

APPENDIX B

PLANNING OBLIGATIONS DRAFT SUPPLEMENTARY PLANNING DOCUMENT

SCHEDULE OF COMMENTS AND RESPONSES

Please note that the paragraph numbers quoted in responses relate to the Draft document. The final document has been re-paragraphed owing to modifications.

Paragraph /Theme in Consultation Draft	Organisation	Comment as submitted	Response
Chapter 1: Preamble: Planning Obligations Supplementary Planning Document Consultation	Environment Agency Lutterworth Town Council	Document is clear There is no discernible link to some of the references given throughout the document. There are references to non-existent paragraphs and clauses, which should be corrected.	The document has been further checked for cross references.
General comments	Lutterworth Town Council	The priorities all appear to be included but the transparency of the process could be significantly improved.	Noted. It is intended to produce a Parish and Town Council Guide to S106 Agreements during 2016 as a complimentary guide to ensure that local Councils are fully informed and aware of the processes of engagement over S106 Agreements.
Chapter 2: Introduction			
Chapter 3: Policy Framework and Planning Obligations	Individual	Some of the assumptions on pooling for strategic infrastructure may not meet the CIL Tests given the reduced powers related to S106 and on-site impacts only.	The document outlines the CIL Tests in paragraph 2.1 The document is not intended to ignore these nor the pooling restrictions and paragraph 4.2 relates to this.
General comments	Individual	Some aspects of the SPD seem to ignore the CIL regulations with regard to pooling for CIL chargeable items, and don't seem to be related in scale and kind to the impact of the development on a site by site	See above

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	Individual	<p>basis but are more strategic in nature. We understand that S106 can no longer function in this way.</p> <p>Thresholds, costs and obligations sought per dwelling are not entirely clear. For pooled contributions, the Council will need to provide up to date on line lists of what S106 contributions have been achieved since 2010 to ensure there is no breach of the pooling restrictions. This would ensure that pooling levels per obligation type are transparent to all at pre-application stage and avoid breaching the pool figures of 5 per obligation.</p>	<p>The suggestion that the document should more clearly set out in a tabular format the obligations generally sought by development type is helpful and this has been inserted into the document as Annex 1.</p>
	Individual	<p>(need to improve clarity) there is no firm agreement from the developer</p>	
	Lutterworth TC	<p>there needs to be a clearer definition between commercial and residential requirements</p>	<p>See response above</p>
	Individual	<p>This could be more clearly set out in terms of development size and thresholds for each obligation type. Alternatively an on-line calculator would be very helpful</p>	<p>See response above</p>
	Lutterworth TC	<p>The transparency for dispersal (of community funds) needs to be improved and local Town and Parish Councils must be more heavily involved and informed throughout the process.</p>	<p>It is intended to produce a Parish and Town Council Guide to S106 Agreements during 2016 as a complimentary guide to ensure that local Councils are fully informed and aware of the processes of engagement over S106 Agreements.</p>
	Lutterworth TC		

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	Individual	<p>Increase the involvement of Town and Parish Councils at all levels to improve transparency and communication.</p> <p>I have gone through this document and although it gives the impression of being open there are no specifics or numbers or areas where this will be implemented. It is also confusing with the wording and in laymen's term is not very clear on what exactly is going to take place. Also how someone can find out what is happening in a specific area.</p>	<p>The document highlights that all correspondence related to S106 matters and individual applications are placed on the planning register and it is open for all to see .</p>
3.1 National Policy and Guidance	<p>Hazelton Homes</p> <p>Lutterworth TC</p> <p>Individual</p>	<p>2.1 National guidance has changed following the recent Planning Court decision (West Berkshire District Council and Reading Borough Council v DCLG [2015] EWHC 2222 (Admin)). The paragraph must be corrected.</p> <p>Whilst the National Policy and Guidance is understood, there needs to be more transparency where Developer Contributions are concerned, especially with regard to the monitoring and timescales for delivery of these Obligations.</p> <p>The National Policy is OK. However - the guidelines are exactly that. This allows flexibility to suit the local needs. Guidelines are often used as a ' they are within the guidelines'. People need to think outside</p>	<p>Since the consultation period, the courts have upheld the Government position and national guidance has changed again . There is no need now to update the document in this regard.</p> <p>This point is noted. The document highlights that annual monitoring reports will cover S106 matters and be published.</p> <p>Noted but this does not require change to the document.</p>

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	<p>Thurnby & Bushby PC</p> <p>Individual</p>	<p>the box</p> <p>Policy on Planning Obligations, para 3.5, - The Parish Council understands that following a legal challenge, this has changed from 10 to 3 units. Therefore need to amend bullet point 9 to read "that contributions to affordable housing should not be sought below a threshold of 3 units ..."</p> <p>National policy and the CIL Tests set the framework that local level policies and SPD's must work within, therefore these set out the key policy context which the local level plan must comply with. This is not optional.</p>	<p>See above point.</p> <p>Noted -the document does not suggest that adherence to national policy is option.</p>
3.7 Local Policy	<p>Billesdon PC</p> <p>Individual</p> <p>Lutterworth TC</p>	<p>The policy should make greater reference to Neighbourhood Development Plans</p> <p>Local Policy does not include constructive feedback and the approach made by the local Town Council. The needs of each community is different - and therefore local policy needs to respect local needs</p> <p>Local parish and town councils should be included as relevant consultees so that local needs can be taken into consideration.</p> <p>Additionally the views of the local clinical commissioning group should be sought i.e.</p>	<p>This section of the document simply summarises existing local planning policy.</p> <p>Noted. Paragraph 3.25 now includes reference to the responses of local councils being taken into account in helping to decide on appropriate planning obligations.</p> <p>See above response.</p> <p>These views are already taken into account through the response of NHS England.</p>

