

## **Appendix 2**

### **Consultation Statement**

**Summary of consultations received with respect of  
Dudley MBC's draft revised Planning Obligations  
Supplementary Planning Document (SPD) (January 2009)  
and the Council's responses**

**Summary of consultations received to Dudley MBC's draft revised Planning Obligations Supplementary Planning Document (SPD) (January 2009) and the Council's proposed responses to the consultations.**

## **1. Natural England**

<b>Summary of Comments</b>	<b>Council's Response</b>	<b>Council's Further Action</b>
<p>Nature Conservation - Paragraphs 2.76 – 2.81 Fully support the proposed additional wording for the Nature Conservation Section.</p> <p>RSS Policy QE10 is clear that local authorities need to plan for the protection and enhancement of biodiversity. The proposed measures are essential, proportionate and consistent with PPS9 and its best practice guidance.</p> <p>Support the proposed contribution level of 50p per square metre as a reasonable and proportionate cost which matches the amounts needed to practically deliver nature conservation outcomes on the ground.</p>	Support is noted.	None

## 2. Network Rail

Summary of Comments	Council's Response	Council's Further Action
Request addition of specific wording so as not to exclude improvements to passenger facilities at railway stations from s.2.136 (DTS5). These may be improvements to access (ramps/footbridges etc), security measures, information (PA/CIS), waiting facilities, passenger car parking and environmental improvements, as well as longer platforms (to accommodate longer trains) and other items as appropriate.	It is considered that Strategic infrastructure is subject to the consideration of that responsible authority, in this case Network Rail and Central Government, and as such is beyond the Council's powers.	None

## 3. CABB

Summary of Comments	Council's Response	Council's Further Action
No specific comments, rather some general comments on the importance of design issues.	The comments are noted, however do not relate specifically to the review of the SPD	None

## 4. William Davis Limited

Summary of Comments	Council's Response	Council's Further Action
Welcome the Council's recognition of the difficult economic climate, however object to	The introduction of calculations for Public Realm and Nature Conservation Enhancement	

<p>the overall principle of the revised SPD as do not believe that appropriate changes have been made to the SPD to ensure the obligations required by the Council are realistic and reasonable. It is considered that the revised SPD will significantly constrain development in the Borough with sites becoming unviable and therefore putting housing delivery at risk.</p> <p>It is considered that no such reductions have been made and instead further costs have been added to potential developments through additional obligations including Air Quality, Nature Conservation Compensation, Public Realm Enhancement and Transport Infrastructure Improvements.</p>	<p>provide for a standardised approach to be adopted. Currently this is undertaken by negotiation. The SPD simply makes clear this role.</p> <p>With regards Nature Conservation, the proposed changes put forward a benchmark for levels of compensation. It does not add or reduce protection to existing or future designated nature conservation sites. Instead they reflect the current compensation rates generally used within the borough for such approved developments.</p> <p>It is therefore not envisaged that they will add additional burden onto developers. Instead it aims to clarify these rates to developers, at an early stage, to enable them to factor this into their viability studies in combination with pre-application discussions (where it can be advised whether or not the application would be important enough to override the relevant nature conservation protection).</p> <p>Air Quality requirements are currently undertaken by negotiation. The SPD simply makes clear this role. Accept that additional clarification would be useful in this section of the SPD</p>	
--	---	--

	The Transport Infrastructure Improvements contribution has been significantly reduced.	
Object to the Planning Obligation Monitoring Fees established in Table 1 of the revised SPD. It is considered unreasonable for the Council to expect developers to pay for the monitoring of Planning Obligations and are unaware of any planning policy supporting such a requirement. These additional costs directly conflict with the Council's aim of making the required obligations reasonable and realistic.	The Monitoring Fees were approved by the Council's Development Control Committee in January 2007 and is now embedded as established practice.	None

## 5. Advantage West Midlands

Summary of Comments	Council's Response	Council's Further Action
Welcomes the Council's well-timed intention to revise and update its SPD, and supports the Council's intention to ensure such obligations remain reasonable and realistic.	Support is noted.	None
Welcomes the inclusion of guidance on Unilateral Undertakings to help generate a more flexible and expedient way for developers and investors to engage with the Council at an early stage in agreeing required funding.	Support is noted	None

The inclusion of improved guidance on the circumstances under which an obligation, undertaking or legal agreement will be required will also offer greater certainty at an earlier stage on what will be required from applicants.	Support is noted.	None
--	-------------------	------

## 6. The Inland Waterways Association

Summary of Comments	Council's Response	Council's Further Action
Considers the document to be well written and relatively clear to potential users, some of whom may not be familiar with the planning system and thus the inclusion of additional information may be helpful to them	Support is noted	None
Para. 1.26 Policy DD7: Whilst the Historic Environment would include the canal system those who have little knowledge of the historical importance of the canal network may overlook their historical importance in development areas where all that remains is just a ribbon of water. Given the Council's commitment to the preservation of the canal network within the Borough and that developers will probably be unaware of that, it may be wise to specifically include canals as	This element of the SPD stems from adopted UDP Policy DD7. To change the SPD in line with comments received would require a change in UDP policy. This is not the role of this UDP. As and when this policy is reviewed the suggestion put forward will be considered	None

part of the 4 <sup>th</sup> bullet point.		
Para. 2.58 Historic Environment: There is no mention of Dudley's Canal Policy – or, given that this is over ten years old, has this been superseded?	Comment Noted. Para 2.58 makes reference to local historic environment policies in the UDP – and one of those policies is specific to canals (see Policy HE7).	None
Para. 2.60 Historic Environment: Welcome the Council's desire that developers will have to address the impact that their proposals will have on the canal network	Support is Noted	None
Para. 2.61 Historic Environment: Welcome the Council's desire that developers may have to contribute towards the improvement of historic assets like canals when they are adjacent to their development.	Support is Noted	None
Appendix 6 Glossary: Given that the importance that the Council places on the canal network it should be specifically included in the examples of Historic Assets	Agree.	To amend the Glossary accordingly by adding under 'Historic Asset' another bullet point:- <ul style="list-style-type: none"> <li>• Canal network</li> </ul>
Appendix 6 Glossary: Whilst Listed and Locally Listed Buildings are defined there is no mention of Scheduled Ancient Monuments. Because they legally differ from Listed Buildings they should be separately defined.	Agree.	To make the following addition to the Glossary:- <p><b>Scheduled Ancient Monuments</b></p> <p>A scheduled monument is a 'nationally important' archaeological site or historic building, given protection against unauthorised change. Scheduled Monuments are defined in the Ancient Monuments and Archaeological Areas Act 1979. The carrying</p>

		<p>out of works to a scheduled monument, both above and below ground level, requires prior written permission from the Secretary of State. This is known as scheduled monument consent (SMC). ‘Works’ are defined by the 1979 Act as: <i>demolishing, destroying, damaging, removing, repairing, altering, adding to, flooding or tipping material onto the monument</i>. To avoid the possibility of damaging a monument, and therefore carrying out unlawful works, consultation should take place with English Heritage while in the planning stages of any intended works.</p>
--	--	--

## 7. The Tyler Parkes Partnership (on behalf of West Midlands Police Authority)

Summary of Comments	Council’s Response	Council’s Further Action
It is considered that many development schemes place increased demands on police resources, both in terms of additional capital investment in new police facilities and of funding for additional police officers and support staff, thus it is important that the planning system is geared to ensure that such resources are delivered.	This is a partial review of the SPD. Whilst the Council recognises that this is an issue, it is considered that it would be better dealt with in a full scale review and after an evidence base (and appropriate costings) provided by the police are made available.	None



<p>In light of this the Police Authority is disappointed that the Council has not acknowledged the additional costs likely to be borne by the Force nor included Policing in the list of potential beneficiaries of financial contributions set out in part 2 of the SPD.</p> <p>Request that the needs of the police, in terms of both capital and revenue funding, arising from new developments is acknowledged and that the SPD makes reference to such requirements in Part 2.</p>		
---	--	--

## 8. EcoLine

Summary of Comments	Council's Response	Council's Further Action
<p>Nature Conservation Section: PPS9 states that the Government's objectives for planning is to conserve, enhance and restore the diversity of England's wildlife and geology. The policy as stated only aims to conserve and enhance. No mention of restoration is included and is a major omission and undermines the Government's objectives. There are many examples of where restoration is required as a result of development but they often only manifest themselves after time has elapsed</p>	<p>The Council recognises that Restoration is an important issue and supported by PPS9. However it is an activity which is linked to past or present neglect of habitat management. It should not fall to developers enhancement contributions to fund external land owners/manager's neglect. There may be occasions where this could possibly be appropriate on key sites, however it is considered that including this expressly, in brief overview, may lead to confusion. There</p>	<p>Amend and restructure text of Nature Conservation Section to provide additional clarification, including the provision of an Appendix to provide further information.</p>

