributions not used towards the originally identified requirement will normally be returned to the developer...' (00496).

Para 4.7: provide justification to explain why contributions will be retained for 10 years & how process will be monitored. How will monies be dealt with if developer cannot be contacted after 10 year period (00496).

Para 4.7: unspent contributions should not be returned to the developer within 10 years. Should be invested for use on large projects in the future (SC036).

Para 4.7: there should be a statement on how any unspent contributions will be dealt with (SC210).

Para 4.7: refers to indexation being to RPI or the Baxter Index but not to BCIS or PUBSEC, as used for education contributions (SC133).

Para 4.7: no reference to HCC needing to be a party to S106 in some circumstances (SC133).

Para 4.7: payments need to be made straight to the Parish Councils if the contributions are going towards a parish project managed by them- would help alleviate cash flow problems (SC035).

**Response**

The additional text is not required as all contributions will be defined for a particular purpose within the S106.

Ten years is used as many projects however to provide flexibility in negotiation it is proposed to delete the reference. The Council will endeavour to ensure that unspent contributions are returned to the developer.

Reference will be made to tri party S106 arrangements.

The issue of parish council involvement has been dealt with previously.

**Change**

Delete reference to 10 years within para 4.7

Amend para 4.7 to read: ‘...**highways) or others as appropriate** from the date of the agreement.’

Amend para 4.4 to read: ‘...**106 agreement. In some circumstances this would involve the County Council as signatories. Applications for...**’

No change.

## Section 5

### Summary of Comments

Para 5.1: what incentives are there for applicants to make payments on time? Should there be penalties? (SC014, SC081).

### Response

Failure to pay contributions on time would result in enforcement action being taken.

### Change

No change.

## Section 6

### Summary of Comments

Para 6.1: Contributions should only go to the Parish or Ward unless agreed with the relevant Parish Council (SC035).

Para 6.1: S106 contributions *should* be spent on maintenance of existing facilities, where there are sufficient facilities in place that are in need of repair (SC036).

Para 6.2: the Parish Council would support the pooling of contributions if they can be spent on the maintenance of existing facilities (see para 6.1 above) (SC036).

### Response

As Local Planning Authority TVBC will seek obligations and allocate the contributions as justified. The areas where contributions are spent depend on the type of obligation and location of the site. For rural areas of the borough this is usually by Parish. Within the urban areas it will be by ward.

Public Open Space contributions received by TVBC should not be spent on maintenance of existing facilities. They are only sought to ensure that any deficiency in provision is not exacerbated and is necessary to make the proposed development acceptable. It is difficult to justify the link between a proposed housing scheme and the maintenance of play equipment. If the housing were not to be proposed the facility would still need to be maintained. However, it may be appropriate under policy ESN 22 for contributions to be spent on the improvement or upgrading of existing sites.

### Change

No change.

**Summary of Comments**

Para 6.2: amend first sentence to end ‘...by the Council or another responsible body’ (SC134).

Para 6.2 & 6.3(a): reference should be made to conformity with Circular 05/05 (SC134).

Para 6.2: it is good that the Parish Council will be notified (SC035).

**Response**

It is agreed to amend para 6.2 as proposed.

Including a reference to Circular 05/05 does not add clarity to the procedure.

Comment noted.

**Change**

Amend first sentence of para 6.2 to end ‘...**by the Council or another responsible body.**’

No change.

**Summary of Comments**

Para 6.3(a): the SPD does not state at what point a request can be made to allocate contributions to a specific project. Submitting a separate report to Executive at this stage is a little late in the proceedings (SC036).

**Response**

Further clarification will be provided within Section 6 to demonstrate the practice of how TVBC will notify each Parish Council of any contributions that have not been allocated to another scheme/strategy.

