

Brentwood Planning Obligations Supplementary Planning Document (SPD) Consultation Summary

Introduction:

The Planning Obligations Supplementary Planning Document (SPD) was prepared to support the Local Plan, with the purpose to:

- a. Provide a robust framework to secure the delivery of necessary infrastructure generated by planned and incremental growth in a holistic and coherent manner;
- b. Set out detailed guidance and a clear position to developers, landowners and stakeholders, regarding the scope and scale of planning obligations applicable to different types and quantum of development; and
- c. Support and supplement the Local Plan policies and once adopted become an important material planning consideration for the council when determining planning applications.

The council undertook various internal and external conversation, meetings, and working groups when drafting the Planning Obligations SPD. Developer workshops were held, to give an opportunity for comments to be made prior to the formal consultation of the SPD, as well as legal advice provided throughout the development of the draft Planning Obligations SPD.

Some of the meetings and working groups held, through the development of the SPD, include, but are not limited to:

- Discussions with Housing and Development Management colleagues
- Discussions with Planning Policy and Essex County Council (various departments – including but not limited to Spatial Planning and Highway Teams)
- Discussions with Leisure and Open Space colleagues
- Developers workshop

Public Consultation:

The draft Planning Obligation SPD was available for public consultation for a six-week period, between 8 December 2022 through to 19 January 2023. The document was published on the council's website, and those registered on the council's consultation database were notified, including local residents and business owners, statutory consultees, developers, and other interest groups.

Formal consultation responses were received from the following stakeholders:

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| Statutory Consultees | Essex County Council Ingatestone & Fryerning Parish Council Sport England Marine Management Organisation Transport for London The Coal Authority Historic England Natural England NHS – Mid and South Essex National Highways |
| Agents / Developers | Turner Morum LLP on behalf of Croudace Marrons Planning on behalf of Hallam Land Management Strutt & Parker on behalf of St Modwen Pegasus Group on behalf of Redrow |
| Local Residents / Community Groups | Blackmore Village Heritage Association Mrs Kay |

Amendments made to the Planning Obligations SPD

Following the formal consultation of the SPD, the comments received from the various stakeholders listed above, were collated and analysed. Minor changes and amendments were made to the SPD based on the comments received, such as:

- Included reference to the Essex Green Infrastructure Strategy (2020) and Essex Infrastructure Standards: Technical Guidance (June 2022) as requested by ECC;
- Additional text added to make clear the council's intentions if Monitor and Manage was to become an approach agreed and used by ECC, as this is currently still work in progress;
- Included text regarding built sports facilities and removed playing pitches from the council's open space calculator as both playing pitches and built facilities

are to be calculated using Sport England Active Places Power calculator (which aligns with the Council's Local Plan and Playing Pitch and Built Facilities Strategy). The figures generated by the Sport England's Playing Pitch and Built Facilities calculator can only be accessed by LPA Officer's where a Council has an up-to-date strategy. These figures would need to be manually inputted into the Council's Open Space calculator. Therefore, a new paragraph under G18 which makes clear that the figures generated within the Council's Open Space calculator will be provided to developers by the council. This will also ensure that there is a consistent approach.

- Additional text added at the end of T9 to reflect that the relevant highway authorities will provide details on the formal procedure to be followed as requested by National Highways.
- Concerns were raised regarding the proposed calculation for identifying the required commuted sum for affordable housing where on-site provision is not possible. Criteria H13 set out that the commuted sums will be calculated on the basis of 55% x Open Market Value. An independent review of this criteria was undertaken by Ark Consultancy who provide expert advice to the Council's Housing Department. This independent review identified that the use of 55% was too low and did not provide appropriate flexibility.

On the advice of the consultant, this criteria has been changed to: 'The commuted sum for the off-site provision of affordable housing will be the difference between the market value of equivalent provision off site (to be determined by the most recent Land Registry new build sales data for a given unity typology within the borough) and the value of the same unit as an affordable unit (as validated by what an approved Registered Provider operating within the borough would be prepared to pay for the affordable unit(s) in question).' This change provides the required flexibility as well as being more reflective of the methodology utilised by other neighbouring local authorities.

A summary of all the representations received and how they were considered as part of the final SPD put forward for consideration for adoption can be found in Appendix 1: Essex County Council comments, and Appendix 2: statutory consultees (excluding ECC), developers, and local residents and community groups.

APPENDIX 1: ESSEX COUNTY COUNCIL'S COMMENTS

| ECC / BBC Rep No. | Chapter/Section/ Para etc | Comments / Changes / Additions | BBC's Response |
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| 1. The Purpose of this Document | | | |
| ECC 1 / BBC 31010 (Support) | Para. 1.5 | <p>An overarching recommendation is that the SPD includes a reference pointing the reader/user to the ECC Developers' Guide to Infrastructure Contributions (2020 or as amended), instead of referring separately to statutory ECC infrastructure responsibilities within the SPD.</p> <p>ECC therefore welcomes reference to ECC's DGIC (2020 or as amended) as this allows ECC to update and review the DGIC, with the SPD remaining unchanged and up to date.</p> | This change was already made and is included within the SPD. Therefore no further changes are needed. |
| 2. Policy Background | | | |
| ECC 2 / BBC 31011 (Comment) | Para. 2.9 | It is recommended that Policy NE01: Protecting and Enhancing the Natural Environment is also included in the list of relevant Local Plan policies. | NE01: Protecting and Enhancing the Natural Environment added to the list of policies under para 2.9 |
| 3. Infrastructure Types | | | |
| ECC 3 / BBC 31012 & 31013 (Comment) | Paras. 3.3, 3.18 | <p>ECC welcomes reference to <i>'the ability to fund the same piece of infrastructure using both S106 and CIL monies is not precluded'</i>. It is important to have the ability to use both CIL and S106 contributions to fund the same infrastructure item, and that if a type of scheme has been identified as being funded through S106 that it does not preclude it from also receiving CIL funds.</p> <p>BBC should also consider the need for clear governance arrangements with key infrastructure providers, especially in two-tier authorities, for determining the</p> | Noted, however no changes made. |

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| | | <p>apportionment of levy monies to infrastructure projects and providers. Without appropriate governance there will be difficulties in securing monies for infrastructure projects that ECC is required to deliver with any degree of certainty or when they may be required. This is due to ECC not being a CIL charging authority and is therefore reliant on the discretion of the local authority for when and how any monies may be secured to fund infrastructure projects required to deliver the growth identified in Local Plans, Masterplans and Infrastructure Delivery Plans.</p> <p>ECC would welcome any governance arrangements that included a more formal role for the County Council in the CIL governance process, in particular regarding when CIL monies are made available for bids; the amount of funds made available to bid for and how any monies will be prioritised and apportioned to strategic projects. ECC would recommend that BBC keeps this in mind when identifying any governance arrangements for how CIL monies will be spent over and above the statutory requirements to parish councils and administration costs.</p> | |
| ECC 4 / BBC 31014 (Comment) | Paras. 3.5, 3.6, 3.10, 3.14, 3.16, 4.8 | For consistency throughout the SPD remove the wording ' <i>and necessary</i> '. This applies to paragraphs 3.5, 3.6, 3.10, 3.14, 3.16 & 4.8. (Note a rep has not been made against these other paragraphs, but will need to be applied) | Noted, however no changes made. |
| ECC 5 / BBC 31015 (Comment) | Para. 3.7 | It is recommended that the words ' <i>, such as the A127 link road,</i> ' are removed from paragraph 3.7, as this paragraph is outlining the Council's general approach and not specified infrastructure. | Noted, however no changes made. |

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| | | ECC seeks further clarification on the meaning of ' <i>funding from alternative sources</i> '. If it is not developer or public funded, an applicant / decision maker will require further information on the ' <i>sources</i> '. | |
| ECC 6 / BBC 31016 (Comment) | Para 3.8 b | With regard to the wording in paragraph 3.8 b. ' <i>identified mitigation measures have been modelled under the worst-case scenario assumptions</i> ' it should be noted that this is not necessarily worst-case, it is more presumed (as identified in the Local Plan TA) than definitively worst-case. | Noted, however no changes made. |
| ECC 7 / BBC 31017 (Comment) | Para 3.9 | ECC recommends amendments to paragraph 3.9 to provide clarity between S278 agreements (Highways Act 1980) which allows applicants to enter into a legal agreement with a Highway Authority to undertake works in a public highway, and S106 agreements (Town & Country Planning Act 1990) which allows applicants to enter into a legal agreement with a Council to provide mitigation, infrastructure and/or contributions. | Chapter 4 gives an overview of what the differences are between S106 and S278. Therefore comments are noted, however no changes made. |
| ECC 8 / BBC 31018 (Comment) | Para. 3.13 | ECC seeks further clarification on the meaning of ' <i>realistic expectation that sources of external funding may become available</i> '. An applicant / decision maker will require further information on this matter. | Noted, however no changes made. |
| ECC 9 / BBC 31019 (Object) | Para. 3.13 | Amend last sentence of paragraph 3.13 as follows: delete words ' <i>It should not be assumed that</i> ' and replace words ' <i>are to</i> ' with words ' <i>will not</i> ' to make clear to an applicant / decision maker ECC's position on infrastructure costs and funding gaps. | Noted, however no changes made. |
| ECC 10 / BBC 31020 (Support) | Housing – Provision of Specialist Accommodation – Criteria H23 | ECC welcomes the inclusion in Criteria H23 of the requirement to consult ECC for advice on priority Specialist Residential Accommodation needs, including Independent Living for older people and adults with disabilities, and for the Council to refer to the latest Independent Living Programme for Older People Position Statement. | Noted, support welcomed. |

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| | | ECC has commenced the development of a forward forecasting tool to supplement its current database to inform Local Plans and planning application responses to provide up-to-date local information on demand and need to ensure the necessary units and/or developer contributions are secured. | |
| ECC 11 / BBC 31021 (Object) | Housing – Provision of Specialist Accommodation – Criteria H23 | <p>ECC recommends that further consideration is given towards the currently proposed threshold in Criteria H23 of 100+ homes to trigger a consultation with ECC on Specialist Residential Accommodation needs (e.g. older people or people with disabilities).</p> <p>The development threshold as set is unlikely to apply for many developments within Brentwood Borough and may result in inadequate provision of new homes of this type.</p> | Objection noted however the comments do not include what the threshold should be from ECC's perspective nor any further justification for this change. Therefore, no changes made. |
| ECC 12 / BBC 31022 (Support) | Housing – Provision of Specialist Accommodation – Criteria H23 - Justification | ECC welcomes reference in the Justification Section of H23 to ECC's Developers' Guide to Infrastructure Contributions (2020 or as amended) for guidance on characteristics of suitable sites / buildings for older people and adults with learning disabilities. | Noted, support welcomed. |
| ECC 13 / BBC 31023 (Support) | Housing – Provision of accessible housing, and wheelchair user dwellings – Criteria H24 | <p>ECC welcomes the reference in Criteria H24 to the use of planning conditions to ensure that M4(2) and M4(3) dwellings are provided to meet need.</p> <p>ECC recommends that the sentence <i>"to ensure the housing needs of older persons and people with disabilities are met"</i> also includes the additional wording <i>'including households which contain a child who is a wheelchair user'</i>. This will enable consideration of a range of type and sizes of dwellings which will meet need.</p> | <p>Noted, support welcomed.</p> <p>The following text has been added to H24: '<u>...</u>, including households which contain a <u>person</u> who is a wheelchair user...'</p> |