<p>from development. This includes draining of wetlands, stocking of ponds with fish and the release of alien plants/animals, increase in visitor pressure, disturbance of nesting sites and general neglect of formerly rich habitats that require annual maintenance.</p> <p>EcoLive consider that this omission is fundamental to the section on Nature Conservation, and have made a number of suggestions of specific wording additions to incorporate restoration</p>	<p>are also concerns that this approach could also encourage the neglect of wildlife habitat, which would undermine the purpose of this Planning Obligation.</p> <p>Agree with restoration being kept within the Nature Conservation Compensation element. In the constraints of an urban borough where creation of large areas of habitat is not always possible. Restoration, although certainly not the preferred option, may be the only mechanism available in some circumstances to compensate effectively for the loss of habitat.</p> <p>The Nature Conservation Enhancement contributions should provide tangible capital works to the benefit of the borough's wildlife, geology, residents and visitors. Management planning and survey work may need to be carried out to facilitate these works, however they should not form a significant proportion of the total cost. This sum will be dependant on site circumstances and therefore a general estimate of this proportion is not possible.</p> <p>The recommendation in the representation includes the breaking up of the contribution into smaller proportions for differing uses. It is not considered that the element this would deliver is needed in principle. The procedure set out in the Draft Planning Obligations SPD</p>	
---	---	--

	has to a great degree been designed to aid clarity and simplicity for the benefit its users. The mechanism proposed by EcoLine would add some complexity to a new procedure for both developers and Development Control staff. It also puts constraints on the use of funds which could limit appropriate onsite delivery.	
--	--	--

## 9. Tetlow King Planning (on behalf of West Midlands RSL Planning Consortium)

Summary of Comments	Council's Response	Council's Further Action
Welcome the Council's intention to revise the SPD in light of the current economic climate and would like to emphasise the importance of working with RSLs at this time, given the increased difficulties associated with home ownership and rental	Noted. However the principle reason for the review of the SPD is to aid clarity on existing planning obligations.	None
Note that RPG is now out of date and should be revised in light of the emerging RSS inc. the guidance of the Phase Two revision. The aims of this guidance to address affordability problems should be referenced to demonstrate the Council's compliance with up to date guidance and the approval of housing targets.	Noted. Policy context to be amended accordingly	Amend policy context to incorporate updated information in relation to RSS and the Black Country Core Strategy.
Section on Local Guidance is out of date, containing no information on the Black	Noted. Policy context to be amended accordingly	Amend policy context to incorporate updated information in relation to RSS and the Black

Country Core Strategy.		Country Core Strategy.
<p>Background to Planning Obligations Section: Welcome the explanation of planning obligations and in particular support the introduction of the section ‘What is a Planning Obligation?’, however object to wording in para. 1.30 as it does not portray planning obligations as in Circular 5/05 (Planning Obligations) which states that “Planning Obligations can be positive (requiring the covenantor or his/her successors in title to do a specific thing...) or negative (restricting...)”.</p>	<p>Agree. This information would aid clarification of the term ‘Planning Obligation’</p>	<p>Add sentence to Para. 1.30 stating that ‘Planning Obligations can be positive(requiring the covenantor or his/her successors in title to do a specified thing in, on, under or over the land) or negative (restricting the covenantor or his/her successors from developing or using the land in a specified way). (Circular 5/05 Para. A3)</p>
<p>Unilateral undertakings and S106 Agreements Sections: Object to wording in paragraphs 1.36 and 1.41 as unnecessarily restrictive, the requirement to produce either set of agreements places a significant burden on both parties to resolve all matters pertinent to an application prior to submission,</p> <p>The section should be amended to set out the justification for these requirements.</p>	<p>The Council is committed to providing pre-application advice, and actively encourages issues surrounding planning obligations to be resolved as early as possible in the process. This is confirmed in Para. 1.38 of the revised SPD. The Council only requires Unilateral on minor residential developments between 1-9 dwellings where there are unlikely to be major issues to be resolved. It is accepted that unilaterals are not appropriate for major developments.</p> <p>Agree. The Council’s requirement for Unilaterals to be submitted at the same time as the planning application is in line with Circular 5/05 which states at Para. B47 that “LPAs may wish to encourage developers to</p>	<p>None</p> <p>Add additional sentence to the end of para. 1.36 stating: “ The Council’s requirement for Unilaterals in these instances is in line with Circular 5/05 (Para. B47).”</p>

	submit unilateral undertakings with their planning application in the interest of speed)	
Unilateral undertakings and S106 Agreements Sections: Need to justify the point made in para. 1.37 stating that financial contributions are to be paid prior to commencement of development. Object to the requirement as the significant financial burden placed on developers at a time where economic viability is already under severe pressure is contrary to guidance that planning obligations are to be reasonable and realistic, necessary to make the proposed development acceptable in planning terms, only ever prepared when a development will have negative impacts that cannot be dealt with through conditions.	In order to successfully monitor and manage the agreed planning obligations, and ensure that they are paid and spent on community infrastructure accordingly, it is necessary for the contributions to be paid prior to commencement. In exceptional circumstances on larger schemes it may be possible for the S106 Agreement to include phased payments. However this would not be appropriate for those smaller schemes which are covered by Unilaterals.	Add additional sentence to para. 1.41 as follows: “In exceptional circumstances on larger schemes, it may be possible for S106 Agreements to include phased payments of planning obligations.”
Financial Contributions Section: Object to the inclusion of the point “Within 30 days of receiving planning permission (for Unilateral Undertakings)” at para. 1.69 as this places an unnecessary extra burden on a development in the early stages of delivery. Given the SPD is under revision as a result of the challenging economic climate, enforcing such a rigid trigger could put developments at risk of becoming unviable.	The S106 Agreement process requires legal and monitoring fees to be paid on the signing of the S106 Agreement, thus the process for Unilaterals actually introduces a more flexible approach for applicants.  Legal and Monitoring work is incurred by the Council whether or not the planning permission is implemented thus the Council’s stance is considered appropriate.	None
Education: Para. 2.22 – Object to the omission of affordable housing from the list of residential accommodation not subject to	Noted. However individual circumstances and viability of schemes are considered on their merits on a case by case basis.	None

educational contributions. It is considered that as affordable housing schemes within Dudley is required to meet local needs they should not be liable for the same level of contributions as general market housing schemes.		
<p>Libraries, Public Realm and Public Art Contributions: Recommend that the Council offer an exemption or reduction in the level of contributions required from RSL development, as it is considered that affordable housing schemes are aimed at persons already residing within the Borough.</p> <p>It is considered that such an amendment would bring the policy in line with Circular 5/05 guidance that a contribution should be fairly and reasonably related in scale and kind to the proposed development.</p>	Noted. However individual circumstances and viability of schemes are considered on their merits on a case by case basis.	None
Transport Infrastructure Improvements: paras. 2.139-2.141 indicate that contributions will be responsible for funding all the objectives of the Dudley Transport Strategy. It is considered that the Council should make clear how these specific projects will make development proposals acceptable in planning terms as even pooled contributions should be reasonably related to new development.	The Council considers that the SPD makes clear that monies received for Transport Infrastructure Improvements will be spent in the local area in relation to the development.	None
Transport Infrastructure Improvements: Consider that as TRICs data sets a lower	The TRICs data in the SPD refers to a difference in rented and private dwellings	None

number of vehicular movements for affordable housing than private housing, and that affordable housing residents are unlikely to commute longer distances to their place of employment, recommend that RSL developments should be given a reduction in the level of contribution to be made.	however the trip rate remains consistent for both tenures.	
<p>Note that Plymouth City Council and Maidstone District Council have already adopted the approach of exempting RSL developments from nearly all obligations.</p> <p>Noted that in order to meet the affordable housing targets associated with RSS, the Council will need a large number of RSL developments to help deliver the required numbers. Recommend that the Council adopts a similar approach of offering a reduced rate of contributions for RSL development which would encourage organisations to bring forward 100% affordable housing schemes.</p>	<p>Noted.</p> <p>Noted. The Council recognises the importance of RSLs in the delivery of its affordable housing element of its housing stock. Each case's circumstances will be looked on on its merits.</p>	None.

## 10. British Waterways

Summary of Comments	Council's Response	Council's Further Action
Para. 1.33 – Appreciate the benefits of using	Noted. The Council has a planning obligations	None

Unilateral Undertakings to speed up the planning process but hopes that the Council is able to monitor these agreements to ensure that benefits attributable to the canal infrastructure are secured.	monitoring system in place to monitor all aspects of S106 Agreements and Unilateral Undertakings	
Financial Contributions: Contact with a dedicated Planning Obligations Officer at the Council is welcomed.	Noted	None
Unilateral Undertakings: It is hoped that the introduction of Unilaterals will encourage developers and the Council to include British Waterways when undertaking pre-application discussions.	Noted. The Council recognises the importance of pre-application discussions. Where deemed appropriate by both parties (LA and Developer), the Council regularly discusses schemes with key appropriate stakeholders. In cases where a developer is unwilling to allow the Council to discuss schemes direct with stakeholders, developers are encouraged to contact stakeholders directly.	None
Environmental Protection: Para 2.37 – recognise the benefits of improved air quality through specific works undertaken by developers, however British Waterways is keen to ensure that this does not prejudice the potential for the regeneration and development of the land adjacent to the canal itself, not sterilise or limit activity along the corridor.	Noted.	None
Site Specific Measures: Para. 2.52 – Recognise the benefits of improved air quality through air quality monitoring, however British Waterways is keen to ensure that this	Noted	None



does not prejudice the potential for the regeneration and development of the land adjacent to the canal itself, not sterilise or limit activity along the corridor.		
Historic Environment: Para. 2.64 – Public Realm is defined as Urban Spaces to which the public predominantly have access. This new requirement indicates that the canal as public realm could be improved through developer contributions. This is welcomed by British Waterways and would embrace the opportunity to work with the Council to identify canal corridor improvements with the Borough which could be secured from such contributions.	Existing policy states that public realm contributions will be spent in one of the Borough's centres. However, where development directly fronts onto a canal, public realm improvements should be developed through the scheme itself, or through nature conservation contributions.	None
Nature Conservation: Para. 2.78 – Recognise the benefits of introducing nature conservation compensation, however British Waterways is keen to ensure that this does not prejudice the potential for the regeneration and development of the land adjacent to the canal itself, not sterilise or limit activity along the corridor.	<p>The proposed changes put forward a benchmark for levels of compensation. It does not add or reduce protection to existing or future designated nature conservation sites. Instead they reflect the current compensation rates generally used within the borough for such approved developments.</p> <p>It is therefore not envisaged that they will add additional burden onto developers. Instead it aims to clarify these rates to developers, at an early stage, to enable them to factor this into their viability studies in combination with pre-application discussions (where it can be</p>	None

