

MALVERN HILLS DISTRICT COUNCIL

Developer Contributions and Planning  
Obligations

Supplementary Planning Document (SPD)

**Consultation Statement**

December 2006

Malvern Hills District Council  
Planning Services  
The Council House  
Avenue Road  
Malvern  
Worcestershire



## **1. Introduction**

- 1.1 Under the provisions of the Planning and Compulsory Purchase Act 2004 and The Town and Country Planning (Local Development) (England) Regulations 2004 the District Council is required to undertake consultation and public participation regarding the preparation of any Supplementary Planning Document (SPD). The District Council is also required to prepare a statement setting out the fact that documents have been made available for inspection and the places and times that they can be inspected.
- 1.2 This document sets out the consultation and public participation processes associated with the Draft SPD undertaken by the District Council in accordance with regulation 17 of the above regulations.

## **2.0 Preparation**

- 2.1 A workshop was held for members on April 26<sup>th</sup> 2006 and was used to evaluate the need for the SPD and its objectives.
- 2.2 A report introducing the Draft SPD was presented to Planning Committee on 15th June 2006. At that meeting, Members of the committee approved the draft document for consultation purposes.

## **3.0 Public consultation and participation**

- 3.1 The District Council undertook public participation on the Draft SPD for a period of 6 weeks between Thursday 20th July 2006 and Thursday 31<sup>st</sup> August 2006.
- 3.2 The consultation period was advertised through the publication of a public notice for one week in local newspapers for the district including the Malvern Gazette / Ledbury Reporter, Berrows Worcester Journal, the Tenbury Wells Advertiser / Ludlow Advertiser and Gloucester Echo. The public notice clearly stated the duration of the public participation period and appeared on July 20<sup>th</sup> 2006 (depending upon newspaper circulation days).
- 3.3 A further extended period of consultation was undertaken from 8<sup>th</sup> September 2006 until 20<sup>th</sup> October 2006 in order to consult with neighbouring County Councils which had not been consulted during the original consultation period.
- 3.4 The Public Consultation on this SPD accords with the provisions of the District Council's Statement of Community Involvement (SCI) adopted by Council in May 2006. A wide variety of organisations and individuals were informed of the public participation period and provided with copies of the Draft SPD, public notice, and response form. This included all Parish and Town Councils in the District. The Council recognised that because of the specific nature of the SPD, it was not likely to be of interest to the normal list of consultees. Therefore the Council sent copies of the guidance to specific representatives of the local development industry and to agents who regularly submit applications to the Council (at least 10 applications per year). **Table 1** provides details of the consultees for public participation purposes.

- 3.5 The Draft SPD, public notice, response form, Sustainability Appraisal and Consultation Statement were available on the District Council's web site [www.malvern hills.gov.uk](http://www.malvern hills.gov.uk) from the 20<sup>th</sup> July 2006. The Draft SPD clearly indicated how and where other key documents referred to in the SPD could be inspected.
- 3.6 Copies of the Draft SPD and supporting documentation were placed on formal deposit at the locations referred to in the public notice.

#### **4.0 Additional public participation**

##### 4.1 Availability

The draft SPD was available for inspection from the 20<sup>th</sup> July 2006 (via the Customer Service Centre, Tenbury Area Office, and Upton Upon Severn Library – see public notice). Copies were also available, free of charge, from these venues and could also be downloaded from the District Council's web site [www.malvern hills.gov.uk](http://www.malvern hills.gov.uk)).

##### 4.2 Advice and Assistance

Arrangements were made to ensure that officers at the Customer Service Centre were briefed regarding the Draft SPD and public participation requirements to enable questions to be answered in person or by telephone. The lead officer on the project was available to take telephone calls and answer questions.

#### **5.0 Dealing with Responses**

- 5.1 The District Council has summarised all representations for reporting purposes and a summary of the representation was sent to the respondents prior to the consideration of responses by the District's Council's Planning Committee. All comments received as a result of the consultation process were presented to Planning Committee on the 5<sup>th</sup> December 2006 together with an Officer response and any proposed changes to the SPD. These are set out in Appendix 1.
- 5.2 The SPD was adopted by the District Council's Planning Committee on 5<sup>th</sup> December 2006.
- 6.0 For further information regarding this document please contact:

Malvern Hills District Council  
Customer Services Centre  
The Library  
Graham Road  
Malvern  
Worcestershire

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[www.malvern hills.gov.uk](http://www.malvern hills.gov.uk)

## Planning Services July 2006

**TABLE 1**  
**Interest Groups**

**Specific Consultees identified in  
Accordance with PPS12**

|   |   |
|---|---|
| Council for the Protection of Rural England                         | Government Office for the West Midlands |
| Department of Culture, Media and Sport                              | West Midlands Regional Assembly         |
| The House Builders Federation                                       | Forest of Dean DC                       |
| Elgar Housing Association/Festival                                  | Herefordshire Council                   |
| English Heritage (West Midlands Region)                             | South Shropshire DC                     |
| British Wind Energy   | Tewkesbury Borough Council              |
| Friends of the Earth  | Worcester City Council                  |
| Malvern Hills AONB  | Worcestershire County Council           |
| Malvern Civic Society   | Wychavon District Council               |
| Malvern Hills Conservators  | Wyre Forest District Council            |
| Sport England   | The Countryside Agency                  |
| Worcestershire Wildlife Trust                                       | The Environment Agency                  |
| National Farmers Union (NFU)  | Highways Agency                         |
| Worcestershire Highway Partnership at Malvern Hills                 | English Nature                          |
| Country Land and Businesses Association                             | Severn Trent Water                      |
| Royal Institute of Chartered Surveyors                              | GPU Power Engineering                   |
| DEFRA (RDS West Midlands)   | National Grid                           |
| DEFRA HQ  | Network Rail                            |
| Upton Civic Society   | Office of Rail Regulation               |
| Cycling Officer (Worcestershire County Council)                     | Advantage West Midlands                 |
| Waste Department (WCC)  | English Heritage                        |
| Chamber of Commerce and Business Link (Hereford and Worcestershire) | Shropshire County Council               |
| Federation of Small Businesses                                      | Gloucestershire County Council          |
| Enigma Business Park  | Worcestershire NHS                      |
| Great Malvern Association of Traders                                |   |
| Malvern Hills Science Park Ltd                                      |   |