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| ECC 14 / BBC 31024 (Support) | Housing – Provision of accessible housing, and wheelchair user dwellings – Criteria H24 | <p>ECC supports the consideration in Criteria H24 of restricting occupation to those in need.</p> <p>BBC may wish to review the wording and include '<i>conditions</i>' between the words '<i>impose</i>' and '<i>restricting</i>'</p> | Noted, support welcomed. |
| ECC 15 / BBC 31025 (Comment) | Housing – Provision of other forms of Specialist Accommodation - Obligation | <p>ECC seeks clarity on the difference between '<i>Provision of other forms of Specialist Accommodation</i>' (H41–H42) and '<i>Provision of Specialist Accommodation</i>' (H21–H25). Specialist Accommodation includes older people or people with a disability, but it is unclear what is meant by '<i>other forms</i>'. ECC does not provide advice on all forms of Specialist Accommodation needs.</p> <p>It is therefore recommended that further detail is provided under this Obligation as to what is meant by '<i>other forms of Specialist Accommodation</i>' to make any distinction clear.</p> | Noted, however no changes made |
| ECC 16 / BBC 31026 (Comment) | Housing – Provision of other forms of Specialist Accommodation – Criteria H41 | <p>ECC seeks clarity regarding when the period of '<i>three months</i>' referred to in Criteria H41 starts. Is this from practical completion? From when dwellings are ready for first occupation? Specifying this here may assist with the drafting of any S106 agreement and make clear BBC's expectations/requirements.</p> | <p>The following text has been added:</p> <p>'...from the time the dwellings are ready for occupations'</p> |
| ECC 17 / BBC 31027 (Object) | Transport, Highways, and Access – Provision or payment of highway work – Criteria T1 – T9 | <p>ECC recommends that all the Criteria listed in the Transport, Highways, and Access section (T1 – T9) are removed and the SPD instead directs to the ECC Developers' Guide to Infrastructure Contributions (2020 or as amended), ECC Development Management Policies, and the Essex Design Guide, as well as other documents such as ECC Street Materials Guide, and Development Construction Manual for guidance on all forms of highways, transportation, sustainable travel, passenger transport and PROW contributions, as this provides the flexibility to use updated</p> | <p>Documents referred to in ECC comments are included within the Brentwood Local Plan and therefore considered sufficiently covered. Objection is noted, however no changes made.</p> |

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| | | versions of these documents in the future, without the SPD being out of date. | |
| ECC 18 / BBC 31028 (Comment) | Flood Protection and Water Management - Criteria | ECC recommends that reference is also included in the Criteria Section of Flood Protection and Water Management to considering the importance of water quantity and quality alongside amenity and biodiversity in the design of SUDS. Further detail and criteria are set out in the ECC SUDS Design Guide . | The SPD makes known that ECC is the LLFA and developers should refer to the ECC's SuDS Design Guide. Therefore the comment is noted, however no changes made. |
| ECC 19 / BBC 31029 (Comment) | Flood Protection and Water Management | It is recommended that Policy BE02 is also included in the Flood Protection and Water Management Section of the SPD, to ensure that any potential wastewater infrastructure required in the future is also captured by the SPD. | Policy BE02: Water Efficiency and Management added to the policy background column. |
| ECC 20 / BBC 31030 (Comment) | Flood Protection and Water Management – Criteria F2 | ECC recommends that criteria F2 makes it clear that ECC will not permit SuDS to be outside the red line boundary of an application site. Flood risk must be managed on site and must not increase off site flood risk. | Criteria F2 has been removed from the SPD in light of ECC's comments to avoid any doubt. |
| ECC 21 / BBC 31031 (Comment) | Flood Protection and Water Management - Criteria | <p>The recently updated PPG - Flood Risk and Coastal Change (August 2022) strengthens authorities' ability to require better flood resilience in new developments by ensuring that developers can adapt to the challenges of a changing climate, new homes are sustainable, and Councils will need to demonstrate that the development will be safe from flooding for its lifetime, will not increase flood risk elsewhere, and where possible will reduce flood risk overall.</p> <p>ECC draws attention to the change to the exception test which now relates to all forms of flood risk, including from surface water. Where land with existing flood risk is still to be developed following an initial sequential test, the developer must demonstrate that the development will provide wider sustainability benefits to the community that outweigh flood risk.</p> | Noted, however no changes are required as this is covered by the PPG itself. |

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| | | <p>ECC, as Lead Local Flood Authority (LLFA), is hopeful that this approach will provide an opportunity to address existing flood risk through new development, which has not been something that the LLFA has been able to easily consider in the past. The PPG states that 'Local planning authorities need to set their own criteria for this assessment, having regard to the objectives of their Plan's Sustainability Appraisal framework, and provide advice which will enable applicants to provide relevant and proportionate evidence'. It should be noted that one example of how a developer could demonstrate that the wider sustainability benefits to the community outweigh delivery on a site with existing flood risk, would be to deliver an overall reduction in flood risk to the wider community through the provision of, or financial contribution to, flood risk management infrastructure.</p> <p>On the basis of this updated guidance, ECC, as LLFA, would seek that BBC identifies this requirement and where necessary requests contributions from developers towards wider flood mitigation.</p> | |
| ECC 22 / BBC 31032 (Support) | Flood Protection and Water Management - Justification | ECC welcomes the references to the ECC Sustainable Drainage Systems (SuDS) Design Guide here and in the Justification Section. It provides a clear understanding and signposts the reader, providing all the relevant guidance that a developer or other body would require. | Noted, support welcomed. |
| ECC 23 / BBC 31033 (Comment) | Early Years, Childcare and Education | ECC recommends that the title of this section 'Early Years, Childcare and Education' is amended to include reference to Special Education Needs and Disabilities (SEND), and Post 16. This will ensure that the full range of education responsibilities is addressed. | Criterion E1 addresses this and makes clear that SEND and post 16 are included. Therefore the comment is note but no changes made. |

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| ECC 24 / BBC 31034 (Object) | Early Years, Childcare and Education - Obligation | It is recommended that the wording of the Obligation be amended as follows: delete word 'or' and replace with ' <u>of buildings, land, and/or financial</u> ' | The criteria section makes reference to the ECC latest DGIC which clearly outlines where developers contributions will be spent and therefore it is not deemed necessary to make the suggested changes. |
| ECC 25 / BBC 31035 (Support) | Early Years, Childcare and Education – Criteria E1 & Justification | ECC welcomes the references in Criteria E1 and the Justification section directing to the ECC Developers' Guide to Infrastructure Contributions for guidance on all forms of education contributions and school transport contributions, as this provides the flexibility to use updated versions of the DGIC in the future, without the SPD being out of date. | Noted, support welcomed |
| ECC 26 / BBC 31036 (Support) | Early Years, Childcare and Education – Criteria E2 | ECC welcomes reference to its Garden Communities and Planning School Places Guide. It describes to readers how new mainstream state funded statutory age range schools, serving new Garden Communities and larger development in Essex, will be established. | Noted, support welcomed |
| ECC 27 / BBC 31037 (Comment) | Health and Social Wellbeing | <p>This section only refers to delivery of primary healthcare infrastructure and facilities, which is not consistent with the NPPF which seeks to create healthy and safe communities.</p> <p>ECC recommends that the SPD provides further advice on healthy place-making with reference to the Active Design principles embedded throughout the Essex Design Guide.</p> <p>It is also recommended that the SPD signposts readers to Health Impact Assessments to ensure that greater consideration is given to what needs to be considered when</p> | Comments are noted, however no changes are made. The details referenced in ECC's comments are addressed through the Brentwood Local Plan which makes reference to the EDG and includes an HIA policy. |

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| | | <p>looking at health, wellbeing and the environment, to ensure there is a wider focus than just primary healthcare provision and general practice.</p> | |
| ECC 28 / BBC 31038 (Comment) | Natural Environment Mitigation – Biodiversity offsetting and biodiversity net gain – Obligation / Criteria | <p>ECC recommends this section is amended to be consistent with the biodiversity mitigation hierarchy of Avoidance; Minimisation, Rehabilitation/Restoration and Offsetting. Any residual impacts will need to be compensated for on-site or off-site with long term management secured, and appropriate enhancements included to ensure biodiversity net gain (BNG) for at least 30 years via obligations/ conservation covenant.</p> <ul style="list-style-type: none"> • On-site units – delivered through habitat creation/enhancement via landscaping and green infrastructure. • Off-site units – delivered through habitat creation and enhancement including via habitat banks with public and private landowners. • Statutory Credits – delivered through large scale habitat projects delivering high value habitats which can also provide long-term nature-based solutions <p>The first priority should be for developers to provide on-site mitigation. It is noted that the SPD makes reference to the Essex Local Nature Partnership (LNP) and may adopt the biodiversity approach. As an update ECC/LNP is presently investigating the approach of seeking developers who cannot deliver the necessary biodiversity requirements on site, due to site constraints, the opportunity to purchase biodiversity credits that can be used to provide additional biodiversity benefits to specific locations on ECC land.</p> | Comments are noted however it is felt that no changes are needed as criterion N2, N4, and N6 adequately address these comments. Furthermore, it is the council's view that the Brentwood Validation Check List would be a more appropriate place for the government BNG requirements and any additional adopted guidance by the council to be verified through this process. |

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| | | <p>A statutory national biodiversity credits scheme is being established through developing a biodiversity credit investment pipeline and payment structures to fund habitat provision. Where developers can purchase the credits as a last resort if onsite and local offsite habitat provision cannot provide the required BNG. It is anticipated more information on the national biodiversity credits scheme to be made available Winter 2023. A potential biodiversity credit scheme for Essex is being explored.</p> <p>ECC recommend any application is supported by a completed Essex Biodiversity Validation Checklist.</p> <p>Further information can be gained from the Planning Advisory Service with regards Biodiversity Net Gain and Nature Recovery with useful guidance and ongoing collaborative work on progressing these matters.</p> <p>ECC aims to ensure that the information on biodiversity net gain given in this response, will be reflected in the revised Developers' Guide providing an up to date approach across all the Essex Local Authorities.</p> | |
| ECC 29 / BBC 31039 (Comment) | Natural Environment Mitigation – Biodiversity offsetting and biodiversity net gain - Justification | <p>It is noted that the SPD refers to the minimum 10% BNG requirement by the Environment Act, 2021, but also references Essex LNP Biodiversity and Planning Working Groups work on guidance for Essex.</p> <p>The Essex LNP Biodiversity and Planning Working Group are currently reviewing and exploring the feasibility for 20% Biodiversity Net Gain. BBC may wish to consider adopting a higher figure than the minimum 10% requirement within the Environment Act (2021).</p> | <p>The final sentence within the Justification for Biodiversity offsetting and biodiversity net gain states:</p> <p>'The Essex Local Nature Partnership Planning and BNG working group are considering to prepare a guidance on this matter for Essex area. The Council may adopt this work when it is completed.'</p> |

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| | | <p>It is recommended that the following reference is added to the end of the last sentence of the third paragraph '<u>with a caveat of a local target for Essex to be agreed</u>'.</p> <p>The following is provided for information:</p> <p>The NPPF (paragraphs, 145, 153, 174 and 179-180) demonstrates that planning provides biodiversity net gains where possible. It is expected the mandatory requirement for BNG to come into place in Winter 2023. The Government's response to the 2018 consultation on BNG set out that there would be a 2-year implementation period for mandatory BNG once the Environment Bill received Royal Assent and became the Act (which happened on 9 November 2021). It will also include the following components:</p> <ul style="list-style-type: none"> • Minimum 10% biodiversity net gain required calculated using Biodiversity Metric and approval of net gain plan; • Habitat secured for at least 30 years via obligations / conservation covenant; • Habitat may be delivered on-site, off-site or via statutory biodiversity credits; • A national register for net gain delivery sites; • Mitigation hierarchy remains applicable with avoidance, mitigation and compensation for biodiversity loss; • Biodiversity Net gain will apply to Nationally Significant Infrastructure Projects (NSIPs); • Does not apply to marine development; • No change to existing legal environmental and wildlife protections | <p>It is the Council's view that this adequately covers the comments made and no further changes are needed</p> |