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	Kibworth Harcourt PC	<p>Doctors, Dentists, Community Hospitals etc.</p> <p>You include areas of Adult Health & Social Care and Public Health, but what about increasing capacity for GPs and dentists - these do not strictly come within either of the two areas listed and neither is children's health covered. Better to include the two areas plus another for general NHS provision.</p>	The term public health has been amended to Health Care – it was always intended to cover all primary health care services.
Chapter 4: Managing Planning Obligations			
4.2 Development Planning - basis for considering obligations	<p>Individual</p> <p>Lutterworth TC</p>	<p>Development planning needs to involve the local Town/Parish councils - as they have the knowledge which the planners do not have.</p> <p>There is concern that planning obligations are no longer strict enough due to differing interpretations where the term 'viability' is used.</p>	<p>Development planning does involve close liaison with Town and Parish Councils. Paragraph 3.25 now includes reference to the responses of local councils being taken into account in helping to decide on appropriate planning obligations.</p> <p>These Comments are noted but the Council seeks to adopt a robust assessment of viability using same approaches to each application and using independent consultants to assess each viability statement.</p>
4.3 Pre Application	Individual	A longer lead in-time and complete visibility along with step by step consultation needs to be in place	<p>Response to all comments made:</p> <p>It is not consider appropriate to change processes as set out in the Draft SPD with regard to pre application discussions.</p>

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	Thurnby and Bushby PC	Local knowledge is important for assessing appropriate S106 obligations, especially where planning issues are large and/or controversial. The procedure for the Pre-application Stage and draft S106 agreements should include local input from at least Ward Member level, and, if appropriate, with Parish Councils and other local interests.	Council officers need to have confidential discussions with potential applicants about schemes in order to advise on the likely obligations due. This may influence whether a development proposal is progressed or not.
	Lutterworth TC	<p>Parish and Town Councils should be engaged throughout the process for all applications where developer contributions are being sought.</p> <p>Although we wish for all applications to be processed in a timely manner, this should not limit full consultation and discussion with the local communities affected.</p>	<p>At pre application stage, proposals can be formative and speculative. It should remain the potential applicant's decision what information is released into the public domain. Pre application consultation is already encouraged by the Council and is something which is the applicant's decision.</p> <p>Current processes relating to member notification of pre application matters should remain as it currently is.</p>
	Kibworth Harcourt PC	4.3.5 Why should pre-application discussions not default to being disclosed to district councillors and parish councils? So suggest changing this around such that all are disclosed automatically unless developer is not content for the disclosure.	Comments are noted but are not considered to require additional change to the document.
	Scraptoft PC	4.4.10 Yes Council should generate opportunities to secure local employment and training opportunities during the construction of commercial developments.	

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	Lubenham PC	States ' pre-application discussions may be disclosed to District Councillors and Parish Councils where the potential applicant is content with this. This appears a rather passive statement and should be strengthened to set an expectation that these discussions will be disclosed unless there is a justification not to.	
	Scraptoft PC	Each pre planning application should be discussed with District and Parish Councillors within the Ward of the application.	
	Thurnby and Bushby PC	Managing Planning Obligations, para 4.3.5 states "Pre-application discussions may be disclosed to District Councillors and Parish Councils where the potential application is content with this". It is felt that this should be actively encouraged as good practice.	
	Individual	It is not always possible to enter into pre application discussions due to timing or contractual stipulations. The SPD should offer the ability to assess what requirements may be necessary for a development of a given scale based on either clear methodology per requirement type or with reference to an online calculator.	
4.4 Making an Application	Anglian Water	Contributions from developers towards foul sewerage network improvements (where required)	Several respondents to this section suggest that a model template for submitting planning obligations

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	Davidsons	<p>will be sought under the Water Industry Act 1991.</p> <p>Our client considers that a standard template for agreeing planning obligations would be very useful. We would suggest that this is appended to the SPG for ease of reference. This approach is advocated by the PPG (Reference ID 23b-027-20150326).</p>	<p>should be provided. This approach is not supported by HDC legal services who consider that it may encourage people to submit proposals without legal experience or knowledge. To expedite matters, Legal Services are happy to accept applicants submitting draft obligations and this occurs in the majority of cases but this is best done in the format the applicant's legal advisors prefers. Alternatively, HDC Legal Services will draft an agreement.</p>
	Hazelton Homes	<p>Paragraph 4.4.6 should refer to Regulation 123 of the Community Infrastructure Regulations ("the CIL Regs") and the Council should make it clear that it will make available up to date information on the number of obligations entered into since 6 April 2010 for specific projects or types of infrastructure.</p>	<p>The relevant paragraph has been amended to reflect this position (please refer to para 4.2 in the final document)</p> <p>An additional paragraph has been inserted to clarify the types of development for which there is likely to be exemptions from the need to make planning obligations. Please refer to paragraph 3.23 in the final draft document.</p>
	Gladmans	<p>Question 12 and Paragraph 4.4.7: Typographical error; should be reference to paragraph 4.9.5.</p>	
	Bloor Homes	<p>It would be beneficial if the SPD contained an Appendix that set out a model legal agreement in template form that could be used as a guide to</p>	<p>See first response in this section</p>

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	Individual	<p>preparing suitable S106 agreements. This would likely save time and resources later on in the planning process.</p>	<p>It is already emphasised at the beginning of the document that the CIL Regulations form the framework within which all S106 obligations are considered.</p> <p>This is a general planning matter and not specifically related to S106 obligations.</p> <p>Individual private dwellings would normally attract S106 obligations but each application will be judged on its merits and assessing the impact of each development.</p> <p>Refer to response above.</p>
Lutterworth TC	<p>With reference to paragraph 4.4.6 and 4.4.10, and with the restrictions placed on pooling planning obligations in mind, the Council should consider an obligation request in light of CIL Regulations 122 and 123. This should be made clear throughout the document</p>		
Individual	<p>Take into account the quality of build i.e. does this look right, will it blend in with the existing houses. How will they fit in with the future of the town?</p>		
Hazelton Homes	<p>Can the document clarify if applications for older persons care facilities should be subject to planning obligations:?. Some have independent living units and are essentially separate apartments / dwellings. Others have communal living also within an extra care complex. .</p> <p>I would like to think there was already (a model template for S106) in place . If there is not , then the answer would yes.</p>		