	advised whether or not the application would be important enough to override the relevant nature conservation protection and make the mitigation acceptable to the Council).	
Public Realm: Para. 2.104 – This paragraph states that the public realm is only found in the town, district and local centre. However British Waterways contends that the canal can be identified as public realm due to its accessibility to the public, albeit controlled access.	Existing policy states that public realm contributions will be spent in one of the Borough's centres. However, where development directly fronts onto a canal, public realm improvements should be developed through the scheme itself, or through nature conservation contributions.	None
Transport Infrastructure Improvements: This requirement indicates that the canal as transport infrastructure could be improved through developer contributions. This is welcomed by British Waterways who would embrace the opportunity to work with the Council to identify canal infrastructure improvements within the Borough which could be secured from such contributions.	If it can be demonstrated that a particular development would result in additional trips being generated on the canal network then it would be appropriate to use transport infrastructure contributions in such a way. However in the vast majority of cases the impact will be on the highway network and thus the contributions which is where the obligations will accordingly need to be spent.	None

## 11. Turley Associates (on behalf of London & Cambridge Properties)

Summary of Comments	Council's Response	Council's Further Action
Concerned that some of the obligations set out in the draft SPD do not accord with the	The obligations are established in the original SPD and are rooted in adopted UDP Policy. The Council	None

requirements of Circular 5/05. The purpose of planning obligations is to mitigate the impact of a particular development and to make it acceptable in planning terms. Contributions should not be sought for matters that are not necessary. The SPD includes a number of obligations that are not aimed at mitigating a particular impact, but at improving social, environmental and economic conditions generally in the Borough. It is considered that this is contrary to Circular 5/05.	considers that all planning obligations identified are necessary and evidence based. The need and justification for them was established in the adoption of the first SPD in 2007.	
---	--	--

<p>Although some reductions are proposed in the level of contribution sought, in particular with regard to transport infrastructure, the revised SPD does not fully recognise the problems faced by developers in bringing forward viable developments in the current economic climate.</p> <p>The SPD still includes a long list of matters where the Council may require a planning obligation ranging from site specific issues to funding nature conservation enhancement and public art. There needs to be a stronger recognition that developers can only contribute to so much before a proposed development becomes unviable. The focus should be on those planning obligations that are required to mitigate the impacts of a particular scheme. Greater flexibility should be displayed with regard to contributions that may be desirable (like public art), but are not essential or necessary to make a development acceptable in planning terms.</p>	<p>Noted. The Council recognises viability issues on sites and the SPD confirms that if a developer considers the level of obligations required would render their development unviable, then the developer will be expected to provide full financial details to the Council for consideration.</p>	<p>None</p>
<p>The SPD needs to set out clear priorities and mechanisms for negotiating a reduction in the level of planning obligations based on the viability of a particular scheme.</p>	<p>This is undertaken on a case by case basis, it is not considered appropriate to include this level of detail within the SPD</p>	<p>None</p>
<p>The Council should consider the potential phasing of obligations as part of this revision to facilitate viability of development in these</p>	<p>Accept. In exceptional circumstances on larger schemes it may be possible for the S106 Agreement to include phased payments. However this would</p>	<p>Add additional sentence to para. 1.41 as follows: “In exceptional circumstances on larger</p>

difficult economic times.	not be appropriate for those smaller schemes which are covered by Unilaterals.	schemes, it may be possible for S106 Agreements to include phased payments of planning obligations.”
<p>Nature Conservation: Although the SPD clearly states that a development needs to contribute £0.50 per sq. m of development towards nature conservation enhancement, the document does not explain why this particular amount has been chosen.</p> <p>The SPD needs to make clear that the contribution will be calculated based on the new floorspace to be created. This will ensure that proposals involving small extensions or the refurbishment/re-modelling of existing premises are not required to pay a disproportionate amount. Using the site area as the basis for calculating a contribution could disadvantage such development proposals.</p>	It is acknowledged that smaller developments, especially extensions should not contribute a disproportionate amount. Floorspace is not a good measure of the capacity of a site to accommodate or provide nature conservation benefit, for example a several storey building would generate a much higher contribution, which proportionately generate less impact due to its physical footprint.	<p>Introduce threshold of 100 square metres or 1 dwelling for nature conservation enhancement contributions</p> <p>Introduce minimum triggers for this planning obligation of 100 square metres area for non-residential developments and a minimum of 1 dwelling to bring it in line with other planning obligations within the SPD.</p>
<p>Public Realm: Acknowledge that public realm improvements will benefit both existing and proposed developments. However, requesting a contribution of £35.37 per sq. m of existing and proposed floorspace will place a disproportionate burden on existing businesses seeking to extend or redevelop their premises.</p> <p>A contribution should only be sought in</p>	Public Realm contributions for non-residential developments will only be sought on net new build, not conversions.	None

relation to the new floorspace to be created.		
Public Realm improvement could have a positive impact on commercial and retail development. However, it is unclear what impact developments in industrial/business estates would have and what benefit they would derive from improvements to public realm in existing centres. Circular 5/05 requires planning obligations to be directly related to the proposed development. It is therefore considered that no contribution should be sought from industrial/ warehousing developments, or at the very least, the SPD needs to set out a different approach for industrial/warehousing developments.	Public Realm Contributions are only required on non-residential developments that fall within, or close to, the Borough's designated centres. It is reasonable to anticipate, therefore, that employees of such developments will use the local centre(s) on a regular basis to meet their local needs. This impact needs to be mitigated against in order to improve the quality of the public realm to encourage their greatest possible use, hence minimising unsustainable journeys to other shopping and service centres.	None
Concerned that the rate for public realm improvements could increase to make up the shortfall arising from the downturn in new development. The SPD needs to clearly state when and how the SPD will be updated to take account of changed circumstances.	The Council recognises the current economic circumstances and does not request disproportionate contributions. Cases are looked at on their merits in terms of viability and in scale to the proposed development as set out in the policy framework.	None
Transport Infrastructure Improvements: This section states that the Council will calculate the contribution based on the net trip generation of a proposed development. The level of contribution has been reduced to £61.74 per additional trip. This system appears transparent and will give developers the required certainty about the level of	Support in noted.	None

contribution required. The reduced level of contribution is welcomed as it is more realistic and will ensure that developers are not discouraged by the disproportionate cost of transport infrastructure provision.		
Transport Infrastructure Improvements: The Draft SPD states that a developer may seek a reduction in additional trip rate generation. It is unclear, however, what evidence will be taken into account. This should be clearly set out in the SPD	The type of information required will depend very much on specific development proposal and will need to be discussed with the relevant planning officer on a case by case basis. It is considered inappropriate therefore to specify within the SPD what information would be required. The onus is on the developer to provide this information and make their case relating to a specific circumstance.	None

## 12. RPS (on behalf of London & Cambridge Properties)

Summary of Comments	Council's Response	Council's Further Action
Economic and Community Development: Concerns as to the manner in which a planning obligation or indeed a planning condition can be used to determine the construction and labour supply from future competitive contract tendering procedures. Planning cannot be used to determine the manner in which future contracts are awarded or tenders prepared.	This planning obligation was established in the original adopted SPD and is not being considered as part of the partial review of the SPD	None

<p>This is beyond its remit and can be considered social engineering as opposed to land use spatial planning. Consequently this cannot be considered reasonable in terms of Circular 5/05.</p> <p>However should the Council continue with this obligation it should have regard to the potential of the applicant in providing employment opportunities in other means. It is thus not considered appropriate to place an additional burden upon the applicant to provide localised employment opportunities through planning obligations when the applicant is already seen to provide significant levels of employment opportunities in the area. This issue should be acknowledged in the SPD.</p>	<p>The Council welcomes employment generating development in the Borough. Specific circumstances are considered on their merits.</p>	
<p>Education: The current Council school review, within the context of the direction of the emerging Black Country Core Strategy may now result in less available capacity in existing schools, and thus fundamentally passes liability to the developer for the creation of addition school places.</p> <p>Clarification is required as to how the current educational review seeks to accommodate the wider growth proposals of the Black Country Core Strategy and what are the capacity</p>	<p>Noted. The Council continually monitors the future need for school places. As and when circumstances change the education section of the SPD will be reviewed.</p> <p>Noted. The section on Education is not being reviewed as part of the Draft Revised SPD. The representation is therefore not duly made at this time. Planning Officers and Education Officers within the Council are working closely to determine the implications of</p>	<p>None</p>