**Change**

Include additional paragraph after para 6.2: **The Council will provide each Parish Council (in whose area contributions have been received) with a financial position statement and procedure note, outlining what the Parish Council would need to do to secure the funding and the conditions on how the contributions will be released. The Council will provide Parish Councils with updates regarding contributions at appropriate times. Parish Councils will be offered the opportunity to meet with the Council to discuss what the funding could be spent on.**

**Summary of Comments**

Para 6.3(b): classification should be sought from the Parish Council at the outset along with other ‘relevant services’. The Parish Council should have a higher profile in the decision making process (SC036).

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Para 6.3(b): the Parish Council feel strongly that no borough or county scheme should come before a parish scheme (SC035).

**Response**

There is no duty on TVBC to consult with Parish Councils at the pre-application

stage. PPS1 (para 12) only makes reference to Local Planning Authorities and the applicant. There is no reference to 3<sup>rd</sup> parties being involved including statutory and non-statutory consultees. Parish Councils should not be involved with the negotiation of obligations. This is a matter for the Local Planning Authority and statutory bodies e.g. highways authority to discuss. Should a request be made by a Parish Council or another external body for a scheme then this money can be released subject to the appropriate tests i.e. that the money is not allocated for another scheme.

**Change**

No change.

**Summary of Comments**

Para 6.3(e): when contributions are eventually released all interest incurred should be added (SC035).

**Response**

In accordance with The Chartered Institute of Public Finance and Accountancy's (CIPFA) guidance, it is not the practice of the Council to add interest to individual accounts.

**Change**

No change.

Section 7

**Summary of Comments**

The conclusion has failed to take into account the need for the Parish Council to be consulted at the outset (SC036).

**Response**

There is no duty on TVBC to consult with Parish Councils at the pre-application stage. PPS1 (para 12) only makes reference to Local Planning Authorities and the applicant. There is no reference to 3<sup>rd</sup> parties being involved including statutory and non-statutory consultees. Parish Councils should not be involved with the negotiation of obligations. This is a matter for the Local Planning Authority and statutory bodies e.g. highways authority to discuss. Should a request be made by a Parish Council or another external body for a scheme then this money can be released subject to the appropriate tests i.e. that the money is not allocated for another scheme.

**Change**

No change.

Annex 1

**Summary of Comments**

Tables 1 & 2 contain dated information of little assistance to applicants- the annual publication of public open space contribution scales as currently provided by Winchester City Council has more up to date & relevant information (00496).

Table 2: do the financial contributions need to reflect 2008 costs now? (SC014,

SC081).
<b>Response</b> Contribution figures are Retail Priced Indexed from April each year. This consultation draft was published prior to the updated figures being released. The adopted version will include the 2008 figures. It is proposed to publish revised figures annually.
<b>Change</b> Amend tables 2 & 3 and supporting text to include 2008 figures.

<b>Summary of Comments</b> Annex 1 appears to use the NPFA standards for public open space provision. SPD should be founded on a PPG17-compliant assessment of open space & built facilities across the Borough (SC210).
<b>Response</b> The contributions sought are based on adopted policy (ESN 22) and a public open space (POS) audit which demonstrates the requirement and provision for Test Valley. A review of the POS audit is currently underway.
<b>Change</b> No change.

<b>Summary of Comments</b> Public open space contribution is higher than NPFA's 'six acre standard'- little justification for this increase. Overall level of provision sought is too high (KI0158).
<b>Response</b> The wording of Annex A follows the adopted Borough Local Plan policy ESN 22 on public open space. The standards are justified.
<b>Change</b> No change.

<b>Summary of Comments</b> Open space figures should be revised annually based on the actual cost of materials, rather than merely index linking the 2002 base figure which may inflict inaccurate & unrealistic costs on developers (KI0158).
<b>Response</b> Figures are revised by TVBC Leisure Services and the contributions sought reflect the cost of implementation.
<b>Change</b> No change.

<b>Summary of Comments</b> Incorporate 'Access to Natural Green-space Standards' (ANGST) within policy ESN 22 (SC163).
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**Response**

The wording of Annex A follows the adopted Borough Local Plan policy ESN 22 on public open space. It is not appropriate to amend adopted policy to include reference to ANGST.