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	<p>Kibworth Harcourt PC Lutterworth TC</p> <p>Thurnby and Bushby Society</p>	<p>A template s106 would be useful and should serve to reduce delay.</p> <p>A model legal agreement template would be useful - yes.</p> <p>This document would be considered most useful, particularly if this ensured that greater weight was given to comments received from Town and Parish Councils.</p> <p>Local knowledge is important for assessing appropriate S106 obligations, especially where planning issues are large and/or controversial. The procedure for the Pre-application stage and draft S106 agreements should include local input from at least Ward Member level, and, if appropriate, with Parish Councils and other local interests.</p>	<p>Refer to response above.</p> <p>Noted. Paragraph 3.25 now includes reference to the responses of local councils being taken into account in helping to decide on appropriate planning obligations.</p> <p>Noted. Paragraph 3.25 now includes reference to the responses of local councils being taken into account in helping to decide on appropriate planning obligations.</p>
4.5 Determining Planning Applications	Hazelton Homes	<p>Paragraph 4.5.2: Planning applications should only be determined once the s106 Agreement has been completed rather than detailed draft Heads of Terms agreed.</p> <p>Agreeing Heads of Terms, including timings of payment, prior to a resolution to grant subject to a s106 Agreement appears onerous as that is a matter which can properly be addressed following</p>	<p>Agreement over Heads of Terms is considered essential in order to provide the decision maker with confidence that obligations necessary to make the development acceptable are willing to be formally supported in a subsequent legal agreement.</p>

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	Thurnby and Bushby Society	<p>resolution to grant</p> <p>Of late it has been observed that abuse of the S106 obligations system has crept in. This appears to be because of the enormous pressure on Planning Officers and the Development Control Committee to approve planning applications and the assumption that any difficulty can be overcome at a later date by a S106 agreement where appropriate.</p> <p>This pressure has discouraged proper assessment of planning issues which means an unsatisfactory situation is created or at the very most a second best solution has to be found.</p>	<p>This comment is noted but is not considered to require additional change to the document as it sets out robust arrangements to guard against any anomalies in the way that the Council responds to the need for obligations.</p>
	Lutterworth TC	<p>4.6.5 Parish Councils should be included in the notification at this stage.</p>	<p>Noted. Paragraph 3.25 now includes reference to the responses of local councils being taken into account in helping to decide on appropriate planning obligations.</p>
	Thurnby and Bushby PC	<p>Chapter 4, para 4.5.2 reads "Planning applications will not be determined unless there is a draft Heads of Terms for s106 Obligations agreed with the applicant in writing, placed on the planning register (the electronic database of planning applications and associated correspondence known as the Planning Portal) and included in reports etc..." The Parish</p>	<p>We note the support of the PC to this matter.</p>

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	<p data-bbox="483 453 658 517">Davidsons Developments</p> <p data-bbox="483 884 584 911">Bidwells</p>	<p data-bbox="766 276 1323 336">Council believes that this is essential and must adhered to.</p> <p data-bbox="766 453 1402 624">Our client is broadly in agreement with the proposed planning obligations process. We would agree that it would be helpful to have an indication of the likely level of planning obligations that will be requested at the pre-application stage wherever possible.</p> <p data-bbox="766 668 1391 839">Our client disagrees that draft S106 agreements should be placed on the Electronic Planning Register. The documents are not for public consultation, and as such their publication on the Electronic Planning Register is misleading.</p> <p data-bbox="766 884 1402 1054">Our client is broadly in agreement with the proposed planning obligations process. We would agree that it would be helpful to have an indication of the likely level of planning obligations that will be requested at the pre-application stage wherever possible.</p> <p data-bbox="766 1099 1384 1270">Our client considers that a standard template for agreeing planning obligations would be very useful. We would suggest that this is appended to the SPG for ease of reference. This approach is advocated by the PPG (Reference ID 23b-027-20150326).</p>	<p data-bbox="1431 453 2029 517">We note the agreement of Davidsons and support the early identification of planning obligations.</p> <p data-bbox="1431 668 2029 767">We cannot agree to this point. Transparency is important – the documents are not advertised for consultation</p> <p data-bbox="1431 884 1733 911">Refer to earlier response.</p> <p data-bbox="1431 1099 1733 1126">Refer to earlier response.</p>

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4.6 Finalising the S106 Agreement	Hazelton Homes	<p>Paragraph 4.6.1: Reference to "any other interested party" could be confusing and may provide a legitimate expectation that third parties, including members of the public, have a right to take part in discussions concerning the drafting of the s106. This would be better drafted as "any other party to the Agreement".</p>	<p>It is agreed that for clarity the phrase "any other interested party" should be changed to "any other party to the Agreement" as the legal officers will respond to parties to the agreement only. Please refer to para 3.29 in the final document</p>
	Thurnby and Bushby Society	<p>Paragraphs 4.6.4/4.6.5: We would query the fact that the members are notified of the final draft Agreement before execution. Does this mean that Members can influence whether the final Agreement can be executed? Serious concerns would be raised with regard to potential delays if Members could influence completion of agreed drafts.</p>	<p>Member notification does not mean that members can influence the decision regarding execution of the final Agreement.</p>
	Lutterworth TC	<p>No planning application should be approved before a S106 agreement is in place</p> <p>To ensure transparency all Town and Parish Councils should be offered an opportunity for involvement via secure web links.</p>	<p>It is a reasonable expectation that draft agreements are placed in the public domain as they progress towards execution. It is important that there is public awareness concerning the obligations which are being entered into arising from development. This will allow any parish councils to make representations to the Council if needed.</p>
		<p>Why are Parish Councils excluded from being able to</p>	