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| | | <p>Further information can be gained from the Planning Advisory Service with regards Biodiversity Net Gain and Nature Recovery.</p> <p>In March 2022, ECC established a Greater Essex Local Nature Partnership (GELNP) covering Essex, Southend and Thurrock to deliver the outputs of the DEFRA 25-Year Environment Plan and Environment Act (2021). This includes the production of the Greater Essex Local Nature Recovery Strategy (GELNRS) during 2023, mapping the most valuable existing green spaces for nature; delivering biodiversity net gain, multifunctional green infrastructure and sustainable land management through Environment Land Management Schemes and to contribute to the national tree planting target. The GELNP will also contribute to the delivery of the recommendations in the ECAC report Net-Zero: Making Essex Carbon Neutral (July 2021) and the ECC Response. The GELNP has the following four targets to be achieved by 2030, namely 14% of Natural Green Infrastructure coverage of Essex to be increased to 25%; 50% of farmland to adopt sustainable stewardship practices (from the ECAC); 1 in 4 people taking action for nature recovery; and access to high quality green space for all.</p> <p>The Partnership is preparing a baseline analysis to enable measurement of progress against these targets which will be delivered by the Partnership's four working groups, namely the Local Nature Recovery Strategy; community engagement; biodiversity net gain; and agriculture.</p> <p>ECC is the 'Responsible Authority' for delivering the GELNRS but will work closely with the LNP to provide direction and ensure key stakeholders are engaged. The publication of guidance on LNRSS</p> | |

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| | | <p>has been delayed until 2023 and the GELNRS is being prepared for completion by early 2024.</p> <p>Any application should make use of the Great Crested Newts District Level Licensing Scheme operated by Natural England and available in Essex. Developers are able to pay a fee to join a district level licensing scheme rather than carry out their own surveys, to plan and/or carry out mitigation work. Further details can be viewed by the link above.</p> | |
| ECC 30 / BBC 31040 (Comment) | Green and Blue Infrastructure – Green and Blue Infrastructure (GBI) on-site provision, enhancement and/or restoration – Criteria G2. d. | <p>Bullet Point d. under Criteria G2 refers to '<i>consider the creation of multi-functional spaces that can enable other requirements</i>',. The word '<i>consider</i>' weakens the strength to deliver multifunctional green and blue infrastructure and risks being trumped by other infrastructure that has stronger wording such as '<i>must</i>'. It is recommended that words '<i>consider the creation of</i>' be replaced by '<i>create</i>'.</p> <p>Through the right design, right green infrastructure, and right location of green infrastructure it can deliver more than one function and contribute to more than one priority, providing cost efficiency in the long term to deliver better outcomes.</p> <p>The NPPF (paragraphs 20, 91, 150 and 171) recognises the importance of green infrastructure within the planning system to support sustainable development. The Natural Environment Planning Practice Guidance (PPG), 2019 supplements the information provided in the NPPF, describing green infrastructure benefits and how they can be considered in planning policy. The PPG emphasises that green infrastructure opportunities and requirements need to be considered at the earliest stages, and as an integral part, of development proposals.</p> | Amendment made to strengthen criterion 2d to say 'create multi-functional spaces...' |

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| | | <p>Delivery and funding of green infrastructure can use planning conditions, obligations, or CIL.</p> | |
| ECC 31 / BBC 31041 (Comment) | Green and Blue Infrastructure – Green and Blue Infrastructure (GBI) on-site provision, enhancement and/or restoration – Criteria G2.c. | <p>Bullet Point c. under Criteria G2 makes reference to a requirement to 'submit a GBI plan and landscape strategy'. Green and Blue Infrastructure is instrumental in delivering Biodiversity Net Gain and other benefits such as green corridors, shading through street trees, natural flood management, air quality, encouraging active travel (Greening PRow routes) and other activities for health and wellbeing and mitigation and adaptation measure for climate change.</p> <p>ECC therefore recommends criteria G2.c also states that such plans and strategies should include details on biodiversity net gain and any offsetting.</p> | Comments noted, however it is the council's view that any additional BNG requirements should be dealt with through the Environment Act, BNG Regulations, and the future BNG SPD. Therefore, no changes made. |
| ECC 32 / BBC 31042 (Comment) | Green and Blue Infrastructure – Green and Blue Infrastructure (GBI) on-site provision, enhancement and/or restoration – Justification | <p>ECC also recommends reference is made under the justification section to the need for developers to use the Essex Green Infrastructure Strategy (2020) (where its preparation included BBC) and Essex Green Infrastructure Standards-Technical-Guidance (June 2022). The latter, endorsed by Natural England, and has been submitted for Building With Nature Policy Accreditation, was published in June 2022 and will be added to the Essex Design Guide in due course.</p> <p>ECC considers that all major and strategic development sites should be designed around green and blue infrastructure to inform and shape the development. Particularly within denser developments, green infrastructure and open space should be approached from a multifunctional perspective, combining uses such as sustainable drainage, public open space, walking and cycling routes and biodiversity conservation to combine functional</p> | <p>An additional paragraph under the justification heading which reads:</p> <p>'Further guidance has also been prepared by Essex County Council, Essex Green Infrastructure Strategy (2020) and Essex Green Infrastructure Standards: Technical Guidance (June 2022)'.</p> |

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| | | uses with amenity benefits. These features should be strategically located to provide green infrastructure and landscaping in prominent spaces to maximise the benefits to site users and increase the usability of multifunctional space. | |
| ECC 33 / BBC 31043 (Comment) | Green and Blue Infrastructure – On-site provision of outdoor sport and open space – Criteria G11 | <p>The interconnectivity of natural environment, flood protection and water management, outdoor sport and open space, and public realm is an important part of the GBI network and shouldn't be seen or treated in silo. The right design and location, wide range of functions and benefits of GBI can fulfil people and wildlife, the interactions should be emphasised.</p> <p>ECC recommends including <i>'improvements or greening the public realm (i.e., street trees, dual purpose street furniture with planters, rain gardens etc)'</i> to the list, and referencing to <i>'Public Realm and Public Art - Provision of or contributions towards public realm'</i> for further details.</p> | Criteria Gc through Ge cover these types of spaces and therefore the comment is noted however no changes made. Furthermore, there is a separate section specifically on Public Realm and Public Art in the SPD. |
| ECC 34 / BBC 31044 (Comment) | Green and Blue Infrastructure – On-site provision of outdoor sport and open space – Justification (1 st sentence) | <p>Facilities should be integrated and distributed throughout the development and, must compliment other provision (such as educational facilities, public realm etc.) as a part of the wider GBI/landscape scale network. This can include inclusive design not only for buildings and encouraging active travel, community engagement in the design of public open space and children's play area to ensure its design provide recreational facilities for different users and age groups.</p> <p>ECC recommends adding <i>'of all and is integrated as part of the wider green and blue infrastructure landscape network'</i> at end of first sentence of the first paragraph of Justification Section.</p> | The comments are noted, however it is the Council's view that this is sufficiently covered within the Local Plan, therefore, no changes were made. |

| ECC / BBC Rep No. | Chapter/Section/ Para etc | Comments / Changes / Additions | BBC's Response |
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| ECC 35 / BBC 31045 (Comment) | Green and Blue Infrastructure – Improvements to existing open space in the local area of the development – Criteria G28. a. | <p>ECC acknowledges the potential for new development demand for GI and open space to be met through existing infrastructure. However, lack of provision of new features will result in increased use of existing sites which, if not effectively managed, will increase maintenance levels, and have detrimental impacts on the quality and useability of such sites. Contributions can also fund increased management and maintenance needed for existing sites that are used to meet demand from new development.</p> <p>ECC recommends under Criteria G28. a. adding the words <i>'and can demonstrate no impact from increase footfalls/demand'</i> between words <i>'quality standards'</i> and <i>'no contribution'</i>.</p> | The comments are noted, however part of the criterion states '...unless otherwise agreed with the Council...' cover this point adequately; therefore no changes were made. |
| ECC 36 / BBC 31046 (Comment) | Public realm and Public Arts – Provision of or contributions towards public realm – Policy Background | <p>The interconnectivity of the natural environment, flood protection and water management, outdoor sport and open space, and public realm is an important part of the GBI network and should not be seen or treated in silo.</p> <p>It is recommended that Strategic Policy NE02: Green and Blue Infrastructure is also included in the list of relevant Local Plan policies in the Policy Background Section.</p> | Policy NE02 added to the listed of background policies. |
| ECC 37 / BBC 31047 (Comment) | Public realm and Public Arts – Provision of or contributions towards public realm – | The interconnectivity of the natural environment, flood protection and water management, outdoor sport and open space, and public realm is an important part of the GBI network and should not be seen or treated in silo. Through the right design and location, the wide range of functions and benefits of GBI can fulfil people and wildlife, the interactions between functions needs to be emphasised. | Green and blue infrastructure added to the 4 th paragraph |

| ECC / BBC Rep No. | Chapter/Section/ Para etc | Comments / Changes / Additions | BBC's Response |
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| | Justification (4 th paragraph) | ECC recommends that the 4 th paragraph of the Justification Section is amended – add words ' <i>green and blue infrastructure</i> ' between words ' <i>communication infrastructure</i> ' and ' <i>public transport</i> '. | |
| 4. The Council's Approaches to Secure Contributions | | | |
| ECC 38 / BBC 31048 (Comment) | Para. 4.7 | It is recommended that reference to statutory infrastructure providers such as ECC are also included in the parties who have an interest in the application and will in certain cases need to be party to planning obligations / S106 agreements. | Reference to 'anyone else who has an interest in the land forming the application site' includes all statutory consultees. Therefore, the comments are noted, however no changes made. |
| ECC 39 / BBC 31049 (Comment) | Para. 4.10 | ECC recommends that criteria c. of paragraph 4.10 is removed. There may be circumstances where a project is publicly funded (partially or fully) that new development may benefit from and should therefore contribute towards. | Comment is noted. Criteria 'c' has remained however inclusion of the word 'fully'. It is the council's view that if a project is fully publicly funded then we would not be justified in requesting contributions towards it. |
| ECC 40 / BBC 31050 (Comment) | Para 4.12 | With regard to the wording in paragraph 4.12. ' <i>to assess whether the road network is operating according to the worst-case scenario baseline</i> ' it should be noted that this is not necessarily worst-case, it is more presumed (as identified in the Local Plan TA) than definitively worst-case. | Comment is noted however no changes made. |
| ECC 41 / BBC 31051 (Object) | Para. 4.13 | <p>The principles of the Monitor and Manage approach are still being developed and a final position is yet to be reached between the Borough Council and ECC.</p> <p>It is therefore recommended that the wording in this paragraph is amended to reflect the current position as follows: '<i><u>The principles of the Monitor and Manage approach are still being developed and a final position is yet to be reached between the Borough Council and ECC. The potential principles of a Monitor and Manage approach could be as follows:....</u></i>'</p> | The additional text as proposed has been added to para 4.13. |

