

## Appendix Two:

### Summary of Responses to Consultation 16<sup>th</sup> Feb to 30<sup>th</sup> Mar 2015

Valid responses received seventeen. Of these seven were from planning agents on behalf of developers, three were from government agencies, two were from, or on behalf of, non governmental organisations, two were from local government, two were from infrastructure providers and one was from the community and voluntary sector.

Some responses entirely or partially repeated representations submitted to the SWDP Examination in Public.

The seventeen responses contained seventy one separate representations.

Representations on behalf of developers were principally concerned with the evidence base that justifies seeking Developer Contributions, the amount of detail provided about the methods of calculating Developer Contributions and the clarity of the regulation 123 list. Representations from those not representing developers were principally concerned that the Developer Contributions Supplementary Planning Document did not include, or did not include enough detail, about the collection of S106 contributions for particular types of infrastructure.

Further explanation can be added to the Supplementary Planning Document to address a significant number of the representations.

#### Summary of Key Issues and Draft Officer Response:

Representation From	Representation Summary	Officer Response
<b>Question 1:</b> Does the draft SPD comply with the requirements of national planning policy, guidance and relevant regulations such as the Community Infrastructure Levy regulations? If no please explain which aspects are not in compliance and why?		
Severn Capital	The Supplementary Planning Document should clarify how the open space requirements in SWDP39 were set and explain how these will be applied to development proposals.	The justification for SWDP39 is set out within the SWDP evidence base and was tested at the Examination in Public. The Supplementary Planning Document explains in section 5 how the SWDP39 requirements will be applied to development proposals.
Severn Capital	Clarify the costs of the future maintenance of open space and how this will be calculated.	Agree the Supplementary Planning Document should provide additional explanation about the operation of commuted

		<p>sums.</p> <p>Commutated sums for the future maintenance of open space can only be sought where new open space is provided and these costs are set out at appendix two of the Supplementary Planning Document. These costs are based on recent negotiations for commuted sums and the actual costs of maintaining open space.</p>
Severn Capital	The Supplementary Planning Document should explain how any shortfall in open space typologies will be calculated?	<p>It is not possible for the Supplementary Planning Document to anticipate the location of all windfall development or the circumstances that may prevail with regard to open space provision over the life time of the SWDP. The proximity of existing open space to a development site and whether this has surplus capacity to provide for the needs of new residents can be the subject of negotiations at the time an application for development is received.</p>
Severn Capital	The Supplementary Planning Document should provide justification for the costs of each open space typology.	<p>New residential development will increase the pressure on existing open spaces. The justification for Developer Contributions is based on SWDP39 which seeks to ensure that development does not diminish the amount of open space infrastructure available to South Worcestershire residents. The costs within the Supplementary Planning Document are based on recent examples of providing these open space typologies.</p>
Severn Capital	Support for paragraphs 5.4.10, 5.4.16 and 5.4.20 to 5.4.22	Noted.
Warwickshire Police, West Mercia Police and Hereford & Worcester Fire	The Developer Contributions Supplementary Planning Document should include an explanation of Developer Contributions for emergency services infrastructure.	<p>There is no intention in the SWDP to collect Developer Contributions for emergency services provision from all development or specific</p>

and Rescue Service		classes of development. The site allocation policies in the SWDP do include references to specific infrastructure required by the emergency services to support these site allocations. Developer Contributions will be negotiated with developers of these site allocations that include the relevant emergency services infrastructure. References to emergency services infrastructure will be added to table 2 and in paragraph 5.6.1
Homes & Communities Agency	Ensure the Developer Contributions Supplementary Planning Document is in accordance with the National Planning Policy Framework and the National Planning Policy Guidance.	Agree the Supplementary Planning Document at the date it is adopted should be up to date and not be inconsistent with national policy and guidance.
Hallam Land Management Ltd	The Developer Contributions Supplementary Planning Document should include a commitment that the contributions sought through the Draft SPD will only be so where the obligations are demonstrably in accordance with the Reg 122 tests.	Agree a more explicit reference to this effect can be added to the Supplementary Planning Document.
Bloor Homes (Western) Limited & Miller Homes	Delete paragraph 4.2.4	Agree
Gleeson Strategic Land and Welbeck Strategic Land LLP	The deferring obligations section of the SPD should be omitted.	The Developer Contributions Supplementary Planning Document is concerned with the implementation of policy and not the setting of policy to which the PPG reference refers. It may be necessary if economic conditions change as they did in 2007/08 to offer contingent deferred planning obligations as an alternative to refusing planning permission.
Gleeson Strategic Land and Welbeck Strategic Land LLP	The Supplementary Planning Document should explain in the event of development being shown to be unviable which infrastructure contributions will be forgone to ensure	The Supplementary Planning Document assumes that any Developer Contributions sought are required to