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	<p data-bbox="481 416 707 480">Kibworth Harcourt PC</p> <p data-bbox="481 632 600 655">Individual</p> <p data-bbox="481 847 636 871">Bloor Homes</p> <p data-bbox="481 1102 658 1166">Gladman Developments</p> <p data-bbox="481 1246 636 1270">Bloor Homes</p>	<p data-bbox="763 272 1144 296">see draft and final agreements?</p> <p data-bbox="763 416 1391 584">The development will be taking place in a parish, so surely parish councils should also be able to see and make comments on the draft agreement, as they may become ultimately responsible for ensuring some of the obligations are undertaken.</p> <p data-bbox="763 632 1368 727">I think the S106 fund should be given to the local town council and should be used locally to support and make the local town a better place to live</p> <p data-bbox="763 847 1368 943">Paragraph 4.6.1 should not prejudice the applicant and their legal representatives from initiating the drafting of the S106 Agreement.</p> <p data-bbox="763 991 1379 1198">It should also be recognised that many developers can prepare S106 agreements to support sites in a more timely and efficient manner which may assist the Local Planning Authority (LPA) in terms cost and resource savings. This would of course be done in conjunction with the Council</p> <p data-bbox="763 1246 1335 1342">The S106 Legal Agreement should only be made publically available / accessible following its completion.</p>	<p data-bbox="1429 632 2029 727">Noted. The Council seeks to ensure that funding is made available to local communities as quickly as possible.</p> <p data-bbox="1429 847 2040 1054">Changes are suggested to the paragraph dealing with forming agreements, to confirm that the Council will normally expect that draft agreements will be submitted by the applicant for review and any further negotiation. Please refer to paragraph 3.28 in the Final Draft Document.</p> <p data-bbox="1429 1246 2029 1310">See the above comment related to the importance the Council places on transparency.</p>

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4.7 Variations to Planning Obligations	<p>Davidsons Developments</p> <p>Thurnby and Bushby Society</p> <p>Broughton Astley PC</p> <p>Bloor Homes</p> <p>Lutterworth Town Council</p>	<p>The monitoring and reporting of planning obligations is welcomed. The audit trail identified in paragraphs 3.37-3.44 will be of particular benefit to both the Council and the applicant and should also be used to inform other interested parties and stakeholders that improvements have been made as a result of the development, in particular parish councils.</p> <p>Variation of a S106 obligation has the potential to be used by Developers to rescind any parts of the S106 agreement which has previously been agreed in the haste to get planning approval. Variations to planning obligations by S106 agreement should only be considered if the situation has genuinely changed.</p> <p>The Parish Council would welcome formal notification of any variations to planning obligations</p> <p>Reference should be made to the appeal provisions available (Section 106B and Section 106BC of the Town and Country Planning Act 1990) in the event that the Council refuse an application to vary or remove a planning obligation.</p> <p>Town and Parish Councils should be offered an opportunity for involvement via secure web link at</p>	<p>Noted.</p> <p>Noted. Agreement to any variation must be on the basis that the planning proposal remains acceptable.</p> <p>Noted. Paragraph 3.25 refers to such notification when applications are made.</p> <p>These clauses no longer apply as they were introduced for a temporary period.</p> <p>Noted, but the process of forming obligations will be recorded on the Planning Register and local</p>

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		all stages throughout the Developer Obligation process.	Councils may make representations.
4.8 Monitoring the implementation of planning obligations	<p>Kibworth Harcourt PC</p> <p>Thurnby and Bushby Society</p>	<p>Despite the fact there is to be a specific HDC officer with responsibility for ensuring planning obligations are undertaken, it is likely to be a parish council/meeting who also communicate with the planning officer on any areas where the obligation is not being satisfactorily undertaken.</p> <p>A Developer can claim 'maintenance' before the actual development begins. This groundwork could potentially flout S106 agreements before HDC is aware. A Developer can go after development before the S106 obligations are completed. It's difficult to persuade a Developer to come back, particularly if they are no longer in business. Monitoring by HDC needs to be improved. Enforcement are overstretched and are not Planning Officers. They rely on information from locals who cannot always observe what is going on. Can Planning Officers take more responsibility for a Development as it is implemented</p>	<p>All these comments are noted. We particularly note the opportunity for parish councils to assist in monitoring developments. At present we consider that the Council has adequate resources to monitor obligations but will look at whether a stronger partnership with Parish Councils would be helpful</p> <p>The various comments relate to aspects of the monitoring process and are not considered to require additional change to the document.</p>

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	Broughton Astley PC	The Parish Council would welcome formal notification when such triggers are reached and obligations fulfilled.	
4.9 Other aspects of Planning Obligations			
4.9.1 Tariffs or Standard Charges	Bloor Homes	How does this 'umbrella' strategy sit with the pooling restrictions imposed by CIL Regulation 123? Does this approach satisfy CIL Regulation 122?	Standard charges or tariffs are set by an infrastructure agency as a system of setting reasonable contributions per dwelling when contributions are otherwise considered CIL compliant. It must be clear what the contributions are meant to be funding and they will therefore be subject to the pooling restriction. Should a Community Infrastructure Levy be introduced and fund these types of infrastructure then they will not be collected via S106 obligations.
	Individual	Ensure complete visibility is made to the local council	All the remaining comments are noted with most respondents supporting the reference to tariff arrangements - none are considered to require additional change to the document.
	Individual	For this to be acceptable, there would need to be a clear link between the development proposal and the item being 'pooled' for, and then, a maximum number of contributions could be sought only. Is this CIL compliant?	

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	<p>Kibworth Harcourt PC</p> <p>Lutterworth TC</p>	<p>Provided these tariffs and charges are index linked at the time the development actually takes place, not the time the obligations were agreed, and not just kept to the original values, then this should be a good way forward. Some developments are delayed for considerable lengths of time, and the costs of obligations will have increased.</p> <p>Tariffs should be regularly reviewed and kept current regardless of the time of initial agreement.</p>	
4.9.2 Pooling	<p>Davidsons Developments</p> <p>Individual</p>	<p>As stated in the SPD, we welcome the reference to Regulation 123(3) of the Community Infrastructure Levy Regulations (as amended) which limit pooling of specific projects or types of infrastructure to less than 5 planning obligations.</p> <p>Although our client can appreciate the merit of keeping the description of the infrastructure requests flexible, this must not be at the expense of ensuring that the obligations meet the basic tests outlined in the Community Infrastructure Regulations</p> <p>Pooling is good - as this will give view to a greater picture of the future planning</p>	<p>All the comments submitted in relation to the section on pooling are noted with most respondents supporting the references to pooling - none are considered to require additional change to the document.</p>