**Change**

No change.

**Summary of Comments**

No policy regarding existing properties- SPD should be amended to provide a firm basis upon which existing dwellings can be taken into account in calculating contributions (KI0011).

**Response**

Contributions to public open space are sought when there is a net gain in dwellings as per the wording in policy ESN 22 of the adopted Borough Local Plan. Contributions are not sought from existing dwellings.

**Change**

No change.

**Summary of Comments**

Pleased that cultural buildings are included in Annex 1 but seems to refer solely to multi-purpose community halls according to Table 4 (KI0046).

**Response**

Table 4 is clear that cultural aspects have been included.

**Change**

No change.

**Summary of Comments**

Para A1.2: a 'case by case basis' is unfair- will allow larger developers to negotiate a more favourable basis than smaller developers who are subjected to more time constraints & funding costs- will be vulnerable to pressure from Planning Officers that without a swift agreement the application will be refused (KI0011).

**Response**

This formula follows adopted policy (ESN 22). Seeking contributions on a per person figure is considered to be the fairest approach. It allows for the same formula to be applied to any size of residential site.

**Change**

No change.

**Summary of Comments**

Para A1.12: include word 'cultural'- '...improvement of existing community, cultural and sports buildings...'

Para A1.12: Replace terminology- instead of saying the developer will be 'required to'

contribute or 'provide' for benefits, use 'the Council will undertake to ensure that developers provide appropriate contributions given that contributions are subject to negotiation' (00496).
<p><b>Response</b></p> <p>It is agreed to include the word 'cultural' as proposed. It is also proposed to include wording which recognises that town wide facilities may require contributions to cope with increase demand arising from increase in population.</p> <p>It is proposed to amend the wording in para A1.12.</p>
<p><b>Change</b></p> <p>Amend para A1.12 to read: - '<b>...improvement of existing community, <u>cultural</u> and sports buildings...</b>'</p> <p>Amend para A1.12 to read '<b><u>The Council will seek contributions towards town wide community facilities where the increase in population, arising from major sites, will have an impact on the existing provision</u></b>'.</p> <p>Amend beginning of para A1.12 to read: '<b><u>Contributions will be sought from developers to either...</u></b>'</p>

### Annex 3

<p><b>Summary of Comments</b></p> <p>Unclear whether whole annex applies to all types of development or 'employment development' only- needs clarification (SC134).</p>
<p><b>Response</b></p> <p>It is agreed that clarification is required for when obligations will sought.</p>
<p><b>Change</b></p> <p>Amend para A3.8 to read: '<b>...the type of development proposed (<u>residential and employment</u>) and guides the type...</b>'</p> <p>Amend para A3.9 to read: '<b><u>On allocations and major applications (residential and employment) the Council...</u></b>'</p>

<p><b>Summary of Comments</b></p> <p>Is the Workforce Development obligation still necessary given the transfer of funding to local education authorities outlined in the White Paper, 'Raising Expectations: Enabling the System to Deliver' (KI0158).</p> <p>Suggested that S106 agreements are no longer required to assist in achieving local delivery of skills training. Any such obligation would not be necessary to make a proposed development acceptable in planning terms (KI0158).</p>
<p><b>Response</b></p> <p>'Raising Expectations' is a consultation document. The justification for this SPD is based on the development plan.</p>
<p><b>Change</b></p>



No change.

**Summary of Comments**

Para A3.1: question the status of the workforce development obligation which is currently based on policy RE2 of RPG 9- soon to be superseded by the SE Plan (KI0158).

**Response**

RPG 9 still forms part of the development plan and therefore its inclusion is justified. An equivalent policy is contained within the draft South East Plan (policy RE4).

**Change**

No change.

**Summary of Comments**

Para A3.4: would be helpful to clarify the particular circumstances whereby a development will have a 'significant' impact on the local labour market (SC134).

**Response**

Such an example could be a strategic employment allocation e.g. Adanac Park. However, it is not considered necessary to include specific examples.