assumptions that are to be used. A developer should only be expected to provide for the need of the development as in accordance with the advice contained in Circular 5/05.	<p>housing growth and distributions being put forward in the drafting of the Core Strategy on educational requirements and pupil numbers. There is also provision for developers and planning applicants to negotiate planning contributions towards education provision on a case by case basis if there is reasonable justification for its reduction or omission.</p> <p>As and when circumstances change the education section of the SPD will be reviewed accordingly.</p>	
Highway Infrastructure/ Travel Plan and Transport Infrastructure: Support for the amended approach to calculating Transport Infrastructure Contributions, however it is considered that any transport contribution needs to be considered in the context of the wider transport issues/solutions which surround a proposal.	<p>The SPD clearly sets out the context within which contributions are required. Contributions are calculated on a site by site basis depending on the impact of a development.</p>	None
Open Space, Sport and Recreation: Concerned that despite PPG17 being published in 2002 that requires LPAs to move away from the National Playing Field Association (NPFA) standards to more locally derived standards, the Council are still basing their requirements on the outdate NPFA	<p>The Council has recently published the draft Parks and Green Space Strategy which PPG17 Compliant. It is anticipated that this Strategy will be adopted in the summer of 2009.</p> <p>The Council maintains its view that its existing approach for seeking open space</p>	None

standards.  A strong possibility exists of double counting by using the NPFA standards and seeking significant provision of children's play facilities on top of this standard.	planning obligations meets national planning guidance set out in Circular 5/05, and will only seek obligations for open space improvements where in accordance with the tests set out in the Circular. Further detail on the Council's approach to this issue can be found by referring to Chapter 8 of the Council's adopted Open Space, Sport and Recreation SPD.	
Concerns over the current approach to calculation Open Space, Sport and Recreation requirements in relation to a specific development at Tansey Green Road and Oak Lane, Pensnett. Further specific comments are provided in relation to that development	Noted. Comments passed to appropriate case officer.	Comments on specific development passed to appropriate case officer.
Public Art: General support for the approach but would recommend that a wider definition of public art is adopted, particularly with regard to larger schemes which would be seen to incorporate street furniture and public realm improvements etc.	The Council considers that Street Furniture and Public Realm improvements would be delivered through Public Realm contributions rather than Public Art contributions.	None
Public Art: As Circular 5/05 requires planning obligations to be directly related to the proposed development it would be prudent to adopt an appropriate ceiling to this contribution. Whilst 1% of a small scale development proposal is likely to be an appropriate contribution to public art 1% of a £20 million scheme would result in an	Noted. The Council recognises on larger sites the first preference is for the developer to provide onsite public art rather than an offsite contribution	None

unbalanced public art contribution.		
<p>Public Realm: Concerns over the manner in which public realm contributions are calculated. There is no evidence presented to illustrate that the public realm improvements scheduled within the SPD are part of a public realm improvement programme. It is also questionable as to whether the programme of renewal is in fact deliverable in the first instance. Contingencies need to be factored in to this policy to ensure that if the programme of works is not delivered as is set out in the SPD then there is sufficient scope for the money to be returned back to the developer, as required through Circular 5/05.</p> <p>The money also needs to be ring fenced for such work as indicated in the case for commercial contributions.</p>	<p>The Council does have a mechanism whereby unspent monies can be clawed back by the developer. This is stated in paragraph 1.36 of the SPD</p> <p>Monies, once received, are ring fenced and allocated to the community infrastructure that it was required for.</p>	None
<p>Nature Conservation: Due to the requirement to avoid or mitigate the impacts in respect of nature conservation, planning obligations are determined on a single site by site basis. Support for nature conservation obligations as long as an appropriate proportion of this is directed towards an element of mitigation.</p>	<p>The proposed obligations within the SPD relate both to compensation and enhancement. PPS9 is clear that compensation should deliver recompense for unavoidable loss of habitat or features of importance. The SPD looks to provide clear guidance on minimum levels appropriate for this. As RPS state mitigation will always need to be calculated on an individual basis to neutralise the specific impacts of a development. PPS9 is however</p>	None

	clear that development should provide more than this neutralisation of impact but rather enhancement of the natural environment. This is the basis of the Nature Conservation Enhancement element within the SPD which looks to formalise this requirement which is separate to mitigation and compensation.	
--	--	--

### 13. Centro

Summary of Comments	Council's Response	Council's Further Action
Welcome the SPD, particularly in its aim to set how planning obligations will be used to promote sustainable development and ensure that the infrastructure necessary to support future residential and commercial growth is delivered.	Support is noted.	None
Welcome the inclusion of Section 2.13 Transport Infrastructure Improvements and in particular the intention of the planning obligations to contribute towards the objectives in the Dudley Transportation Strategy.	Support is noted.	None
Para. 2.134 point B: It would be helpful to identify the work which is looking at developing Accession based criteria for aiding	It is recognised that the use of Accession based information may be an appropriate form of evidence for larger developments that form	None

in the development control process. It is understood that, subject to approval of the process via PAG, Dudley Council (and other Metropolitan Authorities) will use this work to help identify which sites are highly accessible (and therefore will not require significant developer contributions) and which sites are not accessible and will need significant transport contributions.	part of a Transport Assessment, however it would be beyond the resources available for smaller developments, which make up the vast majority of developments.	
Para. 2.135: Reference is made to Metro in the context of Wednesbury-Brierley Hill. Centro request that this should refer to 'rapid transit' and should consider the wider public transport network by referring to the corridor from Wednesbury (or even potentially Walsall) to Stourbridge Corridor including the key centres of Dudley and Brierley Hill.	Agree	Change reference in para. 2.135 from 'Metro' to 'Rapid Transit'
Particularly welcome DTS4 and DTS5 (paras. 2.135 and 2.136) and the intended involvement of Centro. Good public transport provision from the outset will help to ensure that people establish sustainable travel patterns from the outset. It would however be helpful to refer to bus partnership work between Centro and operators, Centro's Transforming Bus Travel programme and the rail network development plan, in conjunction with Network Rail's business plan proposals.	The SPD is a strategic document, and as such it is considered inappropriate to include details of individual partnerships. The Council will work with the relevant partners in operation at the time. Reference is already made in the SPD to the fact that the Council will continue to work with West Midlands partners, this is considered to be appropriate for the purposes of this SPD.	None
The overall approach for securing transport	The Council is happy to discuss with Centro	None

<p>related planning obligations outlines how trip rates are derived from TRICs but does not make any statement on mode split targets by public transport. The latest Centro annual statistics outlines overall mode split for Dudley Borough as 86% car, 14% Public Transport and Brierley Hill 88% Car and 12% Public Transport. In order for Centro to fully assess the data and methods used, an appendix outlining which sites from the TRICs database have been used to derive the trip rates, and where and to what extent the discount factors for pass by and linked trips have been applied should be made available.</p>	<p>the basis of the information used by the Council to derive the trip rates and discounts applied, however due to the detailed and technical nature of this information it is considered inappropriate to include this information within the SPD.</p>	
<p>Concerns regarding the trip rates used by applicant/ developer. It is unclear whether Developers/ applicants have to use the exact trips rates as listed in the report, or whether, subject to agreement with Dudley MBC, the applicant can use more up to date local data (as and when it becomes available). If there is flexibility in the derivation of trip rates it is possible that depending on the assumptions applied using TRICS for existing and proposed uses it can be demonstrated that the overall net impact of a development is zero additional trips, when in reality there is a significant impact on transport demand. The trip rates used would have implications on the final agreed contribution.</p>	<p>Depending on the individual circumstances of the development. Para. 2.130 of the SPD states that a developer may seek a reduction by providing robust and detailed evidence.</p>	<p>None</p>

<p>Centro seeks clarification on the sources of data for new trips identified in paragraph 2.140, particularly whether it is TRICS trip rates and the time frame used i.e. for the year 2007 or longer. Additionally, whether the 5668.94 two way trips is from TRICS forecasts for the 2007 sites and if so does this represent an 'average' year in terms of mixture of development in the borough and therefore whether it will reflect expectations for future years.</p> <p>Centro would also like to question whether there are any proposed monitoring budgets or policies in place to measure the actual impact of developments in terms of new trip making, and if so is this linked to a regime of securing additional funding if the actual trips exceed forecasts. It is noted that 'the transportation element of the Planning Obligations SPD should generate an average £3,500,000 per annum which is approximately 10% of the annual cost of delivering the objectives of the Dudley Transportation Strategy'. Centro seeks clarification on how the cost of the Dudley Transport Strategy will recognise any increase in demand related to proposed development per annum.</p>	<p>The Council used TRICS data to calculate information on two-way daily flows on an average weekday, based on actual implemented applications. The SPD will be reviewed accordingly and will include updated TRICS information.</p> <p>Monitoring will take place within the context of the emerging new spatial strategy for the Borough (as set out in the Black Country Core Strategy)</p>	None
<p>It is noted that the total cost per trip has been calculated at £61.74 which is based on</p>	<p>The rate set out in the revised SPD has been set to meet current demands. As with all other</p>	None

planning application data from 2007. Centro again seeks clarification on how the cost per new trip will reflect inflation in future years.	planning obligations within the SPD, the rate will reviewed annually in line with inflation.	
Centro would also welcome the opportunity to work with Dudley MBC in developing any future agreements. Additionally Centro requests the opportunity to further discuss how planning obligations for larger proposals will be obtained and used. Centro will be seeking to secure contributions towards larger project with significant lead times and therefore a pooled contribution is likely to be required in order to support the 10% contribution for a major scheme (25% for Metro)	Noted. The Council already works closely with Centro for this purpose, as always welcomes further discussions.	None
It is however considered that the SPD should give more emphasis to the importance of early engagement by the developer and the Planning Authority with external partners and stakeholders such as Centro who have a direct interest in the development. Pre application discussions are crucial to ensure that provision for high quality public transport facilities and services are made from the outset. This will ensure that people do not establish unsustainable travel patterns due to the initial absence of good public transport in these areas and that any 'planning loss' arising from the development is minimised.	Noted. The Council recognises the importance of pre-application discussions. Where deemed appropriate by both parties (LA and Developer), the Council regularly discusses schemes with key appropriate stakeholders. In cases where a developer is unwilling to allow the Council to discuss schemes direct with stakeholders, developers are encouraged to contact stakeholders directly.	None



