

Annex A: Developer Contributions Supplementary Planning Document

Schedule of comments (Consultation Draft)

Type	Number	Full Name	Organisation Details	Agent	Comment	Officers Response
document		G H Dean	G H Dean & Co		<p>Firstly, it seems that the document relies to a considerable extent on the "Guide to Development Contributions and the Provision of Community Infrastructure March 2007" produced by Kent County Council. In our view, this is an unacceptable approach to the preparation of a new Supplementary Planning Document. At paragraph 3.5 of this consultation document it is conceded that the Kent County Council document itself does not have formal Supplementary Planning Document status and it follows therefore that the Borough Council cannot, in effect, confer such status on the KCC document simply by referring to its output in its own Supplementary Planning Document.</p> <p>In our view therefore if the Borough Council wishes to incorporate the tariffs set by the County Council then each of those tariffs and the assumptions and calculations upon which each is based must be the subject of public consultation. Clearly the Borough Council is not proposing such consultation at this stage and therefore in our view any resultant document cannot take on the status of a Supplementary Planning Document.</p> <p>Secondly, in our view, the document should acknowledge that, notwithstanding the current economic recession, new development cannot pay for all the calls made on it for community etc infrastructure. Paul Carter, Leader of Kent County Council is on record as endorsing this statement and this should be recognised, explicitly, in the document itself.</p> <p>Thirdly, similarly, the document should in our view recognise that by applying such contribution requirements the Borough Council is acknowledging that it will thereby increase the cost of development; increase the cost of providing jobs; increase the cost of providing housing; will make housing generally, and affordable housing in particular, less affordable and will militate towards the suppression of jobs and housing delivery. In particular, via the document, the Council should acknowledge that it is a myth that such developer contribution costs can automatically be deducted from land value.</p> <p>Fourth, whilst accepting that the issue is referred to in the document (last chapter), in our view the Council should give greater prominence to the fact that contributions will be sought only to the point where the viability of the scheme is not jeopardised. Clearly if viability is threatened then the request by the Council must, by definition, be "unreasonable" and, thereby, in conflict with Government guidance. In our view the document should acknowledge the right of a developer to secure a reasonable level of profit ie in the order of 17-25% of cost.</p> <p>Fifth, in our view, it would be helpful if the Borough Council were to set out the County Council's approach to the negotiation of developer contributions on large scale developments, eg in excess of 500 dwellings. It is our understanding that at this scale of development the County Council expects negotiations to take place on an open book basis. It would be helpful for developers to be aware of this approach together with, for example, the practice of appointing solicitors, jointly, to act for the two councils.</p>	<p>As with other Developer Contributions SPDs across the County, the starting point has been the formulae and standard charges has been the KCC Guide to Developer Contributions. KCC has advised that:</p> <p><i>It is correct that the "Guide to Development Contributions" is not adopted planning policy. The County Council adopted the document under its Community Strategy, "Vision for Kent" however, and it was subject to wide consultation, including all the major developers and their planning advisers. It is referred to in the adopted (and now superceded) Kent and Medway Structure Plan (at para 5.30) and also elaborates the County Council's position under the new policy framework provided by the adopted Regional Spatial Strategy (The South East Plan), Policy CC7(iii).</i></p> <p><i>As such the document comes within the terms set down in para 6.3 of Planning Policy Statement 12 and may be properly referred to as <u>Supplementary Guidance</u>. It should therefore be accorded the same weight as SPD's in decision making. The Council would hope that Swale Borough Council would also be prepared to endorse the document pursuant to the advice in PPS 12. Reference to the document in the adopted SPD on development contributions will add to the Guide's status in the decision making process.</i></p> <p><i>The methodology used in the Guide dates principally from 2002 and follows advice produced by the Department of Further Education and Science, for assessing the likely need for new school places arising from an emerging population. The details of the methodology are set out in the Guide itself at para 3.1. The method takes its start point from the pupil product ratio's arising from new residential development of various kinds, with the ratio's themselves based originally on 2001 census data, and at the request of Developers, now on more recent extensive Mori research (2006) of new homes across Kent. By applying actual costs for providing new space (the costs are kept under review) it is possible to derive with reasonable accuracy, the cost contribution rate per dwelling based on dwelling type; this gives a degree of certainty, as sought by developers.</i></p> <p><i>A residual approach is then followed, which takes into account surplus and shortfall in pupil places at existing schools within the known catchment of the new development, to establish the necessity or otherwise for the contribution to be made. This process ensures compliance with the tests contained within Circular 5/2005. The method has been tried and tested now for some 7 years and has been found to be generally accepted and robust.</i></p> <p><i>Whilst the Council is aware that some third parties are now suggesting alternative methodologies, the case for change has not been established or agreed. It should be remembered that the approach was consulted upon and supported by a majority of parties, including developers, as it offered a relatively straightforward mechanism for assessing contributions in a fair way.</i></p> <p><i>The same general approach has been adopted for other County Council requests for development contributions, including Community Services and Adult Social Services, subject to any national standards that may apply and how the specific service is delivered. This again provides a measure of consistency.</i></p> <p><i>The approach in the Guide is kept under review and the Council is about to appoint consultants to consider any changes or updating that may be necessary, to ensure that it remains relevant and fair to all concerned. Should any changes be proposed then these will be subject to formal consultation in the usual manner prior to adoption.</i></p> <p>The Council is not expecting that new development will automatically contribute to the items listed in Table 2. Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>The intention of the SPD is to provide clarity. With the exception of the Sittingbourne Northern Relief Road tariff and the requirement to contribute towards the provision of the twin refuse bin scheme the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the detailing of the contributions that scheme may be required to provide will not have a greater or lesser impact on the delivery of jobs and housing than was the situation pre-SPD.</p> <p>The need for developer contributions, in most cases, relates to the need for the provision of infrastructure which if not provided would otherwise make a scheme unacceptable in planning</p>

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						terms. However, it is accepted that there may be instances where the need for development is overriding such that viability assessments must be brought forward.
document		Hillreed			Hillreed has specific concerns relating to the calculation of the costs of contributions and the formulas set out at the appendix to the document. In summary we do not consider that this is the right time to be progressing this SPD. Secondly in view of the implications the document will have on housing delivery it should not be rushed through to adoption in a total of 6 weeks following this consultation stage. Hillreed request that the comments of an "end user" and major job provider (Hillreed) are taken seriously into account and before further progression a workshop session is organised with key stakeholders so that the full impact of this SPD can be understood.	The intention of the SPD is to provide clarity. With the exception of the Sittingbourne Northern Relief Road tariff and the requirement to contribute towards the provision of the twin refuse bin scheme the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the detailing of the contributions that scheme may be required to provide will not have a greater or lesser impact on the delivery of jobs and housing than was the situation pre-SPD.  The SPD has been progressed in accordance with the Regulations and the Council's Local Development Scheme.
document		Jimi Adeleye			No comment	Noted
document		Miss Elizabeth Shier	Kent County Council		<p>The County Council welcomes the opportunity to comment on the consultation document. The document represents a clear statement of the Borough's position which recognises the need to support provision a wide range of services and to gather significant contributions from development.</p> <p>The County Council is supportive of the overall approach taken in the SPD and is grateful for the explicit recognition given to the County Council's "Guide to Development Contributions" as a mechanism for the assessment of development contributions for its services.</p> <p>With regards to the historic environment S106 agreements have been used to secure archaeological and other historic environment requirements. The draft SPD is welcomed as it will help ensure that Swale's remarkable heritage is treated appropriately through the planning system. The text does however seem a little confused as to whether or not developer contributions are appropriate to the historic environment and would benefit from some clarification in the final text.</p>	Noted  Matters relating to the historic environment will be dealt with on a specific case by case basis. Text to be amended at paragraph 5.8 to take on board this point.
document		Miss Rachael Bust	The Coal Authority		Having reviewed your document, I confirm that we have no specific comments to make on this document at this stage.	Noted
document		Mr Howard Moore	Highways Agency		<p>Contributions to strategic road network schemes, under the responsibility of the Highways Agency, are not considered in the DC-SPD. We consider this to be an important omission.</p> <p>In preparing its evidence base the Local Authority should be confident that all transport related constraints and opportunities are identified, including any 'showstoppers' resulting from cumulative impacts, and that all relevant stakeholders are engaged in this process. It is therefore very important that constraints and opportunities are identified on both the local and strategic road network.</p> <p>We consider the scope of the transport tariff as put forward to be limited and will only offer the potential to deal with the effects of additional traffic flows that would be resolved by the Sittingbourne Northern Relief Road plus any non-car mode provision dealt with by the sustainable transport contribution. The traffic impact of planned new development could be more widespread including the trunk/strategic road network.</p> <p>Planned development including Queenborough and Rushenden and Iwade village expansion could have an impact on junctions which form the first point of contact with the A249, such as the Grovehurst junction. These impacts may be of a scale such that any highway improvements that may be required could be delivered through conventional S278s. There may however be advantages in adopting a tariff approach to facilitate some form of cost sharing. We consider the process for defining the scale and form of A249 junction improvements, if they are required, needs to be instigated as soon as is practicable and the Highways Agency would welcome the opportunity to be involved in this assessment. We also recommend that any A249 junction improvements, if required, are delivered prior to the first occupation of any development which is deemed to have an impact on the A249.</p> <p>Planned developments in Swale could also generate additional trips through M2 Junction 5 which can experience congestion during peak periods. We are currently working with Swale Borough Council and Kent County Council to identify both interim and long term improvement measures at M2 Junction 5, however we are mindful that in</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, which will include a Delivery Plan setting out strategic infrastructure requirements, the SPD will be revised/updated to reflect matters arising in terms of the strategic road network.

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					<p>the longer term an expanded tariff system, possibly in combination with other funding mechanisms, could be used to fund a major trunk road project at this location.</p> <p>The cumulative effects of larger developments including those identified above plus many smaller developments could result in a significant impact on the operation and performance of the trunk/strategic road network. In terms of responding to these effects on a site-by-site basis, the traditional process of securing individual Section 106 and 278 agreements may result in poor value for money, particularly when mitigation works overlap.</p> <p>Ultimately, the Highways Agency's aim is to maintain the operation of the A249 and M2, ensuring that any additional development traffic that will use these roads will not adversely affect network performance.</p> <p>It is considered, as demonstrated by the Highways Agency's involvement in developing the Kent Thameside Strategic Transport Investment Programme in cooperation with Kent County Council, Dartford Borough Council and Gravesham Borough Council, that there is potential benefit in responding cooperatively to both local and strategic traffic effects of concentrated development. The long-term vitality of the Kent Thameside area will depend a great deal on the efficient operation of the trunk/strategic road network. The same philosophy could potentially be applied to Swale.</p> <p>We recommend that consideration is given to the potential effects of planned development on the trunk/strategic road network within Swale. We also recommend that the potential to widen the scope of a transport tariff to incorporate a contribution towards mitigating the likely effects of new development on the A249 and M2 in Swale is investigated.</p> <p>Discussion with the Highways Agency is recommended in determining a suitable tariff. Prior to defining the level of contribution required from developers to manage the effects of new development on the strategic/trunk road network, an assessment using a suitable modelling tool is required to ascertain the scale, form and location of these effects.</p> <p>A traffic model could be used to determine the nature of the traffic effects of development. If a model estimates deterioration in network performance which can be attributed to new development, there is justification for measures to mitigate these effects. This information can be used to test and finalise potential mitigation measures which can be used to inform the tariff. A traffic model will also provide a sound evidence base which is vital in justifying a tariff that is fairly and reasonably related in scale and kind to the proposed development.</p> <p>It may also be appropriate to give consideration to future impacts upon the trunk/strategic road network that are likely to arise from the South East Plan Regional Spatial Strategy aspirations which covers the period up to 2026. It may be possible to derive transport schemes that are appropriate for this longer time period and derive a tariff approach which would continue beyond the Local Plan period considered.</p>	
document		Mr Nigel Jennings	Natural England		<p>Natural England supports the development of this SPD, which will provide a key mechanism for delivering open space provision, biodiversity enhancement, and to mitigate and adapt to climate change. This is particularly important in the context of Swale Borough with its rich natural heritage and coastal location - flood risk is, and increasingly will be, an issue that needs addressing.</p> <p>This SPD has been developed in advance of key Local Development Framework documents (the Core Strategy is due at the end of 2009) and a number of key evidence bases which could have greatly informed the SPD. These include:</p> <ul style="list-style-type: none"> <li>• The Strategic Flood Risk Assessment</li> <li>• The PPG 17 Open Space Strategy (due to be published in April 2009)</li> </ul> <p>Where strategic-level programmes/strategies currently exist, the SPD should ensure contributions feed into these to support investment that is efficient and effective. For example, no reference is made within the SPD to the Borough's Green Grid Strategy</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Strategic Flood Risk Assessment and Green Grid.

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					<p>(November 2007), which was informed by the Thames Gateway Green Grid and Green Cluster Studies.</p> <p>A strategic-level approach, based on the most up to date data and studies would ensure the Borough's needs are properly planned for and benefits are optimised. As such, Natural England would like to see an SPD which is sufficiently flexible to take on board future studies, such as the PPG 17 assessment.</p>	
document		Mr Paul Sharpe	LaSalle Investment Management		<p>Firstly, the consultation document is not at all clear as to whether the comprehensive range of contributions referred to in the document are intended to apply to commercial (non residential) development. Our interpretation is that the inference given is that the requirement to make contributions will apply to commercial development, virtually at the discretion of the Council. We object to this uncertainty and suggest that the document is clarified in that regard.</p> <p>Secondly, it seems that the document relies to a considerable extent on the "Guide to Development Contributions and the Provision of Community Infrastructure March 2007" produced by Kent County Council. In our view, this is an unacceptable approach to the preparation of a new Supplementary Planning Document. At paragraph 3.5 of this consultation document it is conceded that the Kent County Council document itself does not have formal Supplementary Planning Document status and it follows therefore that the Borough Council cannot, in effect, confer such status on the KCC document simply by referring to its output in its own Supplementary Planning Document.</p> <p>In our view therefore if the Borough Council wishes to incorporate the tariffs set by the County Council then each of those tariffs and the assumptions and calculations upon which each is based must be the subject of public consultation. Clearly the Borough Council is not proposing such consultation at this stage and therefore in our view any resultant document cannot take on the status of a Supplementary Planning Document.</p> <p>Thirdly, in our view, the document should acknowledge that, notwithstanding the current economic recession, new development cannot pay for all the calls made on it for community etc infrastructure. Paul Carter, Leader of Kent County Council is on record as endorsing this statement and this should be recognised, explicitly, in the document itself.</p> <p>Fourth, similarly, the document should in our view recognise that by applying such contribution requirements the Borough Council is acknowledging that it will thereby increase the cost of development; increase the cost of providing jobs; increase the cost of providing housing; will make housing generally, and affordable housing in particular, less affordable and will militate towards the suppression of jobs and housing delivery. In particular, via the document, the Council should acknowledge that it is a myth that such developer contribution costs can automatically be deducted from land value.</p> <p>Fifth, whilst accepting that the issue is referred to in the document (last chapter), in our view the Council should give greater prominence to the fact that contributions will be sought only to the point where the viability of the scheme is not jeopardised. Clearly if viability is threatened then the request by the Council must, by definition, be "unreasonable" and, thereby, in conflict with Government guidance. In our view the document should acknowledge the right of a developer to secure a reasonable level of profit ie in the order of 17-25% of cost.</p> <p>Sixth, in our view, it would be helpful if the Borough Council were to set out the County Council's approach to the negotiation of developer contributions on large scale developments, eg in excess of 500 dwellings. It is our understanding that at this scale of development the County Council expects negotiations to take place on an open book basis. It would be helpful for developers to be aware of this approach together with, for example, the practice of appointing solicitors jointly, to act for the two councils.</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold (residential schemes) for contributions . Policy SP7 refers to the need for housing and employment opportunities to provide community services and facilities. So, while no threshold is specifically referred to in paragraph 1.7, the SPD flags up that some commercial developments may be required to make developer contributions.</p> <p>KCC has advised that:</p> <p><i>It is correct that the "Guide to Development Contributions" is not adopted <u>planning policy</u>. The County Council adopted the document under its Community Strategy, "Vision for Kent" however, and it was subject to wide consultation, including all the major developers and their planning advisers. It is referred to in the adopted (and now superceded) Kent and Medway Structure Plan (at para 5.30) and also elaborates the County Council's position under the new policy framework provided by the adopted Regional Spatial Strategy (The South East Plan), Policy CC7(iii).</i></p> <p><i>As such the document comes within the terms set down in para 6.3 of Planning Policy Statement 12 and may be properly referred to as <u>Supplementary Guidance</u>. It should therefore be accorded the same weight as SPD's in decision making. The Council would hope that Swale Borough Council would also be prepared to endorse the document pursuant to the advice in PPS 12. Reference to the document in the adopted SPD on development contributions will add to the Guide's status in the decision making process.</i></p> <p><i>The methodology used in the Guide dates principally from 2002 and follows advice produced by the Department of Further Education and Science, for assessing the likely need for new school places arising from an emerging population. The details of the methodology are set out in the Guide itself at para 3.1. The method takes its start point from the pupil product ratio's arising from new residential development of various kinds, with the ratio's themselves based originally on 2001 census data, and at the request of Developers, now on more recent extensive Mori research (2006) of new homes across Kent. By applying actual costs for providing new space (the costs are kept under review) it is possible to derive with reasonable accuracy, the cost contribution rate per dwelling based on dwelling type; this gives a degree of certainty, as sought by developers.</i></p> <p><i>A residual approach is then followed, which takes into account surplus and shortfall in pupil places at existing schools within the known catchment of the new development, to establish the necessity or otherwise for the contribution to be made. This process ensures compliance with the tests contained within Circular 5/2005. The method has been tried and tested now for some 7 years and has been found to be generally accepted and robust.</i></p> <p><i>Whilst the Council is aware that some third parties are now suggesting alternative methodologies, the case for change has not been established or agreed. It should be remembered that the approach was consulted upon and supported by a majority of parties, including developers, as it offered a relatively straightforward mechanism for assessing contributions in a fair way.</i></p> <p><i>The same general approach has been adopted for other County Council requests for development contributions, including Community Services and Adult Social Services, subject to any national standards that may apply and how the specific service is delivered. This again provides a measure of consistency.</i></p> <p><i>The approach in the Guide is kept under review and the Council is about to appoint consultants to consider any changes or updating that may be necessary, to ensure that it remains relevant and fair to all concerned. Should any changes be proposed then these will be subject to formal consultation in the usual manner prior to adoption.</i></p>
document		Mr Richard Lewis	Vincent and Gorbing		<p>Trenport is concerned at the proposals contained with the Developer Contributions SPD and considers that it will, if adopted, be one of the most effective means of deterring development in Swale that it is possible to devise.</p>	<p>The intention of the SPD is to provide clarity. With the exception of the Sittingbourne Northern Relief Road tariff and the requirement to contribute towards the provision of the twin refuse bin scheme the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the detailing of the contributions that schemes may be required to provide will not have a greater or lesser impact on the delivery of jobs and housing than was the situation pre-SPD.</p>

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document		Mrs Susan Brockman	Faversham Town Council		No comments	Noted.
document		Sarah Burgess	Commission For Architecture & The Built Environment		No comments	Noted
document		Susan Chivers	Housing and Planning Team GOSE		No comment	Noted.
paragraph	1.1	Julie Argent	Police Architectural Liaison Officer		<p>I would like to recommend that Kent Police become a statutory consultee regarding all aspects of the Local Development Framework to ensure that issues regarding "Planning for Crime Prevention" are always considered. Kent Police should be included on the "Validation Checklist" for all major developments.</p> <p>I would like SBC to be aware that Kent Police are currently working on (and liaising with SBC) a Supplementary Planning Guidance document which will give advice on "planning for crime prevention". The draft SPG has been prepared to set out the design principles that the council as the LPA should demonstrate in developments for the prevention of crime. The guide is as a result of cooperation between Kent Police and Kent Design, each bringing their knowledge and experience to jointly contribute to building safer and stronger communities to support the work of the Safer Communities Partnership.</p> <p>We would like the opportunity to consult with SBC regarding the content of this SPG in order that we can work in partnership to achieve the same goal - "A Safer Borough".</p> <p>The Developer Contributions (Consultation Draft) contains very little regarding the 106 contributions concerning Community Safety and gives no detail to the calculation for any Police contribution with regard to infrastructure. Community Safety is much more than CCTV (which does feature in this document) and there are many other aspects of crime prevention that needs to be considered and referred to as part of this SPD.</p> <p>By linking this SPD to the Kent Police Supplementary Planning Guidance document, items of Community Safety will be adequately covered.</p>	Specific reference is made to contributions that may be required for Police & Emergency Services in Table 2 (chapter 5). Costs will need to be developed on a case by case basis (and will only relate to capital facilities required to meet the additional needs generated by the development).
paragraph	1.1	Mr David Stewart			Reference should be made in this paragraph to Unilateral Undertakings as they are a valid form of legal undertaking which can adequately deal with measures of mitigation necessary to overcome adverse impacts arising from development proposals.	Amend text to include definition of the term "Legal Agreements".
paragraph	1.2	Mr David Stewart			This SPD has not been written in accordance with national guidance and the reasons for it are set out in my response to paragraph 1.4	See paragraph 1.4.
paragraph	1.3	Miss Debbie Salmon	Kent Wildlife Trust		<p>In the case of the Green Grid the Trust does not feel that the objectives promote either the establishing of a landscape scale Green Grid or provide adequate protection for the European sites for the following reasons.</p> <ul style="list-style-type: none"> <li>A lack of funding in the form of clearly defined developer contributions makes landscape scale enhancement to protect the SPAs from in combination development effects problematic. It is the Trust opinion that large areas of habitat creation and a fully connected Green Grid, in line with NRM5 and CC8 of the Draft South East Plan are essential if the European sites and the fauna and flora for which they are designated are to be preserved.</li> </ul> <p>We assume that a more detailed Green Grid strategy and mapping will be included in the Core Strategy in line with NRM5 and CC8 of the South East plan. The SPD does not state that developer contributions are to be levied to help fund creation of the Green Grid; The Trust would question how negative impacts of in combination development effects on biodiversity are to be mitigated without such contributions. We would suggest that contributions for the Green Grid be clearly detailed and costed. This will evidence that the Borough Council is giving "appropriate weight ... to designated sites of international, national and local importance; protected species; and to biodiversity and geological interests within the wider environment" in line with PPS9.</p> <ul style="list-style-type: none"> <li>There can be no certainty regarding creation of a Green Grid without development contributions making forward planning problematic. Rather than</li> </ul>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Green Grid.

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					<p>creation of a connected, multifunctional Green Grid delivery is likely to be piecemeal and fragmented.</p> <p>The lack of developer contributions will limit the multifunctional uses of the Green Grid with green transport links established in new development only providing access to the population within growth areas rather than benefiting the population of Swale in its entirety</p>	
paragraph	1.3	Mr David Stewart			Support is given to the objectives set out in this paragraph. However it is considered that the objectives are not met by this document for the reasons set out in responses to later paragraphs.	Amendments are proposed to the text to address this comment.
paragraph	1.3	Mr John Feetam	Sport England		Sport England welcomes the principle of the SPD and the objectives set out in paragraph 1.3. It is noted that with regards to sporting provision the SPD seeks to provide guidance to support the implementation of Local Plan Policies C2 ' <i>Housing Developments and the provision of Community Services and Facilities</i> ' and C3 ' <i>Provision of Open Space on New Housing Developments</i> '.	Noted.
paragraph	1.3	Mr John Feetam	Sport England		Sport England is therefore concerned that for formal outdoor sports provision the SPD does not meet the objectives set out in paragraph 1.3 or assist in providing improvements to front loading the Section 106 process as set out in paragraph 5.3.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
paragraph	1.3	Mr Peter Wilks			Iwade Parish Council notes the objectives of the guidance and welcomes the clarity of the process through which developer contributions will be dealt.	Noted.
paragraph	1.4	Hillreed			<p>The speed of the progression of the SPD document is also of concern given that para 1.5 suggests that it is planned to formally publish and adopt the document in June 2009. Given the lead in times for committees, this will give local plan officers less than 4 weeks to consider and respond to representations made at this stage. Hillreed would have expected the Council to properly evaluate the feedback to the current consultation exercise.</p> <p>It is very important that members understand the practical implications of this DPD on delivery. As a result Hillreed contend that officers should first report these comments back to the members which should be followed by the setting up of a joint working party between housebuilders, developers, KCC stakeholders and utility providers to fully evaluate the impact of this document, before it progresses any further toward approval.</p>	Progress in respect of this SPD is in accordance with the Regulations and the Council's Local Development Scheme
paragraph	1.4	Mr David Stewart			Objection is lodged to the method by which this SPD is to be adopted by the Council. National guidance gives clear advice on the way in which supplementary policy and guidance is to be issued. Circular 05/2005 states in paragraph B25 that local authorities should include as much information as possible within LDF's and be the subject of public examination. In seeking to introduce Developer Contributions policies in an SPD which has not been the subject of rigorous testing through the public inquiry process the Planning Authority is seeking to introduce policies which fail to meet the test of fairness in that they are not the subject of consideration by a third party. Moreover the document, in not being the subject of rigorous testing, will not carry sufficient weight at appeal and will be open to challenge. Recent test cases have shown that similar SPD based developer contribution policies are being overturned because they do not carry sufficient weight. Swale Borough Council had sufficient opportunity to introduce Developer Contribution policies in its draft Local Plan but failed to do so. It now has the opportunity of introducing a Developer Contributions policy through the LDF and it is on this basis that the document should be introduced.	Progress in respect of this SPD is in accordance with the Regulations and the Council's Local Development Scheme. As part of the Local Development Framework the Council is required to submit a Local Development Scheme to the Government Office for approval. No objections have been raised by GOSE to Developer Contributions being considered as an SPD, and accordingly this Developer Contributions SPD is being progressed as such. Moreover, the SPD is not writing new policy – it is adding more detail and information on how the relevant parent policies in the Local Plan will be implemented. As such it is entirely appropriate that these matters are addressed in a Supplementary Planning Document. Following the Adoption of the Core Strategy, it will be necessary to review the Developer Contributions SPD.
paragraph	1.5	Geoff Wilde	Octave Homes Ltd		It has been stated that a fixed tariff as required by Government regulations will not be defined by Swale for another two years. However, one should expect that sites of less than 10 units, thus ones which do not trigger the ordinary developer contribution requirement, should be required to pay a reasonable tariff of no more than £5,000-£10,000 per unit to be pooled towards local community infrastructure. Wider more expansive larger sites are then required to calculate their contributions based upon an accumulative levy style, but communities will not be impeded by a lack of contributions and accumulative development and infrastructure burden because of smaller sites.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).
paragraph	1.5	Mr David Stewart			The levy of project specific contributions over a tariff based system is welcomed. However there is evidence in later sections that this approach is not universally adopted	Project specific tariffs will be considered in the preparation of associated site specific SPD/DPD/development briefs.
paragraph	1.5	Mr Howard Moore	Highways Agency		The SPD stresses that you are not currently in a position to move forward on a Community Infrastructure Levy tariff-type approach, ' <i>...however this is not considered to preclude the Council from using tariffs on major regeneration schemes</i> ' (paragraph 7.1 page 20). The proposed methodology put forward appears to be complementary to the traditional Section 106 process. This is considered a sensible approach.	Noted.

