

Appendix 3

Developer Contributions (SPD)

Report of Public Consultation

Ref no:	Respondent	Organisation/Company	Summary of Comments	Council Response
71752	John Coleman	William Davis	Viability SPD makes reference to developer profits typically being 17.5-22.5%. Argued that it should be assessed as 20% of GDV (as per the council's CIL Viability Study 2016).	Agreed. Text amended to reference the percentage quoted in the CIL Viability Study.
71753	John Coleman	William Davis	Threshold for Contributions Threshold for contributions for residential development should omit reference to 1000sqm in line with annexe 2 of the NPPF	Agreed. Text to be deleted / amended accordingly.
71754	John Coleman	William Davis	Highways / Transport Asks for clarity as to how any overlap of CIL related strategic highway schemes and any overlap with S106 requests in these areas will be dealt with.	No action required – with the deletion of Reg 123 overlaps/ potential double dipping is not an issue.
71755	John Coleman	William Davis	Also asks for a reference as to how the Annual Infrastructure Statement (CIL) and the S106 funding of strategic Highway schemes will be articulated.	Agreed – text to be added accordingly.
71756	John Coleman	William Davis	Local Employment and Training Strategies Submission states that there is no policy in the current Local Plan setting a requirement for Employment / Training Strategies. The Council should not use the SPD to extend	Local Employment and training strategies are supported by the Council. They can be beneficial in terms of creating local employment opportunities and negate unsustainable travel and transport issues. The SPD encourages this

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			the remit of the existing Development Plan Policies.	approach, however it is not a mandatory requirement. Adjustments to the text on p22 will articulate this.
71624	Rosamund Worrall	Historic England	Noted that the 'other contributions' section would make provision for any historic environment requirements that may be necessary in respect of a development proposal	Noted
71625	Sharon Jenkins	Natural England	No comments.	Noted
71724	Sarah Jones	Barton Willmore on behalf of IM	Legislative Context SPD should be expanded to make reference to the Community Infrastructure Regulations and relevant sections of the NPPF and PPG ,particularly the standard approach to viability assessments.	In the interests of brevity we do not feel that the SPD needs to repeat parts of the NPPF and PPG unless specifically necessary.
71725	Sarah Jones	Barton Willmore on behalf of IM	Legislative Context SPD needs to make specific reference to the relationship between CIL, and S106 with regard to Infrastructure funding (including the requirement for Local Authorities to set out an Annual Infrastructure Statement).	Agreed. The SPD should be amended to include reference to the Annual Infrastructure Statement.
71726	Sarah Jones	Barton Willmore on behalf of IM	Procedures / Process (Viability) Support is given to the SPD statement that recognises that some development proposals may be unable to meet all of the relevant policy and planning obligations while remaining economically viable / deliverable.	Noted.

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71727	Sarah Jones	Barton Willmore on behalf of IM	SPD should stipulate that Neighbourhood Plan policies are not expected to seek in excess of the Local Plan policy requirement, and that any that do must be the subject of a neighbourhood plan viability assessment.	Noted. Text to be added to make this point.
71728	Sarah Jones	Barton Willmore on behalf of IM	The text of the SPD should replicate the assumptions made / indicated on the CIL and Section 106 elements of the Council's website that set out the financial assumption for infrastructure contributions per dwelling on sites of various thresholds	It is not considered necessary to replicate this information in the emerging SPD. The figures in question are guidance only and not 'target' figures. The wording in the SPD as set out indicate that sites of various sizes and complexity will be subject to due consideration with regard to physical and capacity characteristics.
71729	Sarah Jones	Barton Willmore on behalf of IM	Support for the site viability section. The SPD includes reference to the Council's acceptance that in cases where a scheme is unable to meet the required S106 contributions the cumulative benefit of the scheme will be a material consideration	Noted,
71730	Sarah Jones	Barton Willmore on behalf of IM	Monitoring and Enforcement It is accepted that a 'monitoring fee' is appropriate , however consideration of a 'cap' to ensure that these fees are not an excessive burden on development should be considered.	The text is already clear with regards to the requirement for developments to pay a monitoring fee with regard to S106 and Planning Obligations. The formula used has a proven track record and has been established as appropriate. If in the event this prejudiced viability a developer can of course challenge it via an EVA (Economic Viability Assessment).
71731	Sarah Jones	Barton Willmore on behalf of IM	Part 1 Appendix 3 – S106 Template Appendix 3 provides a standard template, however consideration of the standard terms and trigger points should be added	No action required. The standard terms for stage payments/ triggers are not considered particularly onerous; the benefit/ strength of the template approach provided is that it provides a standardised