### Agents

|                                     |                          |
|-------------------------------------|--------------------------|
| Ainley Alexander Partnership Ltd    | Hamiltons                |
| Andrew Grant                        | Humberts                 |
| Axys Design                         | Hunter Page Planning Ltd |
| Barton Wilmore Planning Partnership | J Christopher Ashton     |
| Bigwood Associates Limited          | J S Bloor                |

|                                      |  |
|--------------------------------------|--|
| Border Oak Design & Construction Ltd | Marcus Cleaver   |
| Boughton Butler LLP                  | Mark Gent  |
| Boyer Planning                       | Martin Scholles Chartered Surveyor                       |
| Bovis Homes                          | N J Teale  |
| Brightwells Limited                  | Pegasus Planning   |
| Bruton Knowles                       | Persimmon Homes  |
| Carter Jonas                         | RPS Planning, Transport and Environment Ltd (Birmingham) |
| DPD Consulting Group                 | RPS ( Bristol)   |
| Dean-Walker Bateman Architects       | RPS (Oxford)   |
| Design Build                         | RRA Architects   |
| Engineering & Building Design        | Stephen Ward   |
| Fordham Research Ltd                 | Stoneleigh Planning                                      |
| Guise Jones Sawyer                   | TJ Preece & Associates                                   |
| GVA Grimley                          | Three Counties Planning                                  |
| Hallmarks Solicitors                 | Turley Associates  |
|                                      | Wall James & Davies                                      |

### Parish Councils

|                                       |   |
|---------------------------------------|---|
| Abberley Parish Council               | Little Malvern & Welland Parish Council       |
| Alfrick & Lulsley Parish Council      | Little Witley Parish Council                  |
| Astley & Dunley Parish Council        | Longdon Holdfast & Queenhill Parish Council   |
| Bayton Parish Council                 | Lower Broadheath Parish Council               |
| Berrow Parish Council                 | Lower Sapey Parish Council                    |
| Birstmorton Parish Council            | Madresfield Parish Council                    |
| Broadwas & Cotheridge Parish Council  | Malvern Town Council                          |
| Bushley Parish Council                | Malvern Wells Parish Council                  |
| Castlemorton Parish Council           | Mamble Parish Council                         |
| Clifton on Teme Parish Council        | Martley Parish Council                        |
| Earls Croome Parish Council           | Newland Parish Council                        |
| Eastham Parish Council                | Pendock Parish Council                        |
| Eldersfield Parish Council            | Pensax Parish Council                         |
| Great Witley & Hillhampton Group      | Powick Parish Council                         |
| Grimley Parish Council                | Ripple Parish Council                         |
| Guarlford Parish Council              | Rochford Parish Council                       |
| Hallow Parish Council                 | Rushwick Parish Council                       |
| Hanley Castle Parish Council          | Severn Stoke & Croome D'Abitot Parish Council |
| Hanley Parish Council                 | Shrawley Parish Council                       |
| Hill Croome Parish Council            | Stanford with Orleton Parish Council          |
| Holt Parish Council                   | Stockton on Teme Parish Council               |
| Kempsey Parish Council                | Stoke Bliss Kyre & Bockleton Parish Council   |
| Kenswick & Wichenford Parish Council  | Suckley Parish Council                        |
| Knighton & Teme Parish Council        | Tenbury Town Council                          |
| Knightwick & Doddenham Parish Council | The Shelsleys Parish Council                  |
| Leigh & Bransford Parish Council      | Upton upon Severn Town Council                |
| Lindridge Parish Council              | West Malvern Parish Council                   |
| Ombersley & Doverdale Parish Council  | Norton Juxta Kempsey Parish Council           |

|                          |  |
|--------------------------|--|
| Strensham Parish Council | Drakes Broughton & Wadborough Parish Council |
|--------------------------|--|

## *Appendix 1 - Developer Contributions and Planning Obligations*

| <i>Name</i>   | <i>Organisation</i> | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>   | <i>Recommendation</i>  |
|---------------|---------------------|--------------------|--|---|--|
| Mr B Sharples | Sport England       | Comment            | <p>1. Suggestion:- consider the recycling of water/use of grey water.</p> <p>2. Consideration should be given to ancillary facilities e.g. changing accommodation provision. Water provision for allotments.</p> <p>3. Contributions for maintenance should also include built facilities that have been created/extended etc.<br/>All pitches and sports facilities should be set out/created and then maintained to guidance set out in the relevant Sport England guidance.</p> | <p>1. The Council agrees that greater recycling of water and the use of grey water in developments should be encouraged and is in line with the objectives related to the Water Framework Directive. However, it is considered that beyond a general statement of encouraging this form of recycling it would be more appropriate for water recycling (in policy terms) to be developed in greater detail in a specific SPD or design guidance addressing all forms of development.</p> <p>2. Details regarding contributions for sport and leisure facilities will be dealt with in the Open Space SPD which is anticipated for public consultation in spring 2007.</p> <p>3. The scope of the Open Space SPD is set out in paragraphs 77- 80 and is considered to address the Objector's concerns. No further changes are considered necessary.</p> | <p>1. Insert at end of para 86 'In all developments the District Council wishes to encourage greater water recycling and the use of grey water in order to reduce the demands for potable water and will consider producing additional specific guidance in the future.'</p> |