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					We recognise that the SPD comprises of two elements, 1) a formulae/standard charge methodology for collecting contributions from developers for community facilities, as defined in Kent and Medway Structure Plan policy QL12 and Swale Local Plan policy C2, and 2) a transport tariff for collecting contributions from developers for the proposed Sittingbourne Northern Relief Road and sustainable transport measures.	
paragraph	1.5	Mr John Feetam	Sport England		Sport England notes that consideration was given to the formulation of a tariff system and the development of an SPD based on the Community Infrastructure Levy proposals. It is understood that this approach was not progressed due to the reasons outlined within paragraph 1.5. However, Sport England would be pleased to assist the borough council with the development of a sound evidence base for sport and related infrastructure delivery plan which may support any such future proposals.	Comments noted.  The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
paragraph	1.5	Mr Nigel Jennings	Natural England		Natural England recommends that, at the end of this section, the forthcoming Community Infrastructure Levy (CIL) is detailed. Paragraph 1.5 refers to the CIL, but no explanation is provided of what this is, what implications it will have for developers, and what the relationship will be between Section 106 Agreements and the CIL.	Consider explanation at paragraph 1.5 to be adequate, but to some updating to confirm that while the relevant commencement order has come into force, the draft Regulations are being consulted on over the summer and the Regulations are not expected to be made until April 2010.
paragraph	1.5	Mr Richard Lewis	Vincent and Gorbng		In general, whilst Trenport welcomes guidance, the effective imposition of a formula and standard charge methodology (i.e. tariff system) for a wide variety of Council services cannot be justified. It is clear that the Council is attempting to broaden the range of services funded by development contributions in the hope that, once this document is adopted, developers will not question the need for the payments, or how any payments will be spent, providing planning permission is obtained. It seeks to apply a standard charge to development for different services and facilities and does not appear to take account of the circumstances relating to a scheme i.e. whether the proposal would affect the demand for services and facilities and what capacity there is in the existing facilities and services to accommodate any needs arising from a development.	The schedule of potential contributions listed at table 2 in chapter 5 (the Council's approach to formulae and standard charges) is intended as a checklist so that developers can begin to understand what the Council's expectations may reasonably be in terms of developer contributions before a site is even purchased.  It is not intended that a contribution will be sought for each and every one of the items listed, as not all will be relevant to every application submitted.  It is recommended that the worked example at table 3 (showing potential contributions that a notional scheme may be liable to) be deleted as it's purpose lacked clarity and would not, in its totality, have applied in the vast majority of cases. Furthermore viability issues will always be considered and as such it would be wrong for developers to unwittingly be given the impression that that Council was, in effect, seeking to introduce a standard charge per dwelling.  Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.  Text to be amended to confirm that contributions will only be sought where there is a need and a shortfall in capacity.
paragraph	1.5	Mr Richard Lewis	Vincent and Gorbng		The Council confirm at 1.4 that they do not have time to establish a "sound evidence base" in respect of the proposed Community Infrastructure Levy but would appear to believe they have sufficient evidence to support an SPD for Developer Contributions. However, the Consultation Draft is completely lacking in any such evidence and, irrespective of whether the proposed charges can be shown to meet the necessary tests of Circular 05/2005, developers are being asked to accept the figures quoted as being completely justified.  The SPD does not give any justification for:  <ul style="list-style-type: none"> <li>o Justifying seeking to require contributions towards particular services</li> <li>o Justifying the amounts of the contributions sought and how they have been calculated.</li> </ul> Trenport will continue to require the Council to provide justification for deficiencies in services that the Council considers are directly affected by a development and also to provide detail of how any contributions made will be spent on projects that will be used by residents of a new development. The SPD, whilst of general use, does not provide sufficient, or any, justification in itself for these contributions or the amount of the contributions, and cannot be relied upon by the Council to justify these.  Moreover, Trenport will object to a number of contributions, as set out elsewhere in this statement, given the paucity of evidence justifying the charges sought.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising.  Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.  In respect of KCC requests for contribution County is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.
paragraph	1.6	Barratt Strategic Land		Phil Copsey	Firstly the tone of the document needs to more clearly express the purpose of the Supplementary Planning Document (SPD) as a starting point for the negotiation of s106 contributions in line with the tests outlined at Circular 05/05	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.

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					<p><i>Planning Obligations</i></p> <p>The draft SPD notes at several points (paragraph 1.6, paragraph 5.8 for example) that the requirement for facilities and services (and by implication contributions) will need to be individually assessed. The SPD needs to be open and up front that the standard charges quoted are an indication of what might be sought, and will be subject to further review and negotiation in the light of the tests outlined at Circular 05/05.</p>	
paragraph	1.6	G H Dean & Co			At para 1.6, we note the Council's encouragement of the submission of draft legal agreements with all relevant planning applications. However, in our view, the submission of such documents is unrealistic unless there is first a reasonable expectation that planning permission will be granted. Bearing in mind that the Borough Council often refuses planning permission for development that accords with the Development Plan, the prediction of the outcome of applications is not straightforward and therefore the cost of preparing such expensive documents could be abortive.	Text to be amended to require Heads of Terms of Agreements to be submitted with planning applications.
paragraph	1.6	Miss Debbie Salmon	Kent Wildlife Trust		The Trust supports early submission of 106 agreements relating to the Green Grid and encourages developers and Swale Borough Council to consult statutory consultees and ecological NGO's early in the process	Noted.
paragraph	1.6	Mr David Stewart			Whilst it may be desirable for a UU to be submitted early in the planning process it is an unrealistic target as in most cases the need for mitigation which cannot be achieved by condition will not be known at the outset. The correct process should be the identification of potential developer contributions on each issue within 21 days of the submission of the application and the requirement for a Heads of Terms Agreement to be submitted by the developer within a reasonable period to be followed by a UU or S106.	Text to be amended to require Heads of Terms of Agreements to be submitted with planning applications.
paragraph	1.6	Mr Paul Sharpe	LaSalle Investment Management		At para 1.6, we note the Council's encouragement of the submission of draft legal agreements with all relevant planning applications. However, the submission of such documents is simply unrealistic unless there is first a reasonable expectation that planning permission will be granted. Bearing in mind that the Borough Council often refuses planning permission for development that accords with the Development Plan, the prediction of the outcome of applications is not straightforward and therefore the cost of preparing such expensive documents could be abortive.	Text to be amended to require Heads of Terms of Agreements to be submitted with planning applications.
paragraph	1.6	Mr Richard Lewis	Vincent and Gorbing		<p>Trenport is concerned that the requirements of the SPD will inevitably delay developments and give rise to significant additional costs which could militate against the growth area status of much of Swale, which would be contrary to Government policy. It would also place an additional burden on development. The 'front loading' of Legal Agreements will give rise to additional costs and could give rise to abortive work and costs if permission is subsequently refused, in particular abortive legal costs. These may also be abortive costs for the Council's own legal services. The front loading would give rise to a need for more extensive negotiations before an application could be submitted, which would delay the submission date for an application.</p> <p>Experience suggests that Local Planning Authorities inevitably give priority to processing live planning applications, with little priority being given to pre-application proposals, resulting in often protracted discussions and delays in submitting planning applications. Applications have had to be submitted in order to make progress and draw out issued and considerations which need to be addressed, even though negotiations may still have been ongoing and not concluded. In order to avoid delaying development proposals priority will also need to be given to pre-application proposals and for proposals to be progressed in a reasonable timetable without undue delay.</p>	<p>The intention of the SPD is to provide clarity. With the exception of the Sittingbourne Northern Relief Road tariff and the requirement to contribute towards the provision of the twin refuse bin scheme the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the detailing of the contributions that schemes may be required to provide will not have a greater or lesser impact on the delivery of jobs and housing than was the situation pre-SPD.</p> <p>Progress in respect of this SPD is in accordance with the Regulations and the Council's Local Development Scheme.</p> <p>Text to be amended to require Heads of Terms of Agreements to be submitted with planning applications.</p>
paragraph	1.6	Mr Richard Lewis	Vincent and Gorbing		The requirement that draft Legal Agreements should be submitted with planning applications at the start of the planning application determination process will give rise to additional costs and could give rise to abortive work and costs if permission is subsequently refused, in particular abortive legal costs. These may also be abortive	Text to be amended to require Heads of Terms of Agreements to be submitted with planning applications.

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					<p>costs for the Council's own legal services, as Trenport would not expect to have to pay the Council's legal costs if permission is refused.</p> <p>For various reasons, often due to lack of a suitable response to consultations within a reasonable timescale, the scope of the Legal Agreement may not be known at the start of the planning application process and so it is difficult to prepare a draft Agreement. A preferable approach would be to submit a heads of terms of an agreement with an application, which sets out the proposed scope of contributions.</p> <p>The function of the Development Control system is to adjudicate on land use decisions in line with development plan policies and other material considerations. In doing so the Council officers and members will reach a view on whether planning harm would be caused which can be overcome by a financial payment or similar provision, such as the provision of land. Equally, officers and members will decide where the balance should lie in considering the relative merits of a case and the request for payments to overcome alleged harm. It follows that the drafting of a S106 by a developer as part of any planning submission can only be done where it is accepted that a tariff system of the type proposed by this SPD is in place and the developer accepts this - without the need for any further justification and that all the financial payments specified should be paid. Trenport reject this approach as being entirely inappropriate and out of step with Government guidance and the tests in Circular 05/2005 in particular.</p>	A general tariff is not being proposed. Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05. The schedule of potential contributions listed at table 2 in chapter 5 (the Council's approach to formulae and standard charges) is intended as a checklist so that developers can begin to understand what the Council's expectations may reasonably be in terms of developer contributions before a site is even purchased. It is not intended that a contribution will be sought for each and every one of the items listed, as not all will be relevant to every application submitted.
paragraph	1.7	Barratt Strategic Land		Phil Copsey	The document needs to be clear about how it will be applied to different types of development. The current wording in paragraph 1.7 is imprecise and ought to more clearly identify the need for commercial developments to make contributions. This is particularly relevant to the manner in which contributions towards the Sittingbourne Northern Relief Road are calculated	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold (residential schemes) for contributions. Policy SP7 refers to the need for housing and employment opportunities to provide community services and facilities. So, while no threshold is specifically referred to in paragraph 1.7, the SPD flags up that some commercial developments may be required to make developer contributions.
paragraph	1.7	Geoff Wilde	Octave Homes Ltd		<p>Smaller sites which do not trigger or do not normally provide for contributions, must have provide contributions and responsibility for this to local infrastructure projects to offset the cumulative effect of increasing development and demand on facilities; a simple set levy should be proportioned per unit provided. It is not sustainable to presume that larger schemes will offset any and all the deficit in monies not received and delay in infrastructure provision.</p> <p>It has also been an increasing constraint that larger schemes take longer to come forward and thus if they are only relied upon to provide contributions, a compounding black hole will ensue of diminished contributions received and nothing will get done.</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).
paragraph	1.7	Geoff Wilde	Octave Homes Ltd		It has been stated that a fixed tariff as required by Government regulations will not be defined by Swale for another two years. However, one should expect that sites of less than 10 units, thus ones which do not trigger the ordinary developer contribution requirement, should be required to pay a reasonable tariff of no more than £5,000-£10,000 per unit to be pooled towards local community infrastructure. Wider more expansive larger sites are then required to calculate their contributions based upon an accumulative levy style, but communities will not be impeded by a lack of contributions and accumulative development and infrastructure burden because of smaller sites.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).
paragraph	1.7	Miss Debbie Salmon	Kent Wildlife Trust		<p>The Trust would argue that that national and regional policy regarding ecological networks has progressed since the adoption of the Kent and Medway Structure Plan and regard should be given to other national and draft regional policies. PPS9 states that "Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests." It is now recognised by statutory and non statutory ecological bodies that protection and extension of BAP habitats and species is only possible in the long term if landscape scale enhancement is undertaken. With the threats posed by global warming and development, connectivity is essential to enable biodiversity to react to changing climate and escape the effects of habitat loss through development. If such networks are not established many species will be lost as designated sites become isolated and surrounded by inhospitable habitat and the built environment.</p> <p>PPS12 paragraph 4.45 states that:- <i>Core Strategies should show how the vision, objectives and strategy for the area will be delivered and by whom, and when</i> . Therefore policies should include "ensuring that partners who are essential to the delivery of the plan such as landowners and developers are signed up to it. We would posit that developers are essential partners in the delivery of the Green Grid. In the absence of a Core Strategy the Sustainable Community Strategy should provide an overarching vision. The priorities <b>GR2</b> "Investing in strategic green space" and <b>GR3</b> "supporting the development of Swales Green Grid "contained within "Ambitions for</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Green Grid/ecological issues.

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					<p>Swale" should be considered when formulating policy on developers' contributions. In the light of emerging national, regional and local policy we would feel it is essential that contributions are levied from all developments whether commercial or residential .</p> <p>Developer tariffs have been used to protect the Thames Basin Heaths SPA from the impact of increased urbanisation. This may provide a useful model in respect to protection of the estuarine SPAs. A levy was imposed on each house or business built within a certain distance of the heaths. Zones were established with development nearer to the heaths paying a higher levy than those further away.</p> <p>The Trust would agree in part with the recommendation within the Sustainability Appraisal to " Review, via the LDF process, strategic level provision for environmental mitigation (i.e. townscape, biodiversity, landscape) where this would give rise to the need for developer contributions ." However the Trust does not feel that this issue can wait until 2012 when the Core Strategy is to be adopted as by this time most of the strategic developments would have obtained at least outline planning permissions and contributions will be harder to negotiate.</p>	
paragraph	1.7	Miss Elizabeth Shier	Kent County Council		<p>Page 3 para 1.7: Whilst the reference to Kent and Medway Structure Plan Policy QL12 is currently appropriate it will be superseded by the RSS South East Plan in the very near future. There appears to be little likelihood that Policy QL12 will be saved beyond this. The scope of community facilities potentially subject to contributions incorporated in the relevant Swale Local Plan policy (C2) does provide a comparable and comprehensive definition to that in QL12</p>	<p>Kent and Medway Structure Plan policies should be deleted.</p> <p>The final version of the South East Plan was published by Government Office for the South East on 6 May. This is the new Regional Spatial Strategy for the South East which sets out the housing numbers for each district in the region; and the strategic planning policies which will replace those of the Kent and Medway Structure Plan which will cease to have any validity from 6 July 2009 and will not be replaced.</p>
paragraph	1.7	Mr David Stewart			<p>It is considered that the introduction of differential thresholds for private housing and affordable housing development is unfair and not based on sound factual evidence. It could be argued that occupants of affordable schemes may require greater support from community based facilities than those from private housing developments. The same thresholds should apply to all housing schemes.</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).</p>
paragraph	1.7	Mr John Feetam	Sport England		<p>Sport England appreciates that the thresholds for seeking developer contributions from development, for example of 10 dwellings or more for community services and facilities, is set out in the relevant Local Plan policies. However, it is Sport England's opinion that all developments with a net increase of 1 dwelling can potentially generate demand for additional or enhanced places for sport.</p> <p>Sport England therefore advocates that it is appropriate that the approach taken by such SPD's should require that all residential developments contribute towards the provision of new or improved facilities. Where it is not practical or appropriate to provide sports facilities within the development site local authorities should create 'ring fenced' funds into which financial contributions from developers of small sites within a defined area and time can be pooled. When sufficient funds have accrued, it should be possible to provide appropriate facilities to serve the needs of those developments.</p> <p>The setting of thresholds may result in the cumulative demand generated from a number of small scale developments not being adequately met and. This may in turn place significant pressure on existing services and facilities.</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).</p>
paragraph	1.7	Mr John Feetam	Sport England		<p>It appears from Section 5 that in a number of areas the SPD seeks to apply a standard charge per dwelling for the relevant service/facilities irrespective of the dwelling type and mix. Whilst Sport England supports the principle of standard charges they should be developed so that they can reflect the nature of the dwellings proposed by any development. Sport England would suggest that the use of standard charges based on the average assumed occupancy of dwellings, by per person or per bedroom, would ensure a more robust and defensible approach to meeting the different levels of demand by developments.</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).</p>
paragraph	1.7	Mr Paul Sharpe	LaSalle Investment Management		<p>Firstly, the consultation document is not at all clear as to whether the comprehensive range of contributions referred to in the document are intended to apply to commercial (non residential) development. Our interpretation is that the inference given is that the requirement to make contributions will apply to commercial development, virtually at the discretion of the Council.</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold (residential schemes) for contributions. Policy SP7 refers to the need for housing and employment opportunities to provide community services and facilities. So, while no threshold is specifically referred to in paragraph 1.7, the SPD flags up that some commercial developments may be required to make developer contributions.</p>

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					We object to this uncertainty and suggest that the document is clarified in that regard.	
paragraph	1.7	Mr W Wallis	Kent Police	Klaire Lander	<p>Kent Police support paragraph 1.7 of the SPD which states that development contributions will be sought for community facilities as defined in the Kent and Medway Structure Plan policy QL 12 (which includes the police and emergency services).</p> <p>Kent Police acknowledge this table which includes text about the Police and Emergency Services.</p> <p>Kent Police agree that it would be best to assess the need for and level of contributions towards the Police Authority on a case-by-case basis. However, they request that the threshold for requesting contributions of ten or more dwellings is removed. Kent Police do not wish to be constrained by a threshold, as any new development (new population) will place a strain on the Police service. A threshold of ten or more dwellings is overly restrictive and Kent Police would like it to be left to their discretion as to whether or not to request contributions from any new development.</p> <p>A threshold of ten or more dwellings would miss a lot of smaller developments (which are numerous within the Borough), which place demands on the Police service. Unless contributions can be sought for the smaller developments, the Police service will not be able to keep pace with population growth as it takes place.</p> <p>Two Kent Police documents have been submitted. The first provides guidance to LPAs for the inclusion of community safety in LDF documents, including SPDs. The second document "Planning Obligations SPD" outlines the steps of the methodology for calculating contributions towards Police services. This is based upon population growth rather than housing growth, unlike other formulae. A detailed formulae is also available, which can be provided if required. While these documents are currently draft and not formally approved, they outline the general stance of Kent Police towards LDF documents and developer contributions.</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).
paragraph	1.8	G H Dean & Co			In para 1.8, reference is made to the "October Retail Price Index". No indication is given of the reference year.	Amend text to refer to the annual October Retail Price Index.
paragraph	1.8	Mr Paul Sharpe	LaSalle Investment Management		In para 1.8, reference is made to the "October Retail Price Index". No indication is given of the reference year.	Amend text to refer to the annual October Retail Price Index.
paragraph	2.1	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	Greater emphasis needs to be placed on the Government Guidance in circular 5/05. We note and welcome reference to the "tests", but it is important that it is made clear that the operation of the SPD will be within the terms of paras. B33 to B35 of the Circular.	<p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>Charges will reflect shortfalls in capacity arising out of the development. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.</p>
paragraph	2.1	Miss Debbie Salmon	Kent Wildlife Trust		<p>Swale will need to identify funding mechanisms for habitat creation, restoration, enhancement, monitoring and maintenance to protect biodiversity in line with PPS9. The Trust would suggest that developer contributions should be levied for Green Grid creation, maintenance and monitoring in line with PPS12 paragraph 4.45. (See response to 1.7 for further details)</p> <p>Adequate protection is needed to safeguard the integrity of European sites in line with the EC Habitats Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora), and national and local sites in line with The Natural Environment and Rural Communities Act 2006, PPS9, PPS12 and National Indicator 197.</p> <p>A functional and connected Green Grid throughout the Borough will help to protect designated sites and increase biodiversity generally in line the above policies.</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of biodiversity.
paragraph	2.1	Mr Paul Sharpe	LaSalle Investment Management		Thirdly, in our view the document should acknowledge that notwithstanding the current economic recession, new development cannot pay for all the calls made on it for community etc infrastructure. Paul Carter, leader of Kent County Council, is on record	The intention of the Developer Contributions SPD is to provide clarity. With the exception of the transportation tariff (for Sittingbourne Northern Relief Road and related matters), and the requirement to contribute towards the provision of the twin refuse bin scheme, the SPD does

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					as endorsing this statement and this should be recognised explicitly in the document itself.	not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the flagging up and detailing of contributions (where standard charges and formulas have been successfully used for many years) that schemes may be required to provide will not have a greater or lesser impact on the delivery of housing and than was the situation pre-SPD.  The need for developer contributions, in most cases, relates to the need for the provision of infrastructure which if not provided would otherwise make a scheme unacceptable in planning terms. However, it is accepted that there may be instances where the need for development is overriding such that viability assessments must be brought forward.
paragraph	2.2	Mr David Stewart			This paragraph should also refer to Unilateral Undertakings	Definition of Legal Agreement is to be amended at paragraph 1.1.
paragraph	2.2	Mr Peter Wilks			Iwade has been and still is a major development area the village has expanded by over 800 dwellings with another 400 in the pipeline.	Noted. No amendment proposed.
paragraph	2.2	Mr Richard Lewis	Vincent and Gorbng		We would make the general comment that although a proposal may increase the demands on local services the services may have sufficient capacity to accommodate these demands or the increase in demand would not be such as to make a proposal unacceptable and justify a refusal of planning permission.	Charges will reflect shortfalls in capacity arising out of the development. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.
paragraph	2.3	Mr David Stewart			Reference should be made to Unilateral Undertakings	Definition of Legal Agreement is to be amended at paragraph 1.1.
paragraph	2.4	Mr David Stewart			Same comment as 2.3 above	Definition of Legal Agreement is to be amended at paragraph 1.1.
paragraph	2.5	Miss Debbie Salmon	Kent Wildlife Trust		The Trust would argue that due to the level of development both within Swale and the neighbouring unitary authority of Medway, developer contributions should be pooled to finance the cumulative development effects upon European sites and biodiversity. Such monies will ensure appropriate weight is given to the protection of the natural world in line with international and national policy.  <i>Although we welcome the reference made to "the provision of compensatory wildlife habitats" as an area where indirect cumulative impacts need to be mitigated by contributions, monies this should not just be acquired to replace habitats lost as stated but adequate funding sought to extend and connect habitat (PPS9, PPS12, and the NERC Act 2006) and ensure appropriate management, wardening and monitoring of the SPAs and Green Grid.</i>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of European sites/biodiversity.
paragraph	2.6	G H Dean &Co			At para 2.6, reference is made to mitigation measures which developers will need to factor into their land costs. As previously commented, it is not possible, automatically, to assign such costs to the purchase price of the land as many such costs are not evident until physical development is underway.  More to the point, this section of the report omits to refer to "abnormal" development costs. Such costs will vary from site to site and we accept that many are, effectively, unforeseen at the outset. Sufficient flexibility must be included within the process to account for such eventualities. Development does not take place in the context of perfect knowledge and if the SPD is to become a practical workable document then it should provide sufficient flexibility to account for such contingencies.	It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD. It is also suggested by way of amendment, that any independent advice that may be required in terms of viability testing will be with an expert agreed by both parties, working to an agreed brief.
paragraph	2.6	Miss Elizabeth Shier	Kent County Council		Page 4 para 2.6 - states that Section 106 agreements are not employed to cover archaeological matters which are addressed through planning conditions. Although these are the main mechanism used Section 106 agreements have been deployed, usually to secure funds for interpretation, storage or archiving and occasionally even archaeological excavation. The Kent & Medway Structure Plan states that "Provision should be made for the long-term storage of the site archive and finds for future generations"and Section 106 agreements will sometimes be the most appropriate way to do this. Indeed archaeology is specifically mentioned as a matter that can be covered by developer contributions in KCC's "Guide to Development Contributions and the Provision of Community Infrastructure." The latter is acknowledged as supplementary guidance that can be afforded weight commensurate with that of an SPD.	Notwithstanding the comments made by KCC it is considered that archaeological matters are more likely to be site specific issues, not specifically requiring a standard response (with the five tests set out in Circular 05/05).
paragraph	2.6	Mr David Stewart			This paragraph is not required as on site mitigation invariably deals with matters which are controlled by condition and not the subject of S106 or UU agreements.	Disagree. On-site mitigation is included for reasons of completeness.
paragraph	2.6	Mr Paul Sharpe	LaSalle Investment Management		At para 2.6, reference is made to mitigation measures which developers will need to factor into their land costs. As previously commented, it is not possible, automatically, to assign such costs to the purchase price of the land as many such costs are not	It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or

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					<p>evident until physical development is underway.</p> <p>More to the point, this section of the report omits to refer to "abnormal" development costs. Such costs will vary from site to site and we accept that many are, effectively, unforeseen at the outset. Sufficient flexibility must be included within the process to account for such eventualities. Development does not take place in the context of perfect knowledge and if the SPD is to become a practical workable document then it should provide sufficient flexibility to account for such contingencies.</p>	"abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD. It is also suggested by way of amendment, that any independent advice that may be required in terms of viability testing will be with an expert agreed by both parties, working to an agreed brief.
table	Table 1	Miss Elizabeth Shier	Kent County Council		Page 5 Table 1 - on site mitigation might also include within the examples impact on ecology to ensure there is no net loss of habitat and avoidance of areas which have a high numbers of protected species which will reduce the need for expensive off site mitigation.	Amend text to include impact on ecology.
paragraph	2.10	Mr Paul Sharpe	LaSalle Investment Management		Thirdly, in our view, the document should acknowledge that, notwithstanding the current economic recession, new development cannot pay for all the calls made on it for community etc infrastructure. Paul Carter, Leader of Kent County Council is on record as endorsing this statement and this should be recognised, explicitly, in the document itself.	The intention of the Developer Contributions SPD is to provide clarity. With the exception of the transportation tariff (for Sittingbourne Northern Relief Road and related matters), and the requirement to contribute towards the provision of the twin refuse bin scheme, the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the flagging up and detailing of contributions (where standard charges and formulas have been successfully used for many years) that schemes may be required to provide will not have a greater or lesser impact on the delivery of housing and than was the situation pre-SPD.
paragraph	3.1	Tom Kingston	South East England Partnership Board		<p>The SPD should be developed having regard to the policies in the Secretary of State's Proposed Changes to the draft South East Plan and will need to draw upon the relevant sections of the Regional Spatial Strategy in developing options for addressing them.</p> <p>We broadly support the policy approach set out in the document: however, further to the reference made of South East Plan policy CC7: Infrastructure and Implementation, we would welcome reference to the definition of infrastructure as set out within the Proposed Changes to the South East Plan (box CC2) and to policy CC8: Green Infrastructure, with box CC3.</p>	Text to be amended.
paragraph	3.2	G H Dean & Co			We question the relevance of references to policies from the Kent & Medway Structure Plan which are soon to be replaced (Spring 2009) by the adoption of the South East Plan. Thereby, even the policies on which the Kent County Council Guide to Development Contributions is based will be superceded highlighting further our point that the assumptions and calculations upon which contributions are now sought by this SPD must be set out in transparent fashion for rigorous scrutiny via the public consultation process.	<p>The final version of the South East Plan was published by Government Office for the South East on 6 May. This is the new Regional Spatial Strategy for the South East which sets out the housing numbers for each district in the region; and the strategic planning policies which will replace those of the Kent and Medway Structure Plan which will cease to have any validity from 6 July 2009 and will not be replaced.</p> <p>Reference to all Structure Plan policies will be deleted</p>
paragraph	3.2	Miss Debbie Salmon	Kent Wildlife Trust		Due to the fact that the South East Plan is so close to adoption the Trust feels this policy document should be given priority within the SPD. Within the Draft South East Plan green and grey infrastructure are given equal weight. NRM5 states that policies must protect international, national and local sites, with connectivity between sites and large scale habitat enhancement. The policy gives priority to establishing and maintaining accessible green spaces and networks within urban areas. CC8 states the Green Grid "should be managed with the primary aim of maintaining and improving biodiversity" However details of other multifunctional community uses are included.	<p>The final version of the South East Plan was published by Government Office for the South East on 6 May. This is the new Regional Spatial Strategy for the South East which sets out the housing numbers for each district in the region; and the strategic planning policies which will replace those of the Kent and Medway Structure Plan which will cease to have any validity from 6 July 2009 and will not be replaced.</p> <p>Reference to all Structure Plan policies will be deleted</p>
paragraph	3.3	Mr Paul Sharpe	LaSalle Investment Management		We question the relevance of references to policies from the Kent & Medway Structure Plan which are soon to be replaced (Spring 2009) by the adoption of the South East Plan. Thereby, even the policies on which the Kent County Council Guide to Development Contributions is based will be superceded highlighting further our point that the assumptions and calculations upon which contributions are now sought by this SPD must be set out in transparent fashion for rigorous scrutiny via the public consultation process.	<p>The final version of the South East Plan was published by Government Office for the South East on 6 May. This is the new Regional Spatial Strategy for the South East which sets out the housing numbers for each district in the region; and the strategic planning policies which will replace those of the Kent and Medway Structure Plan which will cease to have any validity from 6 July 2009 and will not be replaced.</p> <p>Reference to all Structure Plan policies will be deleted</p>
paragraph	3.5	Geoff Wilde	Octave Homes Ltd		Contributions sought through the KCC DCPCI document should not be duplicated within any contributions laid by Swale. Either the Swale SPD deals with the relevant points or the KCC document does, not both.	Swale Borough Council will collect contributions on behalf of KCC, as set out in paragraph 9.3
paragraph	3.5	Miss Debbie Salmon	Kent Wildlife Trust		Kent Design Guide emphasises the importance of green corridors, stepping stones and enhancements within urban areas, with details contained within the Biodiversity	Kent Design has been adopted by Swale as a supplementary planning document, pursuant to policy E19 of the 2008 Local Plan. Accordingly it should be considered as one of a suite of