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			related to the site and size of the development.	approach/ basis for negotiation. Naturally on a case by case basis there is the opportunity for further negotiation/ possible variation.
71732	Sarah Jones	Barton Willmore on behalf of IM	Standardised metrics and worked examples should be used in the SPD to give an indication of contributions required for developments of various capacities.	The SPD recognises that 'one size does not fit all' with regard to the computation of developer contributions being sought. It is considered that worked examples may be observed as rigid 'target' figures which , if anything may prove to be unhelpful in many instances.
71733	Sarah Jones	Barton Willmore on behalf of IM	It is considered unnecessary for the standards of construction to be included in the legal agreement as they will be a part of designs and plans of the approved application.	The inclusion of such provisions within the template 106 is considered appropriate, irrespective of documents that may have been submitted as part of the planning process.
71734	Sarah Jones	Barton Willmore on behalf of IM	The affordable housing section of the SPD should make a cross reference to the Council Affordable Housing SPD.	Noted. Appropriate cross referencing should be added.
71735	Sarah Jones	Barton Willmore on behalf of IM	With regard to the air quality references in the SPD, mention could be made of the DEFRA Emissions Factor Toolkit as a useful aid to inform potential mitigation. Cross reference to the Air Quality SPD should be made.	Agreed. Cross reference to the Air Quality SPD should be added. However precise details of mitigation requirements should remain within the Air Quality document. DEFRA Technical Guidance is clearly referenced in the Air Quality SPD.
71736	Sarah Jones	Barton Willmore on behalf of IM	Contributions towards community safety and policing should be in accordance with the tests applied by the CIL Reg. 122(2).	Noted
71737	Sarah Jones	Barton Willmore on behalf of IM	Biodiversity Offsetting. It is noted that the Council is stipulating a minimum 30-year	The 30-year management stipulation is explained in detail on the WCC website (the link

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			maintenance period in relation Biodiversity Offsetting schemes. This should be justified with regard to relevant evidence and, including costs and periods sought by other Authorities (recognising that 25 years is also used as a benchmark).	to the WCC detailed guidance regarding biodiversity offsetting is signposted in this SPD. This has been applied successfully and has been evidenced/ justified by the County Council Ecology experts.
71738	Sarah Jones	Barton Willmore on behalf of IM	Education. The SPD should reflect the detailed contents of the Warwickshire County Council's 'Developers Guide to Contributions for Education and Early Provision' August 2019.	In the interests of brevity, we do not feel that the SPD needs to replicate in totality the detailed provisions/ content of the WCC developers guide. The WDC SPD sets out key issues and clearly 'signposts' by way of a link the need to consult the more detailed WCC document. Further reference to the CIL Reg 122 (2) tests is noted.
71739	Sarah Jones	Barton Willmore on behalf of IM	Local Employment and Training Strategies The practicalities of implementing such plans should be fully recognised within the SPD. The SPD objectives should be caveated to state they will be achieved where it is feasible, both economically and practically.	Noted. Additional text should add the caveat requested and afford developers who may not be able to utilise Local Labour etc. the opportunity to state their case (and substantiate it).
71758	Richard Timothy	Highways England	No comments.	Noted.
71759	Reiss Graham	HS2	No comments.	Noted.
71683	Malwina Idziac	Canal & River Trust	The C and RT request a specific reference to recognise that the canal network is a valuable multifunctional asset. Text should be added to recognise this and that where appropriate contributions may be secured from development to enhance towpaths and	Additional text will be added to accommodate this and recognise the value of the canal network as an asset.

