

Summary of responses to the Planning Obligations and Affordable Housing Supplementary Planning Document

The Planning Obligations and Affordable Housing SPD was adopted by the City Council on 1 December 2008, and a First Review of the SPD was approved by Cabinet on 15 December 2009 for consultation purposes. The consultation draft has been through a consultation process, which took place between January and February 2010. The document has now been amended, taking into account the representations received, the latest national policy guidance and legislation, and in response to the experience of using the document in the planning application process.

The main amendments are:

- Inclusion of a distinction between 'Plymouth Development Tariff' contributions to strategic and local infrastructure, in response to new legislation that came into effect on 6 April 2010 (the Community Infrastructure Levy Regulations 2010).
- Clarification of the nature of the Tariff, to better demonstrate its consistency with the policy provisions of Circular 05/2005 and the Department of Communities and Local Government's New Policy Document for Planning Obligations, March 2010.
- Clarification of the role of the 'negotiated element' of Planning Obligations.
- Clarification of the nature of commuted maintenance payments that can be negotiated through Planning Obligations.
- Clarification and amendment of exemptions to the Plymouth Development Tariff to achieve improved consistency with the legal framework for the new Community Infrastructure Levy.
- Amendment to the approach taken in the SPD to student housing and Houses in Multiple Occupation.
- Clarification of the process of negotiating contributions to help mitigate the impact of commercial development on the marine environment.
- Amendments to the Market Recovery Scheme to reflect current market circumstances.
- Refreshing of the associated Evidence Base document.

Consultee	Issues	Response
-----------	--------	----------

Consultee	Issues	Response
<p>Mr. Martin Berkien, University of Plymouth</p>	<ul style="list-style-type: none"> • The University feels that the additional tariff on student accommodation is unfair, due to the level of its existing contribution towards infrastructure in the City. • Questions tariff on student accommodation contributions towards libraries, green space, recreation, transport and public realm. • The need to differentiate Houses in Multiple Occupation (HMOs) and student housing in the SPD 	<ul style="list-style-type: none"> • The Council accepts that after a period of significant growth in student numbers in the city, growth is tailing off. The case for strategic infrastructure contributions related to the growth of the city is therefore reduced. Student accommodation will now be required to contribute to local infrastructure where a need is demonstrated. • Through consultation with service providers the Council has identified that students utilise and impact on local public services and infrastructure at a similar level to the general public. Many service providers such as library services reported that students (including university students) were in fact frequent users of public libraries. The tariff has been revised so that purpose-built student accommodation will be required to contribute towards local infrastructure elements where a need is demonstrated. This will include contributions towards playing pitches and local green space elements and potentially towards local health services and libraries. They are exempt from strategic elements of the tariff. The children's play component of the green space contribution of the tariff has been separated to allow specific uses such as student accommodation to be exempt. • The Council accepts that there is an important distinction to be made between houses in multiple occupation and purpose built student accommodation in relation to the tariff and this is now reflected in the SPD. HMOs provide accommodation for the general population (including students) and play a part in helping to provide new housing associated with the growth of the city. Purpose-built student accommodation, on the other hand, is increasingly more about providing

Consultee	Issues	Response
		<p>accommodation for the existing student population than facilitating growth. The tariff now reflects that distinction.</p>
<p>Mrs. Kaja Curry, Tamar Estuaries Consultative Forum</p>	<ul style="list-style-type: none"> Highlighted the need to identify a calculated method to secure a tariff from commercial development, potentially on a per boat berth or per boat storage space basis. Suggested changes to the wording of the marine environment section of the negotiated element 	<ul style="list-style-type: none"> The Council has explored the possible options to include a tariff contribution from commercial marine leisure, but as yet the evidence required to underpin such a calculation is not available. The Council will keep this under review. The wording of the marine environment section has been strengthened to emphasise its importance as a strategic element of the tariff and as a negotiated element.
<p>McCarthy and Stone Retirement Lifestyles Ltd</p>	<ul style="list-style-type: none"> Questions Appendix 2 (the Plymouth viability protocol). Suggest that the management fee should be a flat rate for minor applications and for major applications. Also suggests that the management fee is likely to be unlawful and challengeable. Suggests that the time frame for spending S106 contributions should be reduced to maximum of 5 years. 	<ul style="list-style-type: none"> Para 2.9 of Appendix 2 (The Plymouth viability protocol) has been reviewed to address respondents' concerns about abnormal project costs. These can now be considered as a viability issue. The Council does not agree that the management fee is unlawful. The use of the size of the development (square metres) as a basis for calculating this fee is considered the fairest approach to securing contributions to the Council's S106 administrative and management costs. The management fee will be reviewed on an annual basis and published in the Planning Services Fees Policy. The normal time period for 'negotiated element' contributions is agreed as 5 years. However, given that the purpose of the tariff is to ensure that the cumulative impact of developments on infrastructure is addressed, funds need to accumulate over longer periods. Furthermore, project

