

Appendix 2 - Proposed Amendments to SPD in response to Representations received

Section	Para.	Example Representation	Comment
General	General	There should be some coverage of waste management, linked to the policies of the Mineral and Waste Local Plan and associated SPD, 'Waste Management in new Developments'.	<p>Add a new chapter to read as follows: -</p> <p>"Luton Borough Council and Bedfordshire County Council adopted a Supplementary Planning Document entitled "Managing Waste in New Developments" in April 2006. Its overall aim is to provide specific guidance on sustainable waste management during demolition, construction and the occupation of new developments in accordance with the Bedfordshire and Luton Waste Local Plan 2005. It sets out the circumstances in which a waste audit is required in association with the progress of a development proposal through the planning process. It also gives guidance on the design of new development with regard to waste and recycling facilities.</p> <p>The "Managing Waste in New Developments" SPD remains valid. It is complemented by this SPD on Section 106 Agreements, which seeks to mitigate the impact of development proposals.</p> <p>The heavily built-up nature of Luton, combined with the lack of opportunities for greenfield development in the Borough, are such that there is only limited scope for major redevelopment proposals which would generate a specific, identifiable need for a waste management facility. However, the progress of redevelopment, and associated intensification of development as previously developed sites, will inevitably place increasing pressure on the Council's waste management service. Clearly the amount of waste generated by particular developments will vary according to their nature and scale. It is estimated that the average cost to the Council of various dwellings is as follows: -</p>

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			<p>Table X: Estimated average waste management cost per dwelling</p> <table> <tr> <th></th><th></th><th></th><th></th></tr> <tr> <th><u>Beds</u></th><th><u>Equipment</u></th><th><u>Flat</u></th><th><u>House</u></th></tr> <tr> <td>1*</td><td>2 small bins + box</td><td>£33</td><td>N/A</td></tr> <tr> <td>2*</td><td>2 medium bins + box</td><td>£39</td><td>£57</td></tr> <tr> <td>3</td><td>3 medium bins + box</td><td>£39</td><td>£57</td></tr> <tr> <td>4</td><td>2 medium bins, 1 large recycling bin + box</td><td>N/A</td><td>£63</td></tr> <tr> <td>5+</td><td>2 medium bins, 1 large recycling bin + box</td><td>N/A</td><td>£63</td></tr> </table> <p>* In the case of flats it is likely that the larger communal refuse and recycling bins will be used and the price per property reflects this. The Council is prepared to negotiate on flats with communal refuse systems but there are standard amounts of waste capacity they need. For example: smaller flats = 180 litres of refuse and 180 litres of recycling, whilst larger flats are the same as houses = 240 litres of refuse and 240 litres of recycling.</p> <p>Source: Waste Management, LBC</p> <p>The Council will therefore seek the provision of financial contributions towards the provision of the waste management service in association with the determination of planning applications.</p> <p>Appendix 2 to be amended to reflect this.</p>					<u>Beds</u>	<u>Equipment</u>	<u>Flat</u>	<u>House</u>	1*	2 small bins + box	£33	N/A	2*	2 medium bins + box	£39	£57	3	3 medium bins + box	£39	£57	4	2 medium bins, 1 large recycling bin + box	N/A	£63	5+	2 medium bins, 1 large recycling bin + box	N/A	£63
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Application	2.6	The list in Appendix 2 should include multi-functional green spaces and specific areas for wildlife enhancement.	Multi-functional green spaces and specific areas for wildlife will be addressed in the Green Space Strategy, which is identified (in Para 2.22) as currently being prepared. The SPD will need to be updated to reflect its findings.																												
Application	2.15	The requirement for a developer to provide comprehensive proof on viability seems to suggest that open book approach to viability testing is	Replace fourth and fifth sentences of Para 3.8 to read: "Where this occurs the Council will ask the developer to provide relevant financial information, on a strictly confidential basis to mutually agreed																												