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			the canal corridors. Cross reference to the canalside DPD would also be beneficial	
71611	Anna	Delta Planning on behalf of Deeley Group Ltd	Page 11 – the document refers to the national PPG in that affordable housing tariff style obligations should not be sought from developments of 9 dwellings or less, or a max of 1000 sq.m. This is not consistent with National Guidance that requires planning obligations should be sought from developments of 10 or more homes (major development).	Noted. The SPD should be revised to mirror the requirements as per the NPPF and revised accordingly
71613	Anna	Delta Planning on behalf of Deeley Group Ltd	The SPD makes an allowance for viability arguments to be put forward where the level of developer contributions would render a project unviable. In these cases, an Economic Viability Assessment (EVA) can support a proposal and contributions can be negotiated. This approach is welcomed.	Noted.
71615	Anna	Delta Planning on behalf of Deeley Group Ltd	Procedures/ Process – Figure 3 needs editing. There is a duplication of ‘application refused’ within the flow chart.	Agreed – amendment to be made accordingly
71618	Anna	Delta Planning on behalf of Deeley Group Ltd	Money obtained via unilateral undertakings can be returned to developers if unspent. The SPD states otherwise.	The position taken by the SPD is correct
71740	Nicole Burnett	Gladman Developments	In order to avoid confusion, it is suggested that the Council make clear which stakeholder is responsible for the requests and, where possible, the delivery of each contribution tied to a development	No action required. The SPD already refers to WDC being the LPA that co-ordinates the requests from stakeholders. Further text can be added to ensure that developers are aware of the public facing system available on the Council’s website that enables interested parties to check progress on payment / delivery of obligations etc.

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71741	Nicole Burnett	Gladman Developments	Contribution requests should be made as soon as possible in the planning process and should be evidenced/ made in accordance with paragraph 56 of the NPPF.	This is already reflected in the SPD.
71742	Nicole Burnett	Gladman Developments	In terms of delivery of infrastructure and monies collected from a development Gladman request that information regarding how and where this is delivered is shared with the applicant.	Noted. Covered by existing monitoring/ reporting provisions already operating.
71773	Kathryn Ventham	Barton Willmore on behalf Barwood	Legislative Context SPD should be expanded to make reference to the Community Infrastructure Regulations and relevant sections of the NPPF and PPG ,particularly the standard approach to viability assessments.	In the interests of brevity we do not feel that the SPD needs to repeat parts of the NPPF and PPG unless specifically necessary.
71774	Kathryn Ventham	Barton Willmore on behalf Barwood	Legislative Context SPD needs to make specific reference to the relationship between CIL, and S106 with regard to Infrastructure funding (including the requirement for Local Authorities to set out an Annual Infrastructure Statement).	Agreed. The SPD should be amended to include reference to the Annual Infrastructure Statement.
71775	Kathryn Ventham	Barton Willmore on behalf Barwood	Procedures / Process (Viability) Support is given to the SPD statement that recognises that some development proposals may be unable to meet all of the relevant policy and planning obligations while remaining economically viable / deliverable.	Noted.

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71776	Kathryn Ventham	Barton Willmore on behalf Barwood	SPD should stipulate that Neighbourhood Plan policies are not expected to seek in excess of the Local Plan policy requirement, and that any that do must be the subject of a neighbourhood plan viability assessment.	Noted. Text will be added to the document to cover this point.
71777	Kathryn Ventham	Barton Willmore on behalf Barwood	The text of the SPD should replicate the assumptions made / indicated on the CIL and Section 106 elements of the Council's website that set out the financial assumption for infrastructure contributions per dwelling on sites of various threshold	It is not considered necessary to replicate this information in the emerging SPD. The figures in question are guidance only and not 'target' figures. The wording in the SPD as set out indicate that sites of various sizes and complexity will be subject to due consideration with regard to physical and capacity characteristics.
71778	Kathryn Ventham	Barton Willmore on behalf Barwood	Support for the site viability section. The SPD includes reference to the Council's acceptance that in cases where a scheme is unable to meet the required S106 contributions the cumulative benefit of the scheme will be a material consideration	Noted,
71779	Kathryn Ventham	Barton Willmore on behalf Barwood	Monitoring and Enforcement It is accepted that a 'monitoring fee' is appropriate , however consideration of a 'cap' to ensure that these fees are not an excessive burden on development should be considered.	The text is already clear with regards to the requirement for developments to pay a monitoring fee with regard to S106 and Planning Obligations. The formula used has a proven track record and has been established as appropriate. If in the event this prejudiced viability a developer can of course challenge it via an EVA (Economic Viability Assessment).
71780	Kathryn Ventham	Barton Willmore on behalf Barwood	Part 1 Appendix 3 – S106 Template Appendix 3 provides a standard template, however consideration of the standard terms and trigger points should be added	No action required. The standard terms for stage payments/ triggers are not considered particularly onerous; the benefit/ strength of the template approach provided is that it provides a standardised