Consultee	Issues	Response
	<ul style="list-style-type: none"> • Would like to see calculations behind household size. Argues that household size for 1 bedroom sheltered accommodation is lower than market 1 bedroom. • Argues that sheltered housing and other C2 use classes should be exempted from children's play space and sport/recreation contributions. 	<p>development of major strategic projects can take many years. In the past a short term view on infrastructure requirements has had a negative effect on developments after the tipping point. A longer time scale enables the cost of infrastructure over time to be spread across the related developments and supports the delivery of strategic infrastructure over the long term.</p> <ul style="list-style-type: none"> • The Council considers that sheltered accommodation is likely to have quite a varied household size dependant on the unit size and proposed use e.g. retirement or family etc. The Council acknowledges that if applications can illustrate that specialist sheltered housing schemes will have a significantly different household size then this can be taken into consideration. • C2 uses are now exempted from tariff for play space and sport/recreation.
Miss Rachel Bust, Coal Authority	<ul style="list-style-type: none"> • No specific comments 	<ul style="list-style-type: none"> • Response acknowledged
Mr Graham Clark, Sunney Bank Estates Ltd	<ul style="list-style-type: none"> • Questions Appendix B and suggests that the Atlas model is only relevant for larger, multi phased schemes. Respondent suggests a need to reference simpler viability tools such as the Three Dragons model. • The respondent considers that the requirement for a 2 year 	<ul style="list-style-type: none"> • The Council acknowledges in Para 2.7 of Appendix 2 that there are several models for testing viability and is happy to allow developers to use alternatives. When a developer provides their own model to the Council, they should be prepared to present it in a form that enables the Council to adequately interrogate its underlying structure and assumptions.

Consultee	Issues	Response
	<p>consent as part of market recovery with a substantial start is unacceptable.</p>	<ul style="list-style-type: none"> The two year consent has been included as a condition of Incentive Type 1 in the Market recovery measures. It provides the potential for development to proceed when viability is an issue. The Council considers it unacceptable to allow developers to pay a discounted tariff and then bank sites during a recession only to build them when the market has recovered.
Savills	<ul style="list-style-type: none"> Would like more flexibility in the application of the tariff in recognition of the varying costs of delivering development. Query the evidence base for sport and recreation. Respondent suggests that the Council needs to make sure that they are not asking developers to contribute to existing deficiencies or for maintenance. Suggests that where there is existing capacity the developers should not have to contribute. Respondent suggests that highways contributions should be negotiated through the travel plan rather than subject to tariff. 	<ul style="list-style-type: none"> The revised SPD recognises in Para 3.2 that the tariff will not be applied in blanket form, but is a basis for negotiation, having regard to the merits of each case. The viability protocol in Appendix 2 also enables viability discussions to take place between an applicant and the Council. The Council considers that there is sufficient flexibility in the current arrangements but also importantly the consistency and transparency for the development industry to bring forward schemes in the clear knowledge of the infrastructure contributions that are likely to be required. The evidence base for sport and recreation has been re-examined to ensure that contributions are only sought to address the impacts of new developments. For added clarity, maintenance costs for playing pitches have been separated out of the tariff and are included as part of the negotiated element. Travel plans generally deal with local transport issues and therefore the tariff is still appropriate. However, if a travel plan does deal with strategic transport measures then the tariff can be reduced.

Consultee	Issues	Response
<p>Dave Parson, Devon County Council</p>	<ul style="list-style-type: none"> • Document should include reference to the need for contributions towards cross-border infrastructure requirements and identify how they would be collected and protocol for distribution/use etc. • Suggests that affordable housing should contribute in the same way as market housing. • Would like to see some comment on the CIL and future plans for the tariff. 	<ul style="list-style-type: none"> • The Council acknowledges the need to be able to collect contributions towards cross border infrastructure. • The Council has received conflicting responses in regard to the SPD's position on affordable housing. The Council has identified affordable housing as one of the main priorities for the City, but also acknowledges the significant impact its inclusion within a development scheme has on development viability due to the low development value of each unit. The Council considers that affordable housing is unlikely to be able to contribute towards its impacts in the same way as market housing. Affordable housing is therefore exempt from the tariff but may be required to contribute bespoke obligations on a case by case basis. • The Council is keeping the SPD under review and is examining the potential use of the Community Infrastructure Levy to secure infrastructure contributions. Para 1.12 sets out the Council's view on CIL.
<p>Rose Freeman, The Theatres Trust</p>	<ul style="list-style-type: none"> • Is concerned that the document doesn't make clear which cultural facilities are included under 'cultural initiatives' or 'community facilities'. Would like more clarity. Theatre buildings do not benefit sufficiently from S106. 	<ul style="list-style-type: none"> • Because of the variety of cultural and community facilities that could potentially be subject to a planning obligation, the SPD does not prescribe which facilities can be funded but gives examples. This will be kept under review.
<p>Plymouth City Council, Labour Group</p>	<ul style="list-style-type: none"> • Concern that the SPD is too flexible with too many 'get out' clauses for developers. Worried that this will negatively impact on delivery of the Core Strategy vision. 	<ul style="list-style-type: none"> • It is considered that the SPD includes an appropriate amount of flexibility, but is sufficiently transparent and consistent to maximise contributions towards infrastructure and help deliver the Core Strategy