**Change**

No change.

**Summary of Comments**

Para A3.6: there are areas of deprivation in Romsey & North Baddesley which should not be overlooked (SC035).

**Response**

Comment noted.

**Change**

No change.

**Summary of Comments**

Para A3.8: helpful if annex gave an example of the type of development where this paragraph would be applicable (SC134).

**Response**

The obligation will be sought on a case by case basis.

**Change**

No change.

**Summary of Comments**

Para A3.9: these provisions are to be welcomed and will hopefully be applied to future major developments (00033).

<b>Response</b> Comment noted.
<b>Change</b> No change.

#### Annex 4

<b>Summary of Comments</b> Unsure whether incorporation of Annex 4 (Education Provision) into the SPD reduces flexibility to make changes to this document (SC133).
<b>Response</b> Inclusion of Annex 4 on Education Provision within this SPD allows for greater awareness of its requirements. A note will be included to highlight the need to check the content of obligations with HCC Education.
<b>Change</b> Amend Annex 4 to include additional note before section 1: <b><u>You are advised to contact Hampshire County Council regarding the content of obligations relating to education provision.</u></b>

<b>Summary of Comments</b> The provision of education is confined to youth. There should be educational provision for the older people, under lifelong learning initiatives (SC014, SC081).
<b>Response</b> HCC are the education authority and how contributions are spent is at their discretion.  Workforce training initiatives are not confined to certain age groups.
<b>Change</b> No change.

<b>Summary of Comments</b> Annex 4- para 7.1: firstly there should be a Parish Plan then a local plan (SC035).
<b>Response</b> Annex 4 deals with educational requirements and is outside the remit of the Borough Council. It is not considered appropriate to make any amendments to this document.
<b>Change</b> No change.

<b>Summary of Comments</b> Annex 4- para 8.1: Youth Clubs should be added at the end. These are not the same as after school clubs (SC035).
<b>Response</b>

Annex 4 deals with educational requirements and is outside the remit of the Borough Council. It is not considered appropriate to make any amendments to this document.

**Change**

No change.

Annex 5

**Summary of Comments**

Appendix 1 should be removed- the 'menu' for transport schemes is too prescriptive & could include some more open-ended requirements (SC134).

**Response**

The wording is taken from HCC Highway Authority guidance. It is not considered appropriate to amend this wording.

**Change**

No change.

**Summary of Comments**

Support inclusion of Green Travel Plans within Appendix 1 (SC163).

**Response**

Support noted.

**Change**

No change.

**Summary of Comments**

Section starts from the erroneous view that all new development has a negative traffic impact which is not always the case (SC147).

Ignoring the existing traffic impact renders the whole approach contrary to Circular 05/2005. Arbitrary, inflexible & unreasonable tax on development- this aspect of SPD should be withdrawn (SC147).

**Response**

Annex 5 deals with transport infrastructure and is outside the remit of the Borough Council. It is not considered appropriate to make any amendments to this document.

**Change**

No change.

**Summary of Comments**

Individual calculations based on each development are used universally when in some cases the cumulative effect of several major developments over many years should be the yardstick by which new travel infrastructure requirements are assessed. The piecemeal approach obscures the wider picture (SC014, SC081).

**Response**

When negotiating works/contributions, officers of TVBC and HCC are aware of future strategic proposals and will seek obligations to mitigate the wider cumulative impact.

**Change**

No change.

**Summary of Comments**

Para 2.3: expand the first occurrence of the abbreviation 'TA' (for benefit of lay person) (00033).

**Response**

It is agreed to expand the first abbreviation of 'TA' in para 2.3 as proposed.

**Change**

Amend first sentence of para 2.3 to read: '**...those developments which do not require a Transport Assessment (TA).**'

**Summary of Comments**

Para 6.2: we welcome the statement that funds will not be used elsewhere in the country (SC035).

**Response**

Comment noted.

**Change**

No change.

Annex 6

**Summary of Comments**

The parish council are pleased to see that archaeology is not being overlooked (SC035).