| <i>Name</i>  | <i>Organisation</i>                 | <i>Obj/support</i> | <i>Summary of Representaion</i>   | <i>Summary of Councils Response</i>  | <i>Recommendation</i>   |
|--------------|-------------------------------------|--------------------|---|--|---|
| Mr C Mercer  | Highways Agency<br>NS West Midlands | Comment            | Paragraphs 33 and 34 should refer to the need to seek contributions from developers for highway improvements under S278 of the Highways Act.  | The intention of Policy DS18 (Planning Obligations) as outlined in para 2.12.1 of the Adopted Local Plan is in accordance with the tests set out in circular 05/2005 and Section 106 of the Town and Country Planning Act 1990. Circular 5/05 para B52 states that 'this guidance is not concerned directly with matters arising from other legislation including agreement, about development in the vicinity of roads under Section 278 of the Highways Act' Requirements relating to Section 278 of the Act are therefore not covered in this SPD as stated in para 119 of the SPD. However, the text should be amended to make reference to circular 5/05 for clarification.                     | Amend final sentence of para 119 to read 'This guidance does not address matters relating to non planning legislation e.g. matters arising under section 278 of the Highways Act 1980 (as substituted by the New Roads and Street Works Act 1991) in accordance with Circular 05/2005 para B52. |
| Mr R Grounds | Festival Housing Group/Elgar H.A.   | Objection          | Provision of Affordable homes should be exempt from developer contributions. These additional costs have to be met from the housing subsidy provided either by the LA or other public body. (Any additional costs would need to be met from subsidy sought). Any provision that requires ongoing financial liability e.g. maintenance of public open space will result in a service charge levied on residents. Council should waive contributions in the case of Affordable housing. | The development of Affordable housing should not preclude contributions that are necessary to make the development acceptable in planning terms.<br><br>It should be noted that in certain circumstances (such as education contributions) contributions will not be sought. However, it is essential that the proposed development meets the full range of needs generated by future occupiers and unacceptable demands are not placed upon existing infrastructure. The draft SPD makes clear that financial viability will be a material consideration in any adjustment of requirements for community infrastructure. As stated in para 32 each site will be dealt with on a case by case basis. | No Change   |

| <i>Name</i>  | <i>Organisation</i>       | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>  | <i>Recommendation</i>  |
|--------------|---------------------------|--------------------|--|--|--|
| Hanna Mawson | House Builders Federation | Objection          | <p>1. The HBF is concerned that some requirements of the SPD are not consistent with circular 5/05. Contributions should only be sought where there is a genuine need created by the development.</p> <p>2. Object to providing open book financial appraisal. Different developers will operate at different costs and profits which is difficult for a third party to comment on whether financially appropriate.</p> <p>3. Attempt to impose 'land tax' which is illegal</p> <p>4. Renewable energy requirements are too onerous, should be part of building regs. not planning policy. All references to renewable energy should be removed.</p> <p>5. Premature to require contribution to be paid prior to commencement of development since receipts for dwellings not yet secured. The Council cannot expect to make off- site provision where it is not necessary.</p> <p>6. Guidance should detail how expenditure identified and related to specific projects. Should be clear audit trail between contribution made and infrastructure provided.</p> | <p>1. The SPD in Para 22 makes it clear that contributions will only be sought where they meet the tests set out in Circular 5/05.</p> <p>2. An open book financial appraisal will only be required when the developer has advised the Council that contributions required can not be provided as they may affect the viability of the proposal. When difficulties arise a process exists involving independent third parties to validate the financial information. The use of an independent expert will be agreed with the applicant. They will analyse information on costs and profit within ranges.</p> <p>The fact that developers may create varying costs and profits is acknowledged and accepted. However, the assessment will test whether, having regard to both reasonable market costs and profit, the development can support the necessary community infrastructure.</p> <p>Agree to add sentence in para.41 stating that due to confidentiality issues details of the appraisal this may have to remain confidential but the general conclusions will be reported to committee.</p> <p>3. The SPD is not an attempt to apply a land tax since such a tax would apply to all development. The SPD makes it clear that contributions will be sought on a site by site basis and on the basis of need.</p> <p>4. Planning Policy Statement 22 states that local authorities may include policies in local development documents that require a percentage of the energy used in new residential, commercial or industrial developments to come from on site renewable energy developments. Many</p> | <p>2. Add text 'Due to confidentiality issues the appraisal may be treated as confidential information but the conclusions will be incorporated in the Case Officer's report to the Planning Committee' to para 41.</p> <p>6. Add text to para 71 'A charge of £300 will be made for each Section 106 agreement completed towards the cost of monitoring'.</p> |

| <i>Name</i> | <i>Organisation</i> | <i>Obj/support</i> | <i>Summary of Representaion</i>   | <i>Summary of Councils Response</i>  | <i>Recommendation</i> |
|-------------|---------------------|--------------------|---|--|-----------------------|
|             |                     |                    |   | <p>Local Authorities have policies which require a percentage of on site renewable energy generation.</p> <p>5. Contributions or infrastructure can be implemented prior to the commencement of development however the fact that each case will be treated on a site by site basis allows for sufficient flexibility within the system. In addition para 67 allows for phasing of contributions on large developments.</p> <p>6. Monitoring procedures will ensure that there is a clear audit trail between contributions made and infrastructure provided. The Annual Monitoring Report will set out details as is available to the public. In addition details and progress will be periodically reported to Planning Committee. To assist with the monitoring and implementation of developer contributions a charge of £300 will be made for each section 106 agreement completed.</p> |                       |
|             | Natural England     | Support            | English Nature (now part of Natural England) supports the document. Of particular relevance is Open Space, Renewable Energy, Sustainable Transport. It plays a positive part in furthering conservation of biodiversity and geology, supporting sustainable solutions to development problems and mitigating against residual effects on nature conservation. | Support Noted  | No Change             |