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			related to the site and size of the development.	approach/ basis for negotiation. Naturally, on a case by case basis there is the opportunity for further negotiation/ possible variation.
71781	Kathryn Ventham	Barton Willmore on behalf Barwood	Standardised metrics and worked examples should be used in the SPD to give an indication of contributions required for developments of various capacities.	The SPD recognises that 'one size does not fit all' with regard to the computation of developer contributions being sought. It is considered that worked examples may be observed as rigid 'target' figures which , if anything may prove to be unhelpful in many instances.
71782	Kathryn Ventham	Barton Willmore on behalf Barwood	It is considered unnecessary for the standards of construction to be included in the legal agreement as they will be a part of designs and plans of the approved application.	The inclusion of such provisions within the template 106 is considered appropriate, irrespective of documents that may have been submitted as part of the planning process.
71783	Kathryn Ventham	Barton Willmore on behalf Barwood	The affordable housing section of the SPD should make a cross reference to the Council Affordable Housing SPD.	Noted. Appropriate cross referencing should be added.
71784	Kathryn Ventham	Barton Willmore on behalf Barwood	With regard to the air quality references in the SPD, mention could be made of the DEFRA Emissions Factor Toolkit as a useful aid to inform potential mitigation. Cross reference to the Air Quality SPD should be made.	Agreed. Cross reference to the Air Quality SPD should be added. However precise details of mitigation requirements should remain within the Air Quality document. DEFRA Technical Guidance is clearly referenced in the Air Quality SPD.
71785	Kathryn Ventham	Barton Willmore on behalf Barwood	Contributions towards community safety and policing should be in accordance with the tests applied by the CIL Reg. 122(2).	Noted
71786	Kathryn Ventham	Barton Willmore on behalf Barwood	Education. The SPD should reflect the detailed contents of the Warwickshire	In the interests of brevity, we do not feel that the SPD needs to replicate in totality the

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			County Council's 'Developers Guide to Contributions for Education and Early Provision' August 2019.	detailed provisions/ content of the WCC developers guide. The WDC SPD sets out key issues and clearly 'signposts' by way of a link the need to consult the more detailed WCC document. Further reference to the CIL Reg 122 (2) tests is noted.
71787	Kathryn Ventham	Barton Willmore on behalf Barwood	Local Employment and Training Strategies The practicalities of implementing such plans should be fully recognised within the SPD. The SPD objectives should be caveated to state they will be achieved where it is feasible, both economically and practically.	Noted. Additional text should add the caveat requested and afford developers who may not be able to utilise Local Labour etc. the opportunity to state their case (and substantiate it).
71743	Maxine Kennedy	Turley on behalf of Taylor Wimpey	Taylor Wimpey supports the overall objective of the Developer Contributions SPD, however it wishes to identify areas where it believes the document can be clarified.	Noted.
71744	Maxine Kennedy	Turley on behalf of Taylor Wimpey	Outdoor sports facilities – The document states that Section 106 agreements will specify necessary contributions to individual (physical) projects, however in some circumstances, the payment of a commuted sum for pitch maintenance may prove to be appropriate. With reference for a payment to be made for pitch maintenance it is not clear what mechanism the Council will use to calculate a developer contribution so as to ensure the contribution would be proportionate to the level of demand generated by the development. Will the payment be ongoing or a one off payment at a fixed sum The SPD should provide more	The SPD will require the consideration of on-site provision as a first option, however if there are other, existing pitch locations within a reasonable distance of the development that could be enhanced the requirement can be commuted in the form of a capital payment to improve capacity. Financial obligations would have to be proportionate to the development. The SPD should make a cross reference to Section 4 of the Adopted SPD (Public Open Space 2019) and the detailed provisions that can be found regarding such matters.