| ECC / BBC Rep No. | Chapter/Section/ Para etc | Comments / Changes / Additions | BBC's Response |
|--|---------------------------|---|--|
| ECC 42 / BBC 31052 (Comment) | Para. 4.14 | It is recommended that this paragraph also includes the following wording <i>'The monitoring period will need to be clearly defined'</i> . This will provide clarity and certainty to applicants and decision makers, particularly for larger development sites which could be built out over a long period of time and, in some cases, this could extend beyond the current Local Plan period. | Comment noted however no changes made, given the above changes make clear this process is still being worked through. This can be updated accordingly at a later date if needed. |
| ECC 43 / BBC 31053 & 31054 (Comment) | Para. 4.15 & 4.16 | The principles of the Monitor and Manage approach are still being developed and a final position is yet to be reached between the Borough Council and ECC. It should also be made clear that any identified infrastructure costs of funding gaps will not be covered by the Council or statutory bodies such as ECC. | Comment noted however no changes made, given the above changes make clear this process is still being worked through. This can be updated accordingly at a later date if needed. |
| ECC 44 / BBC 31055 (Comment) | Para. 4.19 | ECC recommends amendments to this paragraph to provide clarity between S278 agreements (Highways Act 1980) which allows applicants to enter into a legal agreement with a Highway Authority to undertake works in a public highway, and S106 agreements (Town & Country Planning Act 1990) which allows applicants to enter into a legal agreement with a Council to provide mitigation, infrastructure and/or contributions. Replace paragraph 4.19 with the following <i>'Where necessary, the Council will require developers to enter into a S278 agreement (Highways Act 1980) to undertake works in a public highway.'</i> | Paragraph 3.9 and Chapter 4 gives an overview of what the differences are between S106 and S278. Therefore comments are noted, however no changes made. |
| 5. Considerations in Drafting a Section 106 Agreement Framework | | | |
| ECC 45 / BBC 31056 (Support) | Para. 5.2 | ECC welcomes the reference in the SPD to ECC's S106 templates in the ECC DGIC. It provides the clarity to applicants and decision makers regarding the distinction between BBC's and ECC's requirements for S106 Agreements. | Noted, support welcomed. |

| ECC / BBC Rep No. | Chapter/Section/ Para etc | Comments / Changes / Additions | BBC's Response |
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| ECC 46 / BBC 31057 (Comment) | Para 5.5 | It is considered that paragraph 5.5 could be reduced to only list the matters to be included in any S106 agreement in relation to strategic infrastructure contributions, such as potential retrospective contributions and any potential monitor and manage approach. As currently drafted it repeats the detail of such matters which is set out elsewhere in the SPD. | Comment noted however no changes made. |
| ECC 47 / BBC 31058 (Support) | Para. 5.16 | ECC welcomes the reference to its trigger points as set out in the ECC DGIC. It provides the clarity to applicants and decision makers regarding the distinction between BBC's and ECC's requirements relating to trigger points. | Noted, support welcomed. |
| ECC 48 / BBC 31059 (Comment) | Para 5.18 | <p>It is recommended that the following wording '<u>formalise the applicant's proposed phasing of development and</u>' is inserted between the words '<u>planning permission to</u>' and '<u>prevent</u>'.</p> <p>It is also recommended that the following additional text is inserted at the end of this paragraph '<u>As well as requiring the timely delivery of infrastructure items, this can help ensure that other aspects of the development proposals are sequenced in the interest of sustainability and place-making – for example by limiting residential occupations until a critical mass of employment space is delivered.</u>'</p> | Comment noted however no changes made. |
| ECC 49 / BBC 31060 (Comment) | Para 5.27 | It is recommended that the section 'Negotiations/Viability' (from paragraph 5.27) should be expanded to clarify the principle that, for some development proposals / delivery models, higher value elements of a development will cross fund lower value elements (e.g. private v affordable housing, residential v non-residential uses). | Comment noted however no changes needed. |

| ECC / BBC Rep No. | Chapter/Section/ Para etc | Comments / Changes / Additions | BBC's Response |
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| ECC 50 / BBC 31061 (Comment) | Para 5.29 | Following on from paragraph 5.28 and the need to identify viability issues at an early stage, it may be helpful to offer support for, and sign-posting of, alternative (public sector) sources of funding where viability has been identified as an issue. | Comment noted however no changes made. |
| 6. Implementing this Planning Obligations SPD | | | |
| ECC 51 / BBC 31062 (Comment) | Para. 6.1 | ECC monitors S106 contributions related to its infrastructure and services. It is recommended that this is added to this paragraph. | Comments noted however no changes made. |
| ECC 52 / BBC 31063 (Comment) | Para. 6.7 | Replace wording ' <i>on www.essex.gov.uk</i> ' with ' <i>in the ECC Developers' Guide to Infrastructure Contributions (2020 or as amended)</i> '. | Amendment made as requested. |
| 7. Appendix A: Glossary | | | |
| ECC 53 / BBC – Not entered into Online Portal as system doesn't allow Appendix comments | Children's playing space | <p>ECC recommends that the description of '<i>Children's playing space</i>' should include the provision of and opportunity for natural play. Children's engagement with a natural play space, (including within school grounds) has a multitude of positive impacts on their learning and physical and emotional wellbeing.</p> <p>It is expected play strategies to be formed by the character and function of the green spaces. It should be imaginatively designed and contoured using landforms, level changes and water, as well as natural materials such as logs or boulders, which create an attractive setting for play.</p> | Added reference to natural play areas. |

APPENDIX 2: STATUTORY CONSULTEES (EXCLUDING ECC), DEVELOPERS, AND LOCAL RESIDENTS AND COMMUNITY GROUPS

STATUTORY BODIES

| Respondent | Summary of representations | Response |
|---|---|---|
| Essex County Council | See separate ECC schedule | Comments made on ECC summary of reps. |
| Ingatestone & Fryerning Parish Council | SUPPORT – A. National Policy Context, 2.3 (31064) Early adoption of the CIL would benefit the community enormously | Noted |
| Sport England | OBJECT – 3. Infrastructure Types, 3.2 (30967) The SPD does not provide guidance to provide clarity and transparency on the Council's approach to securing developer contributions for indoor sports facilities and other community infrastructure. The SPD should therefore provide clarity about how provision will be made for indoor sports facilities. If developer contributions are to be sought then the SPD should provide appropriate guidance like other infrastructure types. If | Agreed. The following text has been added to criterion G12: ...Similarly, indoor sports provision are calculated using the Sport England's Sports Facility Calculator (SFC) which can estimate the demand generated by |

| Respondent | Summary of representations | Response |
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| | CIL is to be used, paragraph 3.2 should provide examples of the types of infrastructure that CIL will be used for to provide clarity on this matter. | development for the principal indoor facility types.' |
| | <p>OBJECT – Criteria, G11 (30968)</p> <p>Sport England supports the principle of outdoor sports provision being secured on-site in residential development proposals. However, concern is raised about the proposed approach to calculating provision because it is not considered to accord with the adopted Local Plan or the Council's evidence base for outdoor sport. To address this, the approach proposed in the SPD should be replaced with the approach set out in section 12.3 of the Playing Pitch Strategy i.e. the Playing Pitch Calculator is used to inform whether on or off-site provision is made and the calculator outputs are used for informing the amount of provision.</p> | <p>Agreed. Removed open space for sports from G11 and added a new G12 which reads:</p> <p>'The provision for open space for playing pitches are to be calculated using the Sports England Playing Pitch calculator, which provides details on the number of pitches required and/or financial contribution based on the size of the development.'</p> |
| | <p>OBJECT – Criteria, G30 (30969)</p> <p>Concern is raised about the proposed approach to calculating commuted sums for outdoor sports provision due to the use of two different calculators and the use of the Council's calculator which is derived from the application of a national standard of provision. it is advocated that the approach proposed to calculating commuted sums for off-site outdoor sports provision in the SPD is based on using Sport England's Playing Pitch Calculator as advocated in section 12.3 of the Playing Pitch Strategy i.e. the Playing Pitch Calculator is used for</p> | <p>Agreed. Text has been amended to require playing pitch requirements to be calculated using Sport England's Playing Pitch Calculator and other open space provision to be calculated by the Council's Open Space Calculator.</p> |

| Respondent | Summary of representations | Response |
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| | calculating the amount of off-site contributions rather than the Council's calculator. | |
| Marine Management Organisation | Standard consultation response – no direct implications for the SPD | Noted |
| Transport for London | <p>COMMENT</p> <p>We would strongly encourage you to reference TfL's role in the SPD and identify TfL as a body to engage with and agree transport mitigation through planning obligations where appropriate. We would also like to see more acknowledgement of the need for contributions towards improved public transport (rail and bus) services and infrastructure as well as walking and cycling. The current draft appears to focus exclusively on highway infrastructure solutions which may not be appropriate where a shift towards more sustainable travel could be achieved through an alternative form of mitigation.</p> | No changes. The text in T1 makes clear that this section is supported by the overarching Local Plan policies, including site specific policies, which include sustainable transport, including walking and cycling path. Therefore, requirements for sustainable transport and active travel have been appropriately captured in the transport section. |
| The Coal Authority | Standard consultation response – no direct implications for the SPD | Noted |
| Historic England | OBJECT - Absence of historic environment considerations in the draft SPD | The objection's from Historic England are noted, however, after it is the Council's view that all of the items identified within the |

| Respondent | Summary of representations | Response |
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| | <p>Paragraph 190 of the NPPF requires that local authorities set out in their Local Plan, a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In relation to this SPD, this means the provision of contributions to safeguard and encourage appropriate and viable uses for the historic environment. It is therefore surprising that historic environment is not mentioned within the draft SPD.</p> <p>We therefore request that the SPD is expanded to include a brief section on the historic environment, outlining instances in which contributions may be sought [examples listed in full representation].</p> | <p>representation are addressed within the Local Plan. Protection and enhancement of Historic assets, both designated and non-designated are embedded within various policies, including, but not limited to the strategic policy BE16: Conservation and Enhancement of Historic Environment, site specific policies, and gypsy and traveller policies. It is also worth noting that Historic England are consulted with for planning applications which provides an opportunity for contributions towards the protection and enhancement of the historic environment. Therefore, no changes have been made to the SPD.</p> |
| Natural England | Standard consultation response – no direct implications for the SPD | Noted |
| NHS – Mid and South Essex | SUPPORT | Noted, support welcomed. |

| Respondent | Summary of representations | Response |
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| | <p>The ICB welcomes the production of guidance that will provide further details on the planning obligations required in association with development in the district.</p> <p>The inclusion of health commissioning bodies in the list of statutory bodies and recognition of the importance of the information and advice that is provided to inform decision-making in planning is welcome.</p> | |
| | <p>SUPPORT</p> <p>The draft supplementary planning document (SPD) includes a table setting out the obligation types which may be required as part of any S106 agreement.</p> <p>The guidance proposes that the timing for the provision of facilities or financial mitigation will be considered on a case-by-case basis and highlights the need for healthcare infrastructure to be in place in a timely fashion to support the health and wellbeing of existing and new residents. Inclusion of this reference to timing of mitigation is welcomed.</p> | <p>Noted, support welcomed.</p> |

| Respondent | Summary of representations | Response |
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| | <p>COMMENT</p> <p>Appended to the SPD is a schedule extracted from Brentwood’s infrastructure delivery Plan (IDP) that provides a snapshot of infrastructure requirements as of January 2021 and an indication of what funding mechanism will apply to the infrastructure. The ICB requests that the IDP content is reviewed regularly to ensure that it reflects current requirements.</p> <p>Asks the Council to continue to engage with the ICB in respect of the SPD and updates to the IDP.</p> | Noted |
| National Highways | <p>COMMENT – Criterion T1</p> <p>We always look to have a cumulative assessment for any local plan and when that has been done successfully there is no need for National Highways to carry out a detailed review of an application as it will have been accounted for in the cumulative assessment. However, there is always a need for a ‘simple’ check of an application to make sure that it accords with the local plan allocation. For a development in an adopted local plan brought forward through a planning application a ‘no objection’ response would indicate that we are content with the individual approach rather than a cumulative approach.</p> | Noted |

| Respondent | Summary of representations | Response |
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| | <p>COMMENT – Criterion T3</p> <p>Ordinarily we would confirm formal acceptance of the completed mitigation. Details of our measures to cover any remedial works can be provided if necessary.</p> | Noted |
| | <p>COMMENT – Criterion T4</p> <p>Our method of delivering physical mitigation on the SRN would always be through a S278 as shown in T5.</p> | Noted |
| | <p>COMMENT – Criterion T6</p> <p>We would normally discuss commuted maintenance with third parties to include what will be required of them.</p> | Noted |
| | <p>COMMENT – Criterion T9</p> | The additional text has been added at the end of T9 to reflect that the relevant highway authorities will provide details on |