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					Appendix at <a href="http://www.kent.gov.uk/NR/rdonlyres/6C743069-88B1-49E2-AFA0-FB60FEEA9695/0/BiodiversityFinal.pdf">http://www.kent.gov.uk/NR/rdonlyres/6C743069-88B1-49E2-AFA0-FB60FEEA9695/0/BiodiversityFinal.pdf</a>	documents for development control purposes.  The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of biodiversity.
paragraph	3.5	Mr David Stewart			It should be noted that objections to the validity of the KCC document have been lodged in that they seek to introduce tarriff based contributions which are regarded to fail the tests set out in paragraph B5 of Circular 05/2005	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.  KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.
paragraph	3.5	Mr Paul Sharpe	LaSalle Investment Management		<p>Secondly, it seems that the document relies to a considerable extent on the "Guide to Development Contributions and the Provision of Community Infrastructure March 2007" produced by Kent County Council. In our view, this is an unacceptable approach to the preparation of a new Supplementary Planning Document. At paragraph 3.5 of this consultation document it is conceded that the Kent County Council document itself does not have formal Supplementary Planning Document status and it follows therefore that the Borough Council cannot, in effect, confer such status on the KCC document simply by referring to its output in its own Supplementary Planning Document.</p> <p>In our view therefore if the Borough Council wishes to incorporate the tariffs set by the County Council then each of those tariffs and the assumptions and calculations upon which each is based must be the subject of public consultation. Clearly the Borough Council is not proposing such consultation at this stage and therefore in our view any resultant document cannot take on the status of a Supplementary Planning Document.</p>	<p>Interested parties have had ample opportunity to comment on the detail of the SPD. As with other Developer Contributions SPDs across the County, the starting point has been the formulae and standard charges has been the KCC Guide to Developer Contributions. Supplementary comments on the status of this document are awaited from KCC. It is envisaged that the engagement previously undertaken by the County remains sound in terms of an evidence base.</p> <p>KCC has advised that:</p> <p><i>It is correct that the "Guide to Development Contributions" is not adopted <u>planning policy</u>. The County Council adopted the document under its Community Strategy, "Vision for Kent" however, and it was subject to wide consultation, including all the major developers and their planning advisers. It is referred to in the adopted (and now superceded) Kent and Medway Structure Plan (at para 5.30) and also elaborates the County Council's position under the new policy framework provided by the adopted Regional Spatial Strategy (The South East Plan), Policy CC7(iii).</i></p> <p><i>As such the document comes within the terms set down in para 6.3 of Planning Policy Statement 12 and may be properly referred to as <u>Supplementary Guidance</u>. It should therefore be accorded the same weight as SPD's in decision making. The Council would hope that Swale Borough Council would also be prepared to endorse the document pursuant to the advice in PPS 12. Reference to the document in the adopted SPD on development contributions will add to the Guide's status in the decision making process.</i></p> <p><i>The methodology used in the Guide dates principally from 2002 and follows advice produced by the Department of Further Education and Science, for assessing the likely need for new school places arising from an emerging population. The details of the methodology are set out in the Guide itself at para 3.1. The method takes its start point from the pupil product ratio's arising from new residential development of various kinds, with the ratio's themselves based originally on 2001 census data, and at the request of Developers, now on more recent extensive Mori research (2006) of new homes across Kent. By applying actual costs for providing new space (the costs are kept under review) it is possible to derive with reasonable accuracy, the cost contribution rate per dwelling based on dwelling type; this gives a degree of certainty, as sought by developers.</i></p> <p><i>A residual approach is then followed, which takes into account surplus and shortfall in pupil places at existing schools within the known catchment of the new development, to establish the necessity or otherwise for the contribution to be made. This process ensures compliance with the tests contained within Circular 5/2005. The method has been tried and tested now for some 7 years and has been found to be generally accepted and robust.</i></p> <p><i>Whilst the Council is aware that some third parties are now suggesting alternative methodologies, the case for change has not been established or agreed. It should be remembered that the approach was consulted upon and supported by a majority of parties, including developers, as it offered a relatively straightforward mechanism for assessing contributions in a fair way.</i></p> <p><i>The same general approach has been adopted for other County Council requests for development contributions, including Community Services and Adult Social Services, subject to any national standards that may apply and how the specific service is delivered. This again provides a measure of consistency.</i></p> <p><i>The approach in the Guide is kept under review and the Council is about to appoint consultants to consider any changes or updating that may be necessary, to ensure that it remains relevant and fair to all concerned. Should any changes be proposed then these will be subject to formal consultation in the usual manner prior to adoption.</i></p>

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paragraph	4.1	Miss Debbie Salmon	Kent Wildlife Trust		The Trust supports Ambitions for Swale where appropriate focus is given to protection and enhancement of biodiversity and the natural environment; with ambitions for "The continued protection and enhancement of areas of national and international environment significance" Partnership priorities include GR2 Investing in strategic green space and GR3 Supporting the development of Swale's Green Grid. If these targets are to be realised, there is a need for strategic contributions to support the creation and management of the Green Grid and to fund landscape enhancement projects.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Green Grid.
paragraph	4.3	Mr Nigel Jennings	Natural England		<p>To ensure flood risk mitigation is secured, Natural England recommends that paragraph 4.3 makes reference to Swale Local Plan Policy E4 (Flooding and drainage), and details this policy in Appendix A. This policy states that, ' <i>where there is considered to be a risk of flooding, development proposals will be accompanied by a flood risk assessment and should a) incorporate, where necessary, sustainable drainage systems within development proposals and b) include, when necessary, new flood defence and alleviation measures installed and maintained by the developer(s).</i>' Ensuring flood risk is addressed through planning obligations is also consistent with PPS 25 <i>Development and Flood Risk</i>. PPS 25 states that development should avoid areas of high flood risk, and where this is not possible, a sequential approach should apply.</p> <p>Natural England also recommends that reference is made to Swale Local Plan Policy E12 (Sites designated for their importance to biodiversity or geological conservation), which states that ' <i>Where development may have an adverse effect, directly or indirectly on the special interest of a Site of Special Scientific Interest, it will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site, and the national policy to safeguard such sites. In such cases, conditions and/or planning obligations will be required to mitigate the harmful aspects of the development and ensure the protection and enhancement of the sites nature conservation or geological interest</i>'. Including this policy would be consistent with PPS 9 <i>Biodiversity and Geological Conservation</i>, which states that Local Authorities should use planning obligations to mitigate any negative impacts of development on biodiversity.</p>	Text to be amended.
paragraph	4.3	Tina Khakee	Savills Plc		<p>It is acknowledged that current Swale Borough Council (SBC) policy is to seek 30% of all residential proposals to be developed as affordable housing.</p> <p>Comment:</p> <p>The Council's position to seek the maximum provision of affordable housing is understood, in that it strives to meet an identified need. However, applying flexibility in the level of affordable housing is fundamental to unlock difficult sites; otherwise there is a risk that these sites could remain underused or undeveloped with little or no benefit to the Borough. This is particularly important in current challenging market conditions.</p> <p>The S106 Supplementary Planning Document (SPD) should acknowledge that in certain circumstances, site and or financial constraints could affect the exact level of affordable housing provision that is deliverable, and this should be reflected in the SPD text. Circular 05/2005 (Planning Obligations) seeks to ensure that affordable housing requirements are 'fairly and reasonable related in scale and kind to the proposed development', and to accord with Circular Guidance, some flexibility in the SPD wording should be retained.</p>	The policy context for affordable housing is set out in Local Plan policy H3/PPS3, which requires a minimum provision of 30%
paragraph	4.4	Geoff Wilde	Octave Homes Ltd		Provisions which fall out of the normal expected matters, such as air quality, dust and noise etc should always be address through the design and engineering of the development; therefore a development cost and not a S106 cost	Noted. Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.
paragraph	4.4	G H Dean & Co			At para 4.4, the inference set out is that the Council will use the S106 process to secure control over development that it would not be justified in securing by way of planning condition. The examples used all refer to public health matters which are notoriously difficult to control by planning condition. In our view this would be an abuse of the S106 process and we recommend that this reference be deleted from the document.	Noted. Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.
paragraph	4.4	Mr Paul Sharpe	LaSalle Investment Management		At para 4.4, the inference set out is that the Council will use the S106 process to secure control over development that it would not justified in securing by way of planning condition. The examples used all refer to public health matters which are notoriously difficult to control by planning condition. In our view this would be an abuse of the S106 process and we would recommend that this reference be deleted from the	Noted. Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.

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					document.	
section	5	Mr Peter Wilks			<p>This section appears to have little direct relevance to the residents of Iwade; the developer contributions are destined for the deep pocket of the County Council. As a result of recent development Iwade has a particular problem with congestion and lack of car parking in the centre of the village. The Ward Homes phase V S.106 agreement dated 3 February 2005 covenanted to pay £33, 000 towards the costs of roads in Iwade. Despite an agreement between Iwade Parish Council and Kent Highways that money still lies in the County's coffers.</p> <p>There is an on going need to improve the facilities of the village hall, the current developments have subscribed £200 or £158 per dwelling, we suggest that Village Halls are included in the formulae.</p> <p>Another on going problem in Iwade is the capacity of the village stream which is identified in policy AAP9 we suggest that this is identified as needing developer contributions.</p> <p>In the opinion of the Parish Council there is an on going need to improve facilities of the village and the proposed formulae offers little to make the "unacceptable, acceptable"</p>	<p>For the purposes of transparency, paragraph 9.3 of the SPD explains that all monies will be collected by the Borough Council and allocated when projects are ready to be implemented, rather than being sent straight to KCC.</p> <p>The SPD does not preclude site specific issues being included within legal agreements for developer contributions. It is more appropriate for matters relating to Iwade Stream to be dealt with in this matter as it does not relate to a general Borough-wide issue..</p>
paragraph	5.1	Geoff Wilde	Octave Homes Ltd		If services such as open space, education, etc are provided on site then it is reasonable to agree that the associated contributions should not be required	Amend text to clarify that contributions will not be sought (with the exception of maintenance charges for open space), where provision for facilities is made on site.
paragraph	5.1	Miss Debbie Salmon	Kent Wildlife Trust		The Trust would support early planning of development and delivery of infrastructure and suggests this include planning and delivery of the Green Grid, with corridors and enhancements throughout the development and contributions to the wider network.	<p>Noted.</p> <p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Green Grid.</p>
paragraph	5.1	Mr. Matthew Shellum	McCarthy & Stone		Why is 10 dwellings set as lowest threshold from which the Council will seek developer contributions. It is accepted that there is a policy threshold for affordable housing but there is no requirement for thresholds for other contributions. Surely the cumulative impact of 5 schemes of 5 dwellings, or 12 schemes of 2 dwellings is going to have a bigger impact on community infrastructure than 1 scheme of 20 dwellings. As the number of larger previously developed sites in the district have been developed over the years, there must now be proportionally more smaller residential schemes coming forward. It seems illogical to say 10 units creates a need for developer contributions because it has an impact on infrastructure but 9 units does not. Am I missing something here?	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).
paragraph	5.1	Mr David Stewart			The ability to hold pre application discussions without significant time delays is difficult because of staff shortages at the Local Authority and this severely limits the intent of this paragraph. Moreover objection has already been lodged to the threshold limit and the submission of a UU or S106 with applications	Noted
paragraph	5.3	G H Dean & Co			<p>In para 5.3, we object to the Borough Council's intention of setting specific time limits for the preparation of legal agreements coupled with the use of dual recommendations to Planning Committee. Swale is located within the Thames Gateway growth area where the Borough Council should be attempting to encourage appropriate development rather than creating and placing artificial constraints on development. When more than 2 parties are involved, ie the Kent County Council also, it is inevitable that S106 Agreements will take some time to complete and it is our experience that it is the differing attitudes and styles of the respective legal advisors that gives rise to interminable delay.</p> <p>It is in no developer's interest to delay the preparation and completion of a S106 Agreement. Consequently the Council is requested to delete all references to time limits for the preparation of a S106 Agreement.</p>	<p>Use of the Law Society/MKIP standard template should enable legal agreements to be drafted more quickly. It seems reasonable in terms of the Council being able to meet its targets for planning performance for it to be able to refuse planning permission if at least a draft legal agreement is not submitted within the prescribed period. It is accepted that this approach will need to be applied with a degree of sensitivity to the complexities of the case and the period already elapsed in reaching the point at which the recommendation is made. As such, the SPD can be amended to reflect these sensitivities.</p> <p>As per paragraph 9.3 the Borough Council intends being the sole local authority signatory on Legal Agreements, so delay will be lessened.</p>
paragraph	5.3	Mr David Stewart			Whilst the sentiment of this paragraph is supported there are problems. These are firstly that no guidance is given on the time limit for the agreement to be concluded and secondly a limit to the time allowed is not practically possible. The paragraph should	Use of the Law Society/MKIP standard template should enable legal agreements to be drafted more quickly. It seems reasonable in terms of the Council being able to meet its targets for planning performance for it to be able to refuse planning permission if at least a draft legal

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					more realistically discuss a time limit for the <b>submission</b> of a draft agreement. Our experience is that we not not receive comment on drafts submitted for some time and that the Legal Department is slow in responding to the drafts. It is therefore largely out of the applicant's control and in the circumstances the time limits are inappropriate.	agreement is not submitted within the prescribed period. It is accepted that this approach will need to be applied with a degree of sensitivity to the complexities of the case and the period already elapsed in reaching the point at which the recommendation is made. As such, the SPD can be amended to reflect these sensitivities.  Time limits will depend on the appropriate 8 or 13 week deadline.
paragraph	5.3	Mr Paul Sharpe	LaSalle Investment Management		In para 5.3, we object to the Borough Council's intention of setting specific time limits for the preparation of legal agreements coupled with the use of dual recommendations to Planning Committee. Swale is located within the Thames Gateway growth area where the Borough Council should be attempting to encourage appropriate development rather than creating and placing artificial constraints on development. When more than 2 parties are involved, ie the Kent County Council also, it is inevitable that S106 Agreements will take some time to complete and it is our experience that it is the differing attitudes and styles of the respective legal advisors that gives rise to interminable delay. It is in no developer's interest to delay the preparation and completion of a S106 Agreement. Consequently the Council is requested to delete all references to time limits for the preparation of a S106 Agreement.	Use of the Law Society/MKIP standard template should enable legal agreements to be drafted more quickly. It seems reasonable in terms of the Council being able to meet its targets for planning performance for it to be able to refuse planning permission if at least a draft legal agreement is not submitted within the prescribed period. It is accepted that this approach will need to be applied with a degree of sensitivity to the complexities of the case and the period already elapsed in reaching the point at which the recommendation is made. As such, the SPD can be amended to reflect these sensitivities.
paragraph	5.3	Mr Richard Lewis	Vincent and Gorbing		We note the Council's desire to front load the Section 106 process. We would repeat the comments made in response to paragraph 1.6. I.e. front loading the system will lead to increased costs which may be abortive both for the developer and for the Council.  We also note the Council may make dual recommendations whereby if a Legal Agreement is not completed within a specific period the planning application will be refused. We would make the general comment, not necessarily relating to the Council's own legal department, that experience suggests that it is often delays by a Council's own legal department (which may have difficulty in obtaining timely instructions) which often gives rise to overall delays in progressing Legal Agreements, rather than delays by a developer. If specific periods are to be identified, Trenport would expect specific periods to also be given to the Council's own legal department (and to those officers / Departments within the Council and / or third parties seeking financial contributions) to progress the agreements, so that the overall period can be met.	Amend text to require Heads of Terms to be submitted with planning applications.  Use of the Law Society/MKIP standard template should enable legal agreements to be drafted more quickly. It seems reasonable in terms of the Council being able to meet its targets for planning performance for it to be able to refuse planning permission if at least a draft legal agreement is not submitted within the prescribed period. It is accepted that this approach will need to be applied with a degree of sensitivity to the complexities of the case and the period already elapsed in reaching the point at which the recommendation is made. As such, the SPD can be amended to reflect these sensitivities.
paragraph	5.4	Hillreed			Notwithstanding the circular guidance that acknowledges the possible role of standard charges, we believe there is a fundamental conflict between a standard formulaic approach given that obligations must satisfy all of the 5 policy tests below -  <ol style="list-style-type: none"> <li>1. relevant to planning</li> <li>2. necessary to make the proposed development acceptable in planning terms</li> <li>3. directly related to the proposed development</li> <li>4. fairly and reasonably related in scale and kind to the proposed development</li> <li>5. reasonable in all other respects</li> </ol> <p>The suggestion that greater certainty is provided by the formula is questionable in our view. This guidance is intended as a helpful checklist to developers before land acquisition which allow the contributions to be factored into the costs of land. Hillreed believe that due to the extensive list of items these contributions will not have the benefit of rigorous scrutiny and examination, to evaluate whether the 5 tests of circular 5/2005 have been met at the land acquisition stage. Hillreed anticipate that this formula could actually further impede deliverability because if all the costs set out in the formula were applied many schemes would be simply unviable. In practice it will still be left to the planning application stage for KCC to define what contributions will or will not be required.</p> <p>By way of an example, Hillreed, when looking to make an offer to a landowner might consult with the Developer Contributions SPD and new build primary and secondary contributions would add over £10,500 per plot (for a dwelling). This takes no account of other standard costs. It is not until the planning application stage that KCC would calculate the capacity of local schools. For this reason, the Developer Contributions SPD would not help to provide greater clarity to Hillreed and is more likely to have a negative impact on site acquisition and the delivery of housing. This is a particularly important point if the context for this DPD is taken into account. Deliverability and a step change in housing completions was a key issue identified in the Barker Review and subsequently incorporated within PPS3 - Housing. These concerns about housing</p>	The five tests laid out in Circular 05/05 will continue to underline all negotiations for Developer Contributions. As such, contributions must be <i>relevant</i> to planning; <i>necessary</i> to make the proposed development acceptable in planning terms; <i>directly related</i> to the proposed development; <i>fairly and reasonably</i> related in scale and kind to the proposed development; and <i>reasonable</i> in all other respects.  The intention of the Developer Contributions SPD is to provide clarity. With the exception of the transportation tariff (for Sittingbourne Northern Relief Road and related matters), and the requirement to contribute towards the provision of the twin refuse bin scheme, the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the flagging up and detailing of contributions (where standard charges and formulas have been successfully used for many years) that schemes may be required to provide will not have a greater or lesser impact on the delivery of housing and than was the situation pre-SPD.  The schedule of potential contributions listed at table 2 in chapter 5 (the Council's approach to formulae and standard charges) is intended as a checklist so that developers can begin to understand what the Council's expectations may reasonably be in terms of developer contributions before a site is even purchased. It is not intended that a contribution will be sought for each and every one of the items listed, as not all will be relevant to every application submitted.  The intention of the SPD is to provide clarity. With the exception of the Sittingbourne Northern Relief Road tariff and the requirement to contribute towards the provision of the twin refuse bin scheme the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the detailing of the contributions that schemes may be required to provide will not have a greater or lesser impact on the delivery of jobs and housing than was the situation pre-SPD.

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					<p>delivery were reached before the economic downturn.</p> <p>Hillreed consider that housing delivery needs to be stimulated. In the past it has been rising house sales values that have allowed housebuilders like Hillreed to absorb significant additional construction costs associated with - concentration of housebuilding on brownfield land resources</p> <ol style="list-style-type: none"> <li>1. achieving even higher quality of design for dwellings</li> <li>2. sustainable construction (the attainment of Code 3) and other energy savings</li> <li>3. the significant other costs necessary to submit an application such as contamination, ecological and environment reports.</li> <li>4. the increasing burden of Section 106 contributions which has increased over recent years.</li> </ol> <p>The burden of increased S106 Agreements has been paralleled by a reduction in public sector and private investment in the utilities infrastructure. All of these additional costs which are expected to be paid for by housebuilders affect a sites potential viability. A common response is that these costs simply will be deducted from the land price. However, realistically, landowners must be incentivised to release land for development and are unlikely to do so where the values do not meet their expectations. Landowners aware of the dwindling supply of suitable and deliverable development sites will decide not to sell their land. This will further "choke back" the supply and reduce the deliverability of housing.</p> <p>The UK manufacturing base has contracted significantly over recent years, the construction industry is labour intensive and a major job creator and therefore housebuilding itself is one of the UK's major products. The desirability of introducing a Developer Contributions SPD at this time, given the negative effect it will have on viability and the bringing forward of sites, should also take account of the -</p> <ul style="list-style-type: none"> <li>• overall objective of PPS3 Housing which is housing delivery and its contribution to meeting social, environmental and economic objectives;</li> <li>• number of jobs and the skills base necessary to drive the construction industry forward which will be eroded if Hillreed and other housebuilders are not supported by the planning system.</li> </ul> <p>The planning land use system involves balanced judgements and para B18 of Circular 05/2005 states "policies should be based on clear and upto date assessments of the impact likely to be created by development and the nature and scale of the measures needed to address these impacts."</p> <p>Annex B of Circular 05/2005 makes clear that obligations are intended to make acceptable, development which would otherwise be unacceptable in planning terms.</p> <p>In the context of the viability issues and job creation set out above, Hillreed would question whether a development will be unacceptable if for example a contribution to a call care and anti social behaviour hotline is not forthcoming.</p> <p>In summary it is concluded that the borough council must look to create a flexible and responsive approach rather than one that is formulaic and standardised. Hillreed therefore questions the merits of the progression of such an SPD, particularly given the contention that this document will not in practice create more certainty or speed up the preparation of Section 106 agreements.</p> <p>Stopping the progression of this SPD is considered appropriate given that this work will in any case be superseded by the Government's planned Community Infrastructure Levy.</p>	
paragraph	5.4	Mr John Feetam	Sport England		<p>It is noted that the policy indicates that the requirement for each site will be agreed between the Borough Council and the developer prior to the issuing of planning permission. However, the absence within the SPD of such provision standards and related costs does not provide any assistance in assessing and securing the necessary provision and contributions for developments under 200 dwellings. In turn this may</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.</p>

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					result in the demand for such provision not being adequately met.	
paragraph	5.4	Mr Richard Lewis	Vincent and Gorbing		Trenport and others in the development industry have been concerned for some time that payments made under S106 agreements should not be used to provide general funding for services, facilities and other items which are more properly provided for through general Council Tax income. Whilst Trenport accepts that payments may be made where necessary they must meet the tests set out in Circular 05/2005, in particular they should be reasonable. They also need to be justified so that any requirement for a financial contribution can be properly assessed in order to confirm that it is both necessary and reasonable. Provision should also be made for refunding payments when financial contributions are not utilised within an agreed time period or a facility is closed and there are outstanding sums towards ongoing maintenance of that facility.	Paragraph 9.3 confirms that monies will not be released until required to deliver specific infrastructure/facilities.  Provision for returning unspent monies will be embodied within the appropriate Legal Agreement
table	Table 2	Alan Turner			<b>WASTE &amp; RECYCLING</b>  Amend charges for 240 litre bin to £21.78, £30.00 for a 360 litre bin and £280.00 for a 1100 litre bin. All charges are inclusive of a 10% administrative charge.	Amend charges
table	Table 2	Barratt Strategic Land		Phil Copsey	<b>AFFORDABLE HOUSING</b>  There is no justification offered for the contribution of £50 per household sought towards the anti-social behaviour hotline. It appears from the worked example that this applies to all dwellings, although it first appears in table 2 alongside affordable housing. Clarification is required on this point.  Likewise the £178.57 contribution sought towards Care Call facilities is not explained or justified. Again there is some confusion as to whether this applies to all housing or only affordable housing. Clarification is required on this point.	Delete reference to Call Care and Anti Social Behaviour hotline contributions
table	Table 2	G H Dean & Co			<b>AFFORDABLE HOUSING</b>  With regard to "Table 2 S106 Matters", we have the following comments:-  (i) It cannot be right that a development be required to contribute £50 per household towards the provision of an antisocial behaviour hotline. To do so would be to accept at the outset that the Borough Council seeks to encourage the building of ghettos and sink estates where such antisocial problems arise.  (ii) Similarly, the requirement for all dwellings to contribute to Care Call facilities (£178.57 per dwelling) is unreasonable and, in our view, should be considered only in relation to sheltered housing.  <b>TRANSPORT</b>  (iii) For transport, the SPD is indeterminate leaving open the question of a tariff for residential and non residential development which will be consulted on in due course. Simply, this is not an acceptable approach for an SPD.  (iv) Similarly, with regard to public transport, the SPD is unsatisfactory in indicating that "guidance will be sought from the County Council on such matters". This does not provide the level of certainty required either by the Borough Council or applicants.  <b>EDUCATION</b>  (v) At the end of the education section, objection is made to the statement that " where a need is justified, the Council will seek contributions towards further and higher education; this not being the responsibility of the County Council".  This requirement is clearly arbitrary, unreasonable and thereby not appropriate for inclusion within an SPD.	<b>AFFORDABLE HOUSING</b>  Delete reference to Call Care and Anti Social Behaviour hotline contributions  <b>TRANSPORT</b>  The schedule of potential contributions listed at table 2 in chapter 5 (the Council's approach to formulae and standard charges) is intended as a checklist so that developers can begin to understand what the Council's expectations may reasonably be in terms of developer contributions before a site is even purchased. Not all costs will be known at the outset. KCC will assess highways and public transport contributions on a case by case basis. Text to be amended.  <b>EDUCATION</b>  <b>Comment needed</b>