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			detail on this to ensure it is compliant with CIL Reg 122.	
71745	Maxine Kennedy	Turley on behalf of Taylor Wimpey	<p>Education – It is important to ensure that where a new school is required that the school costs are divided proportionately across the developments that contribute/ trigger the requirement.</p> <p>Where a developer is required to provide an area of land greater than that necessary to meet its own school places requirement this should be receive a compensatory payment for the additional land on an agreed basis. The SPD should make it clear as to what basis this value is measured.</p> <p>Phased payments for educational contributions should be utilised so as not to threaten development viability.</p>	<p>Agreed. Text to be added to the document accordingly.</p> <p>The SPD will include additional text to reflect the point made about redeeming land value. “Consideration will be given to the value of required education land when the quantum identified exceeds that required by the development.</p> <p>Agreed , already stipulated in the SPD.</p>
71746	Maxine Kennedy	Turley on behalf of Taylor Wimpey	<p>Indoor Sports facilities – The draft SPD sets out that the Council’s Indoor Sports and Leisure Strategy provides the evidence base to inform the Council’s identification of new requirements. Contributions are required from ‘major developments’, however there is no definition of ‘major development’ provided. Contributions to infrastructure should be proportionate to the development that is providing the finance.</p>	<p>The SPD could add that the definition of major development is that that is utilised in the NPPF. i.e. 10 dwellings or more or over 1000sqm for non-residential development.</p> <p>The SPD refers to the fact that all contributions have to be justified and proportionate to the development in question (CIL Reg 122 (2) compliant)</p>
71747	Maxine Kennedy	Turley on behalf of Taylor Wimpey	<p>Health – In order to confirm a ‘need’ for health care provision it is necessary to understand the need generated from new</p>	<p>The SPD clearly states that when assessing healthcare need SWFT and the CCG will be consulted and that they will do the necessary</p>

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			<p>development and the existing capacity within existing healthcare. The SPD does not provide any clarification as to how the council intends to conduct or assess demand / existing healthcare capacity. No sign post is given as to where this information lies or is established.</p> <p>Flexible payments of contributions (instalments) should be considered.</p>	<p>analysis / make their case for appropriate and proportionate contributions.</p> <p>The payment structure of contributions is given consideration on a case by case basis.</p>
71748	Maxine Kennedy	Turley on behalf of Taylor Wimpey	Open Space and Green Infrastructure – the SPD implies that developments may be required to address existing deficits of open space provision.	This submission has misinterpreted the document – the SPD refers specifically to the detailed Public Open Space SPD. Within this document the genesis of local standards and the detail of how appropriate and proportionate developer contributions are sought is clearly articulated.
71749	Maxine Kennedy	Turley on behalf of Taylor Wimpey	The SPD should clearly state that the County and District Council’s will adopt a flexible approach with regard to phasing of the payments of contributions so as to ensure viability / deliverability of development is not threatened.	The SPD and associated template S106 documentation clearly indicate phased payment / trigger points for specific forms of contributions. These have been consolidated into a framework S106 and all trigger points etc. have been tested and found to be appropriate. In all cases any variation on stage payments etc. can be the subject of negotiation, the Councils template SPD clearly sets the context for such negotiation.
71706	Tom Biggs	St. Joseph Homes	Requested that some wording is added in order to clarify the Council’s position on double – dipping’. Changes to the CIL Reg’s and the removal of the 123 list requirement has resulted in a degree of uncertainty.	‘Double-dipping’ is not an issue as Section 106 and CIL are finance/ infrastructure regimes that can now be applied to the same infrastructure project. Section 106 monies are attributed to the Council’s Section 106 monitoring regime (are publicly accountable) whereas CIL projects are