| Respondent | Summary of representations | Response |
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| | <p>We would suggest additional wording to this point to state that further details will be sought from the relevant highway authorities about the details of formal procedures that will be followed.</p> | <p>the formal procedures to be followed.</p> |
| | <p>COMMENT – Section 3</p> <p>As a general point, National Highways are not party to S106 Agreements so any site specific requirements should be covered by National Highways recommended conditions.</p> | <p>Noted</p> |
| | <p>OBJECT – Section 4, Monitor and Manage</p> <p>From a National Highways perspective, the methodology has some merit and if developed further may form a workable way to allow timely delivery of infrastructure. However, as presently described it poses some questions about its viability.</p> <p>Firstly, the approach appears to suggest that developer contributions are for pre-defined mitigations that are fixed, thus forming the upper limit of what is required. As developments are occupied it may become apparent that trip rates are exceeded leading to higher levels of required mitigation. Such a scenario has not been tested for viability. On this point, any risk related to the monitor and manage approach will lie with Brentwood Borough Council.</p> | <p>It is acknowledged that the approach to Monitor and Manage is still being discussed. Therefore additional text as requested by ECC has been added to reflect this. If this approach is adopted in the future then the SPD can be updated to reflect this and the agreed approach. New text added is:</p> <p><i><u>‘The principles of the Monitor and Manage approach are still being developed and a final position is yet to be reached between the Borough</u></i></p> |

| Respondent | Summary of representations | Response |
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| | <p>There is an assumption in this approach that all traffic flow differences across the network relate to increases in trips from Local Plan development. However, traffic flow changes at different locations may also relate to non-Local Plan traffic rerouting across the network as a result of additional congestion caused by Local Plan related traffic movements. This element of flow change will not be picked up in the approach as described.</p> <p>Further scope is required to make the approach workable. A monitor and manage strategy will need to be able to implement whatever mitigation is required for the Local Plan. Its main objectives are to provide no more mitigation than necessary and to implement the right mitigation at the right time, not to cap mitigation to pre-defined levels. As the Local Plan is built out further previously unidentified mitigation may be required or changes may be required to pre-determined improvements.</p> <p>For mitigation that has already been identified, the methodology will need to define trip generation targets, what they are and why they have been selected. However, Paragraph 4.15 of the SPD rightly points out that some developments may meet their targets while others may exceed them. In this possible scenario it is likely that developer contributions towards identified mitigation will be insufficient. Similarly, there is no guarantee that if lesser mitigation is possible that it will be affordable.</p> | <p><u>Council and ECC. The potential principles of a Monitor and Manage approach could be as follows:....'</u></p> |

| Respondent | Summary of representations | Response |
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| | <p>Presently there is, from National Highways perspective, insufficient detail within the Infrastructure Delivery Plan about mitigation identified through the Local Plan up to the closure of the examination in 2021. Additional mitigation identified through ongoing assessment work up until the final examination hearings in July 2021 have to date not been published by Brentwood Borough Council. Similarly, the Inspectors Report on the Local Plan Examination in February 2022 Paragraph 285 acknowledged that the infrastructure provision required additional work to agree technical details. The mitigation list for the Plan as adopted was incomplete, but that these additional measures could be undertaken as part of an immediate review (Local Plan Policy MG06, committing to assessment of full local plan growth). A monitor and manage strategy will need to be established on the basis of an agreed complete and up to date IDP for the adopted Plan and in future any additional development included as part of any forthcoming review.</p> | |

AGENTS / DEVELOPERS

| Respondent | Summary of representations | Response |
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| <p>Turner Morum LLP on behalf of Croudace</p> | <p>COMMENT</p> <p>Given the reduced number of dwellings that can be delivered on R03 as a whole it is questioned as to whether this site is still an appropriate location for a primary school, when the children from R03 can be accommodated at an extension at Long Ridings and the other allocations would be better served by schools closer to individual sites.</p> <p>If it is still considered necessary, the mechanism for collecting the financial contributions from all 19 [pooled] sites, including each of the four developers of R03, needs to be considered and clearly set out. Not just in terms of the education contributions per child living at the identified developments but the contribution to land cost/opportunity cost of providing a school on 2.1 hectares within R03.</p> <p>It will be necessary for the Council to either forward-fund the delivery of this school or the individual R03 developers must be able to commence – and complete - their developments before the school is commenced/ completed.</p> | <p>There have been conversations with ECC regarding the need for the school at this site. There is currently an outline application for the school at this site. Therefore, not changes are needed to this section and have been dealt with through the planning application process.</p> |

| Respondent | Summary of representations | Response |
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| | <p>COMMENT</p> <p>Where these types of strategic infrastructure are required [schools], it will also be necessary to ensure that residential occupational restrictions are not imposed on the contributing schemes, as it will be the Council's responsibility to ensure that the infrastructure in question is delivered. Any occupational restrictions would place significant barriers on delivery. Further, R03's education provision could be provided for by an extension to Long Ridings, making any restriction on occupation restrictions illogical and ineffective.</p> | <p>Noted. ECC are the education authority. Therefore, any occupational restrictions would be determined by ECC.</p> |
| | <p>COMMENT – Paragraph 3.7</p> <p>It appears to be appreciated that certain infrastructure will need to be delivered up-front and will therefore need to be forward-funded, with deferred contributions received as and when the contributing developments come forward. It cannot be assumed that all these developments will commence immediately, and therefore funding arrangements will need to be in-place to ensure the infrastructure can be delivered in this manner. This approach appears to be envisaged.</p> | <p>Noted.</p> |

| Respondent | Summary of representations | Response |
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| | <p>COMMENT – Paragraph 3.15</p> <p>It will be necessary for the Council to work collaboratively with the developers to ensure that appropriate levels of contributions are secured from each, so that each developer is making fair and reasonable levels of contribution, in accordance with the Community Infrastructure Levy Regulations 122. Again, this approach appears to be envisaged, at paragraph 3.15.</p> | Noted |
| | <p>COMMENT – Paragraph 3.18</p> <p>The CIL concerns identified reaffirm the views of my clients made within the recent CIL representations that the Officers Meadow scheme should be zero listed for CIL, with the planning gain requirements contained within s106 agreements.</p> | The CIL examination has concluded and adopted by the Council. Comments received regarding the rate that should be applied to R03 was examined and has been concluded. |

| Respondent | Summary of representations | Response |
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| | <p>OBJECT – Paragraph 5.10</p> <p>Individual developers should only be required to mitigate the impact of their own development. Therefore, where they are burdened by disproportionately high infrastructure requirements as part of a strategic development, which results in them incurring disproportionately high costs and / or losing net developable area, appropriate adjustments should be made to their remaining planning gain requirements.</p> <p>Without these adjustments, these developers would be required to ‘more than mitigate their own impact’ - which would be contrary to the CIL Regulations 122. As such, it is necessary for the LPA to ensure the respective s106 requirements are adjusted, to ensure that each developer only incurs an appropriate share of the overall planning gain requirements that is necessary, directly related and fair and reasonable in scale and kind to that portion of development</p> | <p>Para 5.10 requires ‘land equalisation agreements between developers’ to address concerns regarding unequal contributions towards the required infrastructure, such as schools. The IDP provides estimated amounts needed from each development. It is the council’s view that no further changes are needed to the SPD to address these comments</p> |
| | <p>COMMENT – Paragraph 5.11 & Paragraph 5.12</p> <p>Local plan allocation policies such as R03 have been drafted and adopted by the Council fully recognising that more than one developer is active on a particular allocation and delivery of the allocation will be subject to individual applications. In these circumstances there is no need for the developers to have an equalisation agreement. Further the</p> | <p>An equalisation agree is required as part of the processes as determined by ECC who are the education authority.</p> |

| Respondent | Summary of representations | Response |
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| | <p>IDP recognizes that delivery of infrastructure on R03 is the responsibility of numerous (17) allocations where having an equalisation agreement(s) is not possible.</p> <p>Where there is no equalisation agreement between developers of a single allocation site or where multiple sites are contributing to a strategic infrastructure need, it will be necessary for the LPA to ensure that the developer contributions are effectively adjusted, to ensure that each developer meet their appropriate share of the overall planning gain.</p> | |
| <p>Marrons Planning on behalf of Hallam Land Management</p> | <p>OBJECT - Overview</p> <p>A number of the proposed criteria to be imposed go beyond those of Policy and therefore exceed what is allowed for in the Town and Country Planning (Local Planning) (England) Regulations 2012.</p> | <p>Objection noted and addressed through the comments under each specific criterion</p> |
| | <p>OBJECT – Criterion H3</p> <p>Seeks to require that where there is an increase in the number of residential units on a site, for example where non-residential floorspace subsequently secures planning permission for residential use, Policy HP05 will be applied based on the total number of units on the site - there is no support for such a requirement in Policy HP05.</p> | <p>Criterion H3 is to assist with the Council meeting the policy requirements as set out in HP05: Affordable Housing. Where an amendment to, or an additional planning permission is applied for to increase the number of residential units so that the total</p> |

| Respondent | Summary of representations | Response |
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| | This should be removed from the SPD | number of units is 10 or more, HP05 will apply. It is the Council's views that no changes are needed to the SPD and remains unchanged. |
| | <p>OBJECT – Criterion H5</p> <p>H5 aims to quantify the level of dispersal required in on-site affordable housing provision to help achieve tenure-blind development. the detail proposed to be set out in Criterion H5 has no Policy basis. Further, it is very specific and lacks any flexibility to respond on a site-by-site basis, with no recognition for the potential for higher concentrations of affordable housing provision which are appropriate and still support the principles of Policy BE15.</p> <p>This should instead encourage the quantified requirement set out relating to affordable housing dispersal but not seek to require it to be explicitly conformed with.</p> | <p>Criterion H5 is supported by Policy BE15, criterion d:</p> <p>'ensure buildings and places are designed in a way that everyone regardless of their ability, age, income, ethnicity, gender, faith, sexual orientation can use confidently, independently, with dignity and without engendering a sense of separation or segregation'.</p> <p>Furthermore, Policy HP05 clearly states that affordable housing should be integrated throughout the development under criterion 2b. Therefore, it is considered the H5 is appropriate to prevent the separation between market and affordable housing on site and requiring an appropriate mix</p> |

| Respondent | Summary of representations | Response |
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| | | throughout the site. Therefore, no changes have been made to |
| | <p>OBJECT – Criterion H7</p> <p>Seeks to establish a phasing framework for the delivery of on-site affordable housing on larger schemes. there is no support for such a requirement in Policy HP05. In most cases, the layout of development dictates delivery of residential units irrespective of tenure, and thus to seek to impose phasing restrictions on delivery of on-site affordable housing is inappropriate. This should be removed from the SPD.</p> | It is reasonable to require market and affordable housing to come forward in phases for large developments and is support through the policy HP05 criterion 2b. Therefore no changes have been made to the SPD. |
| | <p>OBJECT – Criterion H13</p> <p>Seeks to provide the basis for calculation of the commuted sum required in lieu of on-site provision of affordable housing as 55% of Open Market Value. 55% of Open Market Value is presented in the draft SPD with no evidence or Policy support. In any case, we consider that there should be flexibility built-in to the required commuted sum, to ensure development viability isn't unduly negatively impacted. This should be appropriately evidenced.</p> | The Council had an independent review of this criteria undertaken by Arch consultants. The comments received by them was that the 55% was actually too low and amendments to criteria H13 would be justified. Based on the professional opinion and case studies / research undertaken by consultants it was determined that H13 should be amended to read: |