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					<p>RECREATION AND AMENITY SPACE</p> <p>(vi) With regard to recreation and amenity space, (final paragraph) contrary to the statements set out these costs are not well developed by the Council. The Council's formulae and contributions approach has been rejected by Planning Inspectors at appeal because the costs bear no reasonable relationship to actual costs and therefore the</p> <p>Borough Council is requested to comprehensively revisit the basis of contributions to playequipment and future maintenance of new open space and facilities.</p> <p>PUBLIC UTILITIES</p> <p>(vii) For public utilities, whilst acknowledging the possibility of part contributions, the text implies that the norm will be for developers to fund the totality of the utility requirements. This is simply unreasonable as the utility providers will benefit from the future infrastructure thus provided in perpetuity, receiving income there from. In our view therefore the text of the SPD should make clear that developer contributions to public utilities will normally be no more than part contributions.</p> <p>CCTV</p> <p>(viii) For CCTV, this is an arbitrary requirement arising from the SPD. Neither Policy U1 nor Policy C2 of the Local Plan refers to the requirement to provide CCTV. The Borough Council derived definition of "community services and facilities" does not include CCTV.</p> <p>Provision of CCTV is a pernicious facility that can be justified only in exceptional cases where existing problems are evident. In our view, it would be an admission of failure to install CCTV within a new development at the outset and therefore the Borough Council is requested to delete this requirement from the table.</p> <p>EMPLOYMENT AND SKILLS TRAINING</p> <p>(ix) For employment and skills training, the text indicates that this requirement will be secured by planning conditions. It follows therefore that this requirement should not be sought via S106 Agreement and should therefore be deleted from the table.</p> <p>LOCAL SHOPPING</p> <p>(x) For local shopping, the Borough Council cannot reasonably require a developer to provide shopping facilities that are not economically viable. In any event, the text of the SPD suggests that contributions will <b>not</b> be sought for this use via a S106 Agreement.</p>	<p>RECREATION AND AMENITY SPACE</p> <p>Formula has operated successfully for many years and will be retained in the SPD.</p> <p>PUBLIC UTILITIES</p> <p>Amend text to clarify.</p> <p>CCTV</p> <p>Amend to read Community Safety.</p> <p>EMPLOYMENT AND SKILLS TRAINING</p> <p>Included for completeness, in recognition of the Council's core priorities.</p> <p>LOCAL SHOPPING</p> <p>Delete</p>
table	Table 2	Hillreed			<p>Para B7 of Annex B of the Circular states;</p> <p><b>"Planning obligations should never be used purely as a means of securing for the local community a share in the profits of development ie as a means of securing a betterment levy."</b></p> <p>Hillreed specifically highlight the relevance to planning of insisting on a £50 contribution towards the provision of an anti-social behaviour hotline or £187.50 contribution towards care call facilities.</p> <p>Neither do we consider that Swale Borough Council should impose a separate educational levy to secure funds for further and higher education. This requirement</p>	<p>AFFORDABLE HOUSING</p> <p>Reference to call care and ASB hotline contributions will be deleted. With the exception of the Sittingbourne Northern Relief Road tariff and the requirement to contribute towards the provision of the twin refuse bin scheme the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the detailing of the contributions that schemes may be required to provide will not have a greater or lesser impact on the delivery of affordable housing than was the situation pre-SPD.</p> <p>EDUCATION</p> <p><b>Comment needed</b></p>

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					<p>would not satisfy the tests of Circular 05/2005.</p> <p>Hillreed do not object to contributions related to standard pupil product ratios for secondary and primary school.</p> <p>Standard formulaic contributions for social services, libraries, youth and community services derive from KCC's current assessment procedure. However, the KCC's Guide for Developer Contributions is not adopted as Supplementary Planning Guidance by the county. In many cases, appeal decisions have shown that KCC's consultation responses do not identify projects where the contribution will be spent. In other cases the stated facility for which contributions are sought are too distant from the application site. For this reason, it is not appropriate to rely on standard KCC contributions. From our own experience, there have been very few applications in the county where KCC has not requested an adult services contribution of £1,201 per dwelling. These suggested contributions all need to be more rigorously scrutinised.</p> <p>By opening up the scope for Police and Emergency Services to request contributions (Police and Emergency Services), the Borough Council is inviting these services to make a case to the developer. Housebuilders through the design of layouts must take account of the emergency services through layout and design at the building regulations stage. "Secure by Design" allows the Police to comment on the design and layout of schemes via the Crime Prevention Officer. It is not appropriate however for schemes of 10+ dwellings to potentially levy funds for investment in capital facilities. This applies also to health facilities.</p> <p>The Borough Council is seeking 30% affordable housing, however the additional costs required by this SPD will increase the costs of plot prices, which is at variance to the need to provide more affordable housing. It is contended that it is the role of LDF at the Site Allocation Stage to allocate suitable sites for health, police and community services.</p> <p>The requirement for a community place of worship should again be a matter for the LDF if an identified need exists.</p> <p>Hillreed do not take issue with the principle of the provision of open space and provision in line with Swales Open Space Strategy where justified. The requirement of a contribution to the maintenance of open space is directly in conflict with the advice of the Circular 05/2005 which states;</p> <p><b>"as a general rule where an asset is intended for wider public use, the costs of subsequent maintenance and other recurrent expenditure associated with the developers contributions should normally be borne by the body or authority in which the asset is to be vested.</b></p> <p>Swale Borough Council should be made aware that it is in the interests of utility companies to request high contributions (oversizing or upgrading existing pipes etc). From Hillreed's experience, the funds requested particularly for larger sites have in some cases been sought to rectify pre-existing shortcomings of the service providers.</p> <p>It is not clear to Hillreed why CCTV coverage could make an unacceptable development acceptable. For this reason, it is considered that this request does not meet the requirements of the relevant circular.</p> <p>The acknowledgement that "there may be a case to address strategic and sub-regional issues via developer contributions" under the Environmental Mitigation and Biodiversity section fails to satisfy a number of the requirements of circular. It is not the role of Hillreed to undertake employment and skills training. As referred to earlier Hillreed has built houses in Kent and Sussex for over 30 years and has provided an significant number of jobs over this time. Through Hillreed's own initiatives apprentice schemes have taken place. It is not the place of the planning system to seek to control this.</p> <p>It is not at all clear what the Local Shopping requirement seeks to achieve from residential developers.</p>	<p>SOCIAL SERVICES, LIBRARIES, YOUTH &amp; COMMUNITY SERVICES</p> <p>KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall.</p> <p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of this community facility element.</p> <p>Contributions would only be required to fund capital facilities to meet the additional needs generated by the development</p> <p>HEALTH</p> <p>Contributions would only be required to fund capital facilities to meet the additional needs generated by the development</p> <p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of this community facility element.</p> <p>OPEN SPACE</p> <p>Formula has operated successfully for many years and will be retained in the SPD.</p> <p>PUBLIC UTILITIES</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>CCTV</p> <p>This element will be re-titled "Community Safety"</p> <p>ENVIRONMENTAL MANAGEMENT &amp; BIODIVERSITY</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>EMPLOYMENT &amp; SKILLS TRAINING</p> <p>Included for completeness, in recognition of the Council's core priorities.</p> <p>LOCAL SHOPPING</p> <p>To be deleted</p>

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table	Table 2	Klaire Lander			<p>POLICE &amp; EMERGENCY SERVICES</p> <p>Kent Police acknowledge this table which includes text about the Police and Emergency Services.</p> <p>Kent Police agree that it would be best to assess the need for and level of contributions towards the Police Authority on a case-by-case basis. However, they request that the threshold for requesting contributions of ten or more dwellings is removed. Kent Police do not wish to be constrained by a threshold, as any new development (new population) will place a strain on the Police service. A threshold of ten or more dwellings is overly restrictive and Kent Police would like it to be left to their discretion as to whether or not to request contributions from any new development.</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).
table	Table 2	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	<p>AFFORDABLE HOUSING</p> <p>Where is the policy justification for the ASB hotline or call-care? Why are they listed under Affordable Housing? How would they meet the Circular tests?</p> <p>PUBLIC ART</p> <p>Public Art, Environmental Improvements and CCTV are "encouraged" not required by policy, therefore they should be removed from the SPD.</p> <p>ENVIRONMENTAL IMPROVEMENTS</p> <p>Public Art, Environmental Improvements and CCTV are "encouraged" not required by policy, therefore they should be removed from the SPD.</p> <p>CCTV</p> <p>Public Art, Environmental Improvements and CCTV are "encouraged" not required by policy, therefore they should be removed from the SPD.</p> <p>EDUCATION</p> <p>More information is required on how "need" is deduced in a specific cases. In many other areas education contributions are not sought for affordable housing as it is recognised these households are already in the system. The same should apply to Swale.</p>	<p>AFFORDABLE HOUSING</p> <p>Delete reference to call care and ASB hotline</p> <p>PUBLIC ART</p> <p>Retain</p> <p>ENVIRONMENTAL IMPROVEMENTS</p> <p>Retain</p> <p>CCTV/COMMUNITY SAFETY</p> <p>Retain</p> <p>EDUCATION</p> <p><b>Comment needed</b></p>
table	Table 2	Miss Debbie Salmon	Kent Wildlife Trust		The Trust welcomes the inclusion of both environmental enhancement and consideration of environmental mitigation and biodiversity within Table 2. However, delivery of Green Grid and other strategic environmental improvements will require more than a case-by-case approach but as suggested there will be a need for developer contributions to address strategic and sub-regional issues such as protection of the SPAs and assistance in funding of landscape enhancement projects. Table 2 should identify how Green Infrastructure will be delivered and the nature of contributions expected from developers.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Green Grid.
table	Table 2	Miss Elizabeth Shier	Kent County Council		<p>TRANSPORT</p> <p>This could refer to contributions allied to measures identified in a Travel Plan where developments are above the size/impact thresholds where preparation /submission of a Travel Plan is required. This is currently addressed by KMSP SPG4 but is also the subject of emerging supplementary guidance - see KCC draft Guidance on Transport Assessments and Travel Plans (October 2008)</p> <p>EDUCATION</p>	<p>TRANSPORT</p> <p><b>Comment needed</b></p> <p>EDUCATION</p> <p>Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity and to refer to early years provision</p> <p>ENVIRONMENTAL MITIGATION &amp; BIODIVERSITY</p>

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					<p>- insert 'provision for early years (i.e. under 5's) may also be required'.</p> <p>- for the avoidance of doubt there should be clarity as to the basis on which contributions would be sought. Primary and secondary school contributions are only sought when the demand for pupil places from a proposed residential development is forecast to create a deficit in available spaces or exacerbate an existing deficit and then to the extent that the development contributes to that deficit. . The rate of contribution is dependant upon the house type (flats or houses ) and on whether , as advised by the County Council , additional pupil places are to be provided by either the extension of existing infrastructure or the provision of new build facilities .</p> <p>ENVIRONMENT MITIGATION &amp; BIODIVERSITY - this might recognise both the consideration of impacts and the objective of enhancement of biodiversity (PPS9). The potential for linkage between provision of recreation and amenity space (addressed earlier in the table) and biodiversity measures could be drawn out i.e. role of biodiversity in enhancing users' access to and enjoyment of the natural environment. Amenity areas can support habitat connectivity and be part of a wider habitat network. Enhancing an area for biodiversity may also result in reduced management costs as there is reduced need to keep the entire area well maintained.</p> <p><i>Historic environment mitigation</i></p> <p>It is recommended that text be added to the table on <i>Historic environment mitigation</i> -</p> <p><i>'Most archaeological requirements will be met through planning conditions alone but on some sites it may be appropriate for the requirements to be met through a Section 106 agreement to secure the costs of archaeological mitigation and post-excavation work'.</i></p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Green Grid and biodiversity.</p> <p>Historic environmental mitigation will be considered on a case by case basis as a site specific issue. Amend text to refer to issue at paragraph 5.8</p>
table	Table 2	Mr David Stewart			<p>Objections are lodged to the contents of the table, paragraph 5.8 and by direct link , to the Appendices to this document. The purpose of the SPD is to clarify matters as they relate to contributions. In many instances in the document there is no guidance or background information as to how the topics the subject of contributions are to be assessed. Nor is there advice on the level of contribution to be sought. They are therefore considered to be unreasonable. They are as follows:</p> <ul style="list-style-type: none"> <li>• A number of contribution topics appear to have no basis in fact, nor are they founded on sound research. They should therefore be taken out of this document. These are -</li> </ul> <ol style="list-style-type: none"> <li>1. Local Shopping: No analysis of existing provision or deficiencies made and delivery is beyond control of LPA or developer. If there are to be developments linked to the provision of local shops they would relate to large scale urban extensions and these should be clearly identified in the policy.</li> <li>2. Climate change: No guidance is issued and therefore no amounts specified. This matter should not be the subject of a developer contributions policy as a sustainable construction SPD could be produced and recommendations enforced by condition.</li> <li>3. Environmental Mitigation and Diversity: No guidance or information given to the nature or extent of contributions.</li> <li>4. Public Art: No guidance given on contribution</li> <li>5. Community Facilities: No guidance given or background research into adequacy of existing provision. No adopted planning policies relating to provision of community facilities on which to base contributions</li> <li>6. Health: No guidance given or background research into adequacy of existing provision. Primary care facilities funded from separate sources and should not be the subject of contributions. No adopted planning policies relating to provision of primary health care on which to base contributions</li> <li>7. Police and Emergency Services: No guidance or information given to the nature or extent of contributions. No background research on need for contributions. Separate legislation 'Secured by Design' available covering most forms of development.</li> </ol> <ul style="list-style-type: none"> <li>• A number of contributions are based on tariffs and have no proven basis for</li> </ul>	<p>LOCAL SHOPPING</p> <p>Deleted section</p> <p>CLIMATE CHANGE</p> <p>Where no standard charges have been developed, the purpose of the SPD is to flag up those areas where contributions may be required. Contributions will then be assessed on a case by case basis. Work is progressing to develop Council policy on sustainable construction.</p> <p>ENVIRONMENTAL MITIGATION &amp; BIODIVERSITY</p> <p>Where no standard charges have been developed, the purpose of the SPD is to flag up those areas where contributions may be required. Contributions will then be assessed on a case by case basis.</p> <p>PUBLIC ART</p> <p>Where no standard charges have been developed, the purpose of the SPD is to flag up those areas where contributions may be required. Contributions will then be assessed on a case by case basis.</p> <p>COMMUNITY FACILITIES</p> <p>KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall.</p> <p>HEALTH</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p>

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					<p>the need:</p> <ol style="list-style-type: none"> <li>1. KCC Youth and Community</li> <li>2. KCC Libraries</li> <li>3. KCC Social Services</li> </ol> <ul style="list-style-type: none"> <li>• Some contributions simply have no proven need or are based upon policies which carry no weight in planning terms</li> </ul> <ol style="list-style-type: none"> <li>1. CCTV</li> <li>2. Recreation and Amenity</li> <li>3. Anti Social Behavior Hotline</li> <li>4. Call Care facilities</li> </ol> <ul style="list-style-type: none"> <li>• Some contributions cover subjects that are not founded on adopted programmes or policies</li> </ul> <ol style="list-style-type: none"> <li>1. Public Utilities</li> </ol> <ul style="list-style-type: none"> <li>• Some contributions are simply unreasonable and are covered by community tax/business rates</li> </ul> <ol style="list-style-type: none"> <li>1. Provision of bins (NB This does not negate the requirement to make provision for bin spaces)</li> </ol> <ul style="list-style-type: none"> <li>• Some cover matters which should be dealt with on site and where they are controlled by condition. It is only in cases where off site remediation may be required that they should be the subject of contributions.</li> </ul> <ol style="list-style-type: none"> <li>1. Environmental Improvements</li> </ol>	<p>POLICE &amp; EMERGENCY SERVICES</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>YOUTH &amp; COMMUNITY, SOCIAL SERVICES AND LIBRARIES</p> <p>KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall.</p> <p>CCTV, RECREATION &amp; AMENITY, AFFORDABLE HOUSING</p> <p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. CCTV to be re-titled "Community Safety". Open space formula has operated successfully for many years and will be retained in the SPD. Call care and ASB hotline requirements to be deleted.</p> <p>WASTE &amp; RECYCLING</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p>
table	Table 2	Mr John Feetam	Sport England		<p>As it stands the SPD only appears to seek provision for formal outdoor sport in line with the Fields in Trust (formerly NPFA) Six Acre Standard. However, it is Sport England's opinion that any new development, especially residential, will generate demands for a range of formal sporting provision including both outdoor and indoor provision.</p> <p>Paragraph 1.7 of the SPD indicates that developer contributions will be sought for community facilities as defined in Kent &amp; Medway Structure Plan Policy QL12 and Swale Borough Council Local Plan Policy C2. Consequently, Sport England welcomes the inclusion of 'sport', alongside 'recreation and amenity open space', within the list of community services and facilities associated with both of these policies (as presented within Appendix A). In line with the guidance contained in PPG17, the inclusion of 'sport' within these lists does not suggest that contributions should only be sought for outdoor provision.</p> <p>It is therefore disappointing that the draft SPD does not appear to seek the provision of indoor sporting provision to help meet the demands that will be generated by new developments.</p> <p>Consequently, Sport England must raise an objection to the omission of indoor sporting provision from the list of Section 106 matters presented in Table 2 and Community services presented in Table 14 (appendix F).</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.</p>
table	Table 2	Mr John Feetam	Sport England		<p>It is noted that paragraph 5.8 of the SPD states that the list of likely contributions is not exhaustive. However, paragraph 5.4 indicates that the Council in developing the SPD has supplemented those matters covered by the County Council in its guidance to deal, as appropriate, with issues pertinent to Swale.</p> <p>As stated in our response to the Core Strategy Sport England notes that Swale's existing Sustainable Communities Plan, and draft Sustainable Communities Strategy,</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.</p>

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					<p>include a number of key objectives which relate to the development of sport within the Borough. These include the development of quality sports facilities and improving the capital stock, the development of healthy lifestyles, increasing participation in, and access for all to, sport and active recreation along with ensuring new developments result in the delivery of related infrastructure.</p> <p>Given the above objectives and the inclusion of sport within the list of provision covered by Policy C2, Sport England would suggest that the list of matters presented within Table 2 is expanded to include provision for indoor sports. Ideally this should be added as a separate heading under the 'Resource' title or as a minimum referenced within part of the wider 'Community Facilities' heading.</p> <p>The implementation of Policy C3 may, to a degree, cater for the demand generated for formal outdoor sports provision (see comments below). However, due to the absence of indoor provision it is Sport England's opinion that the SPD will not assist in ensuring that the demand generated for sporting provision by new development will be adequately met.</p>	
table	Table 2	Mr John Feetam	Sport England		<p>Sport England has provided advice and guidance to a number of local authorities who have sought to ensure that SPD's create an approach which enables the demand generated for indoor sports provision to be adequately met. To assist with this work Sport England has developed its 'Sports Facility Calculator' (SFC) which forms part of the Planning Contributions Kitbag.</p> <p>The SFC enables the user to estimate the amount of key community sports facilities required to meet the needs of a given population within any local authority in the country. The calculator uses participation rate parameters for the selected provision and applies these to the actual population profile of the local area taken from the census. The local population profiles ensure that the calculation of demand is reflective of the local needs within the chosen local authority. The calculator also allows the user to enter a projected population profile should a particular development or future population be deemed to differ from the existing profile of the local authority area.</p> <p>The SFC turns this estimation of demand into actual facilities and expresses it as square meters of water space, number of lanes and proportion of a 25m four-lane pool for swimming. For Sports Halls the SFC expresses demand as the number of badminton courts and four court halls. The SFC also estimates county variable costs for providing for this demand based on an average of Sport England endorsed provision and the BICS Pricing Adjustment Factors.</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
table	Table 2	Mr John Feetam	Sport England		<p>For information, the table below presents the level of demand the SFC suggests would be generated by a population of 1000 people in Swale for Sports Hall and Swimming Pool provision. The estimated cost of providing for this demand is also shown. This level of demand and related costs are also provided as a figure per person.</p> <p>Sports Facility Calculator: Demand in Swale Per 1000 Population</p> <p><b>Provision</b> Swimming Pool Provision</p> <p><b>Demand</b> 10.28 sqm</p> <p>0.19 lanes, 0.05 pools</p> <p><b>Cost</b> £111,012, (£111 per person)</p> <p><b>Provision</b> Sports Hall Provision</p> <p><b>Demand</b> 0.28 courts, 0.07 halls</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.

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					<p><b>Cost</b> £207,916, (£208 per person)</p> <p>Sport England would be pleased to discuss further how the draft SPD could be developed to include indoor sports provision and use the information provided by the SFC.</p>	
table	Table 2	Mr John Feetam	Sport England		<p>Whilst welcoming the inclusion of formal outdoor sports provision within the SPD Sport England does hold a number of concerns regarding the approach taken. These concerns relate to the standards and costs sought for such provision from developments above and below the 200 dwelling threshold.</p> <p>Developments below 200 dwellings</p> <p>Policy C3 (including its supporting text) and the SPD indicates that:</p> <ul style="list-style-type: none"> <li>• a financial contribution will be required for open space provision for sites of 10-19 dwellings, and</li> <li>• developments in excess of 19 dwellings are required to provide at least 10% of the net site area as on site public open space.</li> </ul> <p>However, the supporting text to Policy C3 (Para. 3.190 of the Local Plan) states that:</p> <ul style="list-style-type: none"> <li>• a 200 dwelling development, which would accommodate about 500 people, is considered by the Council to be the minimum that could make an on-site provision for formal sport, and</li> <li>• a financial contribution will be sought under Policy C2 for sites comprising between 20-199 dwellings towards those elements of open space that cannot be provided on-site.</li> </ul> <p>It is therefore concluded that the Council's approach is to seek financial contributions towards formal outdoor sports provision for all developments between 10 and 199 dwellings. Despite this approach the SPD, in relation to Policy C2 and C3, does not provide any provision standards or costs to guide the process of securing financial contributions for developments under 200 dwellings.</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
table	Table 2	Mr John Feetam	Sport England		<p>Developments above 200 dwellings</p> <p>Regarding developments above the 200 dwellings threshold Policy C3 and the SPD requires formal outdoor sports provision to be provided on site. For such developments provision standards are provided by way of the Fields in Trust (formerly NPFA) six acre standard.</p> <p>Sport England appreciates that the use of this standard is adopted within the Swale Borough Local Plan. However, in line with PPG17 Sport England advocates the development and use of local standards as national standards cannot cater for local circumstances (e.g. differing demographic profiles and the extent of built development in an area). Locally derived standards should cover the quantity, quality and accessibility of provision.</p> <p>Through the development of Swale's LDF, and in particular the Core Strategy, Sport England would expect the adoption of local standards of provision. These standards should cover all appropriate sporting provision (indoor and outdoor) and be derived from a sound and robust evidence base. These locally derived standards should then be incorporated into an updated SPD.</p> <p>It is noted that Table 2 indicates that your authority are in the process of developing a PPG17 Open Spaces Strategy which is due to be published in April 2009.</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
table	Table 2	Mr Nigel Jennings	Natural England		<p><b>Health:</b> Natural England would welcome reference here to open space provision. Whilst this is addressed under <i>Recreation and Amenity Space</i>, deficiencies in open</p>	HEALTH

Type	Number	Full Name	Organisation Details	Agent	Comment	Officers Response
					<p>space have negative implications with regards health. Thus, Natural England would welcome recognition that the Borough's health remit goes beyond provision of and access to, health services and facilities.</p> <p><b>Recreation and Amenity Space:</b> Whilst this section outlines quantity of open space to be provided alongside development, Natural England would also welcome consideration of <i>access</i> to recreation and open space, and the quality of this space. With regards access, Natural England advocates the use of Accessible Natural Greenspace Standards (ANGst) (as outlined in our response to Swale Borough Council's Core Strategy scoping report). Natural England would also like to ensure that, where appropriate, if development directly reduces the amount of open space, provision on-site should also be coupled with mitigating the initial loss through open space provision off-site.</p> <p><b>Environmental Improvements:</b> Here, the SPD states that '<i>In some circumstances a case may be made to make provision [i.e. for environmental improvements] in lieu of open space</i>'. Natural England would like to emphasise that environmental improvements can come through open space provision - for example, through biodiversity enhancement - and thus disagrees with the SPD's separation of the two. The requirements for open space will need to be clearly underpinned by evidence; in the absence of the PPG 17 study (due to be published in April 2009), it is difficult to determine whether these proposals will be appropriate.</p> <p><b>Environmental Mitigation and Biodiversity:</b> Natural England welcomes reference here to the South East Plan and Biodiversity Action Plans. Consideration of these plans helps promote a strategic approach to the provision of contributions. As already noted, Natural England would welcome reference to the Borough's Green Grid Strategy - this could be used to inform investment decisions. It should be recognised that opportunities for biodiversity enhancement exist through open space provision and flood mitigation (e.g. in the form of sustainable urban drainage systems).</p> <p><b>Climate Change:</b> Natural England welcomes reference to climate change and the intention to produce a Sustainable Design and Construction policy guidance document. However, Natural England would welcome greater emphasis here to flood risk. Flooding is a key issue in the context of the Swale Borough; many areas of the Borough are within Flood Risk Zones 3a and 3b. With climate change and resulting sea level changes, this risk will increase, and thus it is particularly important that the full impact of development on susceptibility to flooding is addressed and mitigated. The Borough's forthcoming Strategic Flood Risk Assessment (SFRA) should be used to guide this mitigation. More generally, it is important that provision is made in this SPD to mitigate the causes, and adapt to the effects of climate change. Addressing climate change through the use of planning obligations is consistent with PPS <i>Planning and Climate Change - Supplement to PPS 1</i>, which states that '<i>planning obligations can be used to secure the provision and longer-term management and maintenance of those aspects of a development required to ensure compliance with the policies in this PPS.</i>'</p>	<p>Noted. The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan,. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of health</p> <p>RECREATION &amp; AMENITY SPACE</p> <p>Noted. The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan,. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of recreation and amenity space</p> <p>ENVIRONMENTAL IMPROVEMENTS</p> <p>Noted. The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan,. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of the Council's PPG17 study.</p> <p>ENVIRONMENTAL MITIGATION &amp; BIODIVERSITY</p> <p>Noted. The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan,. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of the Council's Green Grid Strategy</p> <p>CLIMATE CHANGE</p> <p>Noted. The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan,. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of Strategic Flood Risk Assessment.</p>
table	Table 2	Mr Paul Sharpe	LaSalle Investment Management		<p>With regard to "Table 2 S106 Matters", we have the following comments:-</p> <p>(i) For transport, the SPD is indeterminate leaving open the question of a tariff for residential and non residential development which will be consulted on in due course.</p> <p>Simply, this is not an acceptable approach for an SPD.</p> <p>(ii) Similarly, with regard to public transport, the SPD is unsatisfactory in indicating that "guidance will be sought from the County Council on such matters". This does not provide the level of certainty required either by the Borough Council or applicants.</p> <p>(iii) At the end of the education section, objection is made to the statement that "where a need is justified, the Council will seek contributions towards further and higher education; this not being the responsibility of the County Council". This requirement is clearly arbitrary, unreasonable and thereby not appropriate for inclusion within an SPD.</p>	<p>TRANSPORT</p> <p>The schedule of potential contributions listed at table 2 in chapter 5 (the Council's approach to formulae and standard charges) is intended as a checklist so that developers can begin to understand what the Council's expectations may reasonably be in terms of developer contributions before a site is even purchased. Not all costs will be known at the outset. KCC will assess highways and public transport contributions on a case by case basis. Text to be amended.</p> <p>EDUCATION</p> <p><b>Comment needed</b></p> <p>EMPLOYMENT &amp; SKILLS TRAINING</p> <p>Included for completeness, in recognition of the Council's core priorities.</p>