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	<p>Broughton Astley PC</p> <p>Individual</p> <p>Hazelton Homes</p>	<p>The Parish Council believes that pooling is a good idea for major projects.</p> <p>Is this not trying to work around the Regulations which are quite clear that items which may be funded by the Levy should not be sought for by S106 pooling in excess of 5</p> <p>The restriction on pooling may cause problems for standard charges, especially where pre-2015 obligations are loosely worded. However, this may be more a matter of proper definition with regard to where contributions are to be expended and more accuracy with regard to the specific project is welcomed.</p>	
4.9.3 Holding and Spending of Financial Contributions	<p>Thurnby and Bushby Society</p> <p>Hazelton Homes</p> <p>Billesdon PC</p>	<p>The additional responsibility of Parish Councils with reference to holding and spending of financial contributions by developers if this is devolved to Parishes is noted</p> <p>An initial timeframe for spending contributions, for example 5 years from receipt of payment, would be useful in the interests of certainty and transparency.</p> <p>The Parish Council is also concerned about the</p>	<p>It is not considered necessary to have a standard timeframe for the spending of contributions in order to provide flexibility and bespoke arrangements to be made at the time of the individual obligation being signed.</p> <p>Affordable housing commuted sums also require some flexibility on where they can be spent as projects may not be possible in the same settlement.</p> <p>Other comments are noted but are not considered</p>

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		<p>guidance on (affordable housing) commuted sums. This currently states that there where possible this will be spent within the same sub-housing market. Given that Billesdon has its own Neighbourhood Development Plan we would expect any commuted sum generated in the Parish to be spent within the Parish</p>	<p>to require additional change to the document.</p>
	Davidsons Developments	<p>All developer contributions must specify specific projects that will be benefited through the obligations. All parties will therefore be able to identify where the money is going to and what it has been spent on.</p>	<p>The section refers to the need for this specification.</p>
	Lutterworth TC	<p>Town and Parish Councils should be kept fully informed at every stage of expenditure to ensure transparency.</p>	<p>Noted. The section refers to regular reporting.</p>
	Scraptoft PC	<p>More specific S106 Agreements need to be put into legal terms ie they need to be in place before the first dwelling on the site has started and not when 50%, 75% or the last house is completed.</p>	<p>Although this section does not refer to the trigger points for development, it is noted that it is preferable for contributions to be made as early as possible, this has to be balanced with the fact that the impacts of development only occur when the development is underway and being built out.</p>
	Individual	<p>Let the local councils have a larger say on the monies which have been given for local fund</p>	<p>Noted – this matter will be kept under review.</p>

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4.9.4 Thresholds for Planning Obligations	Bloor Homes	This needs to be considered in light of the combined total of planning obligations generated by said development and consideration should be given to delaying some obligations so to not jeopardise the schemes viability.	An additional table in the document would be helpful. This could indicate what kinds of obligations are expected from varying types of development and indicate the types of contributions in financial terms which would be expected . This has been included as Annex 1 to the Final document.
4.9.5 Viability	Davidsons Developments	Viability assessments are often a costly and time consuming process and should be avoided where possible. They are however sometimes required and as such we welcome the inclusion of viability assessments within the SPD.	An additional sentence in paragraph 3.4.13 will clarify those developments for which obligations will normally be waived on account of providing a community benefit.
	Hazelton Homes	The text should make clear that the thresholds relate to net increase in development, for example, where existing units are replaced with a greater number of units only the difference should be chargeable.	Noted, but such redevelopment is very rare in this District and there is no need to amend the text
	Gladman Developments	In terms of thresholds for planning obligations, it is important to consider development viability and development finance and cash flow across the whole development cycle.	Noted – this is a comment which does not require additional change to the document.
	Lutterworth TC	Local knowledge should be used via Town and Parish Councils to ensure effective monitoring and the	Noted. The Monitoring Officer notes this and will contact Parish Councils if needed.

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	Individual	<p>fulfilment of developer obligations.</p> <p>This is too vague. When assessing a site it will be important to know in advance of entering a contract with a landowner what obligations may or not be required at different levels/amounts of development. This needs to be clearly and transparently set out in a table in the SPD for each obligation typology.</p> <p>It is too late to only set out this information at application stage as it will have a huge potential impact on viability.</p>	<p>A table has been included as Annex 1 but details of costs vary in terms of the specific application.</p>
	Hazelton Homes	<p>Paragraph 4.9.5: Whilst it is necessary to ensure any submitted viability assessment is substantiated, for smaller schemes the costs of the Council's independent assessment can be onerous and diminish viability. The Council should consider a small site exception to this requirement by bearing its own costs in relation to the exercise or by relying on the evidence submitted by the applicant if such information is undertaken by an appropriately qualified and experienced expert.</p> <p>Paragraph 4.9.5.6 The approach to flexibility for affordable housing is appropriate although it would be appropriate to make clear that commuted sums may be an option.</p>	<p>Smaller sites (under 11 dwellings) now do not carry any S106 obligation. This point is noted but is generally a small element of the overall development cost and outweighed by the values in the planning permission.</p> <p>Noted – this is a comment which does not require additional change to the document.</p>

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	Broughton Astley PC	Parish Council and local residents views need to be taken into account	Noted – this is a comment which does not require additional change to the document.
	Lutterworth TC	There should be a clear differentiation between planning applications for residential developments and commercial developments as both have totally different impacts on the environment and infrastructure.	Noted – this is a comment which does not require additional change to the document.
	Individual	Registered Social Landlords/ Registered Housing Providers should in general be exempt from the requirement to make planning obligations in relation to their own schemes to provide 100% affordable accommodation. This is on the grounds that they are already providing a public and community benefit and are non profit making charitable based organisations and imposing this requirement would reduce the capacity of the organisation to provide much needed accommodation. Affordable housing is exempt from paying the Community Infrastructure Levy because of the social benefit such development brings already	An additional sentence in paragraph 3.23 will clarify those developments for which obligations will normally be waived on account of providing a community benefit.
	Davidsons Developments	It is vital that the planning obligations are established at the time the planning permission	Noted but changes in costs of projects between