	development can proceed.	make development acceptable in planning terms. The scope for any of these contributions to be forgone will depend on the circumstances of the development proposals and cannot be anticipated in advance of the appropriate Development Management negotiations.
Gleeson Strategic Land and Welbeck Strategic Land LLP	It is recommended that references to CDOs are removed from the SPD	The Supplementary Planning Document is intended to explain how the SWC will manage the collection of generic Developer Contributions from classes of development. The use of Contingent Deferred Obligations has enabled the Councils to approve applications that otherwise would have been refused as applicants would have been unable to show that their applications were acceptable in planning terms due to the inability of the development to deliver established local policy requirements.
<b>Question 2:</b> Does Table 1 on pages 10 and 11 provide the required level of clarity to explain which types of development will be expected to pay the Community Infrastructure Levy and/or make section 106 contributions?		
Welbeck Strategic Land	Support for content of paragraphs 2.2.7 and 3.2.1	Noted
Welbeck Strategic Land	Produce a list of projects that have received funding from S106 contributions since 1 <sup>st</sup> April 2010	Agree
Welbeck Strategic Land	The Supplementary Planning Document should not be adopted before the 123 list is confirmed. The Community Infrastructure Levy 123 list should make clear which Infrastructure Delivery Plan projects will be funded by Community Infrastructure Levy receipts.	Agree
Welbeck Strategic Land	There should be no actual or perceived double dipping.	Agree
Welbeck Strategic Land	Table 1 should state that developer contributions will only be sought when they do not prejudice the viability of development and this table should be in accordance with the most up to date national policy and guidance.	Agree
Warwickshire	Emergency services infrastructure	The Developer

<p>Police, West Mercia Police and Hereford &amp; Worcester Fire and Rescue Service</p>	<p>should be included in table one.</p>	<p>Contributions Supplementary Planning Document seeks to explain how generic developer contributions will be sought from all development or specific classes of development, it cannot anticipate the outcome of site specific negotiations for Developer Contributions that are not set out in the SWDP.</p>
<p>Hallam Land Management Ltd</p>	<ol style="list-style-type: none"> <li>1 Clarify that in some instances the standard CIL charge will be zero.</li> <li>2 Delete the reference to 40% green infrastructure</li> <li>3 Delete the word mainly from table 1 and replace it with directly.</li> </ol>	<p>1 and 3 agree these changes would aid clarity of meaning. 2 the reference to a policy requirement in the SWDP is not out of place in this SPD. SPDs are intended to explain how planning policies will be implemented when determining planning applications. It is therefore appropriate for a SPD to repeat the provisions of the SWDP where these are relevant to the range of planning obligations that will be sought from development.</p>
<p><b>Question 3:</b> Does Table 2 on pages 11 and 12 provide adequate explanation of which types of infrastructure will be supported by Community Infrastructure Levy receipts and which types of infrastructure will be funded by section 106 contributions?</p>		
<p>Meadow Arts and The Canal &amp; River Trust</p>	<p>Developer Contributions for public art should be sought via the Community Infrastructure Levy and the Developer Contributions Supplementary Planning Document.</p>	<p>It is a framework requirement that Developer Contributions are proposed in a DPD and that these are tested at an Examination in Public. The SWDP policies that this Supplementary Planning Document seeks to support contain no general requirement for development to support public art provision. This Supplementary Planning Document therefore cannot require Developer Contributions that have not been tested at the Examination in Public for the SWDP. Some development may still be required to provide public art but this will be on a site and development specific</p>