Consultee	Issues	Response
	<ul style="list-style-type: none"> <li data-bbox="409 363 1111 475">• Suggests that there is a danger that developers will use market recovery as a way of avoiding S106/tariff requirements. 	<p data-bbox="1267 244 2089 400">vision. The Tariff approach is a fair and transparent approach that the Audit Commission has identified as securing a greater level of contributions than alternative approaches. The Council will consider whether to introduce CIL over the course of 2010/11.</p> <ul style="list-style-type: none"> <li data-bbox="1223 432 2114 588">• The market recovery scheme is a temporary measure to reduce the burden on applicants during difficult economic conditions. It sends out a clear message to businesses that the Council is firmly committed to supporting economic recovery.
<p data-bbox="192 639 376 751">Jamie Sullivan, Tetlow King Planning</p>	<ul style="list-style-type: none"> <li data-bbox="409 639 1196 751">• Supports contribution exemptions from the tariff for affordable housing. Would also like affordable housing to be exempt from transport infrastructure. <li data-bbox="409 831 1111 908">• Negotiated element needs to be more specific on which community facilities are included. <li data-bbox="409 991 1144 1102">• Offsetting carbon targets policy need updating. Concerned that policy has moved on since Policy CS20 with PPS1 supplement. <li data-bbox="409 1134 1178 1211">• Are not convinced by the case for limiting service charges for affordable housing within Section 106 agreements. <li data-bbox="409 1294 1111 1327">• Affordable housing contributions from sheltered housing 	<ul style="list-style-type: none"> <li data-bbox="1223 639 2114 796">• Affordable housing contributions have been reviewed and amendments made in the SPD. Affordable housing is now exempt from all tariff contributions although may be subject to bespoke agreements on a case by case basis. <li data-bbox="1223 828 2114 984">• Because of the variety of cultural and community facilities that could potentially be subject to a planning obligation, the SPD does not prescribe which facilities can be funded but gives examples. This will be kept under review. <li data-bbox="1223 1016 2114 1093">• The Council has reviewed the carbon reduction negotiated element and updated the SPD in light of changes to national and local policy. <li data-bbox="1223 1125 2096 1236">• The Council's opinion is that restrictions on service charges are important to ensure that they do not undermine affordability. However, there is room for negotiation on a case by case basis. <li data-bbox="1223 1268 2096 1327">• The Council considers that sheltered housing should contribute to affordable housing except where it falls into the C2 Use Class (care or

Consultee	Issues	Response
	<p>needs to be conducted on a case by case basis.</p> <ul style="list-style-type: none"> • More flexibility needed on clusters of affordable homes. • Implementation of obligations: The respondent questions whether the management fee is required and suggests that it should be no more than 1% of total contributions, or top sliced. • Considers 15 years to spending contributions too long. Recommends 5 years. 	<p>nursing homes).</p> <ul style="list-style-type: none"> • Para 5.26 has been amended to state that small clusters of not 'normally' more than 12 dwellings may be acceptable on larger sites, to allow some flexibility. • The use of the size of the development (square metres) as a basis for calculating this fee is considered the fairest approach to securing contributions to the Council's S106 administrative and management costs. The management fee will be reviewed on an annual basis and published in the Planning Services Fees Policy. • The normal time period for 'negotiated element' contributions is agreed as 5 years. However, given that the purpose of the tariff is to ensure that the cumulative impact of developments on infrastructure is addressed, funds need to accumulate over longer periods. Furthermore, project development of major strategic projects can take many years. In the past a short term view on infrastructure requirements has had a negative effect on developments after the tipping point. A longer time scale enables the cost of infrastructure over time to be spread across the related developments and supports the delivery of strategic infrastructure over the long term.
James Wells	<ul style="list-style-type: none"> • Is the Council certain the level of the tariff is viable and won't negatively impact on delivery? Can all of the tariff contributions be justified? 	<ul style="list-style-type: none"> • The revised SPD recognises in Para 3.2 that the tariff will not be applied in blanket form, but is a basis for negotiation, having regard to the merits of each case. The viability protocol in Appendix 2 also enables viability discussions to take place between an applicant and the Council. The Council considers that there is sufficient flexibility in the current