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		<p>is granted. Revision of costs as suggested in paragraph 4.9.6.1 of the SPD would lead to uncertainty for the applicant. In addition, planning obligations are often subject to indexation, and as such a mechanism is already established should it be required due to due to a time lag.</p>	<p>agreement and time of payment are justified in order to deliver the required infrastructure and must be allowed for in pricing the overall development project by developers.</p>
<p>4.9.6 Maintenance of assets secured through planning obligations</p>	<p>Kibworth Harcourt PC</p> <p>Lutterworth TC</p> <p>Broughton Astley PC</p>	<p>An important matter. Grass verges, formal landscaping, dog and litter bins, children's and open play areas are matters of concern where in the past the parish or district council has picked up the costs of ongoing maintenance. I would support including a corresponding level of funding in perpetuity to ensure these areas are adequately maintained.</p> <p>Ownership of assets should be carefully considered at the time of agreeing developer obligations. This would minimise legal complications if the assets prove to be devolved down to Parish and Town Councils in the future.</p> <p>Parish Council's need to be aware that they may have an obligation for future maintenance.</p>	<p>These comments are noted . A lifetime maintenance element could not be properly calculated. A balance must be struck but any inheriting organisation must calculate its future liabilities .</p>

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<p>4.9.7 Legal, Other Costs and Management of the Obligation - Cost Recovery</p>	Gladman Developments	<p>The legality of the Council charging monitoring fees as proposed in Section 4.9.7 is in question.</p>	<p>The Council considers it justifiable to charge a monitoring fee where there is likely to be a level of monitoring involved which requires significant officer time. This will depend on the nature of the development and the range of obligations. The relevant paragraph has been re-drafted to clarify further.</p> <p>Paragraph 4.7.3 of the Final Draft Document has been amended to read.</p> <p>Harborough District Council will no longer apply a standard charge for monitoring. An assessment will be made in each case to establish whether application of monitoring fees is necessary. This will take account of the time taken to monitor the progress of development and ensure that obligations are delivered . The Council consider it appropriate and justifiable to seek monitoring cost contributions especially where the scale of a development involves precise and complex monitoring, for example significant major developments and especially large urban extensions .</p>
	Hazelton Homes	<p>Paragraph 4.9.7.2 (b): This is vague and should be explained.</p> <p>Paragraph 4.9.7.2 (c): Whilst the Council has identified that only complex cases are chargeable, standardised fees may be unlawful given recent case law especially with regard to proportioning the monitoring fee to the planning application fee or to all contributions (given that may contributions may not need more than basic monitoring especially those paid prior to commencement of development). The Council should provide greater detail on what constitutes "complex cases" or development of a scale which involves "precise and complex monitoring".</p>	
	Bloor Homes	<p>The Oxfordshire High Court Judgement casts doubt on Council's entitlement to seek administrative and monitoring fees through S106 obligations (Oxfordshire County Council v SoS 2015 EWHC 186 01/02/2015) How does the Council respond to this?</p>	
	Lutterworth TC	<p>Any interest accrued from developer obligation monies should be ring-fenced for the local community affected by the development.</p>	

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4.9.8 Bonds and Enforcement Action	Davidsons Developments Hazelton Homes	Under no circumstances would our client enter into a bond. We consider that there are sufficient legal mechanisms within the S106 process that there would be no requirement for the use of bonds. It is considered unnecessary for bonds to be required at all in relation to s106 Agreements. The Council has statutory powers to enforce s106 Agreements against successors in title to land and so is sufficiently protected in this regard. Notwithstanding that bonds are considered unnecessary and unreasonable, it is considered necessary for the document to provide greater detail on what informs an officer conclusion that a bond is necessary.	These comments are noted but it is considered important to maintain reference to a bond. Whilst there are powers to deal with enforcement, the a bond offers greater security for the community that its interests are protected.
	Gladman Developments	The use of bonds is also unnecessary as the Council has enforcement powers which can be enacted against developers who default on payments.	
	Kibworth Harcourt PC	" ... officers deem there is a risk of default ..." how will officers assess the risk? Why not have a base bond levied for all developments of say 5 or more dwellings, with additional bond cover where the risk is higher or development much larger?	
	Scraptoft PC	A Bond should be put in place on all developments to recuperate S106 monies when a developer defaults.	

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	Thurnby and Bushby Society	There needs to be an official 'Start' at the beginning of a Development, and an 'End', so that it is clear when monitoring should take place. We support the idea (section 4.9.8) of some kind of compulsory deposit or Bond, returnable when the site is complete and when a Planning Officer, perhaps accompanied by a Ward Member, is satisfied that all Planning conditions and S106 obligations have been met .If the obligations have not been met the deposit or bond should be forfeited and used to pay someone else to do the work.	
Chapter 5: Guidance on Specific types of obligation			
Chapter 6: Affordable Housing			
6.1 Definition of Affordable Housing	Hazelton Homes	Paragraph 6.1.1: Reference to the definitions in the NPPF would be useful.	The relevant paragraph has been revised to accord specifically with the current definition in the National Planning Policy Framework and Practice Guidance. See Para 5.1.1. in the Final Draft
6.2 Justification	Gladman Developments	Para 6.2.4 should be updated to reflect current legal judgements. Housing mix should be flexible to ensure viability. Para 6.2.2 should not require	The relevant paragraph has been deleted in light of the recent judgement regarding the threshold for affordable housing contributions and paragraph

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	Hazelton Homes	<p>greater affordable housing than current policy.</p> <p>Paragraph 6.2.4: Recent case-law (West Berkshire DC and Reading BC referenced above) has concluded that the Ministerial Statement was unlawful.</p>	5.2.4 of the final draft amended to relate to the current practice of the Council .
6.3 Mix of Housing	<p>Kibworth Harcourt PC</p> <p>Bloor Homes</p> <p>Thurnby and Bushby PC</p> <p>Hazelton Homes</p>	<p>With an ageing population and more people downsizing, should more emphasis be placed on bungalow provision?</p> <p>It is not appropriate to introduce a policy on market housing mix through this document. This type of policy should be consulted upon through a Local Plan.</p> <p>Chapter 6, para 6.3.4 - reference to "There is a strong demand for single level development for older people and we encourage apartment and bungalow type development to meet this need" is welcomed as is the "Special Needs and Extra Care Housing" in para 6.4. However, it is felt that there should also be some reference to the need to address the needs of younger generations in order to enable them to get onto the housing market and encourage them to stay in the locality.</p> <p>Paragraph 6.3.4: It is considered unreasonable for</p>	<p>The Supplementary Planning Document is not making policy but reflecting the practice of the Council .</p> <p>These comments are noted . There are varied comments depending on the organisation and it is felt that the Councils position sits between the developer and the community – and is appropriate.</p>