		basis and not via a tariff on all development.
Welbeck Strategic Land	Table 2 gives the perception that double dipping might occur. The Community Infrastructure Levy column of this table should list which projects will be funded.	Agree
Severn Capital	In Table 2, clarification is required on the definition of 'larger housing sites' in relation to the planning obligation associated with Sports Facilities.	Agree some additional clarification could be provided although for a specific development to fund in door sports facilities this would need to be required by a SWDP policy and these requirements are set out in the relevant site allocation policies in the SWDP.
Warwickshire Police, West Mercia Police and Hereford & Worcester Fire and Rescue Service	Include emergency services in table 2.	Agree an additional row could be added to table 2 to explain Developer Contributions for emergency services will only be sought from larger developments in the same way as in door sports facilities.
Sport England	A combination of planning obligations and CIL are likely to be appropriate for indoor facilities in most circumstances as most housing schemes in SW will not create sufficient demand (that cannot be met elsewhere) to justify the provision of an indoor facility (and it is likely only five Sec 106 contributions can be pooled post 1 April 2015.)	Noted, however the Developer Contributions Supplementary Planning Document cannot seek S106 contributions that are not set out in a SWDP policy.
Hallam Land Management Ltd	Hallam does not agree that planning obligations should as a matter of necessity be sought on large housing sites for indoor sports facilities.	Agree. The Developer Contributions Supplementary Planning Document does not seek Developer Contributions for in door sports provision from any size of development. The reference in table 2 is to in door sports infrastructure listed in the SWDP site allocations policies and any on site provision that would be justified in the event of very large windfall development being proposed.
Jones Lang LaSalle Limited	Paragraph 3.2.3 is vague and seems to contradict the contents of Table 2 of the SPD in that it states that some developments may need to help deliver other infrastructure requirements. This	The Developer Contributions Supplementary Planning Document helps to explain the Developer Contributions

	approach may not comply with the CIL Regulations.	that may be sought from all development or particular classes of development it cannot anticipate the circumstances of every application for development and therefore it is correct that in some cases development will need to fund other infrastructure types or projects to make the development acceptable in planning terms. All Developer Contributions must comply with the relevant planning regulations, if they do not the contribution could not be collected or enforced.
Environment Agency	We note Table 2 on page 11 does not include flood risk infrastructure or Green Infrastructure. We welcome therefore that the preceding text makes clear that the table is not exhaustive and some developments may need to include other infrastructure requirements/contributions.	Noted
<b>Question 4:</b> Should the SPD provide additional information about the process of determining the scale of section 106 contributions likely to be requested from individual developments? If yes what additional information is required?		
Welbeck Strategic Land	Section 5 of the Supplementary Planning Document should make clear how the contributions that may be sought have been derived.	Agree
Warwickshire Police, West Mercia Police and Hereford & Worcester Fire and Rescue Service	The Supplementary Planning Document should explain when and how much will be sought via S106 Developer Contributions for emergency services provision.	The Developer Contributions Supplementary Planning Document can not establish new tariff style planning obligations beyond those set out in the SWDP. There is no SWDP policy requirement or justification for seeking S106 contributions towards emergency services from all development. Providing the clarity suggested would risk limiting the scope of future negotiations required to make development acceptable in planning terms and would be contrary to achieving sustainable development.
Sport England	This will need to be negotiated on a case by case basis depending on scale	Noted.