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					<p>(iv) For public utilities, whilst acknowledging the possibility of part contributions, the text implies that the norm will be for developers to fund the totality of the utility requirements. This is simply unreasonable as the utility providers will benefit from the future infrastructure thus provided in perpetuity, receiving income therefrom. In our view therefore the text of the SPD should make clear that developer contributions to public utilities will normally be no more than part contributions.</p> <p>(v) For employment and skills training, the text indicates that this requirement will be secured by planning conditions. It follows therefore that this requirement should not be sought via S106 Agreement and should therefore be deleted from the table.</p>	
table	Table 2	Mr Richard Lewis	Vincent and Gorbng		<p>In general, whilst Trenport welcomes guidance, the effective imposition of a formula and standard charge methodology (i.e. tariff system) for a wide variety of Council services cannot be justified. It is clear that the Council is attempting to broaden the range of services funded by development contributions in the hope that, once this document is adopted, developers will not question the need for the payments, or how any payments will be spent, providing planning permission is obtained. It seeks to apply a standard charge to development for different services and facilities and does not appear to take account of the circumstances relating to a scheme i.e. whether the proposal would affect the demand for services and facilities and what capacity there is in the existing facilities and services to accommodate any needs arising from a development.</p> <p>This is entirely contrary to Circular 05/2005 which requires S106 agreements to meet the following tests:</p> <ul style="list-style-type: none"> <li>• Necessary to make a proposal acceptable in planning terms;</li> <li>• Relevant to planning;</li> <li>• Directly related to the proposed development;</li> <li>• Fairly and reasonably related in size and type to the proposed development; and</li> <li>• Reasonable in all other respects.</li> </ul> <p>These tests need to underpin the whole SPD, negotiations between applicants and the Council, and the contributions which are sought.</p> <p>The range of services which the Council is seeking to fund by developer contributions, and which Trenport feels is totally unreasonable, in particular:</p> <p>Anti-social behaviour hotline</p> <ul style="list-style-type: none"> <li>• Care Call facilities</li> <li>• CCTV</li> <li>• Employment and skills training</li> <li>• Twin bin scheme</li> <li>• Social services</li> <li>• Libraries and archives</li> <li>• Youth and community services</li> <li>• Adult social care services</li> </ul> <p>It is difficult to see how these meet the tests. To all intents and purposes the SPD is effectively applying a roof tax (albeit broken into a series of separate elements) to pay for general Council services which should more properly be funded through the Council Tax system.</p>	<p>the five tests laid out in Circular 05/05 will continue to underline all negotiations for Developer Contributions. As such, contributions must be <i>relevant</i> to planning; <i>necessary</i> to make the proposed development acceptable in planning terms; directly <i>related</i> to the proposed development; <i>fairly and reasonably</i> related in scale and kind to the proposed development; and <i>reasonable</i> in all other respects.</p> <p>The intention of the Developer Contributions SPD is to provide clarity. With the exception of the transportation tariff (for Sittingbourne Northern Relief Road and related matters), and the requirement to contribute towards the provision of the twin refuse bin scheme, the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the flagging up and detailing of contributions (where standard charges and formulas have been successfully used for many years) that schemes may be required to provide will not have a greater or lesser impact on the delivery of housing and than was the situation pre-SPD.</p> <p>The schedule of potential contributions listed at table 2 in chapter 5 (the Council's approach to formulae and standard charges) is intended as a checklist so that developers can begin to understand what the Council's expectations may reasonably be in terms of developer contributions before a site is even purchased. It is not intended that a contribution will be sought for each and every one of the items listed, as not all will be relevant to every application submitted.</p> <p>Reference to call care and anti social behaviour hotline will be deleted.</p>
table	Table 2	Mr Richard Lewis	Vincent and Gorbng		<p>Trenport is concerned at the range of services which the Council is seeking to fund by developer contributions. To all intents and purposes the SPD is seeking to apply a roof tax to pay for Council services which should more properly be funded through the normal Council Tax system or provided by others. Trenport feels that this is unreasonable and does not meet the 5 test set out in Circular 05/2005. Trenport is particularly concerned at a number of services identified in the table:</p>	<p>Reference to call care and anti social behaviour hotline will be deleted.</p> <p>Contributions are needed to fund the completion of the SNRR to Bapchild.</p>

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					<ul style="list-style-type: none"> <li>• Anti-social behaviour hotline</li> <li>• Care Call facilities</li> <li>• CCTV</li> <li>• Employment and skills training</li> <li>• Twin bin scheme</li> <li>• Social services</li> <li>• Libraries and archives</li> <li>• Youth and community services</li> <li>• Adult social care services</li> </ul> <p>In respect of contributions towards the Sittingbourne Northern Relief Road we would point out that the majority of the East Hall Farm / Eurolink IV development has already contributed towards the cost of the road, including the construction of the section adjoining that development. Although it may be reasonable to seek contributions for additional development over and above the amount originally granted outline planning permission it would be unreasonable for contributions to be sought for developments already falling within the development previously granted permission.</p>	
table	Table 2	Susan Solbra	Southern Water		<p><b>PUBLIC UTILITIES</b></p> <p>Southern Water welcomes recognition in the SPD that developer contributions may be required to provide off-site sewerage to service new development. This requirement also applies to water distribution mains. We therefore propose the following amendments to table 2 of the draft SPD:</p> <p>Policy U1...</p> <p>Relates to off-site improvements only, in accordance with public utility provider's requirements. On-site provision would not be a developer contribution matter, but a cost to development. However, strategic utility contributions (flood defences, new or improved sewerage and water distribution mains, and water quality improvements) may be justified. This issue will be considered as part of the Local Development Framework process and an assessment made of the scale of long-term development. When there are capacity issues, proportionate contributions will be expected from developers.</p> <p>We have proposed deletion of the word "works" to clarify that contributions are only required for sewerage and water distribution infrastructure (e.g. sewer pipes and pumping stations). We do not seek contributions towards provision of additional capacity at wastewater treatment works, nor towards development of strategic water resources.</p> <p>However, where the existing sewerage and/or water distribution systems have insufficient capacity to accommodate the demand arising from development of a site, the developer may need to contribute towards provision of necessary capacity. The formal requisition procedures set out in the Water Industry Act 1991 provide a legal mechanism for developers to provide the necessary infrastructure required to service their site. We therefore look to the Council to support this approach to ensure that development does not take place until infrastructure with adequate capacity is provided.</p> <p>To support the requisition approach, the Council must impose planning conditions at appropriate sites to require the developer to requisition a connection to the sewerage system and/or the water distribution system. This approach is consistent with policy U1 of the Swale Borough Local Plan 2008. Southern Water has limited powers to prevent connections where capacity is insufficient.</p> <p>It may be helpful if the SPD acknowledges more explicitly support for the requisition process and imposition of associated planning conditions at appropriate sites.</p>	<p><b>PUBLIC UTILITIES</b></p> <p>Noted. Text to be amended.</p>
table	Table 3	Barratt Strategic Land		Phil Copsey	<p>There is no justification offered for the contribution of £50 per household sought towards the anti-social behaviour hotline. It appears from the worked example that this applies to all dwellings, although it first appears in table 2 alongside affordable housing.</p>	<p>Typographical error noted. Table to be deleted as it appears not to have achieved its aim of providing clarity.</p>

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					Clarification is required on this point.  Likewise the £178.57 contribution sought towards Care Call facilities is not explained or justified. Again there is some confusion as to whether this applies to all housing or only affordable housing. Clarification is required on this point.	
table	Table 3	G H Dean & Co			Bearing in mind the above comments (Table 2), clearly we do not agree with the worked example set out in Table 3.	Noted, however, table to be deleted as it appears not to have achieved its aim of providing clarity.
table	Table 3	Miss Debbie Salmon	Kent Wildlife Trust		Despite identifying the need for developer contributions in table 2, within table 3 no mention is made regarding the amount to be levied for environmental projects. The Trust would advise that costings and tariffs be calculated with a specified amount per house or square footage of business space built. The Thames Basin Heaths model may provide some guidance on how such contributions were used in a real life situation. (See response for Section 1.7 for further details)	Noted, however, table to be deleted as it appears not to have achieved its aim of providing clarity.
table	Table 3	Miss Elizabeth Shier	Kent County Council		<i>Table 3: Worked Example for a Scheme of 40 Dwellings</i>  The contribution assumed for a primary school extension is predicated on the basis that all the dwellings are houses (as opposed to flats) and that a need for additional pupil places has been identified.  Page 14 - <i>Essential Improvements to the Highway Network</i> - reference should be to Appendix B not Appendix 5.	Typographical error noted. Table to be deleted as it appears not to have achieved its aim of providing clarity.
table	Table 3	Mr John Feetam	Sport England		The worked example set out in Table 3 highlights this concern. The development of 40 dwellings is shown to require the provision of 10% of the net site area as open space with an equipped children's play area and casual kick about area. The example does not indicate the level or provision and in turn the financial contribution required for formal outdoor sports provision.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
table	Table 3	Mr John Feetam	Sport England		Table 3 (worked example) allocates Policy C3 within the first column against a number of the requirements presented where in accordance with Table 2 (pages 9-13) Policies H3 and C2 are relevant.	Noted, however, table to be deleted as it appears not to have achieved its aim of providing clarity.
table	Table 3	Mr Paul Sharpe	LaSalle Investment Management		Bearing in mind the comments in relation to Table 2, clearly we do not agree with the worked example set out in Table 3.	Table to be deleted as it appears not to have achieved its aim of providing clarity.
table	Table 3	Mr Richard Lewis	Vincent and Goring		The size of the contribution for the provision of open space, as set out in Table 3 would appear to be excessive. We assume from the size of the cost that this would cover the cost of provision of the open space and that a developer would just need to make the land available for use as open space. If this is not the case this should be clarified. If the developer is expected to landscape and set out the open space this contribution would be unreasonable.  Table 3 - we assume that the first requirement under C3 (i.e. £50x40) is for an anti-social behaviour hotline? Assuming that this is the case, this requirement, and the requirement for call care, have been incorrectly applied, as paragraph 6.5 advises that these relate to affordable housing. In this case, notwithstanding the objection to the principle of these payments, they should only be made for the affordable housing element of a scheme. In the case of the worked example this would be the 12 affordable housing units rather than the full 40 units as has been incorrectly applied.	Typographical error noted. Table to be deleted as it appears not to have achieved its aim of providing clarity.
paragraph	5.8	Barratt Strategic Land		Phil Copsey	Firstly the tone of the document needs to more clearly express the purpose of the Supplementary Planning Document (SPD) as a starting point for the negotiation of s106 contributions in line with the tests outlined at Circular 05/05  <i>Planning Obligations</i>  <ul style="list-style-type: none"> <li>The draft SPD notes at several points (paragraph 1.6, paragraph 5.8 for example) that the requirement for facilities and services (and by implication contributions) will need to be individually assessed. The SPD needs to be open and up front that</li> </ul>	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.  Requested contributions will reflect shortfalls in capacity arising out of the development. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.

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					the standard charges quoted are an indication of what might be sought, and will be subject to further review and negotiation in the light of the tests outlined at Circular 05/05.	
paragraph	5.8	Charlotte Hudson			Suggest that CCTV be changed to Community Safety as in some instances we may ask for additional lighting rather than CCTV etc	Amend text.
paragraph	5.8	Mr David Stewart			See objections lodged to 5.7 above to the objections raised on the various forms of contribution identified in this paragraph	Noted
paragraph	5.8	Mr Nigel Jennings	Natural England		Natural England agrees with the need to maintain flexibility to respond to specific site issues. Natural England would welcome the opportunity to engage with the Council in such cases, particularly with respect to large-scale schemes. Circular 5/05: Planning Obligations (ODPM 2005) states that ' it is important that all sectors and tiers of government or other public agencies with legitimate land-use planning interests...should also be involved, where appropriate, in formulating site-specific planning obligation requirements '	Noted.
section	6	Mr David Stewart			It is considered that Affordable Housing should be the subject of a separate SPD and that its inclusion here is unreasonable. Many developers/interested parties with a specific interest in affordable housing may not be aware of its inclusion in this document and it precludes them from participating in the consultation process. It is therefore unfair to include it here.	Affordable Housing is a key developer contribution matter and accordingly it is appropriate to deal with it within this SPD.
paragraph	6.5	Barratt Strategic Land		Phil Copsey	<p>The inclusion of details of affordable housing provision such as internal space standards etc.does not sit comfortably with the overall subject matter of the draft SPD. In our view chapter 6 of the SPD should be rationalised to refer to the circumstances in which affordable housing will be sought and the nature, mix and extent of affordable housing sought. Details might then be appended to the SPD alongside appendix H.</p> <p>There is no justification offered for the contribution of £50 per household sought towards the anti-social behaviour hotline. It appears from the worked example that this applies to all dwellings, although it first appears in table 2 alongside affordable housing. Clarification is required on this point.</p> <p>Likewise the £178.57 contribution sought towards Care Call facilities is not explained or justified. Again there is some confusion as to whether this applies to all housing or only affordable housing. Clarification is required on this point.</p>	<p>The Council has no imminent proposals for an Affordable Housing SPD, therefore the section and appendix within this SPD is appropriately included.</p> <p>Typographical error noted. Table to be deleted as it appears not to achieved its aim of providing clarity.</p> <p>Call care and anti social behaviour hotline to be deleted.</p>
paragraph	6.5	Geoff Wilde	Octave Homes Ltd		<p>The cost of setting a fixed % of OMV to determine the cost of affordable housing may determine certain units to be undervalued and/or create a detrimental financial cause and effect in having to provide them.</p> <p>In many cases this will cause the viability of a scheme to show negative values, because the cost of providing such units out strips the amount received through its valuation.</p> <p>The cost should be proportionate to the unit schedule, the available grant levels within the district and the housing associations which require these types of units.</p>	In the case of percentage Open Market Value, it is standard industry practice – as set out by the Homes & Communities Agency – that open market housing schemes subsidise the provision of affordable housing to a level of 50%.
paragraph	6.5	Geoff Wilde	Octave Homes Ltd		Commutated payments should be used as a tool. Housing associations units should be developed within sustainable locations with respect to the persons deemed to occupy them. In circumstances where sites approved are within locations which require the use of private transport, for example, a levy should be agreed and paid as a unilateral undertaking to be invested into more appropriate units in a more appropriate locations i.e. the bringing forward and reclamation of empty properties.	It is industry practice that, in the interests of building balanced communities, that it is not the nor for commuted payments to be made in lie of on-site provision. However, it may be allowed, as detailed in the SPD, in <u>very</u> exceptional circumstances.
paragraph	6.5	Geoff Wilde	Octave Homes Ltd		Older households, persons of 65+, should be provided for within larger schemes, if financially viable, by being included within the classification of affordable housing, if not done so already.	The SPD already makes reference to the needs of households of 65+
paragraph	6.5	G H Dean & Co			With regard to paragraph 6.5, we object to the fact that affordable housing must either be developed by one of the Council's Joint Commissioning Preferred Partners or developed and sold outright to and be managed by them. Clearly this an anti competitive practice and we see no reason why affordable housing cannot be managed by any duly accredited RSL. Similarly, other affordable housing criteria set out in the SPD are, we believe, overly prescriptive. For example that 60% of the units must be for affordable rent and 40% for Homebuy. Likewise, the affordability of other forms of Intermediate housing will be based on mortgage and rental costs equating to no more	<p>The Council has built up partnerships with a four RSLs (Amicus Horizon, Moat and Hyde; and English Rural – for rural exceptions sites). This means that the RSLs are able to build up a stock of properties to ensure that effective management can take place. Meetings are held once a quarter, to which the Homes &amp; Communities Agency send a representative. The H&amp;CA has been repeatedly asked, and has repeatedly confirmed that it is happy with the Council's stance on Joining Commissioning Preferred Partners.</p> <p>The requirement for 60% affordable rent and 40% intermediate rent is based on the identified</p>

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					<p>than 30% of gross income of households unable to access the open market. These are matters for negotiation in every case. Similarly, as objections made elsewhere, a commuted sum for Telecare of £50 per household and a commuted sum for antisocial behaviour hotline of £178.58 per household is unreasonable and seems to be an admission in advance by the Council that its affordable housing will, almost by definition, generate antisocial behaviour. Again, on page 18 of the document, reference is made to the shortage of development sites suitable for affordable provision being the rationale for on-site provision of affordable housing.</p> <p>Clearly this is not the case as there is a plentiful supply of land suitable for affordable housing identified in the Local Plan and whilst we recognise the presumption in favour of on-site provision set out in PPS3, provision off-site or provision of a financial payment in lieu, is not precluded by the advice and should therefore be included within this SPD.</p> <p>It follows therefore that the statement made in the ninth bullet point on page 6 conflicts with the advice in PPS3 and therefore must be deleted. In any event, there is a contradiction between the statements in bullet points 9 and 11 regarding commuted sums for off-site provision.</p>	<p>need within the Borough as demonstrated in the 2005 Housing Needs Survey and the more recent East Kent Strategic Housing Market Assessment. It is acknowledged, however, that need could vary on certain sites.</p> <p>Reference to telecare and antisocial behaviour hotline will be deleted.</p> <p>It is industry practice that, in the interests of building balanced communities, that it is not the nor for commuted payments to be made in lie of on-site provision. However, it may be allowed, as detailed in the SPD, in <u>very</u> exceptional circumstances.</p>
paragraph	6.5	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	<p>The status of this very detailed section is not made clear. Is it existing detail upon which no views are expected as part of this exercise or is it new guidance put forward for comment? If it is the former its status and source should be provided. If it is the latter we object to many aspects of it. A fundamental objection is the fact that there is a lack of reference to the provision being "negotiated" having regard to a range of factors including viability. The use of the word "must" is misplaced.</p>	<p>The affordable housing section of the SPD confirms the Council's current position with regard to Affordable housing and is intended as a first point of reference for developers (as an alternative to making individual requests for information from the Council's affordable housing staff). As will all other parts of the SPD is has been open to a period of public consultation.</p> <p>Largely, it embodies the advice and industry standards set by the Homes &amp; Communities Agency and is informed by the Council's 2005 Housing Needs Survey and the more recent East Kent Strategic Housing Market Assessment</p>
paragraph	6.5	Mr David Stewart			<p>There are a number of issues raised by this paragraph and it may require clarification/amendment. The principal of the provision of affordable housing is supported but the issues of concern are set out below:</p> <ol style="list-style-type: none"> <li>1. Bullet Point 9: The mix and type of housing provided should be the subject of negotiation with the developer and the preferred RSL and the standard of design space standards should be in accordance with the standards of the RSL.</li> <li>2. Bullet Point 11: Space standards should be the subject of RSL standards.</li> <li>3. Bullet Point 12: This could be difficult if the overall development does not comply with Secured by Design</li> <li>4. Bullet Point 18: Seems to suggest that the cost of units to the RSL will be 50% of the value of the units and that the developer will subsidize 50% of the value. If this is the case then objection is lodged to this point.</li> <li>5. Bullet Points 21 and 23: These seem to contradict each other. In 21 it says there will be no off site provision which is contradicted in 23</li> </ol>	<p>Need within the Borough has been demonstrated in the 2005 Housing Needs Survey and the more recent East Kent Strategic Housing Market Assessment. Developers will need to comply with the requirements of the Homes &amp; Communities Agency (space standards), which the RSLs also have to observe.</p> <p>The requirement for serviced land means the site should be cleared. It is an industry standard and should not impact on Secured by Design.</p> <p>In the case of percentage Open Market Value, it is standard industry practice – as set out by the Homes &amp; Communities Agency – that open market housing schemes subsidise the provision of affordable housing to a level of 50%.</p> <p>It is industry practice that, in the interests of building balanced communities, that it is not the nor for commuted payments to be made in lie of on-site provision. However, it may be allowed, as detailed in the SPD, in <u>very</u> exceptional circumstances.</p>
paragraph	6.5	Mr Richard Lewis	Vincent and Gorbng		<p>The requirement for affordable housing to be developed or sold to a "Joint Commissioning Preferred Partner" is inappropriate, unnecessary and contrary to Government guidance. Provide the affordable housing is developed or sold to a Registered Social Landlord, that would provide all the certainty necessary that the affordable housing will be provided. The percentage of affordable housing and the tenure split should be expressed as targets rather than absolutes, and should be capable of review and revision subject to site specific circumstances and up to date housing need evidence. The requirement of 30% affordable housing provision per phase is too inflexible, and the requirement to provide indicative plans showing affordable housing provision at the pre-application stage is unreasonable, particularly in the cases of outline applications or very large sites, which would be built out over a number of years, are concerned.</p>	<p>The Council has built up partnerships with a four RSLs (Amicus Horizon, Moat and Hyde; and English Rural – for rural exceptions sites). This means that the RSLs are able to build up a stock of properties to ensure that effective management can take place. Meetings are held once a quarter, to which the Homes &amp; Communities Agency send a representative. The H&amp;CA has been repeatedly asked, and has repeatedly confirmed that it is happy with the Council's stance on Joining Commissioning Preferred Partners.</p> <p>The requirement for 60% affordable rent and 40% intermediate rent is based on the identified need within the Borough as demonstrated in the 2005 Housing Needs Survey and the more recent East Kent Strategic Housing Market Assessment. It is acknowledged, however, that</p>

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						<p>need could vary on certain sites.</p> <p>With regard to phasing, it is the Council's intention to seek to avoid all affordable housing being built on a single phase, such that each phase is a balanced community in its own right.</p>
paragraph	6.5	Tina Khakee	Savills Plc		<p>The SPD advises that affordable housing should be provided only by Joint Commissioning Preferred Partners, or developed and sold to them.</p> <p>Comment:</p> <p>This is considered unduly restrictive as there are many other RSL operators fully regulated by the Homes &amp; Communities Agency (HCA) that would be capable of fulfilling this role and providing and managing affordable housing that meets HCA requirements.</p> <p>The SPD should be amended to reflect that the affordable housing provider needs to be HCA regulation compliant. To insist on preferred partner status is unduly restrictive and considered unreasonable in respect of the Circular 05/2005 Test (v) which requires that planning obligations 'need to be reasonable in all respects'.</p> <p>2) In respect of tenure split, guidance states that 60% should be affordable rent and 40% should be shared ownership.</p> <p>Comment:</p> <p>Whilst general guidance to increase social rented provision of affordable housing is supported, there should be some flexibility which leaves site circumstances and viability to ascertain the specific tenure split. The circumstances of a site could warrant a different tenure split in terms of prevailing housing type in the area and therefore have important mixed and sustainable community considerations, or, the type of scheme and potential servicing requirements could also make a specific tenure split difficult to accommodate. As such, the SPD wording should ensure that within a general ratio, there is some flexibility that would allow tenure types within affordable housing to be determined on a case by case basis. This would ensure that S106 clauses are 'fairly and reasonable related to the proposed development' as suggested by Circular 05/2005.</p> <p>3) The phasing criteria referred to for larger sites require each parcel of land to deliver 30% affordable housing.</p> <p>Comment:</p> <p>Whilst it is ideal that affordable housing be delivered at every phase of an overall housing development, this may not be practical. It is well known that tenures are likely to be split into deliverable parcels of land for management purposes. Therefore phasing would reflect the practicalities of being able to divide sites and other infrastructure requirements in how they are delivered.</p> <p>Consequently, the SPD wording should not be too rigid in respect of phasing; otherwise this could have a significant impact on a workable phasing plan and therefore deliverability of housing. This needs therefore to be determined on a case by case basis to ensure that affordable housing delivery is directly related to the specific delivery plan of the proposed development and reasonable in all other respects as per circular guidance.</p> <p>4) Additional Costs for Affordable housing; including telecare, anti-social behaviour would be required.</p> <p>Comment:</p> <p>These are additional costs to affordable housing that are likely to have an extra burden</p>	<p>The Council has built up partnerships with a four RSLs (Amicus Horizon, Moat and Hyde; and English Rural – for rural exceptions sites). This means that the RSLs are able to build up a stock of properties to ensure that effective management can take place. Meetings are held once a quarter, to which the Homes &amp; Communities Agency send a representative. The H&amp;CA has been repeatedly asked, and has repeatedly confirmed that it is happy with the Council's stance on Joining Commissioning Preferred Partners.</p> <p>The requirement for 60% affordable rent and 40% intermediate rent is based on the identified need within the Borough as demonstrated in the 2005 Housing Needs Survey and the more recent East Kent Strategic Housing Market Assessment. It is acknowledged, however, that need could vary on certain sites.</p> <p>With regard to phasing, it is the Council's intention to seek to avoid all affordable housing being built on a single phase, such that each phase is a balanced community in its own right.</p> <p>Reference to telecare and antisocial behaviour hotline will be deleted.</p> <p>It is industry practice that, in the interests of building balanced communities, that it is not the nor for commuted payments to be made in lieu of on-site provision. However, it may be allowed, as detailed in the SPD, in <u>very</u> exceptional circumstances.</p> <p>The SPD makes reference to the needs of households of 65+, in the interests of seeking to ensure balanced communities.</p> <p>Low cost housing does not fall within the Council's definition of affordable housing. The reason for this is that small units can be sold at low cost (ie at the market value for a small house), which in itself will not necessarily meet need as demonstrated in the 2005 Housing Needs Survey and the more recent East Kent Strategic Housing Market Assessment.</p>

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					<p>on the cost and viability of affordable housing provision and consequently should be applied flexibly.</p> <p>The SPD text needs to acknowledge that this additional cost needs to be financially appraised and considered along with all other social and physical infrastructure costs, as well as considering the cost of providing affordable housing. As per Circular Guidance 05/2005, financial contributions should be fairly and reasonably related to the proposed development. Having formulaic calculations is helpful for transparency, but needs to ensure it has a direct relationship with the proposal.</p> <p>5) On-site provision.</p> <p>Comment:</p> <p>Whilst it is accepted as a general principle that on-site affordable housing is usually required, there may be instances where off-site provision or a commuted payment towards off-site provision is more appropriate. This could be where housing is better suited on an identified site (i.e. family housing in a specific location) or where service costs/practicalities may be difficult for an RSL to manage a particular scheme. As such, off-site provision and payments towards purchase of other sites for affordable housing can provide an important source of affordable housing and should not be discounted.</p> <p>The SPD wording should acknowledge these potential contributions more positively as they can provide an important source of affordable housing.</p> <p>6) Specialist housing (including elderly persons housing).</p> <p>Comment:</p> <p>It is unreasonable that specialist housing has a requirement to provide an element of affordable housing. This type of housing is often proposed to meet an identified housing need in its own right (for example student accommodation) or alternatively it could be meeting a specific community need (in the case of elderly persons /sheltered accommodation).</p> <p>As well as creating an unreasonable burden on specialist housing, it is not always possible to provide affordable housing on these types of specialist housing schemes unless the site can be easily divided, as they often have different design and scheme needs. Furthermore, the cost of providing specialist housing can be significant, and having additional financial pressures such as an affordable housing requirement, could render a scheme proposing an important type of specialist accommodation as financially unviable.</p> <p>The SPD wording should delete reference to specialist housing needing to provide affordable accommodation, as this is not considered to meet central government objectives and as such would be unfairly related to the development in terms of Circular 05/2005 guidance.</p> <p>7) Low cost housing</p> <p>Comment:</p> <p>Low cost housing is not currently contained in the Council's definition of affordable housing unless provided by one of the Council's preferred partners. Providing this type of housing falls within the HCA definition of affordable housing, it should not be discounted. Including a clause which does so, it too rigid and does not meet the reasonable test of Circular 5/05 and therefore the definition should be widened.</p>	
paragraph	6.6	Messrs David, Roger, John and Andrew		Tetlow King Planning	Given the intention to prepare a new SPD on Affordable Housing we suggest this aspect is of the SPD is removed for later consideration.	Affordable Housing is a key developer contribution matter and accordingly it is appropriate to deal with it within this SPD.