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	Scraptoft PC	<p>the Council to impose housing mix on developers and flexibility must be built in.</p> <p>it is important that all decisions made with regard to the content of housing schemes are made by the Council and not determined by the developer</p>	
6.4 Special Needs and Extra Care Housing		No comments made	
6.5 Exception sites		No comments made	
6.6 Building Standards and Affordable Homes		No comments made	
6.7 Development of Affordable Housing	Hazelton Homes	<p>Paragraph 6.7.3: Off-site provision should be an option where the developer has off-site land available within the vicinity.</p> <p>Paragraph 6.7.10: Cascade mechanisms are appropriate where it has proved impossible to agree transfer of plots to registered providers. The delay and costs associated with s106 variations will hinder the delivery of housing which could have been delivered pursuant to a cascade mechanism.</p> <p>The recent changes to funding together with the current reluctance of RPs to accept plots on smaller sites exacerbate this problem.</p>	These comments are noted but are not considered to require additional change to the document. They re-iterate points which are already referenced within the document
6.8 Meeting an Obligation by means			

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of an Alternative Site or Commuted Sum			
6.9 Provision on an Alternative site			
<p>6.10 Commuted Sums</p> <p>6.11 Spending of Commuted Sums</p>	<p>Hazelton Homes</p> <p>Lutterworth TC</p> <p>Broughton Astley PC</p> <p>Lutterworth TC</p>	<p>Paragraph 6.10.2: The method of calculation appears arbitrary and should be supported by evidence to show that 50% of OMV is appropriate</p> <p>This document does not provide enough information to judge if the formulae is correct or not.</p> <p>The Parish Council believes the formulae is not unfair; however; it would encourage more affordable houses to be built if the percentage commuted sum was reduced dependent on the need for the area.</p> <p>The raising and spending of 'Affordable Housing Contributions' should be made more transparent to local Town and Parish Councils.</p>	<p>The specific reference to the form of calculation has been removed from the document and replaced with the guideline approach that the cost equates to the cost of provision of affordable housing to the developer in paragraph 5.28 . The Council will keep the form of calculation under review and publish this separately.</p> <p>Other comments are noted but are not considered to require additional change to the document. They re-iterate points which are already referenced within the document</p>
Chapter 7: Community Facilities			
7.1 What is a	Lutterworth TC	Local knowledge has such a bearing on community	These comments are noted but are not considered

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Community Facility?		facilities. Town and Parish Councils should therefore be involved at every stage throughout the Developer Obligation process.	to require additional change to the document.
7.2 Justification	Gladman Developments	Requests for community facilities should be justified with evidence and meet the CIL Regs	Comments are noted but are not considered to require additional change to the document.
7.3 Usage of Community Facilities Funding	Thurnby and Bushby PC	Noted and the need for Parish Councils to have an active input into identifying local need is important	These comments are noted but are not considered to require additional change to the document.
7.4 Level of Contribution	Kibworth Harcourt PC	Looks like an error in the table as Assumed no. of residents = 7.5 for a 1 bedroom home!	The respondent appears to have misread the table. The assumed number did state 1.5 not 7.5.
7.5 Implementation	Scraptoft PC	Where funding for a large project is required from a S106 Agreement such as a Community Centre or Sports Hall etc. more help is required from the District Council, not only from Planning but also from other Council departments as parish councils have little knowledge of procuring this type of development.	These comments are noted but are not considered to require additional change to the document. They re-iterate points which are already referenced within the document
Chapter 8: Open Space Sport and Recreation Provision	Woodland Trust	Welcome inclusion of woodland in the types of open space for which contributions may be sought	These comments are noted but are not considered to require additional change to the document.
8.1 Justification	Sport England	Paragraph 73 of the NPPF requires a different approach to determining need for sport and recreation compared to that included in the former PPG17 and its associated documents . The NPPF paragraph 73 requires Local Authorities to assess	Response to all comments: The need for additional qualitative assessment of sports provision is noted and is being actioned through the commissioning of a Playing Pitch

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		<p>needs and quantitative or qualitative deficits or surpluses of sports and recreational facilities in the local area. Information gained from the assessment should be used to determine what , sports and recreation provision is required. , it does not advocate the use of the deleted Assessing Needs and Opportunities Companion Guide attached to PPG17 which uses the 'standards' approach.</p>	<p>Strategy, which will involve local consultation. Similarly a study of Burial provision has been commissioned. An Open Space Strategy has been adopted since the draft SPD was issued and is now referenced .</p>
Hazelton Homes	<p>The evidence base for assessment of open space need should be updated from the current 2009 document given the amount of development that has taken place since.</p>		
Scraptoft PC	<p>8.3.2 The matter of burial provision in the District has been consulted on and discussed for many years. S106 money should be part of developer contributions and the whole question of burial provision addressed by the Council.</p>		
Scraptoft PC	<p>8.1.2 The question of off site contributions for open spaces and other agreements should only be used in extreme circumstances.</p>		
Lutterworth TC	<p>Town and Parish Councils are the best source of knowledge for local requirements and as such, should be consulted and heavily involved throughout the process.</p>		

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	Kibworth Harcourt PC	Speaking on behalf of the Kibworth parishes, the existing cemetery on A6 Harborough Road will require expansion in the future, so any housing developments in adjoining fields must be identified with developers and in plans to ensure sufficient expansion areas are retained for burials next to the existing cemetery boundaries.	
8.2 Level of Contribution	Hazelton Homes	Paragraph 8.1.5: A maintenance contribution for a 15 year period is considered excessive and this should be no more than 10 years. Paragraph 8.1.6: The threshold elsewhere is more than 10 units rather than 10 or more; there should be consistency.	It is difficult to set out precise requirements since this is based on the availability and capacity of sports and recreational facilities at the time of application. The Council will investigate online assistance in providing information on likely requirements.
	Hazelton Homes	It would be hugely helpful to have the open space, sports and recreation requirement set out in a calculator as part of the S106 page on line.	Noted - officers will explore if an online calculator can be created.
8.3 Implementation	Gladman Developments	It should be recognised in Section 8 that management companies set up by developers to manage on site open space provision is a suitable and effective approach as opposed to the transfer of the open space to another party accompanied with a maintenance contribution.	These comments are noted but are not considered to require additional change to the document. They re-iterate points which are already referenced within the document
Chapter 9: Public Health	NHS England / Clinical Commissioning	The title of this chapter should read Health rather than Public Health.	Noted and point agreed. Change title of Chapter to Health Facilities