	of development and impact etc.	
Hallam Land Management Ltd	Hallam considers that with a clarification up front setting out the need to satisfy the Reg 122 tests, and the helpful existing recognition in para 4.3.2 that planning obligations will need to be negotiated on a case by case basis, that the SPD in sections 3 and 4 provides appropriate levels of information regarding the process for considering section 106 obligations.	Noted.
Jones Lang LaSalle Limited	Is the 0.61 hectare per 1,000 population figure for 'children and young people' in SWDP39 correct?	The requirements in SWDP39 are a consequence of the evidence base for this policy and a requirement that development should not reduce the current level of infrastructure provision for each open space typology.
Jones Lang LaSalle Limited	Where S106 contribution might be pooled these contributions would be more appropriately sought via the Community Infrastructure Levy.	The fact that it may be necessary to pool up to five S106 planning obligations to deliver an infrastructure project is only one consideration in determining whether infrastructure should be funded by CIL or a planning obligation.
Jones Lang LaSalle Limited	Would it be more appropriate to collect Transport infrastructure contributions via CIL rather than via S106 planning obligations? Developer contributions must comply with planning regulations.	The DC SPD has been produced to provide guidance to developers and land owners who may be considering submitting a planning application. The SPD can only provide guidance about the general approach that will be followed when considering a planning application. The SPD does not replace the need to consider each application on its merits or ensure any planning obligation sought complies with the relevant planning regulations. The Introduction to the SPD could make this clearer.
Jones Lang LaSalle Limited	Would it be more appropriate to collect Education infrastructure contributions via CIL rather than via S106 planning obligations?	The fact that it may be necessary to pool up to five S106 planning obligations to deliver an infrastructure project is only one consideration in determining whether



		infrastructure should be funded by CIL or a planning obligation.
Bloor Homes (Western) Limited	Alternative arrangements to commuted sums are not referred to in para 5.2.2	Agree paragraph 5.2.2. should be expanded to explain the range of options available to secure the future maintenance of new open space.
Bloor Homes (Western) Limited	Natural growth should not be mitigated via Developer Contributions	Noted
Bloor Homes (Western) Limited	Education contributions should not be calculated on the basis of 2001 census data.	Worcestershire Children's Services have been using 2011 data to calculate Developer Contributions since April 2015. The average yield is now 2.8 children per 100 dwellings. The Supplementary Planning Document will be updated to reflect this.
Bloor Homes (Western) Limited	The other obligations listed on page 37 provide no clarity for applicants as to when such obligations could be sought or the approach to negotiating the value of any contribution.	Agree the Developer Contributions Supplementary Planning Document can only provide guidance on the application of generic Developer Contributions. The Supplementary Planning Document cannot anticipate the circumstances that may apply to every application that may be received. The items on page 37 are intended to advise developers of other matters that may be relevant to their proposal if it has an impact on any of the matters listed.
Gleeson Strategic Land and Welbeck Strategic Land LLP	The value of contributions that may be sought have not been justified.	The source of the costs of providing open space typologies are Sport England and recent examples of providing these facilities. This will be made clear in the final document.
Gleeson Strategic Land and Welbeck Strategic Land LLP	Section 5.2 does not make clear that on site provision or a requirement to provide an excess of one open space typology will reduce the value of off site contributions that will be sought.	Agree, para 5.2.3 does explain that the Developer Contributions calculations that follow only apply where on site provision is not made but the distinction between on and off site provision will be made clearer. Discussions of local

		circumstances relating to individual development proposals cannot be anticipated in advance. A reference that it <b>may be agreed</b> that excess provision of one open space typology could be off set against another open space typology when on site provision is made will be added to the SPD
Environment Agency	Include appropriate planning policy context for the statement "where development can be made safe through the provision of defences".	Agree
Environment Agency	Include a reference to contributions to mitigate direct or indirect residual flood risks.	Agree
Environment Agency	Add to para 5.5.19 that maintenance will need to be secured for the life time of development.	Agree
Miller Homes	A management company is an alternative to a commuted sum for the future maintenance of open space	Agree this will be made clear in para 5.2.2
Miller Homes	If none of the elements of the Worcester Transport Strategy are directly related to a particular development site then contributions should not be sought.	Agree the Developer Contributions Supplementary Planning Document cannot and does not seek to change the legal tests that must be passed before any planning obligation can be required. SWDP4 and contributions to the Worcester Transport Strategy were thoroughly tested at the Examination in Public of the SWDP and were found to be sound.
Miller Homes	Pupil yields should be based on the most up to date census data.	Worcestershire Children's Services have been using 2011 data to calculate Developer Contributions since April 2015. The average yield is now 2.8 children per 100 dwellings. The Supplementary Planning Document will be updated to reflect this.
Miller Homes	If the list of potential other Developer Contributions at page 37 is to remain in the Supplementary Planning Document then clarification as to the value and when such obligations will be sought should be provided.	The Developer Contributions Supplementary Planning Document can only provide guidance on the application of generic Developer Contributions. The Supplementary Planning