| <i>Name</i>  | <i>Organisation</i> | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>   | <i>Recommendation</i> |
|--------------|---------------------|--------------------|--|---|-----------------------|
| Mr J Burnett | Environment Agency  | Comment            | <p>In certain circumstances developer contributions may be appropriate for the following:</p> <p>Mitigation of fluvial flood risk for the provision of temporary, or permanent physical defences or other flood risk measures for example flood warning systems and emergency services for the lifetime of the development.</p> <p>A contribution should be sought for the maintenance of flood defences for the lifetime of development - 100 years for residential and 60 years for commercial.</p> <p>To secure Sustainable Urban Drainage Systems (SuDS) the Authority may be able to produce a standard formula for contributions or deal with on a case by case basis.</p> <p>To monitor ground and surface water and any remediation works required as a result of the development.</p> <p>To upgrade foul drainage facilities or to secure a future mains foul drainage connection</p> | <p>The Council welcomes the specific comments relating to developer contributions involving flood defence.</p> <p>However, the Council considers that the issues raised by the Agency are substantially addressed by adopted Local Plan Policies DS18 (Planning Obligation) and DS16 (Development and Flood Risk). Specifically, Policy DS16 already requires that flood defence measures are maintained for the lifetime of the development and makes provision for SUDS. There would appear to be no substantial benefit in restating these requirements within the Draft SPD.</p> <p>Any proposed development at risk of flooding will be referred to the Environment Agency and full/appropriate weight given to any comments received.</p> | No Change             |

| <i>Name</i>  | <i>Organisation</i>                          | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>  | <i>Recommendation</i>   |
|--------------|--|--------------------|--|--|---|
| R W B Sutton | Malvern Civic Society Planning Sub-Committee | Comment            | <p>1. The document is not easily read and understood by the layman. A comprehensive summary and glossary would be helpful.</p> <p>2.The process of Developer Contributions is open to abuse. To avoid the situation of developers 'buying' planning permission a number of options are suggested:</p> <p>a) payments should be made on a percentage sliding scale, b) the money should be placed on deposit and managed by the District Auditor. c) Also the money should be non refundable. d) It should not be allocated to a specific project. e) At regular intervals the money should be allocated according to current needs by f) a small group of local nominees not councillors. Not allocating the money to a specific project is the best option.</p> | <p>1. Agreed to the inclusion of a glossary and summary table to assist in making the document more user friendly.</p> <p>2.The act of publishing an SPD on developer contributions is an attempt to make the system more transparent as advised by circular 5/05. In terms of securing contributions, Circular 5/05 clearly sets out that 'planning permission may not be bought or sold' (para B6).</p> <p>(a-f) Circular 5/05 further states that contributions should be 'fairly and reasonably related in scale...to the proposed development' On the basis of this no changes with regard to the payment of contributions are accepted. Other options suggested by the objector are contrary to government advice. Non allocation of money to a specific project is contrary to the thrust of Circular 5/05 which states that the monies should be directly related to the proposed development.</p> | 1. Change to include glossary and table detailing type of contribution and thresholds as a summary guide. |
| Steve Austin | Network Rail                                 | Support            | <p>Network rail supports the SPD in principle - contributions should be sought where they fund the cost of contributing infrastructure needed as a result of development. Welcome the pooling of contributions which may need to be spent outside of district in order to see benefits within the area. Both stations at Malvern have experienced significant growth, improvement in car parking facility would be of interest should new development lead to increased use of the rail network.</p>   | Support Noted  | No Change   |

| <i>Name</i>   | <i>Organisation</i>                       | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>  | <i>Recommendation</i> |
|---------------|---|--------------------|--|--|-----------------------|
| Mrs J Smee    | Clerk to Abberley Parish Council          | Objection          | <p>1. Should be provision for local communities to take active part in decision making at all stages of developer contribution process rather than merely being consulted.</p> <p>2. The Definition of 'local community' should be expanded to include Parish Councils and schools.</p> <p>3.The term 'Relevant Consultees' has not been defined anywhere, should include Parish Councils.</p> | <p>1. The Statement of Community Involvement aims to promote effective public engagement in the planning process. Special arrangements for consulting and engaging the local community on major and other forms development are set out in the SCI. In appropriate circumstances the Council expects developers to have carried out initial consultation with the local community prior to submitting a planning application.</p> <p>2.The term Local Community includes Parish/Town councils and schools. Para 1.16 of the District Council the Statement of Community Involvement (SCI) notes that the community includes local residents, businesses, land owners, special interest groups and other organisations.</p> <p>In addition the process of developing both Local Plan policy and related SPD provides local communities with an early opportunity to influence Council policy with respect to the range and type of developer contributions sought.</p> <p>3.Relevant Consultees has not been defined since by their very nature they will vary according to the proposed development. However, Parish/Town Councils form a statutory consultee.</p> | No Change             |
| Mrs P Perfect | Clerk to Astley and Dunley Parish Council | Support            | Support Document   | Support noted  | No Change             |