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		The reference to NHS Leicestershire County and Rutland should be replaced with 'NHS England and Clinical Commissioning Groups who commission healthcare services'.	
9.1 Justification	<p>Scraptoft PC</p> <p>Davidsons Developments</p> <p>Lutterworth TC</p> <p>Kibworth Harcourt PC</p>	<p>Can this be sought via S106 in light of the fact that such strategic infrastructure is deemed to generally be provided by CIL under the Regulations</p> <p>Our client agrees that the provision of public health planning obligations should be based on the local requirements. These requirements should be obtained as early as possible during the planning application process and updated if necessary to reflect the most recent situation. It is vital that any public health contribution is for capital costs</p> <p>Due concern must be given to the provision of medical facilities, as opposed to concerns of public health which are two different matters.</p> <p>Title is misleading. Public Health is a specific area of healthcare, and doesn't include primary, secondary, community health or dental services.. Why not just use Health or Health Care as the heading?</p>	<p>A Community Infrastructure Levy or CIL is not mandatory and so such requirements will be delivered through planning obligations.</p> <p>These are noted but are not considered to require additional change to the document.</p> <p>Noted and agree – the section concerns Health Care in general and the title has been changed accordingly.</p> <p>Noted and agree – the section concerns Health Care in general and the title has been changed accordingly.</p>

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9.2 Level of Contribution			
9.3 Implementation	Hazelton Homes	To avoid NHS Leicestershire County and Rutland needing to be a party to the s106 Agreement, there must be a mechanism whereby the contribution is paid to the District Council.	These comments are noted but are not considered to require additional change to the document. . They re-iterate points which are already referenced within the document.
Chapter 10: Community Safety			
10.1 Justification	<p>Gladman Developments</p> <p>Davidsons Developments</p> <p>Lutterworth TC</p>	<p>Requests for Community Safety contributions should be justified with evidence and be compliant with the CIL regulations.</p> <p>Contributions towards Leicestershire Constabulary and Leicestershire Fire and Rescue Service will be accepted by the applicant where they are required by the planning application and are reasonable in scale. Furthermore the contributions must be used directly in relation to the development.</p> <p>Community safety contributions should be directed to the Leicestershire Constabulary and Leicestershire Fire & Rescue to disseminate locally where the development has occurred</p>	These comments are noted but are not considered to require additional change to the document. They re-iterate points which are already referenced within the document.

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Chapter 11: Sustainable Drainage	<p data-bbox="474 269 748 336">Anglian Water Services</p> <p data-bbox="474 954 748 1021">Davidsons Developments</p> <p data-bbox="474 1348 748 1374">Lutterworth TC</p>	<p data-bbox="757 269 1413 730">Anglian Water will consider the adoption of sustainable drainage systems (SuDs) within our area if responsibility providing they meet the criteria set out in the adoption manual. Details can be found at http://www.anglianwater.co.uk/developers/suds.aspx and http://www.anglianwater.co.uk/_assets/media/AW_SUDS_manual_AW_FP_WEB.pdf and applicants are encouraged to contact us at the earliest opportunity. Please note that Anglian Water's approach to SuDs and the related adoption manual is currently under review.</p> <p data-bbox="757 775 1413 911">Reference is made to the preparation of a Sustainable Drainage SPD for Leicestershire (including Harborough District). Anglian Water as sewage undertaker for part of the District.</p> <p data-bbox="757 954 1413 1129">In most instances it will not be necessary to secure financial obligations towards sustainable drainage. It is more likely that any requirements that result from the development will be secured by planning condition and delivered by the developer.</p> <p data-bbox="757 1173 1413 1308">Where contributions are required for the maintenance costs, care must be taken to ensure that there is no double counting where sustainable drains are within public open space</p> <p data-bbox="757 1348 1413 1374">There needs to be differentiation between</p>	<p data-bbox="1422 269 2058 515">These comments are noted – they provide comment and observation on the issue of drainage. It is accepted that this is often a matter for planning condition and separate agreement . The Council wishes to maintain a section in this document for reference . There is no requirement for additional change to the document.</p>

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		residential and commercial developments as both have different surface water issues.	
Chapter 12: Broadband and Connectivity	Davidsons Developments Hazelton Homes Individual Kibworth Harcourt PC	<p>It is not within the gift of the developer to provide superfast broadband. This is the responsibility of the utility companies</p> <p>It is not considered appropriate for Broadband and Connectivity to be included with the SPD as it is difficult to see how such obligations could be compliant with the CIL Regs.</p> <p>In practice I think it will be difficult to impose a requirement on developers to provide superfast broadband to the premises. Developers can ensure appropriate ducting to facilitate such connection but it would appear to be an onerous obligation to expect developers to provide this when it is the role of commercial service providers to connect dwellings at the standards they are able to depending on role out of their service.</p> <p>Currently the rollout of superfast broadband is Fibre to the cabinet (FTTC). This limits the broadband speeds, and FTTP would ensure much higher speeds</p>	A policy on broadband provision is to be provided within the forthcoming Local Plan. The SPD cannot provide additional policy requirements and as such the section on Broadband features as a point of advice only.

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	Thurnby and Bushby PC	<p>Town and Parish Councils should be consulted by Leicestershire County Council throughout the Developer Obligation process.</p> <p>Highways and Public Health issues - concerns at the impact of additional traffic emanating from large scale developments across the County On settlements across the District with respect to:</p> <ul style="list-style-type: none">- volume of traffic- pedestrian safety- preservation of the quality of life of residents- noise and air pollution	