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| | | <p>'The commuted sum for the off-site provision of affordable housing will be the difference between the market value of equivalent provision off site (to be determined by the most recent Land Registry new build sales data for a given unity typology within the borough) and the value of the same unit as an affordable unit (as validated by what an approved Registered Provider operating within the borough would be prepared to pay for the affordable unit(s) in question).'</p> <p>The above amendment has been made.</p> |
| | <p>OBJECT – Criterion H14</p> <p>The assumption that the proposed market housing mix and desired affordable housing mix are related is unfounded and indeed inaccurate, with affordable housing mix often skewed towards smaller dwellings driven by need. This should be removed from the SPD.</p> | <p>The Council's housing need mix across the borough applies to all types of housing and therefore it is considered appropriate to apply the requirements for H14 for determining a commuted sum where affordable housing is</p> |

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| | | unable to be provided on site. Therefore, no changes have been made to the SPD. |
| | <p>OBJECT – Criterion 15</p> <p>Seeks to require the commuted sum required in lieu of on-site affordable housing to be paid prior to commencement of development. However, this may not be feasible in some cases and indeed could cause issues with the commencement of development in terms of viability, holding up otherwise sustainable and deliverable housing development from being delivered. This should be amended to require any commuted sum in lieu of on-site affordable housing to be paid at a more appropriate point once development is underway.</p> | <p>Noted. However, there would be little recourse the Council could take if the development were to start, and the agreed commuted sum not paid. Therefore, the Council feels it is entirely appropriate to require this payment in advance of the development commencing. Therefore, no changes have been made to the SPD.</p> |
| | <p>OBJECT – Criteria H17 to H20</p> <p>Mid and Late-Stage Viability Reviews - There is no Policy basis for viability reviews in Policy HP05, and as such these proposed measures go far beyond what should be included within a SPD. This should be removed from the SPD.</p> <p>A requirement for viability reviews after a planning permission has been granted and a Section 106 agreement has been signed places at risk</p> | <p>Where a development is not able to achieve the full policy requirement for affordable housing this needs to be supported through a viability assessment as per Policy HP05 criterion 3. The requirement of a mid and late stage viability reviews are a mechanism that can be used by the Council to ensure the assumptions made through the</p> |

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| | <p>the implementation of that planning permission. A developer will not want the risk of the Section 106 package being amended at a later stage, and will only purchase a site if they have certainty as to what they purchasing, at what price and with what financial commitments.</p> | <p>viability assessment are accurate. Therefore no changes have been made to the SPD.</p> |
| | <p>OBJECT – Criterion H22</p> <p>Seeks to require that Specialist Accommodation is made available before occupation of 50% of market housing provision. There is no Policy support for such an imposition in Policies HP01 or HP04, and indeed such a measure could stunt sustainable and deliverable housing development from being delivered unnecessarily. In most cases, the layout of development dictates delivery, and thus to seek to impose phasing restrictions on delivery of Specialist Accommodation is inappropriate and indeed is likely to be impractical. This should be removed from the SPD.</p> | <p>Policy HP04 states under criterion 3 that restrictions maybe imposed on occupation to persons requiring specialist accommodation. Therefore, comments are noted and no changes are deemed necessary.</p> |
| | <p>OBJECT – Criterion H33 & H34</p> <p>Relate to the marketing of self-build and custom build plots.</p> <p>Restricting occupancy of open market units has the potential to restrict sustainable and deliverable housing development from being delivered unnecessarily, and is not sound nor logical. Further, it is considered that</p> | <p>The Council has an obligation to ensure an appropriate level of self build and custom build homes are delivered within the borough. In order to facilitate the council in fulfilling this obligation. Therefore it is considered reasonable to required a 36 months marketing</p> |

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| | <p>36 months for marketing is extreme, and could lead to situations where plots are left undeveloped even after a site has been completed. it is considered that the above proposed measures have no Policy support.</p> <p>We consider that Criterion H33 should be removed from the draft SPD and Criterion H34 should be reduced to a maximum of 12 months, with sufficient flexibility incorporated.</p> | <p>and restrict occupancy of market housing to ensure every reasonable effort is made to promote and sell self and custom built homes. Therefore no changes have been made to the SPD.</p> |
| | <p>OBJECT – Criterion H35</p> <p>Self-build and custom build housing can assist with helping meet identified affordable housing needs, and as such where restrictions are imposed on occupation and price this should be taken into account. As this effectively renders Criterion H35 futile, we consider that Criterion H35 should be removed from the draft SPD.</p> | <p>Self and custom build homes are meeting an identified housing need separate from the council’s affordable housing need. Therefore, the objection is noted, however no changes are deemed necessary to H35.</p> |
| | <p>OBJECT – Criterion H49</p> <p>H49 seeks to advise that, when calculating Vacant Building Credit, the required number of affordable dwellings will be calculated to decimal points and rounded to the nearest whole number. This is considered inappropriate as it could lead to situations where an excess, or indeed an insufficient level of affordable housing is required to be provided. It is</p> | <p>Brentwood Borough Council has a historic short fall of affordable housing, and therefore it is considered entirely appropriate to use one decimal place to round to the whole number. The objection</p> |

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| | <p>recommend that affordable housing provision is calculated using Vacant Building Credit to two decimal places, with the whole number sought as on-site provision and the remainder sought as an off-site contribution.</p> | <p>is noted but no changes are considered necessary for H49.</p> |
| | <p>OBJECT – Criterion R2</p> <p>Criterion R2 seeks to require a financial contribution where the renewable technologies provision target and carbon reduction emissions targets are not achieved on-site, however Policy BE01 only supports financial contributions where there is a shortfall in renewable energy generation and not where carbon reduction emissions targets are not achieved. A figure of £378 per tonne of carbon dioxide each year for a period of 30 years is set out in the draft SPD with no evidence or Policy support.</p> <p>Criterion R2 should be revised to remove reference to carbon reduction emissions targets, be appropriately evidenced taking into account the fact that there is only Policy support for contributions where there is a shortfall in renewable energy generation and not where carbon reduction emissions targets are not achieved, and also provide some flexibility.</p> | <p>Reduction of energy and carbon emissions are interlinked. Brentwood Borough Council, along with a number of other Essex authorities have declared a climate emergency and BE01 clearly sets out the need to follow BREEAM standards (or LEED / Passivhaus provided it is of equivalent standard). BREEAM standards set out the need for carbon reductions and therefore is entirely appropriate to include this in the SPD.</p> |
| | <p>OBJECT – Criteria P4 to P11</p> | <p>For the purpose of the SPD public art is considered to be art integrated into physical form and</p> |

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| | <p>These criteria seek to require the preparation of a Public Art Strategy and subsequent commissioning or financial contribution towards Public Art, however there is no basis for this in Policy BE14 or indeed more widely in the Brentwood Local Plan. On the basis of the above, we consider that Criteria P4 to P11 should be removed from the draft SPD.</p> | <p>function. This supports the requirements set out in Policy BE14. Therefore the objections are noted however no changes are needed to criterion P4 through P11 of the SPD.</p> |
| <p>Strutt & Parker on behalf of St Modwen</p> | <p>OBJECT – see separate track changes version of SPD for full comments.</p> <p>We have proposed a number of important changes to the draft SPD which are shown in track changes in the attached draft. We have added commentary which explains why we propose these amendments but in headline terms our reasons are as follows:</p> | <p>Noted</p> |
| | <p>OBJECT - S106 and CIL Regulation 122</p> <p>Some of the amendments proposed, particularly to Sections 2 and 3 of the draft SPD are to clarify the legal tests around when planning obligations may constitute a reason for granting planning permission. Specifically please note:</p> <ul style="list-style-type: none"> a. we have suggested deletion of Section 3.8 which might otherwise be read as cutting across these tests; and | <p>Disagree therefore no changes made</p> |

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| | <p>b. we have deleted various references to ‘the funding gap’ (e.g. Section 3.11 – 3.13) – again, it is satisfaction of CIL Regulation 122 that is the test when considering planning obligations.</p> | |
| | <p>OBJECT – Section 3, Infrastructure types</p> <p>Proposed amendments to tie in with the IDP wording and how infrastructure categories 1-3 are defined.</p> | <p>Disagree therefore no changes made</p> |
| | <p>COMMENT – Section 3, Tables</p> <p>Section 3 sets out the different types of infrastructure. Our understanding is that the tables in Section C only relate to site specific infrastructure but they are potentially confusing, partly because they take up many pages of the SPD and therefore it is easy to lose sight of the fact that these are only site specific infrastructure requirements. We think it may be more helpful if the tables in Section C were put into an appendix to the SPD</p> | <p>Noted, however the tables in section 3 outline the core content of the SPD related to infrastructure and financial contributions required. Therefore, no changes are considered necessary.</p> |
| | <p>OBJECT – Section 4, Retrospective contributions (Section 4.9)</p> | <p>The first sentence in para 4.9 states: ‘There will be instances where contributions shall be payable retrospectively’, which is</p> |

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| | <p>The draft SPD should be amended as we have proposed to emphasise that RPCs will be sought on a case-by -case basis where the evidence base justifies it.</p> | <p>the as being considered on a case-by-case basis. This is further supported by Policy MG05: Developers Contributions. Therefore, the comment is noted however no further changes are deemed necessary.</p> |
| | <p>OBJECT – Section 5, IDP</p> <p>Key to the approach set out in the SPD (particularly in relation to Section 4B, on retrospective contributions, and the Framework S106 agreement (Section 5)) that the evidence base is robust.</p> <p>We think the IDP needs to be very clear as to which sites are delivering which elements of infrastructure, which it is not currently. We have specific concerns that:</p> <ul style="list-style-type: none"> a. we consider that the costs of delivering the transport infrastructure at Junction 29 and improvements to the A127 have been underestimated; and b. following revised access arrangements for BEP being proposed and the Lower Thames Crossing (LTC) traffic survey results being released, recent discussions with ECC and NH suggest that the final mitigation package for this area is still uncertain, for example, if the link road is required; c. it is critical for infrastructure that is proposed to be forward-funded by developers, such as our client in the case of BEP, that the | <p>The IDP was examined through the Local Plan examination and used as evidence through the CIL examination. No concerns were raised by the Inspectors overseeing these examinations on the IDP’s robustness. Therefore, objects have been noted however no changes are deemed necessary.</p> |

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| | <p>infrastructure costs are properly calculated and a robust assessment of traffic is undertaken on all schemes;</p> <p>d. we note that Dunton Hills is likely to contribute to traffic growth on the A127, yet it appears there are no plans for the scheme to contribute to any external infrastructure beyond its boundaries. We do not think this is correct and the IDP Part B should be amended accordingly.</p> | |
| | <p>OBJECT – Section 4B, Monitor and Manage</p> <p>The approach set out in Section 4B ‘s106 Agreements’ in respect of transport infrastructure is premature. The Council is still in discussions with National Highways (NH) and Essex County Council (ECC) about assessing traffic flows and mitigation arising from the recently adopted Brentwood Local Plan 2016-2033 site allocations, particularly those on the Brentwood Southern Growth Corridor. It is unclear whether there is ECC and NH support for it.</p> | <p>Objection noted. The SPD was reviewed by statutory consultees, including ECC and NH. Therefore, not changes are made to the SPD.</p> |
| | <p>OBJECT – Section 5, Considerations in drafting a S106 agreement</p> <p>Proposed that this is amended as the Framework S106 agreement approach is only suitable where there are a number of development parcels contributing towards the same items of strategic infrastructure.</p> | <p>Noted</p> |

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| | <p>OBJECT – Section 5.3</p> <p>Important that it is clear which development sites are contributing towards which items of infrastructure. We think the Council may intend to do this by reference to Part B of the IDP but Part B of the IDP does not currently make this clear and would need amending.</p> | <p>It is the Council's view that the IDP Part B identifies which sites are responsible for making contributions to the items listed. This was reviewed through the Local Plan examination and used as evidence to support the Council's CIL charging schedule. Therefore, the objections are noted however no changes are deemed necessary.</p> |
| | <p>OBJECT – Section 5.16</p> <p>Where landowners are providing strategic infrastructure land, the landowner should be able to decide that they are willing to provide the land on a nil cost basis and therefore do not need to equalise with other relevant landowners and the Council should not require land equalisation agreements to be provided in that scenario. Otherwise other relevant landowners could hold the landowner providing the strategic infrastructure land to ransom.</p> | <p>Disagree, and therefore no changes made.</p> |
| <p>Pegasus Group on behalf of Redrow</p> | <p>COMMENT – Paragraphs 2.14 and 3.12, IDP</p> | <p>Paragraph 2.14 has been amended to include a footnote with a weblink to the Council's IDP as suggested.</p> |