| <i>Name</i> | <i>Organisation</i>               | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>  | <i>Recommendation</i> |
|-------------|-----------------------------------|--------------------|--|--|-----------------------|
| J M Skinner | Clerk To Guarlford Parish Council | Support            | Support Document   | Support noted  | No Change             |
| Mr P S Roe  | Clerk to Hallow Parish Council    | Support            | <p>Considered positive. Recycling should be extended to as many forms of waste as possible including a wider range of plastics. Commercial developments should recycle.</p> <p>Open Space<br/>Strongly support Open Space</p> <p>Recycling<br/>Support, although it is generally considered that a) recycling should be extended to as many forms of waste as possible including a wider range of plastics.<br/>and<br/>b) every effort should be made to encourage waste recycling in commercial developments and provision should be made therefore.</p> <p>Strongly support</p> | Support noted however the Council's recycling policy is not a matter for consideration in this SPD although the Head of Customer and Environmental Services has been made aware of these comments. | No Change             |

| <i>Name</i>   | <i>Organisation</i>             | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>   | <i>Recommendation</i> |
|---------------|---------------------------------|--------------------|--|---|-----------------------|
| Mrs A Halford | Clerk To Kempsey Parish Council | Comment            | <p>1. The Developer Contribution Flow Chart between paragraphs 72 and 73 does not show the role of consultee bodies, or who they are. What is the role of the Parish/Town Councils in whose area a development is proposed? As drafted the flowchart looks as if an agreement is made with the developer before an application is submitted.</p> <p>2. It is noted that the Planning Department will maintain a database of all Section 106 Agreements. How accessible will this be-?</p> <p>3. Where in the process should the consultee organisations be consulted, and who are they-?</p> | <p>1. The flowchart illustrates how pre-application discussion can identify possible requirements for physical and community infrastructure and will identify what further information is required as set out in para 56. This is necessary to ensure that planning applications are not unduly delayed through the system. The flow chart illustrates some of the relevant departments/bodies who may be consulted specifically on the subject of a section 106 agreement.</p> <p>2. Details and progress of how monies are being spent will be periodically reported to Planning Committee. Committee reports are public documents which are also available on the Council's website. A charge of £300 has been introduced to assist with the process of monitoring.</p> <p>3.Parish Councils are consulted on all planning applications within their area (as set out in the SCI). A significant number of planning applications likely to require developer contributions will fall under the definition of major development. Specific arrangements for consulting the local community on major development applications are set out in the SCI. The Council expects developers to have carried out initial consultation with the local community.</p> | No Change             |

| <i>Name</i>    | <i>Organisation</i>                      | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>  | <i>Recommendation</i> |
|----------------|--|--------------------|--|--|-----------------------|
| Mrs J Simmonds | Clerk to Lower Broadheath Parish Council | Objection          | <p>1. Para 33 should require developers to make contributions to road improvements not just sustainable transport.</p> <p>2. There appears to be limited land available for park and ride facilities at the Malvern stations which is inadequate to cope with the planned developments in Malvern. Improved bus services appear to be little used and have been withdrawn.</p> <p>3. Para 42 should be reduced to 6 or more dwellings.</p> | <p>1. The intention of Policy DS18 (Planning Obligations) as outlined in para 2.12.1 of the Adopted Local Plan is in accordance with the tests set out in circular 05/2005 and Section 106 of the Town and Country Planning Act 1990. The guidance is not concerned with matters relating to non planning legislation e.g. matters arising under section 278 of the Highways Act 1980 (as substituted by the New Roads and Street Works Act 1991) in accordance with Circular 05/2005 para B52. Requirements relating to Section 278 of the Act are not therefore covered in this SPD as stated in para 119 of the SPD. However, the text could be amended to make reference to circular 5/05 for clarification.</p> <p>Nevertheless, in appropriate circumstances it is possible for Section 106 agreements to include provisions for specific types of highway improvements (such as those recently included in the draft North site section 106 agreement) However, it is not considered necessary or appropriate to make changes to reflect this</p> <p>2. The potential impact of development on the capacity of Malvern station/bus services will be considered as part of any future planning applications, Development Plan and Local Transport Plan together with the role of developer contributions. It is considered that this SPD as drafted provided sufficient flexibility to address this issue and to add site specific reference in the absence of a proposed scheme (or scheme outlined in the LTP) would be inappropriate.</p> <p>3. The threshold varies according to the type of contribution. For certain types of contributions Major Development has been set as the threshold since it was felt that to set the threshold lower would be too onerous</p> | No Change             |

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| <i>Name</i> | <i>Organisation</i> | <i>Obj/support</i> | <i>Summary of Representaion</i> | <i>Summary of Councils Response</i> | <i>Recommendation</i> |
|-------------|---------------------|--------------------|---------------------------------|-------------------------------------|-----------------------|
|-------------|---------------------|--------------------|---------------------------------|-------------------------------------|-----------------------|

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for smaller sites and developers. This is detailed in the new table at the end of Part 2 of the SPD.