		Document cannot anticipate the circumstances that may apply to every application that may be received. The items on page 37 are intended to advise developers of other matters that may be relevant to their proposal if it has an impact on any of the matters listed. An explanation to this effect will be added before the list on page 37.
Worcestershire County Council	In cases where the new development relies on existing 'copper based' broadband infrastructure and the new development will hinder the existing service to neighbouring communities it should be requested of the developer to upgrade the local infrastructure to ensure neighbouring communities and their new development.	A Supplementary Planning Document cannot introduce new burdens on development beyond those set out in a planning policy that has been tested at an Examination in Public. SWDP26 requires that new development should be provided with superfast broadband or alternative solutions where appropriate. Planning obligations cannot seek Developer Contributions to resolve existing infrastructure deficits or subsidise infrastructure providers. Information technology infrastructure is similar to utility infrastructure and can be funded in the same way as other utilities, i.e. through connection fees and charges to customers.
Worcestershire County Council	Further minor amendments to the wording within the Transport section of the DCSPD is attached to this consultation response.	These can be incorporated into the relevant paragraphs.
<b>Question 5:</b> What other matters, if any, should be included within this SPD?		
Carolyn Davies EDO Worcester City Council	Worcester City Council would like to see provision made for <b>Employment and Skills</b> within this Developer Contribution SPD, to ensure that local people have the skills and the opportunity to access employment generated from major new developments.	Agree see submission for full justification for including employment and skills initiatives within this Supplementary Planning Document.
Warwickshire Police, West Mercia Police and	Explain how infrastructure providers will manage and monitor the Developer Contributions pooling restrictions to avoid failing to deliver essential	It is for infrastructure providers to ensure they do not seek Developer Contributions they cannot

Hereford & Worcester Fire and Rescue Service	infrastructure.	spend, any contributions that cannot be spent on the infrastructure for which they were sought should be returned to the developer at the earliest opportunity. The SWC will maintain their own records to ensure they do not seek Developer Contributions that would breach the pooling restrictions.
Hallam Land Management Ltd	Recognising the primacy of the NPPF and national policy, and that there will remain negotiations and discussions on a case by case basis which cant all be legislated for in detailed guidance, Hallam considers that the SPD does not need to include additional elements other than as set out in these comments.	Agree and consider the Developer Contributions Supplementary Planning Document makes this clear.
Jones Lang LaSalle Limited	Paragraph 4.3.2 should permit the use of BCIS build costs as an alternative to Quantity Surveyor's costs.	This paragraph seeks to ensure that information submitted in support of a planning application is robust and has been prepared by a competent professional. It is not the intention that the method of calculating costs should be prescribed. The paragraph can be amended to make this clear.
Gleeson Strategic Land and Welbeck Strategic Land LLP	Overall, it is essential that the SPD does not impose additional burdens which will prevent delivery of development sites and is reasonable in all respects to meet the requirements of CIL Regulation 122 and therefore it needs to be suitably flexible to accommodate unforeseen and changing infrastructure requirements.	Agree
Worcestershire Acute Hospitals NHS Trust	We wish to see healthcare added to the list of infrastructure in section 3 to which developer contributions will be sought for non site specific development. This is particularly important for secondary acute healthcare facilities such as those provided by this Trust	A Supplementary Planning Document cannot introduce new burdens on development. Developer Contributions need to be required by a planning policy and have been tested at an Examination in Public. If a basis for calculating the impact of development on hospital infrastructure can be developed this could be tested when any local plan review reaches the Examination in Public stage.