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| | <p>Given the important nature of this document, the SPD should clearly signpost the IDP with a direct link to the latest version.</p> <p>Paragraphs 2.14 and 3.12 of the SPD acknowledge that costs and funding requirements of infrastructure are likely to change, requiring regular updates to the IDP. As best practice, to ensure the most accurate information is available, these updates should be undertaken yearly; the IDP is therefore at risk of being out of date if there has been no update since January 2021. This is particularly so given the fluctuation in construction costs and significant increase in inflation during the period of 2021-2023.</p> <p>IDP, paragraph 3.15 states that Part C will detail the apportionment of contributions for each allocation against infrastructure requirements. No timescales are provided for the publication of this information; it would be useful to consider this additional level of detail alongside this SPD and to provide comment on it.</p> <p>Early publication of Part C would be useful to provide some clarity to developers that are actively seeking to deliver allocated development sites. There could otherwise be risks around viability and s106 discussions becoming protracted.</p> | <p>The Council acknowledges that the IDP needs to be updated to keep up to date with inflation. These updates will be undertaken in line with the relevant guidance and regulations.</p> |
| | <p>COMMENT – Paragraph 2.20</p> | <p>Noted and agreed</p> |

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| | <p>The need for consultation with statutory bodies on certain contributions, as stated at paragraph 2.20, is acknowledged. The SPD should clearly state that any requests for contributions from external bodies must be clearly justified, giving proper consideration to the statutory CIL tests which are set out in paragraph 2.4 of the SPD.</p> <p>This will ensure requests for contributions at the planning application stage are properly evidenced and reduce any delay in processing applications.</p> | |
| | <p>OBJECT – Paragraph 3.3</p> <p>Paragraph 3.3 confirms that Section 106 contributions will be sought towards category 1, category 2 and site-specific infrastructure, whilst CIL would be primarily used to fund category 3 infrastructure. Category 1 comprises strategic transport infrastructure, while category 2 covers any infrastructure necessary to mitigate impacts and make a development acceptable in planning terms. As can be seen in the IDP, required funding for category 1 and 2 infrastructure amounts to an indicative cost of £256,646,801 with a funding gap of £243,995,821. This would total Section 106 contributions of £31,475 per unit for category 1 and 2, based on the 7,752 units that are anticipated to be delivered over the Local Plan period.</p> | <p>Objections are noted, however it is the council's view that the CIL and S106 approach is proportionate and justified. CIL has been tested through the CIL examination and legal advice has been provided on the development of the SPD. Therefore, no changes have been made.</p> |

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| | <p>The Viability Assessment Update (August 2022) assumes much lower Section 106 costs. Taking as an example the strategic allocation R03 (Officers Meadow), a Section 106 cost of £28,951 per unit is assumed. Based on the allocation delivering 825 units, this would mean a difference of over £2,000,000 between the Section 106 costs anticipated by the CIL Viability Assessment and those identified in the IDP. This is a significant difference that brings into question the robustness of the Viability Assessment and the assumptions within this SPD, given the inconsistency with the Council's evidence in the IDP.</p> <p>In addition, the funding gap for category 3 infrastructure is £52,918,387. Based on an average unit size of 100 sqm and all sites allocated by the Local Plan (excluding Dunton Hills Garden Village which is CIL exempt) delivering policy compliant 35% affordable housing, the CIL contributions would work out at a total of £83,320,000. This would mean £30,941,613 of CIL funds would be surplus monies with no identified category 3 infrastructure for this significant surplus to be spent on. This is particularly important when considering that the CIL viability work is based on much lower s106 contributions than assumed by the SPD.</p> <p>The above demonstrates that the approach that has been taken by the Council towards calculating Section 106 and CIL costs is not proportionate or justified. To ensure the potential for viability impacts is reduced, the infrastructure to be funded by CIL needs to be widened outside of category 3. This will reduce the burden placed on Section 106 funding, which is currently high according to the IDP and CIL</p> | |

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| | <p>assumptions, and ensure a fair and consistent approach is taken in securing contributions from all sites.</p> | |
| | <p>OBJECT – Paragraph 3.3</p> <p>Paragraph 3.3 states that the ability to fund the same piece of infrastructure through both Section 106 and CIL is not precluded. There is no further clarity provided on the situations in which the Council would deviate from their proposal to fund category 1 and 2 infrastructure through Section 106 and category 3 through CIL. Further consideration is needed in this SPD of the appropriate mechanisms that the Council will put into place to ensure there is no ‘double counting’ of contributions that are sought through both CIL (if adopted) and Section 106 obligations.</p> | <p>In addition to details provided within para’s 3.1 through 3.4, Figure 1 also provides information on which mechanisms will be used for funding the various types of infrastructure. It is the Council’s view that it is clear that double counting will not occur as required by the regulations. The objection is noted, however no further changes are deemed necessary.</p> |
| | <p>OBJECT – Section 3, Criterion H5(b)</p> <p>Criterion H5(b) requires affordable housing clusters of no more than 15% of the total number of dwellings being provided or 12 affordable dwellings, whichever is the lesser. We assume that the SPD means 15% of all homes, not just of the affordable homes but this should be made more explicit. We also question the appropriateness of this given that the adopted Local Plan requires affordable housing to be ‘distributed throughout the development so as to avoid the over concentration in one</p> | <p>Criterion H5(b) states ‘be designed in a way that on sites incorporating 30 or more dwellings, affordable housing are provided in groups of no more than 15% of the total number of dwellings being provided or 12 affordable dwellings, whichever is the lesser...’This is to ensure that the requirements within HP05 in the</p> |

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| | <p>area' under Policy HP05. Should the Council have wished to make this more onerous, this should have been thoroughly tested through the Local Plan process rather than in this SPD.</p> | <p>Local Plan are adhered to by setting out further details on the Council's expectations for distributing affordable housing across the site. It is the Council's view that this is appropriate to include this within the SPD and therefore the objection is noted however no changes are deemed necessary.</p> |
| | <p>OBJECT – Section 3, Criterion H8</p> <p>Criterion H8 requires details of phasing of affordable housing delivery to be submitted at the application stage. This is a matter that would be more appropriate to secure through either a condition or obligation post grant of permission but pre-commencement of development. The phasing of a development is not always likely to be known at the application stage, such as for larger sites where phasing will be influenced by construction and infrastructure provision requirements.</p> | <p>All of the large site allocations within the Local Plan require a comprehensive masterplan to be submitted as part of the planning application. Therefore the requirements in H8 of the SPD are entirely appropriate. The objection is noted, however no changes have been made to H8.</p> |
| | <p>OBJECT – Section 3, Criterion H27</p> <p>Criterion H27 states that at the time a planning application is submitted, the Council will review the preferences of the people on the custom and</p> | <p>The Council published the overall data for the Self and Custom Build housings needs for the borough within its Annual Monitoring Report which is updated annually and</p> |

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| | <p>self-build register to advise developers and landowners on the type of self and custom housebuilding that is required. It would be beneficial for this information to be made publicly available so developers can respond to needs more effectively at an early stage of developing a scheme.</p> | <p>publicly accessible through the Council's website. To help make this clearer a footnote has been added with a link to the Council's Monitoring page.</p> |
| | <p>OBJECT – Section 3, Criterion T8</p> <p>Criterion T8 states developers will be required to enter into a bond for an amount specified by ECC or National Highways to ensure that the highways works are completed to their satisfaction, should the developer default on any of its obligations in relation to the works. This bond will vary dependent on the works required. This could have a significant impact on the viability of schemes, with potentially large sums requested at a very early of development, on top of s106 and potentially CIL costs, infrastructure costs, house building costs, and so on. The impact on viability of this does not appear to have been considered and has the potential to significantly detrimentally impact upon the delivery of much needed homes and infrastructure in the Borough. Instead, the Council could simply secure the satisfactory completion of highways works through a legal agreement with a suitably worded obligation. Should a developer not complete highways works to the agreed standard, the Council would have a legal power to take action and require this to be remedied, which is an entirely appropriate and justified method that does not impact on viability.</p> | <p>It is the council's view that this is a standard process. Therefore, the objections are noted but no changes deemed necessary.</p> |

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| | <p>OBJECT – Section 3, Criterion T9</p> <p>Criteria T9 states that land compensation bonds will be required where there is a possibility of existing properties being affected by new highway development, e.g. by increased noise resulting from new highway development, including the possibility of a reduction in value. This is again inappropriate and not suitably evidenced. The possible ‘reduction in value’ of a property is incredibly difficult to quantify and opens a significant amount of legal uncertainty and challenge, whilst not being a planning consideration. On the opposite side, if a development improves the value of an existing home through new infrastructure, this is not taken into account as it is a private matter for that individual homeowner. This is again another matter than should have adequate evidence supporting it, especially around the impact on the viability of schemes and should be removed from the SPD.</p> | <p>T9 makes clear that the formal processes of the highway authorities will be followed. Therefore, the objection is noted however no changes are deemed necessary.</p> |
| | <p>COMMENT – Section 3, Criterion R2</p> <p>Criterion R2 requires a carbon offset rate of £378 per tonne of carbon dioxide per year for 30 years to be paid by developments that do not achieve emissions reduction targets. It is presumed that these targets are the ones set by Policy BE01, but this should be explicitly stated as it is a little unclear as currently drafted.</p> | <p>The justification and policy columns clearly identify that the carbon reduction is set out in BE01. Therefore it’s the Council view that this is already made explicit within the SPD.</p> |

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| | <p>OBJECT – Section 3, Criterion G11</p> <p>G11 it refers to an Open Space Calculator and provides screenshots of the calculator. Although it is stated that the Calculator is available on the Council's website, a thorough search has not found the Calculator. It is important that this Calculator is made available for perusal and comment as part of this SPD consultation.</p> | <p>Following the consultation of the SPD, some changes have been made to the Council's Open Space calculator – mainly that playing pitch and built facility figures need to be generated by the Sport England, Active Places Power calculator. As a result these figures need to be generated by council officers that will need to be manually entered into the council's open space calculator. Therefore, the council will use the calculator and provide these figures and calculations to developers. A new paragraph G18 has been added to the SPD to address this. It reads:</p> <p>'The Council will provide the figures generated by the Council's Open Space Calculator to developers which will ensure a consistent approach is undertaken.'</p> |

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| | <p>OBJECT – Section 4, Paragraph 3.7</p> <p>Paragraph 3.7 contains a suggestion that the Council will be seeking to forward fund strategic transport infrastructure and then secure retrospective contributions from developers to pay for that infrastructure. It is not clear how this proposed funding arrangement would operate in a manner that is compliant with the statutory CIL tests. There is no mechanism proposed to ensure that any retrospective contributions that are requested are proportionate to the development’s impact.</p> | <p>Paragraph 3.7 provides high level information about retrospective payments, however further information is provided in chapters 4 and 5. These chapters provide the additional information required. Therefore the objection is noted however no changes were deemed necessary.</p> |
| | <p>OBJECT – Section 4, Paragraph 4.9</p> <p>Paragraph 4.9 relates to securing and paying retrospective contributions for all types of strategic infrastructure that has already been partially or fully provided. There is no further detail provided on how the benefit that a development obtains from infrastructure will be quantified and an appropriate and proportionate retrospective contribution calculated. Additionally, there appears to have been no consideration of how retrospective contributions would be apportioned between multiple allocations that all benefit from the strategic infrastructure, or for situations where unplanned development comes forward.</p> | <p>Chapter 5 and Appendix B provides the additional information to address this comment. Therefore the objection is noted however no changes are deemed necessary.</p> |