| <i>Name</i>  | <i>Organisation</i>                   | <i>Obj/support</i> | <i>Summary of Representaion</i>  | <i>Summary of Councils Response</i>   | <i>Recommendation</i>   |
|--------------|---------------------------------------|--------------------|--|---|---|
| Mrs S Hughes | Clerk To Malvern Wells Parish Council | Objection          | <p>1. Should be made clearer at beginning of document that planning obligations are another name for Section 106 agreements.</p> <p>2. Para 11 -&amp; 20 appear to contradict each other.</p> <p>3. Para 22 needs to be more prominent.</p> <p>4. Para 30 -&amp; 41 appear to contradict each other. In para 39 can a subsequently discovered viability issue compromise an already agreed obligation-?</p> <p>5. Para 44 how do you pool small developments when the community need only becomes apparent over a long timescale.</p> <p>6. Para 46 contradicts itself.</p> <p>7. Para 47 -&amp; 62 - would it be possible for a bond to be posted until the developer has discharged their obligations.</p> <p>8. Para 50 -&amp; 55 how is refusal prevented from being overturned on appeal.</p> <p>9. Para 59 - does obtaining legal agreements come under the same performance targets (8 &amp; 13 weeks)?</p> <p>10. Para 60 for legal contract to be valid it must include an exchange of worth. If planning permission cannot be bought or sold how can this be achieved-?</p> <p>11. para 65 -&amp; 80 contradict on the requirement for future maintenance.</p> <p>12. Para 70 what distinguishes a unilateral agreement from a covenant-?</p> <p>13. Para 68 what does ref 13.16.1 refer to -?</p> | <p>1. Agree to make it clear in the SPD that Section 106s agreements are a type of planning obligation authorised by Section 106 of the Town &amp; Country Planning Act 1990.</p> <p>2. Disagree. Consider that the wording reflects the guidance set out in Circular 5/05. The meaning in para 11 was that obligations cannot be an aid to granting planning permission if development is contrary to planning policy.</p> <p>3. Agree that Para. 22 is important but in the documents current format all parts of the document are to be given equal prominence.</p> <p>4. Disagree that paras 30 and 41 appear to contradict each other. Para 30 refers to the consultation on the prospective developer contributions whereas para 41 refers to the viability of a site. If a situation arose where a developer contribution was negotiated below the defined standard/thresholds, the reasons for this would be explained as part of the consultation. Commercially sensitive financial information could however be treated confidentially. Financial statements are only likely to be requested in a small number of cases where the developer claims that viability is an overriding issue. If confidentially (commercial sensitivity) is an issue an independent third party may be brought in. There will always be a balance to be achieved between remaining transparent and respecting commercially sensitive information relating to development sites. Agree to add sentence to para 39 that states that viability is likely to be considered at the time of pre application discussion and negotiation.</p> <p>5. Contributions can only be required where there is a community need in the first</p> | <p>1. Add sentence in para 3 to state 'Planning obligations are often referred to as 'Section 106's', specifically these are agreements enabled by Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991).</p> <p>4. To para 39 add 'viability is an issue likely to be considered at the time of preapplication discussions and negotiation'</p> <p>6. Change sentence in para 46 to read ...'to meet the specific demands of new development and expedite the provision of specific infrastructure this will be considered in negotiations'.</p> <p>11. Change sentence in para 65 to read 'The maintenance payment will be to cover a period of 25 years'.</p> <p>13. Delete reference to 13.16.(typographical error)</p> <p>14. Amend error to block heading in para 101 to read 'Renewable Energy'</p> |

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|-------------|---------------------|--------------------|---|---|-----------------------|
|             |                     |                    | 14. Para 101 block heading missing.   | instance therefore the situation described by the objector would not occur. In addition local authorities are encouraged to develop (through research and consultation) a clear picture of local needs in order to provide a basis for future negotiations either singularly in relation to major developments or incrementally in relation to smaller proposals.   |                       |
|             |                     |                    | 15. Para 126 QinetiQ site does not need to be referred to as 'South'.                                       |   |                       |
|             |                     |                    | 16. Para 141 what is the time scale for base unit cost and how many years is it to apply and be calculated. | 6. Agree to change the word 'or' to 'and' in para 46.<br><br>7. Some authorities do use performance bonds as effective tools to transfer the risk of under or non delivery of obligations. Consideration will be given to the use of bonds and can be implemented on a site by site basis.<br><br>8. With regard to Para 50 & 55 a refusal can be overturned at appeal and this cannot be prevented as suggested by the objector. However the Council can strengthen its' position by setting out a policy on developer contributions in the Local Plan and this SPD.<br><br>9. Planning Applications involving legal agreements do come under the same strict performance targets which is why pre application discussion is useful as set out in para 56.<br><br>10. Circular 5/05 para B6 states that 'planning permission may not be bought or sold'. It further states that it is not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms' (B5ii). Where a planning obligation can make a proposed development acceptable in planning terms and meets the other tests set out in Circular |                       |

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|             |                     |                    |                                 | <p>5/05 then there is an 'exchange of worth' as referred to by the objector. Para 22 of the SPD clearly sets this out. No other changes are considered necessary.</p> <p>11. Agree that para 65 and 80 provide contradictory advice - future maintenance should generally be for a period of 25 years.</p> <p>12. A unilateral undertaking is an obligation offered by the applicant to the planning authority either in support of a planning application or a planning appeal. The terms of the agreement are identified by the applicant. This is produced by the applicant's solicitor in its entirety with no Council involvement. This term will be explained in the glossary. A covenant is an agreement entered into by two parties to do or refrain from doing certain acts.</p> <p>13. Agree to change typographical error.</p> <p>14. Agree</p> <p>15. Disagree (see Adopted Local Plan Policy DS9)</p> <p>16. In para 141 the base unit cost applies for the financial year 2006. See changes in response to representation by Primary Care Trust.</p> |                       |