## 14. RPS (on behalf of Westfield)

Summary of Comments	Council's Response	Council's Further Action
Welcome the Council's recognition that changing economic circumstances create considerable difficulties for the implementation of necessary development and support the general intention behind the revisions to the SPD to ensure unnecessary economic burdens related to Planning Obligations are not placed on developments.	Support is noted	None
Support the refinement of the categories of development for the purposes of estimating trip rates in respect of Transport Infrastructure Improvements.	Support is noted	None
Welcome the Council's recognition that viability is an important factor in the consideration of the need for any planning obligations. However, do not consider that an 'open book' approach is appropriate other than in exceptional circumstances given the confidential nature of information in many cases. It is feasible to reach a satisfactory understanding on viability issues through the close working between the local authority and the applicant and their respective advisors.	Noted, and accepted that close working is an effective tool to be utilised. However the Council has to be convinced of the information put before them to justify a departure from the policy.	None

Not convinced that the significance of the policy guidance of Circular 5/05 and the adopted Unitary Development Plan is adequately carried through to the detailed provision of the draft revised SPD.	The Council considers that the SPD is rooted in national guidance and the Council's adopted UDP.	None
Consider that the SPD should make clearer that the Council will guard against the potential for the formulaic approach of the SPD to put unjustified pressure on developers to enter into obligations to provide resources and facilities when a proposed development itself is making direct provision for major elements of public gain, for example public realm and other infrastructure improvements, on or off-site. This applies particularly in relation to major regeneration schemes.	The Council recognises the current economic circumstances and does not request disproportionate contributions. Cases are looked at on their merits in terms of viability and in scale to the proposed development as set out in the policy framework.	None
Para. 1.36 Unilateral Undertakings: The requirement for Unilateral Undertakings on applications for 1-9 dwellings will inappropriately pre-judge whether a given development gives rise to significant planning implications requiring compensation or mitigation, that can only be secured by a planning obligation. This will not necessarily be the case and to suggest so would run counter to Circular 5/05 and UDP Policy DD7.	Circular 5/05 encourages Councils to use Unilateral Undertakings. The Council actively encourages pre-application discussions to consider the impacts of proposed developments.	None
Para. 1.68 – Financial Charges: Question the rationality and fairness of charging automatically for unilateral undertakings and	The Council is required to exercise its legal duties with regard to Unilaterals. The monitoring element is required irrespective of	None

<p>S106 Agreements, since these are documents usually prepared by the applicant. With regard to the process of considering whether the obligation addresses the specific planning issue, this would be integral to the Council's overall appraisal of the application which would be covered by the planning application fee. Thus charging for obligations should be dealt with in a discretionary way, without any presumption that there will automatically be a charge. This approach would assist in reducing the adverse implications for development of the economic downturn.</p>	<p>the type of legal agreement being used or whether the development is implemented. The SPD seeks to clearly set out the true costs of infrastructure arising from a proposed development. Such costs should be borne by the developer.</p>	
<p>Para.2.81: Paragraph 2.81 - Calculation of Nature Conservation contributions: The proposed formula indicates that the contribution will be calculated by means of the area of the development in square metres, minus the area of semi-natural vegetation on site following development, multiplied by £0.50. We suggest the revision document should make clearer how the £0.50 factor is derived, which otherwise appears arbitrary.</p>	<p>The 50p figure is derived from trialling the factor on differing, but representative, schemes which have been submitted as planning applications within the borough. The contribution was chosen for both its reasonableness and its capacity to provide real enhancements for nature conservation</p>	<p>None</p>
<p>2.81 Examples of Nature Conservation Contributions Question how this example justifies the applicant entering into a planning obligation in respect of nature conservation enhancement.</p>	<p>Part b. paras 13 and 14 This comment has highlighted a confusion within the revised text of the SPD. Enhancements are required by all developments above a minimum threshold. The text of the SPD will be amended to fully</p>	<p>Amend and restructure text of Nature Conservation Section to provide additional clarification, including the provision of an Appendix to provide further information, and additional references of nature conservation terminology in the glossary.</p>

<p>First, Government planning guidance and the UDP plainly encourage residential development on brownfield land, such as the former industrial site in the example. Since there is no semi-natural vegetation on the example site, there is no loss of this resource and hence no requirement to mitigate for this kind of planning harm. There would, therefore, be no justification for a planning contribution in this respect. We note in this context that the Trigger for Obligation in relation to Nature Conservation (para. 2.77) is ‘where new development <u>will have an impact</u> on the natural environment’ (our emphasis). It is where these circumstances arise that ‘measures will be required to address this impact’.</p> <p>Secondly, in removing the former industrial development and the potential associated dereliction and pollution, combined with fulfilling normal requirements for landscaping in the development, the proposal would be likely to be providing planning advantages of benefit to nature conservation.</p>	<p>clarify this position and provide further guidance to aid developers.</p> <p>Part b. para 15 Brownfield land can have significant nature conservation value and under certain circumstances can receive high statutory protection for its importance to wildlife. Therefore although on certain development sites this statement in para 15 can be correct, it would certainly not be so for others, and cannot be assumed as so.</p> <p>Part b. para 16 As stated above the enhancement contribution has been chosen in part with economic viability in mind. It is very unlikely that the sums asked for would realistically impact on the viability of a development. The nature conservation enhancement requirement is in part a response to RSS policy QE10 which sees the improvement of the Black Country</p>	<p>None</p> <p>None</p>
--	--	-------------------------

<p>Thirdly, if a requirement for a contribution in respect of nature conservation is not justified, then this would be likely to act as an inappropriate disincentive to the development of brownfield land compared to any more straightforward alternatives.</p>	<p>environment as being important to benefit the economy by increasing investment and skill retention within the area. The SPD amendment's preferred option, of using the contribution to provide onsite improvements, should (as in other areas) benefit the developer in terms of the increased desirability and potentially sale/rent price of the development.</p>	
<p>Para. 2.104 Public Realm: The revisions indicate that public realm obligations will be required under all circumstances for residential development, or other development over 100 sq m in or near centres. This appears unjustified in going against the advice of Circular 5/05 that standard charges and formulae should not be applied in blanket form regardless of actual impacts. The text also appears to ignore the public realm benefits that the development may intrinsically bring about such as removing dereliction. In addition there is no clear explanation of the planning harm to be mitigated. If unjustified, such obligations would act as a disincentive to development within or adjacent to centres, running counter to the strong thrust of government and UDP policy to promote such development.</p>	<p>Noted. Each development would be considered on its merits and the improvements to public realm applied through the development itself. Individual circumstances and viability of schemes are considered on their merits on a case by case basis. This is set out in the SPD.</p>	<p>None</p>

<p>Para. 2.123 Transport Infrastructure Improvements: The draft revised SPD states that contributions towards transport infrastructure will be sought in the Borough ‘on any developments that generate a net increase in the number of trips from a site’. Again, this appears to be at odds with the advice of Circular 05/2005 (para. B35) that standard charges and formulae should not be applied in a blanket form. Whether a standard charge is sought should depend on the nature of the proposed development.</p> <p>The blanket approach implied by the text would be particularly inappropriate for development within and adjoining designated centres. Town centre type development is encouraged in such locations by Planning Policy Statement 6 and the UDP for reasons including that it will benefit from the availability of existing transport infrastructure, will support the further use of public transport and increase the viability of potential new provision. The development itself thus stimulates the market for transport provision. It is not evident, therefore, what clearcut harm would be caused by the development in these circumstances that must be mitigated by a planning obligation. This applies particularly in the case of small new, or change of use, developments.</p> <p>centres creating an uncertain, or at most only a small, potential increase in trips. In these cases, the planning harm in transport terms is very intangible and typically would be outweighed by the environmental and economic benefits of the speedy reuse of the vacant plot or space within a building. We</p>	<p>The calculation for Transport Infrastructure Improvements does not apply a blanket approach, rather it relates specifically to the mitigation of the impact of a particular development on the surrounding highway network.</p> <p>Individual development proposals are looked at on their merits and in terms of viability and in scale to the proposed development as set out within the policy framework.</p>	<p>None</p>
--	---	-------------

<p>Viability factors can also be critical. Changes of use of small vacant premises, for example, which are commonly needed in routine property management, often generate little or no increased rental income and any unnecessary planning obligation can seriously jeopardise the viability of bringing the resource back to use.</p> <p>Accordingly, in our view, it would be appropriate to exclude small new or change of use developments from the automatic application of the obligations formulae.</p>	<p>The Council recognises the current economic circumstances and does not request disproportionate contributions. Cases are looked at on their merits in terms of viability and in scale to the proposed development as set out in the policy framework.</p>	<p>None</p>
<p>In relation to larger scale development, we consider the draft revised SPD should also clarify that in considering obligations full account would be taken of measures potentially being taken by the developer which would already bring about a package of significant public benefits, of which improvements in transport infrastructure may be an element, associated with a major planning proposal or other binding initiative.</p>	<p>Noted. This is accepted practice. Negotiations regularly require onsite or directly implemented improvements. The SPD sets this out.</p>	<p>None</p>
<p>Paragraph 2.141 - Use of transport contributions In order to fulfil the essential principles of Government and UDP guidance on the justification and use of planning obligations, the Borough Council in any given case would need to indicate sufficiently</p>	<p>Monies for all contributions are ring fenced and spent on the community infrastructure for which they were required, and are monitored against outputs.</p>	<p>None</p>

tangibly what the contribution would be used for and how it would mitigate the particular planning harm potentially caused by the proposal. The revision text at paragraph 2.141 provides inadequate confidence that this requirement can be fulfilled, particularly in the case of a smaller development.		
--	--	--