**Response**

Comment noted.

**Change**

No change.

Annex 7

**Summary of Comments**

Annex 7 could be expanded to consider issues such as water neutrality on large scale new developments. This could be provided by establishing obligations for retrofitting existing housing stock with water efficiency measures (SC116).

**Response**

The Council will consider any measure proposed to achieve a sustainable development. Retrofitting existing housing is unjustified.

**Change**

No change.

**Summary of Comments**

Para A7.1: support introduction of more sustainable methods of construction & development. Suggest adding word 'enhancement' to conservation of natural resources (SC163).

**Response**

It is agreed to add the word 'enhancement' to conservation of natural resources as proposed.

**Change**

Amend first sentence of para A7.1 to read: '**...more sustainable methods of construction and development and the enhancement and conservation of natural resources...**'

**Summary of Comments**

Para A7.4: Council has not consulted with all sectors of industry to confirm whether the BREEAM standard 'Very Good' is achievable or realistic. Crucial that the Council is flexible to ensure it does not represent an unreasonable burden on companies (SC228).

Para A7.4: the requirement for all commercial developments to meet the BREEAM standard 'Very Good' should be subject to tests of viability & suitability (SC228).

**Response**

The guidance echoes the wording of the draft South East Plan. It is for the applicant to demonstrate why the BREEAM standard is unachievable.

**Change**

No change.

**Summary of Comments**

Para A7.5: unclear whether dwellings are required to meet levels 3 or 4 under *all* 9 categories of the Code or just in respect of category 2 water conservation. If latter, the mandatory standard for potable water is the same under Codes 3 and 4 (SC134).

Para A7.5: the Council should set a target for all housing developments to reach level 4 of the Code for Sustainable Homes (SC163).

Para A7.5: Neither helpful nor reasonable for the Council to seek to advance the timescale for meeting the Code for Sustainable Homes. This paragraph should be deleted (SC147).

Para A7.5: if Code levels higher than Code Level 3 are introduced at a rapid rate post 2010 then this will inevitably have an effect on the ability of developers/ landowners to pay the Community Infrastructure Levy- may not be viable to pay both (KI0304).

**Response**

All homes will be expected to meet level 3 under all categories of the Code (except

affordable housing which will be required to meet level 4).
The requirement for homes to meet level 3 is considered justified on the basis of the South East Plan.
The viability of schemes has been dealt with previously (under 'general comments' p.4 of this document).
<b>Change</b> No change.

<b>Summary of Comments</b> Annex 7: the parish council are happy to see that the environment has been thought about (SC035).
<b>Response</b> Comment noted.
<b>Change</b> No change.

#### Annex 8

<b>Summary of Comments</b> Supportive of proposed checklist as provides transparency and clarity (SC134).
<b>Response</b> Support noted.
<b>Change</b> No change.

<b>Summary of Comments</b> Last section in Annex 8- not all Parish Councils are in rural locations but all need to be on the checklist (SC035).
<b>Response</b> It is proposed to delete the last section of the checklist in Annex 8.
<b>Change</b> It is proposed to delete the last section of the checklist in Annex 8.

#### Annex 9

<b>Summary of Comments</b> Supportive of Community Infrastructure Requirements form as it provides transparency and clarity (SC134).  Other heritage related community infrastructure requirements sites i.e. Discovery Centres, Rights of Way contributions & Social Services facilities should also be
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considered (SC134).

**Response**

Support noted.

The community infrastructure obligations will only be sought where justified and on the basis of adopted guidance. No justification has been provided for why the proposed contributions should be sought.

**Change**

No change.

**Summary of Comments**

The parish council should also sign the documentation (SC035).

**Response**

As mentioned in previous sections, it is not considered that Parish Councils should be involved at the pre-application stage. PPS1 (para 12) only makes reference to Local Planning Authorities and the applicant. There is no reference to 3<sup>rd</sup> parties being involved including statutory and non-statutory consultees.

**Change**

No change.