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		Lawrence				
paragraph	6.6	Mr Richard Lewis	Vincent and Goring		<p>We feel that the general design guidance on affordable housing at Appendix H should more properly be included in a separate SPD rather than in the developer contributions SPD.</p> <p>As per government guidance in PPS3, the affordable housing provisions (both amount and tenure split) should be expressed as an overall plan-wide target rather than a target per site. The amount of affordable housing should be determined on a site by site basis taking into account the suitability of the site, the location of the site, and economics of provision and taking account of up-to-date data on housing need in respect of the market area under consideration. In the recent Court of Appeal case Blythe Valley DC - v - Persimmon Homes (North East) Ltd (2008) the Court found that the test of viability is fundamental in setting the affordable housing percentage.</p>	<p>Affordable Housing is a key developer contribution matter and accordingly it is appropriate to deal with it within this SPD.</p> <p>Affordable housing amount and tenure split has been informed by the Council's 2005 Housing Needs Survey and the more recent East Kent Strategic Housing Market Assessment.</p>
section	7	Mr Richard Lewis	Vincent and Goring		Any contributions for highway improvements, cycle ways and bus subsidies must be justified by the clear demonstration of the impact that the proposed development would have.	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.
paragraph	7.1	G H Dean & Co			Firstly, there appears to be a contradiction in this section of the SPD in that, initially, the inference is that tariffs are to be sought on "major regeneration schemes" whereas in para 7.6 the tariff is to be paid by all sites of 10 or more dwellings that come forward.	Amend text to clarify that the transportation tariff will only be payable on schemes of 10 or more dwellings (on allocated and non-allocated sites) within the four zones identified and that payments in the form of a tariff on identified regeneration projects ie Queenborough and Rushenden and Sittingbourne Town Centre, which are/will be detailed in the appropriate SPDs, will be payable as specified (for Queenborough and Rushenden this applies to residential units and some commercial).
paragraph	7.1	Miss Elizabeth Shier	Kent County Council		Page 20 Para 7.1 It is understood that the specific tariff applicable to Queenborough and Rushenden will be set out in the SPD for the Queenborough/Rushenden Masterplan area. This should include implications for the provision of County Council services taking account of the KCC's Developer Contributions Guide.	The Queenborough and Rushenden masterplan is a living document which includes reference to the requirements under the KCC Guide, and will be updated as requirements change.
paragraph	7.1	Mr Paul Sharpe	LaSalle Investment Management		Firstly, there appears to be a contradiction in this section of the SPD in that, initially, the inference is that tariffs are to be sought on "major regeneration schemes" whereas in para 7.6 the tariff is to be paid by all sites of 10 or more dwellings that come forward.	Amend text to clarify that the transportation tariff will only be payable on schemes of 10 or more dwellings (on allocated and non-allocated sites) within the four zones identified and that payments in the form of a tariff on identified regeneration projects ie Queenborough and Rushenden and Sittingbourne Town Centre, which are/will be detailed in the appropriate SPDs, will be payable as specified (for Queenborough and Rushenden this applies to residential units and some commercial).
paragraph	7.2	Barratt Strategic Land		Phil Copsey	<p>Barratt Strategic control land east of Iwade and are currently working with Swale Borough Council in agreeing a development brief for land east of Woodpecker Drive, Iwade. As such the approach towards securing contributions for the Sittingbourne Northern Relief Road is of particular interest.</p> <p>Firstly it needs to be pointed out that Barratt Strategic maintain that very little traffic from Iwade will use the Sittingbourne Northern Relief Road (SNRR). While it is acknowledged that the Local Plan Inspector considered this issue, it is held that little traffic from Iwade would use the link to access the A2 westbound towards Faversham.</p> <p>Secondly the use of the contributions SPD in considering a tariff for that part of the SNRR that remains unfunded from East Hall Farm to the A2 at Bapchild must take account of business related traffic that would benefit from this link. The Inspectors Report into the Orders and Bridge scheme for that part of the SNRR crossing Milton Creek at paragraph 4.1.6 describes the effect of the Sittingbourne Relief Road thus:</p> <p>The same situation obtains to the western arm linking East Hall Farm to the A2 at Bapchild in that it would amongst other things provide a direct connection from the Castle Road employment area to the A2 eastbound at Bapchild, taking HGV traffic away from Crown Lane and the town centre, and Murston Road and associated residential areas. Any tariff must therefore include contributions from new or redeveloped employment uses and also potentially from major town centre retail development. The present tariff in the draft SPD fails to do so and is therefore objected to as failing to be justified by a robust and credible evidence base. The wording in paragraph 7.4 is not sufficiently clear in this regard and fails to indicate what level of contribution might be sought under what circumstances.</p> <p>Thirdly, there are significant objections to the manner in which the present calculation is made with regard to housing. The calculations are based on Local Plan housing figures up to 2016.</p>	<p>Traffic from Iwade will benefit from easier access to Sittingbourne Town Centre as a result of through traffic and heavy traffic being diverted onto the SNRR.</p> <p>The Sittingbourne Town Centre SPD will specify what contributions that town centre regeneration will be expected to make in terms of transportation.</p> <p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets housing figures up to 2016. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms housing numbers.</p> <p>Costs have been based on the route shown in the 2008 Local Plan. It is expected the KCC will consult on route(s) this Autumn. Accordingly, the SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff. KCC has confirmed that at present no public funding is available for this scheme, having already made funds available to the tune of £43m.</p>

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					<p>It is extremely unlikely that the road will be delivered within this timescale and it is likely to come forward beyond 2016. As such the housing figures directed towards Swale Borough from the <i>Secretary of State's Proposed Changes to the draft Regional Spatial Strategy (RSS) to 2026</i> should be taken into account in any calculation. The majority of these will be within Thames Gateway and will be likely to be located in the Sittingbourne area and should form part of the evidence base for any tariff approach.</p> <p>Fourthly, the overall target costing appears to be based on an as yet unconfirmed route, alignment and scheme that <i>'may be subject to change'</i> (appendix B).</p> <p>Fifthly, it is unclear what the cycle and bus elements of Appendix B are intended to achieve with regard to Sittingbourne Northern Relief Road, and how these might be related (if at all) to development at Iwade. These appear to be separate matters related to congestion within the town centre. If contributions are justified towards these measures these ought to be fully set out and justified separately from the new road link including full plans of new provision, costings, route details etc. and a clear strategy for their delivery.</p> <p>Finally I would draw to your attention a recent appeal decision from Dartford that explored many issues around the Kent Thameside Strategic Tariff that demonstrates the need for caution in the imposition of a flat rate charge without the realistic prospect of negotiation and the need for consultation and consideration of reasonable alternatives (attached). Any tariff needs to reflect the lessons learnt from this appeal and in particular the opportunity for the negotiation of contributions in the light of the tests outlined at Circular 05/05.</p> <p>'The provision of a new road connection across Milton Creek, providing a direct connection between the employment area centred on Castle Road and the A249 road, would enhance accessibility to the industrial area in the north of Sittingbourne by allowing traffic to avoid congested roads such as Eurolink Way and Castle Road. This would improve the economic performance of Sittingbourne, to the benefit of the town, the Borough, the County and the Thames Gateway.'</p>	<p>The bus and cycle elements are intended as complementary measures to make the town centre more accessible. Amend text to refer to "transportation tariff", rather than SNRR tariff.</p> <p>It is apparent from the Dartford case that the proposed tariff could not be endorsed because of the lack of comprehensive consultation and assumptions made as to future development levels in relation to those in the proposed changes to the South East Plan. In response to Swale Borough Council's own consultation on its transportation tariff (with reference to the housing figures expressed within the plan period for the 2008 Local Plan), the tariff will be amended to reflect expected build costs (following KCC consultation on route(s) in the Autumn) and trip distribution patterns. As such it is considered that the tariff will be based on a sound evidence base.</p>
paragraph	7.2	Miss Elizabeth Shier	Kent County Council		<p>Page 20 -21 Para 7.2-7.7 and Appendix B clarify the relationship between the Sittingbourne Northern Relief Road and the general intention to collect development contributions across the Borough. The relationship between the SNRR tariff proposal and the broader intention to collect development contributions across the Borough needs to be clarified. Is it intended that this tariff will be the first priority for the collection of monies from qualifying developments? There may be insufficient funds available to collect for both the SNRR and other contributions in this part of the borough without affecting the viability of qualifying developments. The Council needs to explain in the text what stance it will take if developers bring forward viability arguments (in conjunction with the open book approach advocated in para 8.3) as to why contributions of other kinds cannot then be afforded.</p>	<p>The Council will make an assessment on the priority of contributions bearing in mind viability issues and achieving the Council's core priorities as explained at paragraph 8.7</p>
paragraph	7.2	Mr. Matthew Shellum	McCarthy & Stone		<p>The basis for seeking this contribution in terms of the Circular tests is that it is <b>necessary</b> because of the impact a proposal may have to adding to the traffic generation. It follows that if a proposed residential development results in a reduction in traffic generation from a site then any contribution should not be sought as there is no additional impact by the proposed development and is therefore <b>not necessary</b>. I think somewhere in the SPD it should be spelt that contributions will not be sought from development proposals that reduce traffic generation.</p>	<p>Noted. Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p>
paragraph	7.3	Mr Howard Moore	Highways Agency		<p>The SPD proposes a per unit contribution for the Sittingbourne Northern Relief Road tariff which varies depending on the proximity of development to the scheme. This tiered approach to contributions reflects the Secretary of State's key tests for planning obligations, however greater definition and classification of this tiered approach may be appropriate, considering relative impacts including unit type.</p>	<p>The SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff.</p>
paragraph	7.3	Mr Howard Moore	Highways Agency		<p>We also note that there is no difference in the contribution to be paid relative to the size of unit to be constructed, i.e. a large house is required to make the same contribution as a small flat. The proposed approach may be challenged as being unfair. Within Dartford Borough, the developer of a block of flats has successfully challenged a development tariff system through the Courts arguing that the application of a flat rate of £5,000 per unit, irrespective of the dwelling type and number of bedrooms, is unfair. In this case, the Planning Inspector concurred, stating that there is no realistic prospect of negotiation and the tariff is not reasonably related in scale and kind to the proposed</p>	<p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold for contributions. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms of thresholds (and the cumulative impact of small scale developments).</p> <p>The SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff.</p>

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					development, as stipulated in PPS12.  It is unclear if future development will be subjected to the Sittingbourne Northern Relief Road tariff after the scheme is fully funded. Unless a need for other major transport schemes arises, there may be an incentive for developers to hold off development until the Sittingbourne Northern Relief Road is fully funded. The SPD does not make it clear whether a 'ringmaster' would be required to forward fund the scheme, with funds then recouped from developer contributions at a later date.	
paragraph	7.5	Miss Elizabeth Shier	Kent County Council		Page 20 - Para 7.5. should read, 'It should be noted this tariff.'	Text to be amended.
paragraph	7.5	Mr Howard Moore	Highways Agency		The SPD stresses that the tariff may be subject to change depending on the outcome of further examination of development capacity arising from the Sittingbourne Town Centre and Milton Creek Masterplan SPD. It is unclear how, if in the event the cost of the Sittingbourne Northern Relief Road increases, the shortfall in funds will be accrued from developers or whether funding will be sought from alternatives sources.  The SPD states that an increase in development capacity will result in a reduction in per unit contribution from Zone 1 developments. Variation in the design of the Sittingbourne Northern Relief Road and costing of other town centre initiatives may also result in a change to the per unit contribution. In this case we assume that no funds can be collected until the costs are agreed, or if a change in costs does arise, un-spent money already collected will be returned to the developer.	Costs have been based on the route shown in the 2008 Local Plan. It is expected the KCC will consult on route(s) this summer. Accordingly, the SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff. KCC has confirmed that at present no public funding is available for this scheme, having already made funds available to the tune of £43m.
paragraph	7.6	G H Dean & Co			The figures set out on page 21 of the document are not at all clear. The bullet points would appear to suggest that (i) tariff contributions will be required to match the total cost of the Bapchild section of the Sittingbourne Northern Relief Road, ie £24 million; (ii) that an estimated sustainable transport contribution (up to 2016) of £2,606,000 will be sought and that (iii) the average cost per residential unit would be £6754.00. However further figures are provided for contributions to the Sittingbourne Northern Relief Road tariff (alone) for four zones ranging between £250 - £8247 per residential unit.	An average figure has been shown, this has then be weighted according to zone, so that Sittingbourne Town Centre sites contribute significantly more than a rural site within the mainland Thames Gateway.  The SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff. KCC has confirmed that at present no public funding is available for this scheme, having already made funds available to the tune of £43m.
paragraph	7.6	Miss Elizabeth Shier	Kent County Council		Page 21 - Para 7.6 the amount for the A2-Bapchild section of the NRR needs to be revised.	Costs have been based on the route shown in the 2008 Local Plan. It is expected the KCC will consult on route(s) this Autumn. Accordingly, the SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff.
paragraph	7.6	Mr David Stewart			Objection is raised to the principle of and size of the tariff which will reduce the rate of development in this part of the Borough in favour of other areas outside the tariff zone. The allocation of land for development in this part of the Borough should have been brought forward with some public funding of the road scheme. Moreover there are no exceptional circumstances which would allow the tariff to be reduced or set aside.	Costs have been based on the route shown in the 2008 Local Plan. It is expected the KCC will consult on route(s) this Autumn. Accordingly, the SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff. KCC has confirmed that no public funding is available for this scheme, having already made funds available to the tune of £43m.  Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.
paragraph	7.6	Mr Howard Moore	Highways Agency		It is unclear how the total sum of £24 million to be contributed to the Sittingbourne Northern Relief Road has been calculated, and whether this sum will be indexed linked from its base. Similarly it is not clear if the contribution per unit will also be indexed linked and when payment of the contribution is required to be made (relative to build-out or occupation).	Costs have been based on the route shown in the 2008 Local Plan. It is expected the KCC will consult on route(s) this Autumn. Accordingly, the SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff.  Timing of payments will be subject to clauses within the resultant Legal Agreements.
paragraph	7.6	Tina Khakee	Savills Plc		It is acknowledged that development would need to make a contribution towards the Northern Relief Road (NRR) Bapchild link route; however there is no justification provided on the actual cost suggested which is set at £24 million.  Comment:  The SPD document divides the cost of the Bapchild link between the likely dwellings to be delivered as derived from the Councils Housing Supply studies (circa 3,000 units) and this amounts to an average of £6k per unit or £8k if located in the Milton Creek AAP area. Whilst a formulae provides certainty (and is therefore supported in principle), the amounts suggested (£8/6k) are considered excessive and not necessarily directly	Costs have been based on the route shown in the 2008 Local Plan. It is expected the KCC will consult on route(s) this Autumn. Accordingly, the SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff.  The Council will make an assessment on the priority of contributions bearing in mind viability issues and achieving the Council's core priorities as explained at paragraph 8.7  The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets the threshold (residential schemes) for contributions. Policy SP7 refers to the need for

Type	Number	Full Name	Organisation Details	Agent	Comment	Officers Response
					<p>related to the development impacts.</p> <p>The amount of contribution from housing schemes in the area would need to consider;</p> <ul style="list-style-type: none"> <li>- exact location and therefore likely use,</li> <li>- housing tenure or size which can impact on the likely car generating potential of a scheme.</li> <li>- Car parking provision on a scheme and sustainable transport measures</li> </ul> <p>In addition, the SPD does not account for any other financial considerations and this has to be a key consideration in respect of delivery of housing. Onerous S106 contributions could render a scheme to be unviable and not therefore in the interest of meeting regional and local guidance on housing delivery. Furthermore, this requirement needs to be weighed up against other planning considerations rather than create an arbitrary cost.</p> <p>Furthermore, the text advises that commercial development would also need to contribute towards the Bapchild Link. However, based on the calculation above, this would not be required as the total amount (from expected residential units) would generate the total cost of the road development. This needs to be reviewed and justified further if it is retained.</p>	housing and employment opportunities to provide community services and facilities. So, while no threshold is specifically referred to in paragraph 1.7, the SPD flags up that some commercial developments may be required to make developer contributions.
table	Table 5	G H Dean & Co			In our view, greater clarity is required by the provision of a plan to identify the various zones referred to and, although the section is headed "Specific Tariffs for Transportation Related Schemes", the section on page 21 does not set out a specific tariff. Does the average cost per residential unit include both contribution to the Bapchild section of the SNRR and a contribution to the estimated sustainable transport contribution across all four zones? As it stands the average cost figure is rather meaningless.	<p>A plan will be included in the SPD.</p> <p>The tariff includes contributions to SNRR and sustainable transport. The SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff.</p>
table	Table 5	Mr Paul Sharpe	LaSalle Investment Management		<p>The figures set out on page 21 of the document are not at all clear. The bullet points would appear to suggest that (i) tariff contributions will be required to match the total cost of the Bapchild section of the Sittingbourne Northern Relief Road, ie £24 million; (ii) that an estimated sustainable transport contribution (up to 2016) of £2,606,000 will be sought and that (iii) the average cost per residential unit would be £6754.00. However further figures are provided for contributions to the Sittingbourne Northern Relief Road tariff (alone) for four zones ranging between £250 - £8247 per residential unit.</p> <p>In our view, greater clarity is required by the provision of a plan to identify the various zones referred to and, although the section is headed "Specific Tariffs for Transportation Related Schemes", the section on page 21 does not set out a specific tariff. Does the average cost per residential unit include both contribution to the Bapchild section of the SNRR and a contribution to the estimated sustainable transport contribution across all four zones? As it stands the average cost figure is rather meaningless.</p>	<p>A plan will be included in the SPD.</p> <p>The tariff includes contributions to SNRR and sustainable transport. The SPD will be amended to describe how the tariff will be calculated (based on cost and distribution of trips), rather than expressing a monetary value for the tariff.</p>
paragraph	7.7	Miss Debbie Salmon	Kent Wildlife Trust		The Trust welcomes provision of a cycle network and would recommend that funding is sought for creation of safe green pedestrian routes enabling travel by foot into town or the nearest public transport stop. Off road cycleways and pedestrian routes should be designed with benefits for wildlife	<p>Noted.</p> <p>The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Green Grid.</p>
paragraph	8.1	G H Dean & Co			In our view, the heading to this section of the SPD is incorrect. In our view, the need to maintain project viability must be "the norm". The Borough Council cannot load developer contributions onto any particular project to the extent that the project is no longer viable. To do so would be unreasonable and would be in conflict with the advice in Circular 05/2005. Consequently, the heading to this section (Exceptions) should be	<p>Noted. No change proposed.</p> <p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of</p>

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					amended to read "Normal Approach".	the SPD.
paragraph	8.1	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	Prominence should be given to para. B.10 of Circular 5/05 at the beginning of this section.	Amend text to draw attention to paragraph B.10 of Circular 05/05.
paragraph	8.1	Mr Paul Sharpe	LaSalle Investment Management		<p>In our view, the heading to this section of the SPD is incorrect. In our view, the need to maintain project viability must be the "norm". The Borough Council cannot load developer contributions onto any particular project to the extent that the project is no longer viable. To do so would be unreasonable and would be in conflict with the advice in Circular 05/2005. Consequently, the heading to this section (Exceptions) should be amended to read "Normal Approach".</p> <p>Clearly it is not for the Borough Council to dictate to a developer what his profit margin must be. That is not the purpose of the planning system nor an acceptable approach to the negotiation of developer contributions. In our experience, it is likely that if all relevant contributions are sought, this approach will, in most cases, make schemes unviable and if the Borough Council is serious about delivering development within the growth area then its attitude to the negotiation of developer contributions must be revisited.</p> <p>In our view, the test of reasonableness is of paramount importance and therefore in the context of the SPD, this section (8) should be highlighted earlier in the report and not as the final section.</p>	<p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD.</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p>
paragraph	8.2	G H Dean & Co			<p>Clearly it is not for the Borough Council to dictate to a developer what his profit margin must be. That is not the purpose of the planning system nor an acceptable approach to the negotiation of developer contributions.</p> <p>In our experience, it is likely that if all relevant contributions are sought, this approach will, in most cases, make schemes unviable and if the Borough Council is serious about delivering development within the growth area then its attitude to the negotiation of developer contributions must be revisited.</p> <p>In our view, the test of reasonableness is of paramount importance and therefore in the context of the SPD, this section (8) should be highlighted earlier in the report and not as the final section.</p>	<p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD.</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p>
paragraph	8.2	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	It should be made clear that there may be a whole range of issues which would make a particular development unviable. The examples given suggest, incorrectly, that it is only "exceptional" issues which will be considered, when in reality it will be all issues relating to the economic viability of the development which will need to be considered.	<p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD.</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p>
paragraph	8.3	G H Dean			<p>We reiterate the inaccuracy of the rather naive comment set out in the middle of para 8.3 that</p> <p>"in the normal course of events a developer will be expected to factor in costs associated with brownfield sites before purchasing land".</p> <p>Experience indicates that it is not possible automatically to factor such costs into the purchase price and the Council must be aware that its overt strategy has the direct result of increasing the cost of development, thereby reducing the delivery of housing, jobs and prosperity.</p>	<p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD.</p> <p>The Council is aware that it is not always possible to factor unknowns into purchase price, but reasonable endeavors will expect to be apparent.</p>
paragraph	8.3	Miss Elizabeth Shier	Kent County Council		Page 22 - The text specifically identifies archaeology as a factor that may in some circumstances constitute an 'abnormal cost' which might lead to the Borough Council reducing the financial requirements for mitigation. The implication of the text, therefore, is that while negotiating the S106 the developer becomes aware that the costs of archaeology will make the development non-viable. It would be very rare indeed that the proposals progressed to this point without the developer being fully aware of the issues. Therefore there is concern that as the text stands it could be used by developers as an excuse to circumvent the normal planning process. If the text	Amend text as suggested.

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					otherwise remains unchanged it is suggested that a paragraph be added: " <i>To minimize the likelihood of encountering important archaeological remains developers will be encouraged to contact Kent County Council's Heritage Conservation team at an early stage. Desk-based assessment or pre-determination evaluation, carried out by appropriately qualified archaeologists, can help ensure that unexpected discoveries are minimised.</i> "	
paragraph	8.3	Mr. Matthew Shellum	McCarthy & Stone		<p>"Open Book" appraisals are contrary to the fundamental planning principal that planning permission runs with the land and not the applicant. By using an "open book" appraisal you are making a judgement based on the applicant and not on the viability of the proposed scheme on the proposed site. A planning permission should be capable of being developed by anyone wishing to implement it, not too a specific party as this would otherwise be tantamount to a personal consent. The Council should be utilising any one of a number viability models that are in circulation to appraise the viability of any given scheme scheme using generic values and inputs. I would suggest the Housing Corporation Economic Appraisal Toolkit as an appropriate model.</p> <p>As an example if an applicant submits an open book appraisal and demonstrates that he has paid £2million for the land to acquire the site when the existing site is worth £1million the Council are not going to turn round and say you have demonstrated that it is unviable, they will say you have paid too much for the land! In this sense an "open book" appraisal is not in the Council's interests either. I would advise that the Council read the recent appeal decision at Merton - APP/t5720/A/08/2087666.</p> <p>Advise that this section deletes reference to "open book" appraisals</p>	<p>Amend text to refer to the need to address the viability issue by seeking independent advice.</p> <p><b>Comment on Merton appeal.</b></p>
paragraph	8.3	Mr Paul Sharpe	LaSalle Investment Management		Fourth, similarly, the document should in our view recognise that by applying such contribution requirements the Borough Council is acknowledging that it will thereby increase the cost of development; increase the cost of providing jobs; increase the cost or providing housing; will make housing generally, and affordable housing in particular, less affordable and will militate towards the suppression of jobs and housing delivery. In particular, via the document, the Council should acknowledge that it is a myth that such developer contribution costs can automatically be deducted from land value.	The intention of the SPD is to provide clarity. With the exception of the Sittingbourne Northern Relief Road tariff and the requirement to contribute towards the provision of the twin refuse bin scheme the SPD does not propose anything new in terms of the nature of the contributions that will be sought. Accordingly, the detailing of the contributions that schemes may be required to provide will not have a greater or lesser impact on the delivery of jobs and housing than was the situation pre-SPD.
paragraph	8.3	Mr Paul Sharpe	LaSalle Investment Management		We reiterate the inaccuracy of the rather naive comment set out in the middle of para 8.3 that "in the normal course of events a developer will be expected to factor in costs associated with brownfield sites before purchasing land". Experience indicates that it is not possible automatically to factor such costs into the purchase price and the Council must be aware that its overt strategy has the direct result of increasing the cost of development, thereby reducing the delivery of housing, jobs and prosperity.	<p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD.</p> <p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p>
paragraph	8.3	Tina Khakee	Savills Plc		<p>The SPD welcomes viability assessments to help establish an appropriate level of S106 monies.</p> <p>Comment:</p> <p>A financial appraisal to assess the viability of a scheme is an established mechanism and can help set a suitable level of S106 monies which would not undermine the viability of a scheme. This is key to ensuring that contributions do not blight the delivery of a scheme and its inclusion is welcomed.</p> <p>A full open book approach can sometime require sensitive information and this should be used with caution. An established affordable housing toolkit should provide sufficient evidence in this regard.</p>	<p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD.</p> <p>Amend text to refer to the need to address the viability issue by seeking independent advice.</p>
paragraph	8.4	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	See comments above. "In the normal course of events...." things change which affect viability and these are not simply what the document calls "abnormal costs".	<p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD.</p> <p>Amend text to refer to the need to address the viability issue by seeking independent advice from an agreed specialist, with brief and cost agreed in advance.</p>
paragraph	8.4	Mr. Matthew Shellum	McCarthy & Stone		Object to the independent development valuation process on a number of points;	Amend text to refer to the need to address the viability issue by seeking independent advice from an agreed specialist, with brief and cost agreed in advance.