## 15. Environment Agency

Summary of Comments	Council's Response	Council's Further Action
No further comments to make on revisions to the SPD. However, would wish to see changes made to those sections on which comments were made in August 2007 in relation to the initial SPD consultation	Comments made on the initial SPD were dealt with accordingly at the time.	None

## 16. St. Modwen

Summary of Comments	Council's Response	Council's Further Action
Suggest the enhancement of the section on 'Impact on Viability'. The current conditions in the property market are such that previously viable schemes can no longer be delivered because of the implications of a significant reduction in base line land values. It would be	The Council considers that the viability issue is adequately referenced within the SPD currently, and recognises issues of individual circumstances and viability.	None



worth confirming that the Council will be willing to give due consideration to viability issues. Currently it indicates that this will only happen in exceptional circumstances but what was exceptional before will now be the norm.		
Para. 1.41 does not provide for a circumstance where no unilateral or S106 is appropriate	All planning obligations need to be secured through a legal agreement, either a S106 Agreement or Unilateral Undertaking	None
Para. 2.80: Nature Conservation Compensation – There seems to be no justification for a doubling of the provision	<p>The Nature Conservation Compensation element sets a benchmarked volume of like for like replacement of any acceptable habitat which would be lost through development e.g. if an area of SLINC is lost it would be expected that the same area to be recreated to an appropriate specification.</p> <p>Where this is not possible, a restoration of existing habitat will be considered. This second option would obviously create a loss of overall habitat. Therefore it is proposed in the SPD that if restoration is used to compensate for loss of habitat, the area should be a minimum of twice the area lost. This is not the preferred option as the total provision of habitat would be reduced within the borough. Under neither option would there be an increase in provision, providing an adequate quality of resulting habitat could be reasonably ensured.</p>	None

Para. 2.81: Nature Conservation Enhancement – It is not clear where the calculation of £0.50 comes from.	The 50p figure is derived from trialling the factor on differing, but representative, schemes which have been submitted as planning applications within the borough. The contribution was chosen for both its reasonableness for the developer, during the current less favourable economic climate, and its capacity to provide real enhancements for nature conservation.	
Fear that with every single Council department looking for their share a number of contributions will not proceed unless the policy is implemented in a flexible and realistic way.	The Council considers each development proposal on its merits and has regard to issues of viability and individual circumstances. The Council actively encourages and welcomes regeneration benefits delivered through developments.	None

## 18. Gough Planning Services (on behalf of quadrant Land Partnership and Revelan Group plc))

Summary of Comments	Council's Response	Council's Further Action
(Paras. 1.57 and 1.58) The recognition that the seeking of planning obligations can have a significant detrimental impact on scheme viability is welcomed.	Support is noted.	
Para. 2.5 Affordable Housing. In order to provide the SPD with flexibility and longevity, it is suggested that a statement be added to the effect that the basis of the	Accepted.	Add an additional sentence at the end of para. 2.5 as follows: “Any revision to the needs analysis may result in a revision to this policy in the SPD.”

affordable housing requirement calculation and the calculation itself will be updated over time as further Housing Needs Surveys are undertaken		
Education: The methodology advanced for the calculation of contributions to fund additional school places is considered deficient. It is recognised that where a development is likely to generate a requirement for school places which cannot be met other than by the expansion of school facilities, a contribution should be sought. However, the basis for assessing the number of school places should be the net addition generated by the development concerned, after taking into account any losses to dwelling stock, whether as a result of the development or other proposals, within the catchment area.	The education planning obligation is not being reviewed as part of the SPD review. These issues can be considered at a later date as part of a wider review of the SPD.	None
Library Service: The same comments as are advanced in response to Education in previous comment equally apply to library services.	The library services planning obligation is not being reviewed as part of the SPD review. These issues can be considered at a later date as part of a wider review of the SPD.	None
Transport Infrastructure Improvements: It is considered that the basis of assessing whether a contribution is required is too simplistic. It is recognised and accepted that, in circumstances where a development would generate a net increase in the number of trips from a site, there may be a transport impact. However, the	Noted. However individual circumstances and viability of schemes are considered on their merits on a case by case basis.	None

<p>trip rates generated may not be appropriate to apply where good pedestrian, cycling, and public transport access to the site is available or is proposed to be improved. In such circumstances, lower trip rates may reasonably be expected to be generated.</p> <p>The trip rates actually generated may not have a detrimental impact on the capacity or safety of the local transport infrastructure. Proposals to relocate facilities, such as a medical practice, may increase trips generated at the new location but will reduce trips generated at the present location. The relevant net impact in such cases is not that at the development site, but at both sites, taking into account existing permitted and proposed uses.</p>		
<p>Whilst it is recognised that many components of transport infrastructure are at or near capacity in the Borough, not all components are. In circumstances where transport infrastructure is capable of accommodating any net additional trips generated by a development, without detriment to flows or safety, no contributions towards transport infrastructure improvements should be sought. In other case, unrelated development proposals could reduce impact on the local transport infrastructure, for example by redeveloping a site with a use with a use with</p>	<p>The purpose of the Transport Infrastructure Contribution is to mitigate against the general increase in demand on the wider highway network</p>	<p>None</p>

a lower level of traffic generation. This would effectively provide additional capacity to accommodate further development.		
---	--	--

## 19. Highways Agency

Summary of Comments	Council's Response	Council's Further Action
No further comments to make on revisions to the SPD. However, reiterate the comments made in respect of the previous draft consultation document in 2007.	Comments made on the initial SPD were dealt with accordingly at the time.	None

## 20. The Coal Authority

Summary of Comments	Council's Response	Council's Further Action
No Comments	N/A	None

## 21. The Hurlstone Partnership

Summary of Comments	Council's Response	Council's Further Action
Para. 1.68 Financial Contributions – a specific formula and relationship for monitoring fees relative to the sum of the obligation in inappropriate as it may be that a costly item	The Monitoring Fees were approved by the Council's Development Control Committee in January 2007 and is now embedded as established practice.	None

would require minimal monitoring. The monitoring fees should be negotiated on a case by case basis taking into account the nature of the obligation and monitoring requirement.		
Para. 2.37 Environmental Protection – In the event a development is likely to have a significant impact on air quality, it would be normal for appropriate mitigation to be agreed prior to granting planning permission. The suggested wording specifically relates to extra traffic movements and increase in pollution levels. Any development that results in any increase in traffic could be frustrated by this paragraph.	<p>The Council agrees that it would be normal for appropriate mitigation to be agreed prior to granting planning permission. Examples could include provision of mechanical ventilation for proposed developments in close proximity to a congested road or setting back the building line of properties to reduce residential exposure to traffic pollutants. Routine issue such as these would normally be dealt with by planning condition as specified in para 2.33 of the draft consultation document.</p> <p>Planning Policy Statement (PPS) 23: Planning and Pollution Control Annex 1 establishes the broad principles of using Section 106 contributions to improve air quality where it is inappropriate to use planning conditions but does not specify trigger levels where obligations would be required. The Council has therefore based its approach on national Best Practice Guidance such as the document published by Environmental Protection UK (2006): Development Control: Planning for Air Quality (2006). The Council is currently in the process of developing an air quality supplementary planning document and has</p>	<p>Add additional paragraph in the section on Air Quality in Environmental Protection to clarify the current situation as follows:</p> <p>“Work is currently in progress by the Council to develop a standardised system for air quality contributions. Once in place this will provide increased clarity on the level of requirements set out within a Planning Obligation and offer fairer evaluation between developments.”</p>

	<p>also produced an internal guidance document for development control officers to assess the significance of potential air quality impacts of new development:</p> <p><a href="http://www.dudley.gov.uk/environment--planning/pollution-control/air-quality/development-control-and-air-quality">http://www.dudley.gov.uk/environment--planning/pollution-control/air-quality/development-control-and-air-quality</a></p>	
<p>There is no benefit of providing monies to the Council for equipment and staff to monitor the effect that the development will have on air quality in the area. This would not solve a problem or mitigate the effects of development. Should a significant development trigger a requirement for such monitoring, the agreed mitigation would address the appropriate strategy in any event.</p>	<p>The Council declared the whole borough as an air quality management area in December 2007 and is currently developing a borough wide air quality action plan. In some areas we have clearly defined exceedences of the government's annual mean objective for nitrogen dioxide and in other areas there are borderline exceedences. With the inherent inaccuracies associated with atmospheric dispersion modelling, there have been examples of where some air quality assessments submitted in support of planning applications have been inconclusive. Requesting monies to the Council for equipment and staff to monitor the effect that the development will have on air quality in the area fulfils a number of specific objectives:</p> <p>1) It follows specific examples provided in PPS23 Annex 1 para 1.50:-</p>	<p>Amend Para 2.37 to state:</p> <p>“A planning obligation for air quality would be entered into where the proposed development is likely to have a detrimental effect on air quality. For example, a new housing estate which is serviced by an already busy road which has air quality problems will place an additional burden on the road through extra traffic movements which is likely in turn to increase concentrations of pollutants in the air. In such circumstances, and particularly as the whole of Dudley Borough was declared as an Air Quality Management Area in 2007, it may be appropriate for the developer to be given permission to develop only where an S.106 agreement can be reached. This could, for example, require the developer to either:-</p>