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|-------------|---|--------------------|---|---|--|
| Mr R L Tesh | Chairman,<br>Shrawley Parish<br>Council | Object             | <p>1. Document not easy to read and convoluted for public.</p> <p>2. Para 141 does not flow from 140.</p> <p>3. Should be some indication of amount of Developer Contributions expected each year.</p> <p>4.No definition of the term developer.</p> <p>5. SPD seems to penalise those in Rural Regeneration Zone when aim is to regenerate in this area.</p> <p>6. No title heading for para 101 to 107.</p> <p>7. Formatting problem in paras 100, 113 &amp; 115.</p> | <p>1.To assist the reader it is proposed to include a glossary and summary table.</p> <p>2. Agree para 140 does not flow to 141 as text relating to the explanation of accessibility zoning was inadvertently missed out of the consultation draft. The text will be reinserted in the adopted SPD.</p> <p>3.It is impossible to indicate the amount of developer contributions expected each year since as it states in para 34 'developer contributions will always be tailored to the individual site and its implications for community and physical infrastructure'</p> <p>Furthermore, the type of contribution and the rate at which they come forward will reflect, to some degree, the buoyancy of the development market/industry, which is not within the control of the Council. However, it is essential that contribution secured are regularly reported to the community. The District Council is therefore including changes in the SPD to secure resources for comprehensive monitoring.</p> <p>4.The term 'developer' is not intended to have a specific meaning within the context of the SPD and is generally used to refer to any one who submits a planning application to develop land or buildings or who subsequently implements a planning permission secured by someone else.</p> <p>5.The SPD does not penalise those in the rural area. A key aim of Government policy is to integrate land use planning and transport planning to promote more sustainable transport choices. Major developments in the rural area will create a need for alternative transport methods and supports government guidance set out in</p> | <p>1. Include glossary and table detailing type of contribution and thresholds as a summary guide.</p> <p>2. Insert missing text at beginning of para 141 to read 'A methodology for calculating developer contribution has been developed by Worcestershire County Council for the District Council relating to a sites relative accessibility to key services, this is based upon district wide accessibility mapping analyses. The accessibility relates to the ability of local communities to obtain various services/facilities due to their physical location and the transport network. The services facilities involved are the areas of health, education, employment, leisure and food shops (specifically on access to acute hospitals, GP surgeries, secondary schools, further education colleges, service centres / food shops, employment sites, leisure centres and countryside facilities). Sites including GP surgeries and areas of employment have been plotted in order to map accessibility to each service using public transport routes. A map has been produced indicating different time bands, for example, accessibility within 15 minutes, 30 minutes, 45 minutes and 60 minutes, and for different times of the day (peak, daytime, evening). This has identified four different zones which are illustrated below.</p> <p>6. Insert 'Renewable Energy' title in heading.</p> |

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|               |                               |                    |  | para 108. The requirement that developers contribute to their cost meets the test set out in Circular 5/05.<br><br>6.Agree to Change<br><br>7.Agree to Change   | 7. Rectify formatting problem in paras noted   |
| Mrs P Buckley | Clerk To Tenbury Town Council | Comment            | Various typographical errors. Why no photo of Tenbury. Could include landscaping scheme for Round Market to enhance the town. Various comments regarding Tenbury Cattle market area. | Amend typographical errors and include photo of Tenbury. Details of the requirements for Tenbury beyond district wide requirements can be identified through the Parish Plan/ Village Design statement and kept on file by development control team should an application involving developer contributions come forward. | Amend typographical errors and include photo of Tenbury.<br><br>Include sentence 'Opportunities for developer contributions may also be set out in Parish Plans or Village Design Statements' at end of para 95. |

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|-------------|----------------------|--------------------|---|--|---|
|             | Wall, James & Davies | Comment            | <p>1. Concern with approach of the planning authority on developer contributions - seems to be an attack on profit per se. Seems to be a type of local Planning Gain Supplement Malvern Hills now making a charge - if developers pay this they can have their permission if not they will be refused.</p> <p>2. Problem in who is responsible for initial drafting of the obligation.</p> <p>3. 10 years too long for a time period for unspent contributions to be returned - should be two time limits - one for allocating the money the first for allocating the funds to a particular project and second for return of the money if not spent.</p> <p>4. Indexation should apply when money returned to the developer.</p> <p>5. Phasing won't work when large sites are in multi ownership.</p> <p>6. Accessibility map is not clear and how often will it be updated ?</p> <p>7. Not user friendly document.</p> <p>8. Conflict with the law governing section 106 contributions.</p> <p>9. Need to set out the margin of profitability for the developer and state whether the margin will vary from site to site.</p> | <p>1. The SPD has been prepared with full reference to Circular 5/05 and as a means of implementing the recently tested and adopted local plan policy DS18.</p> <p>2. The initial drafting of the section 106 agreement i.e. setting out the Heads of Terms will be done by the District Council in conjunction with the developer during the pre application discussion. A sentence has been added to para 66 to provide clarification on costs that may occur in the event that the Council has to seek specialist advice. However, this does not prevent/ preclude developers from initial drafting themselves at the preapplication stage. The early identification of requirements in the SPD will obviously assist in this process as will the proposed greater use of standard templates for agreements.</p> <p>3. 10 years is the standard length of time local authorities have in which to spend contributions (However, variations may be acceptable if these can be justified).</p> <p>4. When money is returned to the developer interest will be paid at one percent below base rate to allow for administrative charges.</p> <p>5. Phasing may be difficult when a large site is in multi ownership however every effort will be made to ensure contributions are identified early in the process and particularly at the actual stage.</p> <p>6. See response above to Primary Care Trust for issues relating to Accession database. A clearer version of the map will be included in the Adopted version and updates will appear on the County Council website.</p> <p>7. A glossary and lookup table have been</p> | <p>2. Add to para 66 'In addition should specialist advice be needed for example for an evaluation or assessment of innovative, technical or community infrastructure proposals the costs of such advice will be recovered from the applicant provided planning approval is forthcoming.'</p> <p>7. Add glossary and summary table already noted in previous representations.</p> |

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|              |                     |                    |   | <p>added to make the document more user friendly.</p> <p>8. The SPD has been prepared with full reference to Circular 5/05.</p> <p>9. The margin of profitability will always vary from site to site and so it is considered inappropriate to set down a margin in the SPD.</p>  |                       |
| Mr A S Jones | Stoneleigh Planning | Object             | <p>The applicant is prejudiced if other parties not prepared to meet strict timetable. Substantial progress is only made when schemes are in final form. The timescales are unrealistic especially when applications involve land within a number of different Local Authority areas. The imperative should be to secure the right form of development rather than meet target of the Council</p> | <p>Strict performance targets are set by the government and all Local Authorities are measured on performance against these targets. There is no opportunity to 'opt out'. Para 48 of the SPD states that 'in order to minimise delay in dealing with a development proposal at the formal application stage the Council encourages pre-application discussion. This should identify the key issues and enable an application to be submitted with a draft of the identified developer contributions'. It is at this stage that other parties should be involved in negotiations. Applications should only be submitted when all parties are agreed on the terms of the contributions in order to avoid unnecessary delay.</p> | No Change             |