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					<p>1) If the developer is paying for it then he/she should have a say in who carries out the independent valuation. Would suggest removal of "Council choice" to be replaced with "to be agreed by both parties". It would not be "independent" if just one party chooses who to instruct.</p> <p>2) Why should the developer have to pay for it when he/she has already paid in excess of (£3650 -10 dwellings) for the Council determine the application. It is not for the developer to assess his own case that is the Council's role.</p> <p>3) If the Council wish to adopt this approach then they should remember that if the cost of this exercise is to be borne by the developer then it will be a cost of the proposed development and will need to be factored as input into the viability assessment and thus therefore reducing the overall viability of the scheme and the sum the developer will have available to offer towards developer contributions. Given what you are trying to achieve with this document it seems perverse that you want to introduce a methodology of assessment that would reduce developer contributions from a proposal.</p>	
paragraph	8.4	Mr David Stewart			If the Council intends to appoint an independent valuation expert to vet open book costings at the expense of the developer the policy should be changed to allow for the appointment, by mutual consent, of a valuer known to both parties or from an approved list which has itself been the subject of consultation	Amend text to refer to the need to address the viability issue by seeking independent advice from an agreed specialist, with brief and cost agreed in advance.
paragraph	8.4	Mr Paul Sharpe	LaSalle Investment Management		Fifth, whilst accepting that the issue is referred to in the document (last chapter), in our view the Council should give greater prominence to the fact that contributions will be sought only to the point where the viability of the scheme is not jeopardised. Clearly if viability is threatened then the request by the Council must, by definition, be "unreasonable" and, thereby, in conflict with Government guidance. In our view the document should acknowledge the right of a developer to secure a reasonable level of profit ie in the order of 17-25% of cost.	<p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>Amend text to refer to the need to address the viability issue by seeking independent advice from an agreed specialist, with brief and cost agreed in advance.</p>
paragraph	8.4	Mr Richard Lewis	Vincent and Goring		<p>Where a developer seeks to reduce the level of payment which has been clearly shown to meet the tests of Circular 05/2005 then it is appropriate that a development appraisal should be provided as justification. However, Trenport notes that the Council reserves the right to submit a development appraisal to an independent development valuation specialist. In this respect, although Trenport may agree to fund the independent assessment, the cost of doing so should be agreed beforehand, the choice of specialist should also be agreed beforehand, and the brief for the assessment should also be agreed beforehand. On a previous occasion, in another authority area, in agreeing to fund independent specialist advice beforehand we have found that the advice that was obtained was not truly independent or specialist and the brief did not correctly set out the correct circumstances. The advice was also not supplied to the applicant who funded the assessment in the first place. In order to avoid these difficulties these matters should be agreed beforehand.</p> <p>Trenport believe that the Councils philosophy on the costs which a developer should "factor in" when purchasing land (whether brownfield or not) is wrong, a view which is supported by three recent Court or appeal decisions;</p> <ul style="list-style-type: none"> <li>• Blyth Valley DC v Persimmon Homes(North East)Ltd (2008)</li> <li>• Jericho Boatyard Appeal, Oxford</li> <li>• Flambards Appeal, Godalming.</li> </ul> <p>The key point to be taken from these cases is that the value for viability purposes is "the value on the market" and not the existing use value or a value which is discounted to meet the maximum possible planning obligation.</p>	<p>It is considered that the document displays more than adequate acknowledgement of the importance of viability of proposals and the potential impacts on this from developer contributions. However, greater acknowledgment of the circumstances where "normal" or "abnormal" costs could not reasonably have been foreseen could be introduced into the text of the SPD.</p> <p>Amend text to refer to the need to address the viability issue by seeking independent advice from an agreed specialist, with brief and cost agreed in advance.</p> <p><b>Comment on appeal decisions.</b></p>
paragraph	8.5	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	The SPD should confirm that any commercially sensitive data will remain confidential.	Amend text to confirm that confidentiality will be maintained.
paragraph	8.5	Mr. Matthew Shellum	McCarthy & Stone		Please see my comments at 8.3 as to why open book appraisal is contrary to planning principles of planning permission runs with the land rather than the applicant. Under this section land acquisition cost should refer to the existing or alternative use value of the land and not what a specific developer paid for it. Otherwise, we are looking at issuing personal consents.	Noted. Amend text.
paragraph	8.6	Messrs David, Roger, John and Andrew		Tetlow King Planning	Often it will not be possible to provide an indication of HCA grant levels.	Noted. Amend text.

Type	Number	Full Name	Organisation Details	Agent	Comment	Officers Response
		Lawrence				
paragraph	8.6	Mr Richard Lewis	Vincent and Gorbing		It may not be possible to submit the affordable housing details set out at 8.6 as these may not be known at the time of submitting a planning application. For example, the level of any possible grant aid is unlikely to be known until at least a resolution to approve an application has been secured since meaningful negotiations before that point will not be possible.	Noted. Amend text.
paragraph	8.7	Barratt Strategic Land			It is vital that the approach to developer contributions offers flexibility regarding the viability of development, particularly under current market conditions. While section 8 of the SPD identifies the potential for exceptions and the potential deferral and future 'clawback' of contributions, this ought to be more fully explored in order to safeguard the ongoing delivery of housing in this part of the Thames Gateway Growth Area. Reference should be made to how Ashford Borough Council has addressed this issue within the Ashford Growth Area, and a copy of a recent committee paper is attached  <i>(Principles for the Assessment of Planning)</i> .  This sets out one way in which this might be achieved through identifying an 'agreed percentage' whereby an uplift in sales value would lead to an adjustment in rate of contribution paid as each development phase progresses.	The SPD makes a succinct reference to claw back, which is considered sufficient for the purposes of this document, bearing in mind the current economic climate. Ashford Borough Council is leading the field in this respect. As the process becomes more developed, the Council will consider publishing that a supplement be developed to sit alongside the SPD, drawing on Ashford and MKIP experience.
paragraph	8.7	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	This approach is unworkable and has been held to be inappropriate in appeal decisions.	The SPD makes a succinct reference to claw back, which is considered sufficient for the purposes of this document, bearing in mind the current economic climate. Ashford Borough Council is leading the field in this respect. As the process becomes more developed, the Council will consider publishing that a supplement be developed to sit alongside the SPD, drawing on Ashford and MKIP experience.
paragraph	8.7	Miss Elizabeth Shier	Kent County Council		Pages 23-24 Para 8.7 and 9.4 - A priority list or a list of criteria should be included at the end of para 8.7 in the SPD, which the Council can apply when determining how limited funds might be allocated. The Council should explain and set out a priority list for the collection of development contributions of various kinds. The reference to achieving regeneration and social benefits is a general and ill defined test, which fails to give specific guidance to service providers and developers of the criteria that the Council will apply when making choices for competing funds. It is the County Council's view that statutory services should be given priority when deciding the allocation of contributions if the developer produces viability evidence, accepted by the Council, that the full range of development contributions cannot be provided for commercial reasons.  Page 23 Para 8.7 - The County Council may not be able to forward fund the necessary infrastructure at the time when planning permission is granted. Further there is no guarantee that monies would be recovered from the developer within a reasonable time span. In the absence of a detailed cost plan this proposal could represent a large and unfunded commitment for the County Council with no certainty of recovery. Given the scale of regeneration proposed in the Borough, the approach should be regarded as entirely exceptional, as opposed to a policy commitment and subject to consultation with the County Council on a site by site basis. Insert " <i>Clawback provisions will not generally be acceptable where the development in question relies on the forward funding of infrastructure, from funding sources which cannot be identified and agreed at the time when planning permission is to be granted.</i> "	The Council's priorities will be as the Corporate Plan. Amend text to refer to this document.  As set out in paragraph 9.3 monies will be collected by Swale to ensure transparency and accountability.
paragraph	8.7	Mr. Matthew Shellum	McCarthy & Stone		It is difficult to assess how a clawback clause may work, and I would request that further information is provided here as to how the mechanics of it could operate. Also if a clawback clause is to operate then it needs to work both ways that is to say that if the Council are wanting a clawback on the basis of markets increasing at some time in the near future then it must also allow for a further reduced contribution to be paid by the developer if the market continues to decline in the same period.	Clawback is intended to solely to address the issue of deliverability during the recession.
paragraph	8.7	Mr Nigel Jennings	Natural England		Natural England recognises that the current economic situation is placing a greater financial burden on developers. However, we would like to re-emphasise that, in the context of future housing and population growth coupled with climate change, it is particularly important that the impact of development is not only fully mitigated, but that provision and improvements, for example of open space, are not foreclosed. The impacts of climate change will be exacerbated in the future, and thus, measures to mitigate the causes and adapt to the effects should be protected.	Noted.
paragraph	8.7	Mr Richard Lewis	Vincent and Gorbing		In addition to enabling the Council to 'claw-back' contributions, in order to be fair and equitable and meet the tests in Circular 05/2005 applicants must also be able to 'claw-back' funds which have not been used for the purpose intended within a specified	Amend text to acknowledge that provision will be made in Legal Agreements for unspent monies to be repaid (paragraph 9.4)

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					period or where they have been used for other purposes. If the funds have not been used, or have not been used for purpose intended, it is clear that the original contribution was incorrectly acquired and was not related to the development or required to make a development acceptable. In these circumstances they have effectively been used to raise general funds which should more properly be covered by Council Tax income. Trenport would expect these funds should therefore be returned to the applicant. This should be acknowledged in the SPD and incorporated into Section 106 agreements, as is usual practice with other authorities.	
paragraph	8.8	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	As above	The SPD makes a succinct reference to claw back, which is considered sufficient for the purposes of this document, bearing in mind the current economic climate. Ashford Borough Council is leading the field in this respect. As the process becomes more developed, the Council will consider publishing that a supplement be developed to sit alongside the SPD, drawing on Ashford and MKIP experience.
paragraph	8.8	Mr. Matthew Shellum	McCarthy & Stone		Please see my response to 8.7 requiring clawback to work in both directions if the market does not improve in the allotted timeframe stipulated in the S106 agreement.	Clawback is intended to solely to address the issue of deliverability during the recession.
paragraph	8.8	Mr David Stewart			<p>Objection is raised to this approach. It is suggested that as the developer contribution is to mitigate the effects of the development there can be no basis for accepting a delayed payment of a contribution as in these circumstances an adverse impact arising from the development will be felt. There can therefore be only one approach and that is to reduce the contribution without compromising the ability of measures that are agreed to mitigate the effects of the scheme.</p> <p>Whilst the sentiment to delay contributions is understandable there is also a problem with this approach in that if such a scheme is approved and the developer subsequently goes bust there can be no claw back on the individual home owner.</p>	The SPD makes a succinct reference to claw back, which is considered sufficient for the purposes of this document, bearing in mind the current economic climate. Ashford Borough Council is leading the field in this respect. As the process becomes more developed, the Council will consider publishing that a supplement be developed to sit alongside the SPD, drawing on Ashford and MKIP experience.
paragraph	9.1	Mr Richard Lewis	Vincent and Goring		Trenport welcomes the Council's advice that it will enter into pre-application negotiations at an early stage. This should help to avoid delay later in the process. However, Trenport is concerned that lengthy and costly negotiations may take place over the drafting of S106 agreements prior to submission of an application with no certainty that planning permission will be obtained, in which case much time, energy and cost could be wasted by both the applicant, and by the Council.	Text to be amended to require Heads of Terms of Agreements to be submitted with planning applications.
paragraph	9.2	Mr Nigel Jennings	Natural England		<p>Natural England would welcome further detail on implementation and monitoring. For example:</p> <ul style="list-style-type: none"> <li>• How will information be monitored?</li> <li>• Will a specific officer be designated to monitor the implementation of planning obligations?</li> <li>• How will monitoring information be made available to members of the Local Authority and the public?</li> </ul> <p>Further detail is available in the CLG Good Practice Guide <i>Planning Obligations: Practice Guidance</i> (DCLG 2006).</p>	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies.
paragraph	9.3	Miss Elizabeth Shier	Kent County Council		<p>Page 24 - para 9.3 - 9.5 all the contributions will be collected by Swale BC, KCC would however like to receive an appropriate allocation from the S 106 to administer itself and to be part of any management arrangement, as is being discussed at Queenborough/Rushenden.</p> <p>Where the County Council is a party to a section 106 obligation or is incorporated in a unilateral undertaking submitted by a developer, it is entitled to receive any monies raised by way of development contributions. There is no reason why the Borough Council should retain such monies, as it will not be directly implementing the service improvement necessitated by the development. Insert "Monies collected by the Borough Council for the provision of County Council's services, will be passed to the County Council, upon receipt from the developer".</p>	Monies will be collected by Swale to ensure transparency and accountability. No amendment proposed.
paragraph	9.3	Mr David Stewart			There needs to a clause in this section which specifies the maximum time that a contribution can be held before being required to be returned to the developer if not spent with any interest accrued on the monies also being returned. This may vary depending on the subject of the contribution	This will be a matter for the specific Legal Agreement.
paragraph	9.3	Mr Paul Sharpe	LaSalle Investment Management		Sixth, in our view, it would be helpful if the Borough Council were to set out the County Council's approach to the negotiation of developer contributions on large scale developments, eg in excess of 500 dwellings. It is our understanding that at this scale of development the County Council expects negotiations to take place on an open book	Swale will be responsible for co-ordinating developer contribution negotiations.

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					basis. It would be helpful for developers to be aware of this approach together with, for example, the practice of appointing solicitors jointly, to act for the two councils.	
paragraph	9.4	Barratt Strategic Land		Phil Copsey	<p>The approach advocated at paragraph 9.4 of re-allocating unspent funds into alternative measures that did not form part of the heads of terms of a legal agreement is objected to.</p> <p>Either a planning obligation is justified within the terms of Circular 05/05 or it is not. Chapter 10 of <i>Planning Obligations Practice Guidance</i> gives advice on the need to ring fence contributions for their intended purpose and that a clear audit trail of their use is maintained. If contributions are not spent then they should after a certain time period to be agreed within a s106 be returned to the applicant/landowner; not switched to some alternative purpose. This reflects the model section 106 agreement prepared by the Law Society's Planning and Environmental Law Committee available through the Department of Communities and Local Government website.</p>	Paragraph 9.4 to be deleted.
paragraph	9.4	Geoff Wilde	Octave Homes Ltd		<p>If monies allocated under a legally binding Sections 106 agreement have not been requested/used then they should not be re-allocated but held in lieu of being requested. Any such monies which are held in perpetuity should form the bases of where new monies should be directed and allocated thereafter. One needs to ensure that monies are not calculated unnecessarily and are accurately defined and directed in accordance with the demands of the community and the agreement signed.</p> <p>Too many projects have been financially over subscribed and undersubscribed because of the inaccurate accounting and definition of what's required and what still financially remains, held by the local authority; a greater pool is accumulated in one unnecessary direction and an under pooling in the area's that is necessary. This will only cause a detrimental affect to the communities who need these contributions in the correct order and amounts.</p> <p>Further more monies should not be re-allocated because there will be a time when money is required. However there is no guarantee that development will be brought forward in time to full fill this fresh unexpected demand and fill the gap if allocated in an alternative direction before hand, as is being suggested. .</p>	Paragraph 9.4 to be deleted.
paragraph	9.4	G H Dean & Co			We note the proposed mechanism in para 9.4 for the reallocation of contributions to "projects which had originally not made the shortlist for the specified Heads of Agreement". The Council appears to be suggesting a form of "cascade mechanism" for the spending of contributions. However, bearing in mind that applicants are required to provide S106 Agreements with their applications it is difficult to envisage how applicants can refine agreements to this level in advance of submitting a planning application. More importantly, the SPD fails to put in place a mechanism firstly for the spending of contributions for the purposes agreed within a specified period (maximum 5 years) nor a mechanism for repaying any monies not spent or the balance of any monies not spent, together with interest accrued to the developer within a 5 year period.	Paragraph 9.4 to be deleted.
paragraph	9.4	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	Any monies not used for the purpose required within the time period agreed in a planning obligation should be returned to the landowner/developer.	Paragraph 9.4 to be deleted. Amend text to acknowledge that provision will be made in Legal Agreements for unspent monies to be repaid.
paragraph	9.4	Mr Paul Sharpe	LaSalle Investment Management		<p>We note the proposed mechanism in para 9.4 for the reallocation of contributions to "projects which had originally not made the shortlist for the specified Heads of Agreement". The Council appears to be suggesting a form of "cascade mechanism" for the spending of contributions.</p> <p>However, bearing in mind that applicants are required to provide S106 Agreements with their applications it is difficult to envisage how on earth applicants can refine agreements to this level in advance of submitting a planning application.</p> <p>More importantly, the SPD fails to put in place a mechanism firstly for the spending of contributions for the purposes agreed within a specified period (maximum 5 years) nor a mechanism for repaying any monies not spent or the balance of any monies not spent, together with interest accrued to the developer within a 5 year period.</p>	Paragraph 9.4 to be deleted. Amend text to acknowledge that provision will be made in Legal Agreements for unspent monies to be repaid.
paragraph	9.4	Mr Richard Lewis	Vincent and Gorbng		The Council's inappropriate "taxation" attitude to S106 contributions is most clearly illustrated by the comments at section 9.4 which state "the Council will reallocate these	Paragraph 9.4 to be deleted.

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					resources to other projects which had not originally made the short list for the specified Heads of Agreement". S106 contributions are permitted by legislation in order to make acceptable development which would otherwise be unacceptable in planning terms and would be refused permission; those contributions are not to be regarded as a general source of taxation income to be used as the Council feels is appropriate, as is clearly proposed.	
paragraph	9.4	Mr Richard Lewis	Vincent and Gorbing		On the question of timescales for repayment this should be limited to a reasonable period, Trenport suggest this should be no more than three years after a payment has been made or within two years of the completion of the development concerned, whichever is the sooner. If the Council have been unable to utilise the funds provided within these timescales it is questionable whether the alleged harm could have been so severe as to justify the payment in the first place.	Paragraph 9.4 to be deleted.
paragraph	9.4	Mr Richard Lewis	Vincent and Gorbing		The previous comments on 'claw-back' are relevant here. If a service provider has not requested the funds it will clearly be apparent that they were incorrectly sought in the first place and so should be returned to the applicant. It would be wrong and contrary to the advice in Circular 05/2005 to apply these funds to other projects / services for which they were not originally intended. These funds should be returned, otherwise they are effectively just a source of general funding which should be covered by Council Tax. Trenport will expect contributions which have not been used for the purpose intended within a specified period, or where they have been used for other purposes, to be refunded unless agreed with them beforehand. Trenport will not be willing to agree the arrangement suggested in paragraph 9.4.	Amend text to acknowledge that provision will be made in Legal Agreements for unspent monies to be repaid.
paragraph	9.4	Tina Khakee	Savills Plc		There is no reference to contributions being returned to developers where they are not spent within a certain timeframe. In accordance with paragraph B24 of Circular Guidance 05/2005, this should be included.	Amend text to acknowledge that provision will be made in Legal Agreements for unspent monies to be repaid.
paragraph	9.5	Barratt Strategic Land		Phil Copsey	The application of a 5% monitoring charge is also objected to. There is no reason why the adoption of this Supplementary Planning Document should create additional monitoring activity over and above that already undertaken. There is no explanation offered of what the 'periodic reports' are; what they contain and how often they are to be updated (paragraph 9.5). Furthermore the imposition of a flat rate of 5% does not reflect the different circumstances that may arise across proposals and their related s106 agreements. A development of 10 or 20 houses may have the same number of s106 triggers and contributions as a development of 100 or 200 houses yet would justify a significantly smaller contribution. If contributions to monitoring can be justified (and in our view they are not justified by the present SPD) they ought to be based on an approach based on the number of triggers and contributions with the s106.	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies. It is certainly a commonly applied charge used by many other authorities and it is considered that its principle should be upheld. It is considered that it may be appropriate to consider a 'cap' on the charge, perhaps based on the planning fee, in order that it does not become prohibitive and out of proportion.
paragraph	9.5	Geoff Wilde	Octave Homes Ltd		It should not be the request of the developer to fund the overhead of persons to monitor the allocation of monies, but the burden of the council. If this is to be the case then the developers should have a controlled link to ensure their monies are provided and used to the services agreed correctly.	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies. It is certainly a commonly applied charge used by many other authorities and it is considered that its principle should be upheld. It is considered that it may be appropriate to consider a 'cap' on the charge, perhaps based on the planning fee, in order that it does not become prohibitive and out of proportion.
paragraph	9.5	G H Dean & Co			In para 9.5 we note the reference to a 5% monitoring charge. This, we suggest is an unnecessary administrative cost again leading to higher costs of development and higher cost of housing etc. Provided there are appropriate requirements for the developer to serve notice etc on the Council in advance of payments etc then there is no logical reason why the Council should levy a monitoring charge. If the Council is intent on levying an administration and monitoring charge then it would likewise be appropriate for the developer to charge the authority for their (the developer's) administrative costs in monitoring the authority's actions to ensure that the contributions made are appropriately applied and spent. Bearing in mind the disparate nature of the works funded by contributions we would suggest that the developer's administrative costs are likely to be significantly greater than those of the authority's. In any event, we would suggest that a charge of 5% is excessive and out of proportion to the minimal administrative effort required by the local authority in monitoring S106 Agreements.	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies. It is certainly a commonly applied charge used by many other authorities and it is considered that its principle should be upheld. It is considered that it may be appropriate to consider a 'cap' on the charge, perhaps based on the planning fee, in order that it does not become prohibitive and out of proportion.
paragraph	9.5	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	The principle of this has not been justified, let alone any justification as to why 5% is a reasonable amount (other than it seems to be an amount other LPAs are seeking). Fees are charged to "monitor and administer" planning conditions: this is work normally carried out as part of a planning officers normal duties, so why should planning obligations be any different?	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies. It is certainly a commonly applied charge used by many other authorities and it is considered that its principle should be upheld. It is considered that it may be appropriate to consider a 'cap' on the charge, perhaps based on the planning fee, in order that it does not become prohibitive and out of proportion.

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paragraph	9.5	Mr. Matthew Shellum	McCarthy & Stone		<p>I am not convinced that a percentage is the correct approach to the monitoring and administration charge. For example my Client - McCarthy &amp; Stone being a specialised form of residential accommodation is likely to have fewer planning obligations than other forms of residential development (i.e. some normally requested contributions will not be the Circular 05/05 tests) but yet because of the likely number of units it would be proposing is likely to have to pay a larger admin and monitoring charge than a smaller residential development with more required obligations. It does not follow that there is more work involved in monitoring an obligation with a larger sum over an obligation with a smaller sum. Where the work is created is by the number of obligations being requested. Therefore, I would suggest a fee arrangement on a sliding scale or based on the number of obligations sought rather than a percentage of the grand total.</p> <p>In addition the Council also needs to be aware that the monitoring fee would need to be factored into any viability appraisals carried out as a cost to the developer. This again will have the affect of reducing the overall sum available to the developer to provide development contributions.</p>	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies. It is certainly a commonly applied charge used by many other authorities and it is considered that its principle should be upheld. It is considered that it may be appropriate to consider a 'cap' on the charge, perhaps based on the planning fee, in order that it does not become prohibitive and out of proportion.
paragraph	9.5	Mr Paul Sharpe	LaSalle Investment Management		<p>In para 9.5 we note the reference to a 5% monitoring charge. This, we suggest is an unnecessary administrative cost again leading to higher costs of development. Provided there are appropriate requirements for the developer to serve notice etc on the Council in advance of payments etc then there is no logical reason why the Council should levy a monitoring charge. If the Council is intent on levying an administration and monitoring charge then it would likewise be appropriate for the developer to charge the authority for their (the developer's) administrative costs in monitoring the authority's actions to ensure that the contributions made are appropriately applied and spent. Bearing in mind the disparate nature of the works funded by contributions we would suggest that the developer's administrative costs are likely to be significantly greater than those of the authority's. In any event, we would suggest that a charge of 5% is excessive and out of proportion to the minimal administrative effort required by the local authority in monitoring S106 Agreements.</p>	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies. It is certainly a commonly applied charge used by many other authorities and it is considered that its principle should be upheld. It is considered that it may be appropriate to consider a 'cap' on the charge, perhaps based on the planning fee, in order that it does not become prohibitive and out of proportion.
paragraph	9.5	Mr Richard Lewis	Vincent and Gorbng		<p>A concern of many in the development industry is that once the payments are made there is very little, if any, feedback from planning authorities on what particular facility or service the money is spent on or very little credit or recognition given to developers for funding particular facilities. If there were to be feedback the development industry may well take a more positive view towards contribution towards the provision of facilities and services.</p>	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies. It is certainly a commonly applied charge used by many other authorities and it is considered that its principle should be upheld. It is considered that it may be appropriate to consider a 'cap' on the charge, perhaps based on the planning fee, in order that it does not become prohibitive and out of proportion.
paragraph	9.5	Mr Richard Lewis	Vincent and Gorbng		<p>The additional charge of 5% for administration and monitoring is unreasonable and would not meet the tests of Circular 05/2005. Trenport would object to this additional 'tax'. If the Council wishes to employ a monitoring officer to ensure money is collected and is allocated to and spent by the appropriate beneficiaries, that is for the Council to fund, not the developer. Nevertheless, as part of any monitoring the Council should also monitor when funds need to be returned to an applicant, for the reasons given elsewhere in this submission.</p>	The draft SPD proposed a 5% charge for monitoring purposes. This charge is considered reasonable to cover the Council's costs given the need for the Council to ensure the targeted and timely use of developer contribution monies. It is certainly a commonly applied charge used by many other authorities and it is considered that its principle should be upheld. It is considered that it may be appropriate to consider a 'cap' on the charge, perhaps based on the planning fee, in order that it does not become prohibitive and out of proportion.
section	A	Mr Nigel Jennings	Natural England		<p>To ensure flood risk mitigation is secured, Natural England recommends that paragraph 4.3 makes reference to Swale Local Plan Policy E4 (Flooding and drainage), and details this policy in Appendix A. This policy states that, ' <i>where there is considered to be a risk of flooding, development proposals will be accompanied by a flood risk assessment and should a) incorporate, where necessary, sustainable drainage systems within development proposals and b) include, when necessary, new flood defence and alleviation measures installed and maintained by the developer(s).</i>' Ensuring flood risk is addressed through planning obligations is also consistent with PPS 25 <i>Development and Flood Risk</i>. PPS 25 states that development should avoid areas of high flood risk, and where this is not possible, a sequential approach should apply.</p> <p>Natural England also recommends that reference is made to Swale Local Plan Policy E12 (Sites designated for their importance to biodiversity or geological conservation), which states that ' <i>Where development may have an adverse effect, directly or indirectly on the special interest of a Site of Special Scientific Interest, it will not be</i></p>	Additional policies to be inserted.