	<p><i>Measures which it might be possible to consider for Section 106 Agreements include:- ...the purchase, installation, operation and maintenance of air quality monitoring equipment or provision of other assistance or support to enable authorities to implement any necessary monitoring or other actions in pursuit of an Air Quality Action Plan.</i></p> <p>2) In borderline areas, it provides a mechanism for the Council to monitor actual air quality impacts of a development once planning permission has been granted. Results from this process can be used to assist with the mitigation process, e.g. revision of future Travel Plan targets.</p> <p>3) It negates any requirements for a developer to undertake onerous or lengthy periods of air quality monitoring before the planning application can be determined.</p> <p>In recognition of these facts and in specific response to this comment, the Council</p>	<ul style="list-style-type: none"> <li>• Undertake specific off site works to help minimise the effect of the development on air quality or to provide monies to the Council for the purchase, installation, operation and maintenance of air quality monitoring equipment, or:</li> <li>• Provide other assistance or support to enable the Council to implement any necessary monitoring or other actions in pursuit of an Air Quality Action Plan.”</li> </ul>
--	---	---



	proposes modification to the section on Air Qulaity	
Para. 2.6 Site Specific Measures – Whilst it is appreciated that the reference is an example, there is no definition of what is a significant number of vehicular trips. As stated previously any traffic would by definition have the potential to generate additional air quality impacts at existing residential receptors within the Authority’s area when considering the number of dwellings fronting major routes. Whilst the impact may be slight and/or insignificant the wording would effectively catch all sites attracting/generating any traffic. This view is reinforced specifically by the wording in paragraph 2.55, which provides no limit to developments assessed under this section.	The specific absence of trigger criteria has been discussed in the response to previous points. Development Control Officers have been provided with guidance for assessing the significance of factors such as traffic flows, parking spaces, number of dwellings etc. and it is hoped that this information will shortly be incorporated into an air quality supplementary planning document.	The Council proposes that paragraph 2.6 in Site Specific measures be modified to read:  “Funding or provision of other assistance, analysis or support to enable the Council to implement any necessary monitoring or other actions in pursuit of an Air Quality Action Plan. The air quality impacts of a development will be assessed by officers in accordance with national Best Practice Guidance. Issues to be considered will include potential for breaches of the national air quality objectives and EU Limit Values, the impact on any air quality action plan or strategy implementation, overall degradation in local air quality and the increase or introduction of public exposure.”

<p>Para. 2.13 Transport Infrastructure Improvements - The reduced contribution per trip when compared to the current SPD is welcomed. However, in general terms I consider the requirement for these supplementary contributions is unnecessary and in many ways an unreasonable tax on development.</p> <p>Para. 2.13 Transport Infrastructure Improvements - Imposing the SPD for non-specific works brings into question the tests of Circular 05/2005, which include amongst others whether the impact is directly related to the proposed development? For general improvements I would question whether these could ever be directly related to the proposed development. When added to the normal infrastructure requirements based on identified impact and taking into account the accommodation of growth within them, by making further payment under this element of the SPD a developer is effectively paying to mitigate twice.</p>	<p>The principle for planning obligations with the Borough was established in the original SPD.</p> <p>The SPD was developed to address the wider impact of a development on the highway network created by trips to and from the site, not from within the site itself.</p>	<p>None</p>
<p>Para. 2.13 Transport Infrastructure Improvements - The table of use classes and trip rates broadly accords with Appendix B of Department for Transport Guidance on Transport Assessment. However within the DfT Guidance it indicates no assessment is</p>	<p>The Council considers that the cumulative impact of smaller developments will have an impact on the highway network which needs to be addressed. Thus the Council's approach is considered appropriate.</p>	<p>None</p>

<p>required for developments below the threshold at which a Transport Statement is required. This is understood to be on the basis that developments below these thresholds are unlikely to have any significant detrimental impact on transport infrastructure due to the low levels of associated trip attraction. On this basis, in the event the SPD continues to require Transport Infrastructure Improvements, I would question the need to secure contributions on those developments which fall below the threshold at which a Transport Statement is required.</p>		
<p>Para. 2.13 Transport Infrastructure Improvements - Within the use classes table in the Draft SPD, extensions to existing B1 and B2 developments of 1500 sq.m and 4000 sq.m respectively are subject to lower trip rates than new development of the same type. It is unclear whether extensions to existing developments below this level, for example a 3000 sq.m B2 unit, would require a contribution under the SPD or not, and if so based on what trip rates.</p>	<p>Agree that further clarification of the Trip Rates is required to avoid misinterpretation and possibility ambiguity.</p>	<p>Amend Trip Rate table in the revised SPD to provide additional clarity and ease of use.</p> <p>Add additional sentence at the end of paragraph 2.130 as follows:  “For proposed developments where the existing or proposed use does not fall within any of the categories within the following Table, applicants are encouraged to contact the Highways Section of the Council on 01384 815457 to discuss the potential impact of the development.”</p>
<p>Para. 2.14 Travel Plans - Travel Plans normally need to be agreed with the Local Authority prior to implementation. Providing operators manage the Travel Plan in</p>	<p>The Travel Plans obligation is not being reviewed as part of the SPD review. These issues will be considered as and when this obligation is reviewed.</p>	<p>None</p>

<p>accordance with the agreed strategy they should not be penalised in the event people still choose to exercise their free will and travel by car despite the agreed Travel Plan incentives being put into place. Any developer or operator who promotes and supports the Travel Plan in accordance with an agreed strategy, which presumably takes into account the best practice procedures available at the time of implementation and/or review, should not be held responsible in the event aspirational targets are not met.</p> <p>Many things which affect an individuals travel choices are beyond the control of developers/operators, such as town parking strategies etc, which can significantly affect the modal choice. Imposing such constraints on developers can frustrate their ability to operate and select appropriate staff for a particular post. A more suitable candidate who must, for personal reasons, travel by car may be rejected in favour of a less suitable person who could travel by bus, as they would not result in a potential liability payment. This problem can be particularly pertinent when assessing accessibility for disabled people. Circumstances it could be argued that a penalty should be imposed is in the event a developer/operator failed to implement the agreed Travel Plan, or in the event meeting</p>		
--	--	--

the specific target of a Travel Plan was used to justify using lower trip rates to avoid infrastructure improvements which would otherwise be required and justified under the normal tests of Circular 05/2005. In this case a penalty may be justified to implement the improvements that were previously avoided.		
--	--	--

**22. Joint Director of Public Health, Dudley MBC/Dudley Primary Care Trust; and  
23. Chief Executive Officer, Dudley Primary Care Trust**

Summary of Comments	Council's Response	Council's Further Action
As Dudley has been nationally selected to work as one of the Government's 'Healthy Towns'. This means that Dudley Policy is to aspire to become a 'Healthy Town' through the application of healthy public policies in all aspects its services and delivery. I therefore feel that there should be some reference to this in some of the general contextual statements in relation to this planning guidance. I am unsure precisely where this should be inserted and would defer to your guidance on this but I do believe that the general reference to Dudley aspiring to be a 'Healthy Town' through its planning policies and documents should be included in the document.	Response Welcomed.	Add new paragraph after para. 1.18 as follows:  "The Council has recently been selected to work as one of the Government's Healthy Towns. Many of the requirements of the SPD contribute towards achieving these objectives."

<p><u>Policy DD7 Planning Obligations</u></p> <p>Reasons for the policy:</p> <p>I broadly agree with this section but believe that point 4 in para 1.24 on page 11 should read ‘Health and Social Service Provision.</p> <p>The reason for this is that developments, particularly residential developments, place additional burdens upon primary care and it is important to ensure that these are recognised. There have been too many instances of new residential housing areas being developed with no facilities for general medical practice, general dental practice, community nursing and associated social services etc to support them.</p> <p>In addition, it is increasingly the case that Social Services facilities are developed in conjunction and partnership with health facilities and a statement of ‘health and social service provision’ would both reflect and continue to strengthen this.</p> <p>DD7 Planning Obligations:</p> <p>Point b should read ‘Ensure that there is no unacceptable adverse impact on the environment nor consequential unacceptable loss to the existing level of services/<u>amenity</u> enjoyed by the community’.</p>	<p>Noted. The Council recognises the importance of Health and Social Service Provision. However this comment relates to the adopted UDP. The Council welcomes and encourages input from the PCT in delivering its service and will continue to liaise in preparation of the review of the planning framework through the preparation of the Joint Core Strategy..</p>	<p>None</p>
---	---	-------------