Worcestershire Acute Hospitals NHS Trust	Services provided by the Acute Trust are funded via our commissioners and the payment by results mechanism. Therefore any projected increased health demand as a result of development growth will need to be discussed with the local Clinical Commissioning Groups who would be required to fund such services and the associated capital and health infrastructure requirements.	In these circumstances it would not be possible to justify a planning obligation as required to make a development acceptable in planning terms. This is because there are other sources of funding for the required infrastructure, i.e. any increase population will be supported by additional GP registrations and payment by results.
Worcestershire Acute Hospitals NHS Trust	As an example of the latter the Trust is currently factoring in the projected population growth within South Worcestershire into a car park requirement option appraisal exercise currently being undertaken.	Its doubtful that a car park extension would be considered essential infrastructure when preparing an Infrastructure Delivery Plan.
Environment Agency	Add policies SWDP28, 29 and 30 to the list on page 4.	Agree these policies can be added to the list in para 1.2.4
<b>Question 6:</b> Do you have any other comments about the content of this SPD?		
Welbeck Strategic Land	The Developer Contributions Supplementary Planning Document should not seek or require Developer Contributions for the costs associated with administering the collection and spending of Developer Contributions.	Agree the reference to allocating 5% of Developer Contributions received for admin costs should be removed from the Supplementary Planning Document.
Welbeck Strategic Land	Concern that the pooling restrictions for S106 agreements may impact the ability of the Councils to secure all the funds required to deliver essential transport and other infrastructure.	Agree this is a matter that requires careful consideration when negotiating planning obligations.
Sport England	The latest Sport England Development Costs for the First Quarter of 2015 are now available on our website	Noted, the final version of the Supplementary Planning Document will include the most up to date costs for the provision of open space typologies.
Hallam Land Management Ltd	Delete the references to Contingent Deferred Obligations.	Disagree. While every effort is made to ensure developers know what planning obligation costs should be built in to land acquisition negotiations the value of completed development can change rapidly, as occurred in 2007/8. To ensure the development industry can maintain development volumes in most market conditions it is important that the local planning authority has the option to

		use Contingent Deferred Obligations as an alternative to refusing planning permission.
Hallam Land Management Ltd	Hallam Land Management Ltd are concerned about the detailed elements and value of the open space contributions set out in section 5.2.	The open space infrastructure requirements are based on maintaining the current level of infrastructure provision and ensuring that development does not add to an existing infrastructure deficit or create a future infrastructure deficit. The costs are based on the actual costs of providing these infrastructure typologies. The significant cost differential is a consequence of differences in existing infrastructure provision and the policy requirement that new development should not result in a future infrastructure deficit.
Hallam Land Management Ltd	The commuted sums put forward in the Supplementary Planning Document are not justified and have not been tested.	The Supplementary Planning Document needs to make it clear that the commuted sums shown in the tables in section 5 are only illustrative and any actual sums sought would be negotiated if a developer wished to seek the adoption of new areas of public open space by the relevant council.
Hallam Land Management Ltd	Hallam is concerned that the Draft SPD gives the impression that each development will be expected to contribute proportionately towards wider transport infrastructure considered necessary to mitigate the cumulative impacts of the plan.  The transport cost proposed per dwelling, must be published and subject to public consultation and properly tested. Finally any such mechanism derived (and consulted upon) must be fair and reflect the transport circumstances of individual cases.	It is not possible to set a cost per dwelling in a Supplementary Planning Document that reflects the transport circumstances of individual cases. It is only possible to set out guidance of generic costs that will be the basis of negotiations when considering the circumstances of individual development proposals.
Hallam Land Management Ltd	At present there is no basis to seek Developer Contributions for those	Agree there is no basis to establish a standard

	things listed in section 5.6.	Developer Contribution Charge for the things listed in paragraph 5.6. the point of this list is to point out that in some circumstances some development may be expected to make a contribution to other types of infrastructure.
Bloor Homes (Western) Limited	We welcome the identified use of deferred or phased and reduced or discounted planning obligations.	Noted.
<b>OTHER</b>		
<b>West Midlands HARP Planning Consortium</b>	Repeat of submission made to the main mods consultation in Sep 2014 primarily concerned with SWDP15 Meeting Affordable Housing Needs.	Noted
Worcestershire County Council	WCC are happy with the concept of a singular DCSPD.	Noted