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					<i>permitted unless the reasons for the development clearly outweigh the nature conservation value of the site, and the national policy to safeguard such sites. In such cases, conditions and/or planning obligations will be required to mitigate the harmful aspects of the development and ensure the protection and enhancement of the sites nature conservation or geological interest'. Including this policy would be consistent with PPS 9 Biodiversity and Geological Conservation, which states that Local Authorities should use planning obligations to mitigate any negative impacts of development on biodiversity.</i>	
paragraph	Section A (III).	Geoff Wilde	Octave Homes Ltd		Any monies required for local site infrastructure should be agreed in conjunction with the strategic phasing of a development; the more money payable on commencement of the development, the greater chance of a negative impact in the sites financial cash flow. A 100 unit scheme, more than likely this will be phased over 2-3 yrs and thus the infrastructure will not be proportionately affected until a greater number of units are developed and registered as occupied. Therefore contributions should be paid in parallel with development objectives and timing. Any wider infrastructure contributions should be a separate discussion by way of an in combination rule and tariff.	This will be a matter for individual Legal Agreements.
paragraph	Sect. A para (a)	Mr. Matthew Shellum	McCarthy & Stone		I think a rider needs to be attached to indicate that these structure plan policies will be obsolete once the South East Plan is adopted and this is anticipated to be sometime in 2009.	The final version of the South East Plan was published by Government Office for the South East on 6 May. This is the new Regional Spatial Strategy for the South East which sets out the housing numbers for each district in the region; and the strategic planning policies which will replace those of the Kent and Medway Structure Plan which will cease to have any validity from 6 July 2009 and will not be replaced.  Reference to all Structure Plan policies will be deleted
paragraph	Sect. A para (a)	Mr David Stewart			The document should recognise that the Kent and Medway Structure Plan will be superceded by the South East Plan within the next 2-3 months and reference to these strategic policies should be omitted .	The final version of the South East Plan was published by Government Office for the South East on 6 May. This is the new Regional Spatial Strategy for the South East which sets out the housing numbers for each district in the region; and the strategic planning policies which will replace those of the Kent and Medway Structure Plan which will cease to have any validity from 6 July 2009 and will not be replaced.  Reference to all Structure Plan policies will be deleted
paragraph	Sect. A para (b)	Geoff Wilde	Octave Homes Ltd		Development should be allowed if the time to identify funding of community services has been deemed to be unreasonably delayed to no fault of the developer. A set time period of when this should be dealt with should be agreed and documented as part of any agreement. Ideally one would expect the provision to be provided by the occupancy of the 50% unit onsite, in the event that it is not and the developer is deemed to be at fault than penalties will be applicable until such time as it is rectified.  We can not have sites approved and delayed artificially, as any and all delays causes an prejudicial financial impact on the viability of schemes which the council is not going to reimburse.	The final version of the South East Plan was published by Government Office for the South East on 6 May. This is the new Regional Spatial Strategy for the South East which sets out the housing numbers for each district in the region; and the strategic planning policies which will replace those of the Kent and Medway Structure Plan which will cease to have any validity from 6 July 2009 and will not be replaced.  Reference to all Structure Plan policies will be deleted
paragraph	Sect. A Pol. C3	G H Dean & Co			We note that Policy C3 has been given the incorrect title. Instead of "Housing developments and the provision of community services and facilities" the title should be "Provision of open space on new housing developments".	Text to be amended.
paragraph	Sect. A Pol. C3	Mr John Feetam	Sport England		It is noted that the title of Policy C3 reads the same as Policy C2' <i>Housing Developments and the provision of Community Services and Facilities</i> and not ' <i>Provision of Open Space on New Housing Developments</i> '.	Text to be amended.
paragraph	Sect. A Pol. C3	Mr Paul Sharpe	LaSalle Investment Management		We note that Policy C3 has been given the incorrect title. Instead of "Housing developments and the provision of community services and facilities" the title should be "Provision of open space on new housing developments".	Text to be amended.
section	B	Mr Howard Moore	Highways Agency		A clear and thorough evidence base is required to justify the proposed transport tariff, as stipulated in PPS12 with respect to the preparation of Core Strategies. An appropriate evidence base could comprise of scheme costs for the design, building and committed maintenance of the Sittingbourne Northern Relief Road to justify the overall tariff amount. An assessment which apportions the level of impact of planned new development on the relief road, perhaps utilising a suitable traffic modelling tool may also be required.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of transportation issues.
paragraph	B.2	Mr Howard Moore	Highways Agency		Of the 3,789 dwellings affected by the transport tariff, 3,404 are within allocated sites. Paragraph B.2 quotes 2,404 dwellings, which is assumed to be an error.	To be confirmed.

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paragraph	B.5	Mr Howard Moore	Highways Agency		Based on the information provided in the SPD it is implied that developments covered by the transport tariff zones may have to contribute to sustainable transport schemes which do not necessarily benefit new development. This may be challenged as being unfair. There is also potential for operating costs to vary over the eight year period in which it is proposed that the four new bus services will be introduced, subsequently influencing the overall tariff amount.	The bus and cycle elements are intended as complementary measures to make the town centre more accessible. Amend text to refer to "transportation tariff", rather than SNRR tariff.
paragraph	B.6	G H Dean & Co			We note under "B.6 Cycling" that the Borough Council estimates the need for approximately 6km of off road cycleway and 4 km of on road cycleway. The Council then quite arbitrarily decides that this infrastructure is necessary; purchases the necessary land; automatically gives itself planning permission and apportions the cost thereof to developments. In addition, we query for example whether the Sittingbourne Northern Relief Road will be provided with a cycle route for the whole of its length and query whether this provision is double counted within the costs for "cycling" and, separately, in the estimated costs for the "Sittingbourne Northern Relief Road" in our view, the Borough Council cannot seek contributions from developers in this quite arbitrary manner.	The bus and cycle elements are intended as complementary measures to make the town centre more accessible. Amend text to refer to "transportation tariff", rather than SNRR tariff.
paragraph	B.6	Miss Elizabeth Shier	Kent County Council		<p>Page 31 Sustainable Transport Contribution - The section appears to have not been allocated a reference. As the document reads this should be B.6 with the cycling section being B.7?</p> <p>Reference to pedestrian infrastructure should be included in line with policy T4 of the Swale Local Borough Plan. In support of this policy it would be useful to include an expectation of contributions towards development of walking and cycling from sites that encourage sustainable transport.</p> <p>Suggested wording:-</p> <p>In order to ensure that a large proportion of journeys can be made without a car - with benefits in terms of air quality, healthy lifestyles and space needed for roads and parking - a step change is needed in sustainable transport provision in Sittingbourne. Applications are required to demonstrate that they encourage sustainable transport choices both within their boundaries and, where appropriate, to local services.</p> <p>Developers will be expected to contribute to the necessary changes through capital funding towards pedestrian, cycling and bus infrastructure.</p> <p>Contributions towards a start up revenue for new bus services before moving into profitability are also required.</p>	Amend text as suggested.
paragraph	B.6	Mr Paul Sharpe	LaSalle Investment Management		We note under "B.6 Cycling" that the Borough Council estimates the need for approximately 6km of off road cycleway and 4 km of on road cycleway. The Council then quite arbitrarily decides that this infrastructure is necessary; purchases the necessary land; automatically gives itself planning permission and apportions the cost thereof to developments. In addition, we query for example whether the Sittingbourne Northern Relief Road will be provided with a cycle route for the whole of its length and query whether this provision is double counted within the costs for "cycling" and, separately, in the estimated costs for the "Sittingbourne Northern Relief Road"? The Borough Council cannot seek contributions from developers in this quite arbitrary manner.	The bus and cycle elements are intended as complementary measures to make the town centre more accessible. Amend text to refer to "transportation tariff", rather than SNRR tariff.
paragraph	B.6	Tina Khakee	Savills Plc		<p>The sustainable transport measures are set at £2million and although there is some information on the costs provided in the appendix to the SPD; there is little justification on the level and need.</p> <p>Comment:</p> <p>It is unlikely that the improvements to sustainable transport would be needed all at once, and therefore the cost of each measure should be broken down and a specific trigger set for when it is needed. The phased delivery of sustainable measures is dependent on when and if sites are delivered, and this should be reflected in the SPD wording.</p> <p>It is also considered that there should be some claw back that if monies are not spent for the purpose intended, it should be paid back to the developed within a certain</p>	The bus and cycle elements are intended as complementary measures to make the town centre more accessible. Amend text to refer to "transportation tariff", rather than SNRR tariff.

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					timeframe.	
paragraph	B.7	G H Dean & Co			<p>We object further to the outline contribution to public transport services. The existing public transport service provision in Sittingbourne is poor, largely because there is insufficient concentration of population to sustain a high level of service. The Borough Council's rejection of the growth agenda of the Thames Gateway means that this SPD is attempting to extract contributions to provide a service which is not underpinned by sufficient critical mass of population. The Borough Council's policies for a reduced rate of housing provision fails to underpin any reasonable growth in services.</p> <p>Until the Council embrace the objectives of growth within the Thames Gateway growth area therefore only limited financial contributions to public transport can reasonably be expected and the SPD should be redrafted to that effect.</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan, which sets housing figures up to 2016. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters that may arise in terms housing numbers.
paragraph	B.7	Miss Elizabeth Shier	Kent County Council		<p>Page 32 - The paragraph under Table 9 should be omitted. It is extremely unlikely that Sittingbourne will get £100,000 of funding for cycling schemes each year. If there are other schemes that contribute more towards the LTP targets and therefore score higher in the Scheme Prioritisation System, the Sittingbourne cycling schemes could miss the funding allocation for that year - simply because other schemes were better. There is no guarantee that any specific type of scheme in any area will get funding - especially with LTP3 coming into play in 2011.</p> <p>It should be pointed out that the cycling and bus funding is not part of the Northern Relief Road.</p>	Delete paragraph under Table 9.
paragraph	B.7	Mr Paul Sharpe	LaSalle Investment Management		We object further to the outline contribution to public transport services. The existing public transport service provision in Sittingbourne is poor, largely because there is insufficient concentration of population to sustain a high level of service. Only limited financial contributions to public transport can reasonably be expected and the SPD should be redrafted to that effect.	The bus and cycle elements are intended as complementary measures to make the town centre more accessible. Amend text to refer to "transportation tariff", rather than SNRR tariff.
section	C	Barratt Strategic Land		Phil Copsey	Appendix C does not provide any proper justification for the contributions sought regarding anti-social behaviour and care call facilities and it is unclear whether the physical measures for the latter identified in the appendix are sought as well as a financial contribution. The lack of evidence for these figures makes it impossible to apply the secretary of states tests as set out in Circular 05/05 as to its relevance to planning and reasonableness etc.	Appendix to be deleted
section	C	Charlotte Hudson			The ASB line is a revenue cost and I thought would not be covered by this. In addition its costs are very low. I am not sure why housing have asked for this to be put in and as we run and maintain the line seems odd. However, New developments do have an impact on our service, we remedy them mainly by improving landscaping, lighting and CCTV. Is there a way we can include these as part of a standard calculation?	Noted. Delete reference to anti-social behaviour hotline in Appendix C
section	C	G H Dean & Co			We have commented on and objected to the principle of contributions under these two headings earlier in the document. To require such contributions for new development in advance of construction is an admission of failure by the Council. It is quite unreasonable for a developer to contribute and pay in advance for the future anticipated failures of the Council. We conclude therefore that the requirements for these contributions should be deleted from the SPD.	These are revenue costs and reference to them will be deleted from Appendix C.
section	C	Mr. Matthew Shellum	McCarthy & Stone		<p>My Client - McCarthy &amp; Stone are the leading providers of sheltered accommodation for older people. The developments and the apartments all have care call facilities fitted as standard, and as such it is not appropriate to seek a financial contribution towards care call facilities from specialist developments of accommodation for older people. I consider that the obligation does not meet the tests set out in Circular 05/05.</p> <p>I think probably by the title that the Council are not seeking this contribution from specialist accommodation for older people but consider it necessary for this to be made clear in section 1.</p>	These are revenue matters and accordingly should be deleted from Appendix C
section	C	Mr Richard Lewis	Vincent and Gorbing		Trenport objects to these charges, which do not meet the tests in Circular 05/2005, for the reasons given previously.	These are revenue matters and accordingly should be deleted from Appendix C
paragraph	C4.	Mr. Matthew Shellum	McCarthy & Stone		My representations on the anti-social hotline are made on behalf of my Client, McCarthy & Stone and assessed against the tests of Circular 05/05. In that respect we need to ask is it <b>necessary</b> for a contribution to be made to a telephone hotline to make	Contributions are not required whether they fail to meet the tests of Circular 05/05. In any this item is to be deleted from the SPD for the reasons already cited.

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					<p>a development acceptable - the answer is no and on that count this obligation fails the tests of Circular 05/05. To seek a contribution towards this you would also need to demonstrate that it is <b>directly related</b> to the proposal, which implies the proposed development would be the cause of the anti-social behaviour. Please bare in mind that my client builds sheltered accommodation for older people whereby stereotypical most residents tend to be 75+ and often female. I therefore consider that it does meet this test of the Circular.</p> <p>I would therefore advise that this obligation be deleted from the SPD as it does not meet Circular 05/05 tests.</p>	
section	D	G H Dean & Co			We reiterate the comments made earlier in relation to the SPD that the approach set out, the quite absurd formulae and its repercussions have been summarily dismissed by the public inquiry process and the Borough Council will do itself a disservice by continuing to promote this discredited approach.	Formula has operated successfully for many years and will be retained in the SPD. The formula is simple to use and as realistic as possible, taking into account actual contract costs and applying them over 10 years and an allowance for both interest received on the contribution and inflation on the contract cost.
section	D	Miss Debbie Salmon	Kent Wildlife Trust		The Trust welcomes the contribution to the maintenance of trees and hedges within the open space. However, the costings given in Table 12 are likely to be most relevant to formal, landscaped open space, and not to areas of natural green space which form part of a green grid or may be required as environmental mitigation. The Authority may need to consider identifying a separate scale of charges to apply to natural open space.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of Green Grid.
section	D	Mr. Matthew Shellum	McCarthy & Stone		<p>My Client is a provider of specialist accommodation for older people, given the nature of the occupants a request for a contribution towards play facilities does not meet the tests of Circular 05/05 as it would not be necessary and is not directly related to the development. In regard to maintenance payments for open space the Council need to be aware of Paragraph B.19 of Circular 05/05 which states;</p> <p><i>As a general rule, however, where an asset is intended for wider public use, the costs of subsequent maintenance and other recurrent expenditure associated with the developer's contributions should normally be borne by the body or authority in which the asset is to be vested.</i></p> <p>I do not believe the requested maintenance contribution complies with Circular 05/05.</p> <p>Therefore, I consider that the SPD should state that financial contributions towards play facilities and maintenance of open space is not required from specialist accommodation for the elderly.</p>	<p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05. As at present, it is likely that there would be no justification for providing children's play equipment on a sheltered housing site.</p> <p>In accordance with paragraph B20 of Circular 05/05 a maintenance charged has operated successfully for many years and will be retained in the SPD.</p>
section	D	Mr David Stewart			The contributions set out in the table below do not appear to relate known shortfalls or deficiencies as identified in open spaces/playing fields/ play area assessments. Without such an assessment there can be no definite shortfalls, surpluses or deficiencies which may arise from a development. As such they fail to meet the primary requirements of the circular 05/2005 and should be removed from this document.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms of the Council's PPG17 Open Spaces Strategy.
section	D	Mr John Feetam	Sport England		Appendix D of the SPD states that ' <i>in certain circumstances contributions will be accepted for "off site" improvements such as formal sports provision where it is not appropriate to have such provision on site</i> '. Should this apply to developments of over 200 dwellings then the concerns raised regarding the process for developments under 200 dwellings (in particular the costs of provision) would also apply.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
section	D	Mr John Feetam	Sport England		Where financial contributions are required Sport England would suggest that a priority list of projects should be provided for each provision type to indicate where any contributions will be directed. This priority list should be founded on a sound evidence base such as a PPG17 compliant study. The list should either be included in the SPD or reference provided to the relevant list within a related document e.g. PPG17 Study, Playing Pitch Strategy, and Infrastructure Plan.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
section	D	Mr John Feetam	Sport England		<p>Sport England expects such SPD's to clearly present the qualitative standards required for each provision type. As well as ensuring appropriate and fit for purpose provision, the inclusion of such standards will help achieve the objectives of the SPD in providing greater clarity on the nature of provision sought and the design quality expected.</p> <p>Sport England would expect that in all but exceptional cases any sporting provision should adhere to our adopted Design Guidance Notes. These notes can be viewed and downloaded via our website at:  <a href="http://www.sportengland.org/index/get_resources/resource_downloads/facilities_guidance.htm">www.sportengland.org/index/get_resources/resource_downloads/facilities_guidance.htm</a></p> <p>With regards to the provision for formal outdoor sports provision and associated facilities sought by Policy C3 please see our relevant guidance notes, 'Natural Turf for</p>	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.

Type	Number	Full Name	Organisation Details	Agent	Comment	Officers Response
					Sport' and 'Pavilions and Clubhouses'.	
section	D	Mr Richard Lewis	Vincent and Gorbing		A figure of £690 per dwelling is identified as the cost for play equipment. However, there is no justification in the document for this figure and how it is arrived at.  The calculation of future maintenance contributions seems unduly complicated. It is therefore difficult to make any comments.	The play contribution figure is based on providing play facilities – LEAP or NEAP (fields in Trust) in larger new estates or as a contribution towards increasing capacity or quality in existing facilities. The figure is based on generating a contribution to provide £60,000-£70,000 for a LEAP.
table	Table 12	Mr John Feetam	Sport England		The only costs are provided within Appendix D (Table 12) and these focus on the maintenance of open space. The only development cost included appears to be for play equipment.	The SPD has been prepared in accordance with the 2008 Swale Borough Local Plan. Once the Council's Core Strategy has been adopted, the SPD will be revised/updated to reflect matters arising in terms its PPG17 Open Space Strategy.
table	Table 12	Mr Richard Lewis	Vincent and Gorbing		Many of these items should more properly be covered by Council Tax rather than a developer. The future residents of a development will pay Council Tax themselves which will provide additional revenue for the Council which will help to cover the cost of future maintenance of open spaces created as part of a development for which contributions are sought. Therefore the maintenance is effectively being paid for twice over, which is unreasonable.  The charge of £690 per dwelling (we assume per annum) for maintaining play equipment appears to be excessive.	Formula has operated successfully for many years and will be retained in the SPD.  The play contribution figure is based on providing play facilities – LEAP or NEAP (fields in Trust) in larger new estates or as a contribution towards increasing capacity or quality in existing facilities. The figure is based on generating a contribution to provide £60,000-£70,000 for a LEAP.
section	E	Miss Elizabeth Shier	Kent County Council		Page 38 Appendix E: Education  To distinguish the text of this section from that in Appendix F the following changes are suggested  Line 1: delete 'community infrastructure' and insert 'education'  Line 4 delete 'each area of contribution 'and insert 'education contributions'	Corrections to be made.
section	E	Mr Richard Lewis	Vincent and Gorbing		We would make the general comment that these charges should only be sought where existing schools do not have the capacity to accommodate needs arising from a development and there is a need to increase provision to cater for these needs. They should not be sought as a matter of course without assessing the implications of the proposals on existing facilities.	Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.
section	E	Tina Khakee	Savills Plc		It is acknowledged that the Council would require contributions for; education (primary, secondary, higher education), social services, libraries, youth & community, health, community facilities, recreation. The example contained in the SPD has a cost per average of £6k per dwelling.  Comment:  Whilst formulae and standard charges are welcomed to provide clarity, the additional amount is considerable. The formulae should be used as a starting point rather than an inflexible tariff and the SPD text should reflect this. Circular 05/2005 suggests that standard charges should reflect the actual impacts of the development. Their main purpose is to give certainty to developers and increase speed of negotiations; they should not be applied in blanket form and regardless of actual impacts.  In this instance, the formulae does not reflect specific development impact, i.e. lower child yield for specific types of housing, other community/regeneration benefits of a scheme, etc. Therefore the SPD wording should refer to the specific impacts of the development and that the formula is the starting point for discussions.	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.  Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.
table	Table 13	Miss Elizabeth Shier	Kent County Council		Amend title of Table 13 to Education Contribution Rates per dwellings	Noted. Amend heading.
table	Table 13	Mr. Matthew Shellum	McCarthy & Stone		Again to seek a contribution towards education facilities from specialist accommodation for older people would not comply with the Circular tests as it would not be necessary or directly related to the proposed development. I would suggest for clarity that the SPD states this.	Noted.  Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.
table	Table 13	Mr David Stewart			No objections are raised to the principle of educational contributions but specific reference should be made to circumstances where temporary accommodation could be used to satisfy a short term shortfall of places.	KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall.

Type	Number	Full Name	Organisation Details	Agent	Comment	Officers Response
section	F	Mr.Matthew Shellum	McCarthy & Stone		My representations on this part of the document cannot be levied at the Council's drafting but at the methodology used by KCC. The flat rate contribution per dwelling is not fairly and reasonably related in scale and kind. A five bedroom family house is likely to provide more occupants and a greater burden on infrastructure facilities than a 1 bedroom sheltered apartment. Therefore, the contribution needs to be proportionally representative of the type and size of accommodation being proposed. A flat rate per dwelling does not do this. In this regard the requested contributions do not meet the tests of Circular 05/05 as they are not fairly and reasonably related in scale and kind.	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.
section	F	Mr David Stewart			Concerns have already been raised over the tariff nature of the contribution and the lack of specific identified shortfalls of accommodation. The contributions therefore appear to fail the test that they are directly related to the development	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.  KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.
section	F	Mr Richard Lewis	Vincent and Gorbing		Trenport objects to the requirement for contributions towards libraries and archives, adult education and youth community services. It is difficult to see how contributions towards these services would be necessary to make a proposal acceptable in planning terms or how they would be directly related to the proposed development, and so would not meet the requirements of Circular 05/2005.  We would also make the general comment that charges should only be sought where existing services do not have the capacity to accommodate needs arising from a development and there is a need to increase provision to cater for these needs. They should not be sought as a matter of course without assessing the implications of the proposals on existing services. The contribution must be justified on the basis that the services are located so that they are of direct use to residents of the proposed development and are not spent on "Borough wide" provision.	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.  KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.
section	F	Rose Freeman	The Theatres Trust		The Theatres Trust is The National Advisory Public Body for Theatres. The Town & Country Planning (General Development Procedure) Order 1995, Article 10, Para (v) requires the Trust to be consulted on planning applications which include ' <i>development involving any land on which there is a theatre.</i> ' It was established by The Theatres Trust Act 1976 ' <i>to promote the better protection of theatres.</i> ' This applies to all buildings that were either built as theatres or are used for theatre presentations, in current use, in other uses, or disused.  Due to the specific nature of the Trust's remit we are concerned with the protection and promotion of theatres and therefore anticipate matters relating to cultural facilities.  'Culture' is much more than just public art and playing field and presumably it is the Council's intention to reflect this in the document although cultural facilities are not included.  The Trust recognises the importance of planning obligations to assist existing theatre owners in becoming more self-reliant and to obtain better buildings by using the planning system and working with the private sector. We are concerned that theatre buildings do not benefit appropriately under the terms of S106 and other agreements and that it will increasingly be necessary to unlock new sources of funding to help pay for significant improvements to them.  Section 106 agreements have been used to secure the inclusion of performing arts facilities within large mixed-use developments and urban regeneration projects. This opportunity has the potential to provide theatres with premises that are fit for purpose and will support a long-term sustainable business model. There is genuine potential to add economic and cultural value to commercial development projects for the benefit of the local community especially by supporting theatres through improvements to their surrounding public realm.  Scaling back s106 agreements to exclude theatres and cultural facilities would have the effect of reducing the level of income afforded to the cultural sector through planning obligations.	Cultural provision is likely to arise out of major regeneration projects. The specific issue in this regard will be embodied in the relevant DPD/SPD for the site in question.
section	F	Tina Khakee	Savills Plc		It is acknowledged that the Council would require contributions for; education (primary, secondary, higher education), social services, libraries, youth & community, health, community facilities, recreation. The example contained in the SPD has a cost per	Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.

Type	Number	Full Name	Organisation Details	Agent	Comment	Officers Response
					<p>average of £6k per dwelling.</p> <p>Comment:</p> <p>Whilst formulae and standard charges are welcomed to provide clarity, the additional amount is considerable. The formulae should be used as a starting point rather than an inflexible tariff and the SPD text should reflect this. Circular 05/2005 suggests that standard charges should reflect the actual impacts of the development. Their main purpose is to give certainty to developers and increase speed of negotiations; they should not be applied in blanket form and regardless of actual impacts.</p> <p>In this instance, the formulae does not reflect specific development impact, i.e. lower child yield for specific types of housing, other community/regeneration benefits of a scheme, etc. Therefore the SPD wording should refer to the specific impacts of the development and that the formula is the starting point for discussions.</p>	KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.
section	G	Miss Elizabeth Shier	Kent County Council		<p>Page 40 Appendix G: Adult Social Services</p> <p>To distinguish the text of this section from that in Appendix F the following changes are suggested</p> <p>Line 1: delete 'community infrastructure' and insert 'adult social care service '</p> <p>Line 4 delete 'each area of contribution 'and insert 'adult social care service contributions"</p>	Text to be amended.
section	G	Mr.Matthew Shellum	McCarthy & Stone		<p>Again I have to question whether this contribution meets the tests of the Circular 05/05 as to whether it is necessary for an otherwise acceptable residential development to go ahead.</p>	<p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.</p>
section	G	Mr David Stewart			<p>It is considered that this contribution fails to meet the stringent tests set out in circular 05/2005 in that they are not directly related to the proposal in that they are tariff based and have no substantiated factual basis</p>	<p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.</p>
section	G	Mr Richard Lewis	Vincent and Goring		<p>Trenport would object to the requirement for a contribution towards adult care services. It is difficult to see how this is necessary to make a proposal acceptable in planning terms or how it would be directly related to the proposed development, and so would not meet the requirements of Circular 05/2005.</p>	<p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.</p>
section	G	Tina Khakee	Savills Plc		<p>It is acknowledged that the Council would require contributions for; education (primary, secondary, higher education), social services, libraries, youth &amp; community, health, community facilities, recreation. The example contained in the SPD has a cost per average of £6k per dwelling.</p> <p>Comment:</p> <p>Whilst formulae and standard charges are welcomed to provide clarity, the additional amount is considerable. The formulae should be used as a starting point rather than an inflexible tariff and the SPD text should reflect this. Circular 05/2005 suggests that standard charges should reflect the actual impacts of the development. Their main purpose is to give certainty to developers and increase speed of negotiations; they should not be applied in blanket form and regardless of actual impacts.</p> <p>In this instance, the formulae does not reflect specific development impact, i.e. lower child yield for specific types of housing, other community/regeneration benefits of a scheme, etc. Therefore the SPD wording should refer to the specific impacts of the development and that the formula is the starting point for discussions.</p>	<p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>KCC is able to provide detailed information as to need, shortfall in capacity and location of need/shortfall. Text to be amended to confirm that contributions will only be sought where there is a shortfall in capacity.</p>

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section	H	Messrs David, Roger, John and Andrew Lawrence		Tetlow King Planning	As mentioned above matters relating to affordable housing should be taken out of this SPD and reviewed comprehensively in the new SPD on affordable housing.	Affordable Housing is a key developer contribution matter and accordingly it is appropriate to deal with it within this SPD.
section	H	Miss Elizabeth Shier	Kent County Council		Page 42 - The requirements specified here to address the Lifetime Homes standards are welcomed. From a KASS perspective this is important.	Noted
section	H	Mr David Stewart			It is considered that this should form part of a separate SPD on affordable housing rather than be included here	Affordable Housing is a key developer contribution matter and accordingly it is appropriate to deal with it within this SPD.
section	H	Mr Richard Lewis	Vincent and Gorbing		We question whether this SPD is the proper location for this advice.	Affordable Housing is a key developer contribution matter and accordingly it is appropriate to deal with it within this SPD.
section	I	Miss Elizabeth Shier	Kent County Council		<p>Page 43 - First sentence. It should read 'other than trunk roads and motorways, which are.'</p> <p>Delete first sentence of the last paragraph</p> <p>Page 43- An extra paragraph needs to be added. 'Developers should contact Kent Highway Services about commuted sums which may be required in respect of maintenance of adoptable works secured through S38 and S278 agreements.'</p>	Text to be amended.
section	I	Mr David Stewart			This section should be deleted in that it is non specific and fails to meet the SPD's own requirement for adding clarity to the process. Moreover there is no agreed or formulated plan on which contributions can be based. Moreover it seems to suggest a tariff based approach which fails to respond to issues arising directly from the development proposal itself. Finally we question whether any KCC based contribution should be included in the local planning authority's own SPD as they are administered by a different authority.	<p>Each application will be considered on a case by case basis with reference to the five tests set out in Circular 05/05.</p> <p>Paragraph 9.3 confirms that all monies will be collected (and allocated) by Swale Borough Council.</p>