<p><b>PART TWO, Page 21</b></p> <p>I note that all of the points 1 – 10 in para 1.24 (covering the beginning of page 10 and top of page 11) are all further elaborated in respect of trigger measurements etc in Part Two, with the sole exception of health and social service provision. I am unclear as to the reasons why the health and social service provision is not carried through into further detail, in part 2 and whether or not this might have a detrimental impact on any planning obligations that the DMBC would seek to obtain. It may be that Health and Social Service planning obligations can only be assessed on a case by case basis and no general thresholds are relevant. I should be grateful if you would clarify this please. I would not wish to see the health and social service obligations weakened by non-inclusion in Part Two.</p>	<p>The purpose of this review of the SPD is to clarify existing obligations, rather than introduce new ones. However the Council welcomes further discussions with the PCT during a wider review of the SPD.</p>	<p>None</p>
<p><b><u>Section 2.6 Site Specific Measures</u></b></p> <p>Point 2.52, page 30:</p> <p>Para 2.52 contains a series of bullet points, the 2<sup>nd</sup> of which relates to the funding of improved public transport facilities where development is generating a significant level of trips etc. I should be grateful if this could</p>	<p>Accept.</p>	<p>Add reference to ‘walking and cycling routes’ within the 2<sup>nd</sup> bullet point in the section on Site Specific Measures</p>

be amended to include specific reference to walking and cycling routes. (The reference is made further on in the document but I believe that it should be made early on, under the definition in relation to site specific measures.		
Support the insertion of the new bullet point in relation to air quality, monitoring and mitigation measures.	Support is noted	None
<p>Para 2.81, page 37:</p> <p>The inclusion of an additional paragraph on nature conservation enhancement is supported, given the importance of the natural environment for public mental health and its relationship to the Dudley MBC's 'Healthy Towns' endeavour.</p>	Noted.	None
<p><b><u>Section 2.10 Open Space, Sport and Recreation</u></b></p> <p>Para 2.83, page 39:</p> <p>Relates to open space and recreation. I take public open space to include municipal parks. I should be grateful if this could be clarified in the documentation. Public parks are one of the major planks of Dudley MBC's 'Healthy Towns' policy and this should be reflected in the policy statement.</p>	Agree.	Add reference to 'Municipal Parks' within para. 2.84



<p>Para 2.134, Page 53:</p> <p>This refers to increasing and promoting sustainable transport by, inter alia, continuing to implement improvements to walking and cycling networks, routes and facilities. The inclusion of this guidance is strongly supported but, as indicated earlier, needs to be reflected and strengthened earlier in the policy statements of this document.</p>	<p>Agree.</p>	<p>Add new paragraph after para. 1.18 as follows:</p> <p>“The Council has recently been selected to work as one of the Government’s Healthy Towns. Many of the requirements of the SPD contribute towards achieving these objectives.”</p>
---	---------------	--

## 24. Dudley MBC: Housing and Development

Summary of Comments	Council’s Response	Council’s Further Action
In view of the downturn in the economic climate this review is welcomed as a response to quickly changing circumstances, as is the additional clarity to the contributions required.	Support is Noted	None
In relation to the proposed changes to the highways contribution the significant reduction in contributions being sought is welcomed to contribute to encouraging bringing forward development opportunities in Dudley and in encouraging developers, including RSL partners to commit resources to work in the Borough rather than elsewhere.	Support is Noted	Noted
In relation to all planning obligations it is the	Noted.	None

intention to continue to monitor any effect on the provision of additional affordable housing and in relation to 100% affordable housing development we will be mindful that if supported from a strategic housing perspective such developments can make a significant contribution to this council priority and would wish to ensure this is considered when the financial viability of schemes are being examined in relation to the negotiation of obligations set out in the SPD.		
In relation to seeking to secure up to 30% affordable housing on Section 106 development sites we are also monitoring the negotiation of obligations and no doubt further reviews of the SPD will be considered over time in response to market conditions.	Noted	None

## 25. Partridge Transport Services

Summary of Comments	Council's Response	Council's Further Action
Comments in relation to Cradley Heath Spedway. It is considered that even though the UDP prevents the closure of any sports stadiums unless a new site can be found, this has not been the case and Dudley Council have thrown obstacle after obstacle to prevent this from happening.	Noted. These comments are not within the scope of the revision of the planning obligations SPD.	Comments forwarded to the Council's planning policy team.

<p>Within the current economic climate, it is considered that Dudley Council could now find that land required for the Cradley Speedway,</p> <p>Until the Council recognises that this would benefit everyone and appoint someone to make this happen I feel that I can't support the Council's future framework of the UDP.</p>		
--	--	--

## 26. Building Design Practice

Summary of Comments	Council's Response	Council's Further Action
It is considered that the SPD requirements are a cost at best and more likely a tax on investing in an area. Several examples are cited where planning obligations were required and considered excessive. For this reason it is recommended that the SPD be abolished.	Noted. The principle of the need for the SPD has been established in the original SPD. Individual circumstances and viability of schemes are considered on their merits on a case by case basis.	None
The Local Authority must not give the impression that developers make 'loads of money' and their business is easy. The easiest way for a developer to lose interest in a project is the demand for large sums, particularly in advance.	Noted. Obligations are only requested and required in line with the 5 tests as set out in Circular 5/05. Individual circumstances and viability of schemes are considered on their merits on a case by case basis. Depending on the individual circumstances of the development. Para. 2.130 of the SPD states	None

	that a developer may seek a reduction by providing robust and detailed evidence.	
The Council should also consider the actual number of planning conditions added to a planning permission. As a general rule the more the conditions on a permission the more expense a developer has to incur to resolve such. Recommend reducing the number of conditions – if not possible be very precise as to what is actually required (informally)	These comments are outside the scope of the review of the SPD.	Comments passed to Development Control Section for consideration
Prefer working in surrounding authorities which are desperate for investment and include very few conditions, and those that are given are unofficially resolved in advance. Dudley must make sure it does not become perceived as an unhelpful authority. Recommend the Council having a positive view in their response. Also recommend:  -Returning telephone calls/messages -Stop the '28 day letters' which give bad impressions to inward investors.	Noted. These comments are outside the scope of the review of the SPD.  Dudley MBC actively encourages regeneration in the Borough and seeks to promote development. Planning Obligations are only required where they are necessary and appropriate and meet the 5 tests as set out in Circular 5/05. the Council hosts a developers forum where these comments are welcomed and discussed.	Comments passed to Development Control Section for consideration

## 27. Dudley MBC Town Centre Regeneration Manager

Summary of Comments	Council's Response	Council's Further Action
Para. 2.105 – delete last sentence as this is a repeat of the previous one	Agree.	Delete last sentence of Para. 2.105 as it is a repeat of the previous one.

Para. 2.106 – there are 20 centres not 19. See para. 2.105 which lists them	Agree	Amend number of centres to 20 in Paragraph 2.106
Para. 2.107 and 2.108 Public realm. Where are the figures of 136,000 sq m and 198,000 sq m derived from?	This information is based on survey work undertaken in the Borough which identified a total amount of public realm area within the centres as 334,000 sq m. This has been split proportionately between residential and commercial as detailed within the text.	None

## 28. Dudley Estates Ltd (verbal response)

Summary of Comments	Council's Response	Council's Further Action
Questions why other Councils in the surrounding area (inc. Sandwell, Walsall and Birmingham) are not implementing planning obligations in such an 'outrageous' way that Dudley are.	The purpose of the revised SPD is to add clarity and transparency for developers and is recommended as best practice.	None
Considers that the effect of the planning obligations that Dudley require is stopping private sector development within Dudley altogether. A number of examples are cited where it is considered that excessive contributions have been requested:  Appleyards, Stafford Street – total of £972,000 required	Individual circumstances and viability of schemes are considered on their merits on a case by case basis. The revision of the SPD aims to reduce the amount of financial planning obligations to be paid by developers. The planning obligations as set out in the SPD are in line with adopted policy.	None

Wyko COU from B8 to B1 - Total of £679,000		
Considers that the Council uses planning obligations as a form of blackmail for receiving planning permission. An example is cited at Wellington Road where planning permission was refused on a Change of Use from B8 to Sui Generis purely on the basis that the applicant refused to pay the £6000 planning obligations	The Council operates the planning obligation system fairly and transparently in line with policy. Planning Obligations are a material consideration in the determination of planning applications.	None
Considers that the Council is requiring planning permission for the turning around of a building on the existing site purely in order to obtain planning obligation monies. The applicant previously asked for this to be done as an amendment but was informed that planning permission was required.	The Council operates its duty within the context of planning legislation. Planning Obligations are only required where they are necessary and appropriate and in line with policy.	None
Would like it noted that as an investment company, Dudley Estates Ltd has invested £10m in Dudley but due to the planning obligation requirements will no longer invest any more in Dudley Borough, and will go elsewhere. Derelict sites in Dudley that Dudley Estates Ltd own will not now be developed.	The review of the SPD looks to ensure that planning obligations remain reasonable and realistic. Individual circumstances and viability of schemes are considered on their merits on a case by case basis.	None
Considers that the current stance of the Council in relation to planning obligations is damaging local communities	The review of the SPD looks to ensure that planning obligations remain reasonable and realistic. Individual circumstances and viability of schemes are considered on their	None

	merits on a case by case basis.	
It is stated that Dudley Estates Ltd currently have 3 appeals ongoing, all of which have planning obligations as a reason for refusal. This demonstrates that the Council is actively agreeing to and implementing their policy of planning obligations	The SPD is adopted Council policy hanging off the UDP, and implemented accordingly within the context of legislation.	None
Recommend that the Council drops all planning obligation requirements in Dudley in view of the current economic climate and for the reasons set out above.	The review of the SPD looks to ensure that planning obligations remain reasonable and realistic. Individual circumstances and viability of schemes are considered on their merits on a case by case basis.	None

## 29. Worcestershire Wildlife Consultancy (verbal response)

Summary of Comments	Council's Response	Council's Further Action
Approve in principle to both Compensation and Enhancement changes.	Support is Noted	None
Approved of 15 year maintenance for Compensation.	Support is Noted	None
Considered 50p rate per square m on all sites low in terms of ability to deliver enhancement but reasonable in terms of cost to developer in current economic circumstances.	Agree.	Make amendments to Nature Conservation Section to enable developers (under certain circumstances and only by the agreement of DMBC) to access offsite Nature Conservation Enhancement Planning Obligations (generated through other developments) to augment strategic onsite improvements where these are

		in excess of the minimum quantity required by their planning obligation.
--	--	--