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				similarly itemised on the Council's Infrastructure Funding Strategy.
71766	Kate Lowe	Pegasus on behalf of Northern Trust	Northern Trust welcome the production of the SPD and offer their support for it.	Noted.
71767	Kate Lowe	Pegasus on behalf of Northern Trust	Viability – support the recognition that some developments may be unable to meet all of the relevant policy and planning obligation requirements whilst remaining viable and deliverable. Supports the identification of a return of between 17.5% and 22.5% as being a reasonable developer return.	Noted.
71768	Kate Lowe	Pegasus on behalf of Northern Trust	Northern Trust support the recognition that some development proposals may be unable to meet all of the relevant requirements whilst remaining viable and deliverable. Northern Trust support the requirement to submit a viability assessment where this is the case. Text should be added to indicate what particular contributions would be prioritised.	Noted. Added text would be of little use as each case regarding reduced contributions would be considered with regard to its locality and identified priorities (some of which may be very localised).
71769	Kate Lowe	Pegasus on behalf of Northern Trust	It is important that flexibility is provided to ensure that sustainable development opportunities are delivered. Including phased payments/ infrastructure delivery so as to ensure sites come forward to fruition.	Noted. No action required as the Council already accepts that phasing of payments and infrastructure development are a necessary consideration in the planning process.
71770	Kate Lowe	Pegasus on behalf of Northern Trust	Some evidence should be provided to substantiate the threshold of contributions being required from 10 or more dwellings as opposed to 11 or more dwellings with regard to affordable housing Local Plan policy H2.	It appears that Local Plan policy H2 is at odds with the Government (NPPF) definition of major development (11 or more dwellings). The SPD should adhere with the NPPF definition.

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71771	Kate Lowe	Pegasus on behalf of Northern Trust	Instead of all affordable housing to be retained in perpetuity these paragraphs should be amended to only require certain affordable products to be retained in perpetuity, namely affordable housing to rent and discounted market sales housing.	The Affordable Housing SPD exempts a few types of AH from being held in perpetuity. It is considered appropriate to retain the principle of perpetuity in the Developer Contributions SPD and then point people to the AH SPD for full details and the limited exemptions.
71772	Kate Lowe	Pegasus on behalf of Northern Trust	The requirement for affordable housing to be transferred to a 'Registered Provider, the Council or equivalent' is not appropriate given that not all affordable housing products need to be managed by such bodies. As such, amendments should be made to make reference to the need to only transfer certain types of affordable housing to the Council, Registered Provider or other bodies.	Revise to take the detailed wording and approach to this set out in the Affordable Housing SPD
	Jasbir Kaur	Pegasus on behalf of Northern Trust	Air Quality – The criteria for those developments requiring air quality / pollutant mitigation (contributions) is imprecise and does not provide the necessary clarity. Instead the policy should refer to the air quality SPD to ensure a consistent and clear approach is taken.	No action required. Air quality considerations are considered to be appropriately covered in the SPD. There is a direct link in the emerging document to the very detailed requirements of the detailed (Adopted) Air Quality SPD.
71761	Andrew Morgan	Pegasus on behalf of Northern Trust	Community Safety and Policing – agreed that these contributions should be assessed on a case by case basis.	Noted.

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		Warwickshire County Council	Welcomes / supports the Developer Contributions SPD	Noted.
71762		Place Partnership (on behalf of Warwickshire Police)	Procedures/ Process: General Approach Warwickshire Police endorse the inclusion of Community safety / policing being included within the list of infrastructure sought from planning obligations. This is wholly in accordance with the Local Plan and the NPPF.	Noted
71763			Planning Obligations – WP request that the third bullet point of this section is amended to read ‘ Offset relevant adverse impacts , for example, on the environment, education, social, emergency services , recreational and community facilities and transport that arise from development where the development might otherwise been refused because of these adverse impacts.’	Noted. The bullet point should be amended accordingly.
71764			Community Safety and Policing – suggests that the following amendments are made to strengthen the text... “The Council will therefore require development (where required and appropriate), to contribute towards the delivery of infrastructure to serve new developments and mitigate against their impact upon existing police resources. This is because paragraphs 8, 26 and 92 of the NPPF (2019) together confirm that sustainable development means securing a	Noted. The text should be amended to give the opportunity for development (other than residential) to be considered against the requirements for the police infrastructure needed to ensure safety/ police cover. It is not deemed necessary to embrace all of the text as it replicates DM1 and sections of the NPPF that is considered unnecessary.

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			<p>safe environment through the delivery of social infrastructure needed by communities. In this respect paragraphs 20 and 95 together state policies should deliver development that makes sufficient provision for security infrastructure through using the most up to date information available from the police. This is reflected in Local Plan Policy DM1 – Infrastructure contributions., Accordingly contributions may include the following.....</p> <p>This brings development other than residential into consideration (those associated with the night time economy for example).</p>	
71765			Appendix 3 – Template of Draft Section 106 Requirements. – support for the form of this Template is forwarded.	Noted.