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| | <p>OBJECT – Section 4, Paragraph 4.9</p> <p>The SPD contains no information on how the Council will obtain forward funding for this strategic infrastructure. This detail is not contained in Chapter 15 (Overcoming the Funding Gap) either. There should be no suggestion or attempt by the Council to require developers who submit planning applications early in the Plan period to contribute towards the significant forward funding of this strategic infrastructure that serves a wider purpose for existing capacity issues and for other developments. This would require contributions to be made that would not meet any of the three strands of the CIL tests.</p> <p>Based on the information currently provided in the draft SPD, there is therefore much uncertainty about how the Council’s proposal to forward fund certain strategic infrastructure and then require payment of retrospective contributions will operate. It is considered that this element is not compliant with the relevant CIL tests and needs further thought and detail to be provided to ensure developments can come forward with certainty while mitigating any direct impacts that do arise. In particular, detail is needed as to the strategic infrastructure that the Council considers needs to be forwarded funded and the reasoning for this approach.</p> | <p>Objection is noted however no changes were made.</p> |
| | <p>OBJECT – Section 4, Paragraphs 4.12 to 4.18</p> | |

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| | <p>The Council provides no detail on why an alternative to ‘predict and provide’ when it comes to delivering strategic transport infrastructure is necessary. Monitor and manage is stated as one potential alternative approach; paragraph 4.12 implies that other alternative approaches to predict and provide are also being considered by the Council but no details are provided. This potentially means there would be no consistency across development sites on the approach that is taken in planning for transport infrastructure. Further detail is needed.</p> <p>With regard to the monitor and manage approach, it seems for this to operate effectively the Traffic Monitoring and Management Plan (TMMP) needs to be prepared first, before development sites are occupied. It should not be the case that the delivery of sites is delayed to allow preparation of this TMMP. The monitor and manage approach overall provides the impression of being a convoluted method of securing transport mitigation that would provide no certainty on the financial contributions that would be required. It also appears to be that under this approach, the delivery of any mitigation needed would be provided after a development is already occupied, compared to the predict and provide approach which allows for the mitigation to be in place before or alongside occupation of a development. If the monitor and manage approach is pursued, the SPD also needs to provide further clarity on the interaction between development sites that perform differently in the TMMP.</p> | |

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| | <p>OBJECT – Section 5.11</p> <p>Section 5.11, relating to land equalisation agreements, is not clear on when it will be determined that such an agreement between different landowners is needed. Land equalisation agreements are for individual landowners to determine if are needed and are not a planning matter. The planning process should secure the delivery of necessary infrastructure to make a development acceptable in accordance with the relevant tests, and the Council requiring a land equalisation agreement and publication of this is entirely inappropriate and outside the planning scope. Reference to this should be removed from the SPD.</p> | <p>Land equalisation is part of a common planning practice and processes. Therefore the objections are noted but no changes made.</p> |

Other Responses

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| Blackmore Village Heritage Association | <p>COMMENT – 1. The Purpose of this document, 1.2 (30971)</p> <p>For any aspect of the LDP to be effective and 'robust', including the original Policies as well as Implementation, it is of paramount importance that BBC rigorously applies its own stated Strategic Objectives.</p> | <p>Noted</p> |
| | <p>COMMENT – 1. The Purpose of this document, 1.3 (30972)</p> | <p>Noted</p> |

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| | <p>Make sure you apply some proper understanding and well considered thinking before you make decisions about Blackmore Village.</p> | |
| | <p>SUPPORT – 1. The Purpose of this document, 1.4 (30973)</p> | <p>Noted, support welcomed</p> |
| | <p>COMMENT – Consultation, 1.7 (31004)</p> <p>A separate covering email is being sent to Phil Drane, to read in conjunction with this Document.</p> | <p>Noted</p> |
| | <p>SUPPORT – A. National Policy Context, 2.3 (30974)</p> <p>By way of specific example in Blackmore Village, where the local community is fully engaged with the Developer, the Village has/will end up with Schemes that work for us.</p> | <p>Noted, support welcomed</p> |
| | <p>SUPPORT – A. National Policy Context, 2.4 (30975)</p> <p>Ensure that significant 'green buffer-zones' are a condition of PP, even if densities reduce below 'NPPF norms'.</p> | <p>Noted, support welcomed</p> |
| | <p>SUPPORT – B. Corporate Objectives, 2.6 (30976)</p> <p>BBC has ignored its own Strategic priorities</p> | <p>No specific examples have been provided on the comments made. Therefore this is noted but no changes made to the SPD.</p> |

| Respondent | Summary of representations | Response |
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| | <p>COMMENT – C. Brentwood Local Plan 2016-2033, 2.9 (30977)</p> <p>Highlight where a tick-box process all goes wrong</p> | Noted |
| | <p>COMMENT – 3. Infrastructure Types, 3.2 (30978)</p> <p>Using Blackmore as a specific example, where communities engage constructively during the LDP / planning processes with the Developers. S106 monies must be allocated locally.</p> | Noted |
| | <p>COMMENT - The Council's approach to funding its strategic transport infrastructure, 3.8 (30980)</p> | Noted |
| | <p>COMMENT - The Council's approach to funding its strategic transport infrastructure, 3.9 (30981)</p> | Noted |
| | <p>SUPPORT - The Council's approach to funding its strategic transport infrastructure, 3.10 (30982)</p> <p>Get the infrastructure in first.</p> | Noted, support welcomed |
| | <p>SUPPORT - Apportionment, 3.15 (30983)</p> | Noted, support welcomed |

| Respondent | Summary of representations | Response |
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| | Ensure local infrastructure needs are prioritised in areas where development is actually proposed. | |
| | COMMENT - Criteria, H28 (31003) | Noted |
| | COMMENT - Criteria, H36 (30984) | Noted |
| | SUPPORT - Criteria, T1 (30985) | Noted, support welcomed |
| | COMMENT - Criteria, F1 (30986) This is a major issue in Blackmore. | Noted |
| | COMMENT - Criteria, F2 (30987) Reference made to sinking fund in S106. | Noted |
| | COMMENT - Criteria, E2 (30989) | Noted |
| | SUPPORT - Criteria, S1 (30990) | Noted, support welcomed |

| Respondent | Summary of representations | Response |
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| | <p>COMMENT - Criteria, S4 (30991)</p> <p>Define 'timely fashion'</p> | Noted however no changes made. |
| | <p>COMMENT - Criteria, R5 (30992)</p> <p>You need to read your own paragraph on 'Justification', as well as refer back to your Vision Statement and Strategies.</p> | Noted |
| | <p>SUPPORT - Criteria, N1 (30993)</p> <p>How does concreting over two Green Belt fields (agricultural land, full of wildlife) will produce a biodiversity net gain, environmental enhancements etc.</p> | <p>Noted, support welcomed.</p> <p>The Local Plan was tested and found sound through the examination process. Comments made are not related to the SPD.</p> |
| | <p>COMMENT - Criteria, N4 (30994)</p> <p>This is a major issue in Blackmore.</p> | Noted |
| | <p>COMMENT - Criteria, N4 (30997)</p> <p>You have been presented with a massive amount of evidence re flooding, wildlife photos etc etc....and the law changed in 2021. Why were these</p> | Noted – the Local Plan was tested and found sound through the examination process. Comments made are not related to the SPD. |

| Respondent | Summary of representations | Response |
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| | sites not removed?". Secondary question, fast-forwarding to the upcoming LDP, how will BBC react when the next opportunistic farmers propose their fields be included?". | |
| | <p>OBJECT - Criteria, N14 (30995)</p> <p>Flawed thinking, as far as Blackmore Village is concerned.</p> | Objection noted, however no changes made. |
| | SUPPORT - Criteria, G4 (30996) | Noted, support welcomed |
| | COMMENT - Criteria, G11 (30998) | Noted |
| | SUPPORT - Criteria, G17 (30999) | Noted, support welcomed |
| | SUPPORT - Criteria, G20 (31000) | Noted, support welcomed |
| | <p>COMMENT - B. Section 106 Agreements, 4.8 (31001)</p> <p>S106 contributions need to be spent locally</p> | Noted |
| | SUPPORT - C. Section 278 Agreement, 4.19 (31002) | Noted, support welcomed |

| Respondent | Summary of representations | Response |
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| <p>Respondent ID. 4000</p> | <p>OBJECT - 1. The Purpose of this document, 1.4 (30973)</p> <p>The BBC Environmental Strategy cites the A12 as major pollution source and promises 'green buffers' alongside main roads. Removing R16 green buffer contravenes policy.</p> <p>200 homes on R16 increases traffic on the Ongar Road - a reason for refusal of Wates Way given by B.B.C. at the planning enquiry.</p> <p>BBCES promises 270,135 new trees. Trees in R16 face the axe.</p> <p>2020: a Coroner says traffic pollution causes death of 9 year old girl, residing yards from South Circular. R16 houses means B.B.C. put children at risk.</p> <p>A12 / M25 Junction improvements will increase A12 traffic by 30%.</p> | <p>Noted – objections regarding Local Plan sites were dealt with through the Local Plan examination.</p> |
| <p>Mrs Kay</p> | <p>COMMENT – Consultation, 1.7 (31065)</p> <p>Neighbourhood engagement at the pre Planning stage would be welcomed as details in the National Planning Policy Framework (NPPF)</p> <p>The site R16 has several community groups including the R16 Brentwood & Pilgrims Hatch Action Group that would like to discuss the proposed plans with the developer. No engagement yet. Also, the Air Quality section requires consideration to include the particle matter PM2.5 as per Environmental Act 2021</p> | <p>Noted – comments made here are not specific to the SDP.</p> |

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| Mr Kingaby | <p>COMMENT – B. Corporate Objectives, 2.6 (31007)</p> <p>On list item (ii), in developing the Local Plan the Council sacrificed areas of Green Belt to provide development areas. It is now understood that HMG has reduced 'quota' for new builds and so decisions made in the Local Plan to sacrifice green belt land should now be reassessed.</p> | <p>Noted – the Local Plan was tested and found sound through the examination process. Comments made are not related to the SPD.</p> |
| | <p>COMMENT – C. Brentwood Local Plan 2016-2033, 2.9 (30977)</p> <p>I believe that the provisions of the Local Plan provide good evidence to suggest that the two discrete and varied green areas that have been bundled together as R16, should not be eligible for development.</p> | <p>Noted – the Local Plan was tested and found sound through the examination process. Comments made are not related to the SPD.</p> |
| | <p>COMMENT - D. Infrastructure Delivery Plan, 2.13 (31005)</p> <p>The IDP Part B (Schedule) provides a list of required infrastructure to deliver Brentwood's growth over the Plan period. Information on the indicative phasing, costing, delivery mechanism, priority ranking, and relevant site allocations of identified infrastructure can also be found in Part B. Given the intention of government to reduce housing quotas will these now be revisited?</p> | <p>Noted – the Local Plan was tested and found sound through the examination process. Comments made are not related to the SPD.</p> |
| | <p>COMMENT - D. Infrastructure Delivery Plan, 2.14 (31006)</p> | <p>Noted – the Local Plan was tested and found sound through the</p> |

| Respondent | Summary of representations | Response |
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| | <p>Has the council already started reviewing the document in light of changing requirements from HMG and strength of feeling about retaining Green areas? If not, why not?</p> | <p>examination process. Comments made are not related to the SPD.</p> |
| <p>Mrs Dupree</p> | <p>OBJECT</p> <p>Feel strongly that the new research findings that large/old trees store much more carbon than previously thought and planting new ones won't store the same amount for many years should be enough to take the area under the A12 on the Doddinghurst Road off the local plan.</p> | <p>Noted, however no changes made.</p> |