Consultee	Issues	Response
	<ul style="list-style-type: none"> • Why has the tariff threshold been set at 1 dwelling and above? • The respondent questions why developments need to contribute to health or libraries. • The worked example in paragraph 3.12 needs to be made clearer. • Education improvements in the city are already programmed, so why is the Council seeking contributions? The tariff assumes a lack of capacity which isn't always the case. 	<p>arrangements, but also importantly the consistency and transparency for the development industry to bring forward schemes in the clear knowledge of the infrastructure contributions that are likely to be required. The SPD now sets out how each tariff element relates to CIL Regulation 122.</p> <ul style="list-style-type: none"> • The tariff threshold has been adjusted to 5 dwellings or more to exempt small developments. This is in response to the resource management implications of negotiating planning obligations as well as to reduce the burden on small developments. • The justification for contributions towards libraries and health are clearly set out in the SPD and this review has added further clarity. The Council considers that all residential development facilitates population growth and subsequently generates an increased impact on existing infrastructure and facilities. It is clear that services such as health and libraries are important to the sustainable growth of the city and are therefore an important part of the tariff. • The worked examples in the SPD have been revised to ensure they are easy to understand and illustrate the practical application of the tariff on the net development impact. • Education improvements take time to deliver on the ground and the Council is already planning to ensure that the impact of future development is addressed in a timely way. The existing Strategy for Change considers future development when planning for schools, therefore improvements need to be partly funded through the tariff.

Consultee	Issues	Response
	<ul style="list-style-type: none"> <li data-bbox="409 363 1120 435">• Why does student accommodation need to contribute to transport? Also sports provision? <li data-bbox="409 643 1120 675">• Also queries extended period for spending S106 money. <li data-bbox="409 938 1176 970">• Need to be more specific about how the money will be spent. 	<p data-bbox="1267 244 2092 316">Capacity does vary over time and the SPD has been revised to better reflect how existing capacity has been taken into consideration.</p> <ul style="list-style-type: none"> <li data-bbox="1223 347 2130 587">• The SPD has been amended to reflect the fact that purpose built student accommodation is increasingly more about providing accommodation for the existing student population than facilitating growth. Student accommodation has been exempted from the requirement to contribute to strategic infrastructure but is required to contribute to some aspects of local infrastructure where a local impact is demonstrated. <li data-bbox="1223 627 2130 1034">• The normal time period for ‘negotiated element’ contributions is agreed as 5 years. However, given that the purpose of the tariff is to ensure that the cumulative impact of developments on infrastructure is addressed, funds need to accumulate over longer periods. Furthermore, project development of major strategic projects can take many years. In the past a short term view on infrastructure requirements has had a negative effect on developments after the tipping point. A longer time scale enables the cost of infrastructure over time to be spread across the related developments and supports the delivery of strategic infrastructure over the long term. <li data-bbox="1223 1066 2130 1345">• Paragraph 3.20 states that in all cases the tariff will be spent addressing the need to which it contributes. This means that local infrastructure contributions will be spent on the specific local need arising from the development, and strategic infrastructure contributions will be spent on strategic needs arising. The Council’s governance framework for implementing planning obligations will provide safeguards to ensure that tariff money is spent in accordance with this principle. Each planning

Consultee	Issues	Response
		<p>obligation is individually identified by a unique code in the Council's financial records in order to be able to track precisely how the money is spent.</p>
<p>Ian Parsons, Highways Agency</p>	<ul style="list-style-type: none"> • Would like to see the negotiated element for transport apply to schemes of less than 2,500 m2 or 15 dwellings in exceptional cases where there would be impacts on the A38. • Questions the evidence base for the transport tariff. Should include a method for calculating the number of vehicle trips that will be generated by a development. • Appendix 1 – menu of market recovery measures. Respondent is concerned that infrastructure may not be completed in time or may not be funded at all. The Highways Agency can't fund infrastructure. 	<ul style="list-style-type: none"> • Para 4.2 of the SPD removes the threshold for the negotiated element. Decisions about the negotiated element will be made on a case by case basis, dependent on the specific development and its impact. • The tariff is based on the best available information at this time, including considerable work undertaken for the Local Transport Plan/s and the Plymouth Infrastructure Study. The basis for the tariff will be kept under review as new evidence becomes available. • The market recovery measures have been adjusted to reflect concerns and acknowledge that the Tariff/S106 contributions are only one aspect of funding infrastructure. The Council is confident that by planning over the LDF timescale, the required infrastructure can be delivered in a timely manner.