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| Edward Dursley | Worcestershire County Council | Support            | <p>1. The document is largely well structured. However, walking and cycling contributions currently described under "other areas" should be given new titles of "walking and cycling contributions" and "Travel Plan Contributions" to provide same status on Accessibility Section.</p> <p>2. Reference should be included to contributions for freight facilities (lorry parking shortage in the county) and motorcycling (specifically motorcycle parking) as this would improve opportunities for securing infrastructure.</p> | <p>1. Agree to change heading at 120 to read 'walking and cycling contributions' and insert heading above para 121 to read 'Travel Plans'.</p> <p>2. While contributions for freight parking and motorcycle parking may be legitimate areas for requiring developer contributions they dealt with on case by case basis and could be sought if essential. However this is unlikely to be a regular occurrence is not considered appropriate to include a reference in the SPD.</p> | <p>1. Change heading at 120 to read 'walking and cycling contributions' and insert heading above 121 to read 'Travel Plans'.</p> |

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| The Chief Executive | Worcestershire Primary Care Trust | Comment            | <p>Generally supportive.</p> <p>1. The section on Renewable Energy does not make clear what level of help is available from the Council to developers in designing the Renewable Energy Plan.</p> <p>2.The main issue is the readiness of the ACCESSION software for use in the sustainable transport chapter. ACCESSION is only as reliable as the database from which it is compiled. Bus routes and timetable information may not be up to date, community transport and taxi services may not be mapped. The map carries no indication as to the access criteria being applied. More work needs to be undertaken on ACCESSION before it can be used as a basis for developer contribution charging system.</p> | <p>1. The SPD requires developers to seek appropriate assistance from the various sources for the formation of the renewable energy plan (REP). The District Council will assess the REP when prepared by the developer and may need itself to seek external specialist advice but as this is very site specific, it would not be appropriate to specify what assistance (if any) may be available from MHDC for the REP. However, agree to make this clearer by inserting new sentence in para 107.</p> <p>The District Council can continue to 'sign post' sources of good practice and advice. However increasingly, this will have to be seen by the development industry as an intrinsic element of the 'design' process and no different from the current need to secure the services or highways and drainage specialists.</p> <p>2. The support of the WPCT for the concept of creating a rational basis for developer contributions based on Trips Rate Information Card System (TRICS) and linked to accessibility mapping is welcomed. However, the WPCT express concerns over the use of the Accession software given the state of the model, and the lack of detailed information on the input criteria used in the development of the accessibility map included in the SPD.</p> <p>The concerns raised by the WPCT are acknowledged. Due to the timescale involved in putting the SPD together, the inclusion of the map is primarily to explore whether the concept would be acceptable to consultees, and that further work would be required to refine the map.</p> <p>The methodology used to develop the</p> | <p>1. Delete sentence 'Developers should contact a supplier who will be able to provide the necessary advice on the scale and likely energy needs and insert 'The onus will be on the developer to seek specialist advice, where required on the production of the REP'.</p> <p>2. Add text to end of para 144 'The accessibility map provides an indication of overall accessibility, the final developer contribution will be the subject of negotiation. The Accession model will in future be updated three times a year, to reflect the main dates for bus timetable changes agreed between the County Council and the main local bus operators. The model will also be updated to reflect cycle routes and to include rail timetables in future versions. The most up to date version will be available on the County Council website (<a href="http://www.worcestershire.whub.org.uk">www.worcestershire.whub.org.uk</a>). The Accessibility Contribution will also be updated regularly to reflect changes to the public transport network, and to ensure that the costs quoted are regularly reviewed to take account of inflation, especially as the costs of bus service provision do tend to increase at a higher rate than general inflation, due to the rise in fuel and staffing costs. A background document entitled 'Accessibility Zone Map Report' is available on the District Council's website which sets out the criteria used in producing the map.</p> |

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|             |                     |                    |                                 | <p>accessibility map is covered in a report produced by Integrated Transport Planning Consultants which sets out the criteria used. This report, will form a background document to the SPD.</p> <p>At present the Accession model only covers public bus services rather than community transport or taxi services. However, the inclusion of taxi services would be meaningless in this context, as they would simply reflect the level of accessibility available to those with access to a car. The only constraint to taxi use is affordability, which cannot be modelled within Accession.</p> <p>What Accession does do is model accessibility for those people relying on publicly available public transport, for those people who are able to travel independently. The Accession model has been recently updated to reflect the bus service patterns for June 2006, and therefore the map can be reproduced for the current bus service pattern.</p> <p>It is intended that the Accession model will in future be updated three times a year, to reflect the main dates for bus timetable changes agreed between the County Council and the main local bus operators. The model will also be updated to reflect cycle routes and to include rail timetables in future versions.</p> <p>We can consider making some changes to the text to make clear that the accessibility map provides an indication of overall accessibility, and that the final developer contribution would be the subject of negotiation. We would also need to make it clear that the map will be updated regularly to reflect changes to the public transport network, and to ensure that the costs quoted</p> |                       |

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|             |                     |                    |                                 | are regularly reviewed to take account of inflation, especially as the costs of bus service provision do tend to increase at a higher rate than general inflation, due to the rise in fuel and staffing costs. |                       |