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		required and as such goes too far. It should be acknowledged by the Council that developers will not be able to disclose commercially sensitive information.	independent third party with relevant expertise to facilitate a financial appraisal. The appraisal will be funded by the developer and made available to the Council". Replace "it" in sixth sentence with "The Council".
Application	2.17	It would be useful if the draft SPD could state that all the figures are index linked with an appropriate base date to allow for changes in inflation.	Costs could certainly increase over time as a consequence of inflation. It is therefore highly desirable that all the figures quoted are index linked. The figures quoted in the draft SPD were calculated during 2006. It is therefore reasonable to take April 2006 as the base date and to index link the figures from then onwards. Paragraph 2.17, insert, 'from the base date of April 2006', after, 'index-linked'.
Application	2.21	There would be benefits for clarity and speed in preparing Obligations in including more information in the SPD. I suggest that a draft S106, model clauses etc. should be incorporated in the document as suggested in Para 2.21.	Replace wording of Para 2.21 with:- "The Council recommends developers to refer, in the first instance, to a model Section 106 Agreement prepared by the Law Society's Planning and Environmental Law Committee for use by all parties involved in the planning obligations process. It is available on the website of Communities and Local Government and is intended to be a 'living' document that reflects latest good practice. Revised versions will therefore be published from time to time to reflect any such changes."
Application	2.21	An illustrative legal agreement will need to fully reflect the interests of landowners, developers and other interested parties. It is stated that they will be included in the final SPD. It is not appropriate for the Council to seek additional content into the final version of the document, which will avoid an opportunity for public comment.	The illustrative legal agreement to be included is that which was produced by the Law Society's Planning and Environmental Law Committee. Add to final sentence: "The agreement should not be seen to imply that planning obligations should cover the full range of types of obligations set out in it. It should be seen as a template from which the Council and developers can select relevant sections to comply with policy, the circumstances of the application and the requirements of this SPD."
Affordable Housing	3.2	The SPD states that shared ownership homes should be sold at between 40% to 75% of open market value. We would advocate having a minimum equity share of 25%, as it is necessary to have this lower threshold in order to ensure the units are affordable.	Add the following text to the 'Shared Ownership' bullet-point: "A minimum equity share of 25% is required in order to ensure that the units are affordable."
Affordable	3.12	It would assist RSLs in negotiations with developers if	Add, "and that it meets or exceeds the Corporation's current Design

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Housing		the final sentence read "Where the delivery of affordable housing involves the use of Social Housing Grant, the Council will require that the housing so provided conforms to the Housing Corporation's Scheme Development Standards and achieves Level 3 of the Code for Sustainable Homes".	and Quality Standards", to the final sentence.
Affordable Housing	3.15	References to the role of RSL's are considered inflexible and outdated in light of the content of PPS3 and 'Delivering Affordable Housing' (November 2006).	In Para 3.15, insert "of any social rented housing" after "where the developer...".
Transport	4.13	Whilst a tariff-based approach towards the collection of highway contributions from all developments to wider needs can be appropriate there is insufficient information included in the section to justify the approach suggested. Concerns are linked to the provenance of the sum for the Transportation improvements against which the total trips are considered to devise the Tariff: -- The document contains no list of schemes in LTP2 that the Contributions raised are to go towards. There is no justification of the £32m total shortfall figure. There is insufficient justification that the need for the schemes arises from the new development (rather than to address existing deficits). Consideration should be given as to whether the same rate should be applied across the Borough area, or whether a different tariff should be used for the central area, or other areas such as the area of the Borough close to Translink in order to retain some linkage with needs arising from the new developments. A specific Translink policy/contribution is needed to comply with Government Funding requirements. No indication is given of where major infrastructure shortfall exist (e.g. Northern Bypass) and how pooling or partnership delivery will operate. There is no information on prioritisation of schemes for implementation from the tariff.	<p>The SPD draws from and is to be read in conjunction with the LTP not reproduce it. Other than the Luton-Dunstable bus way, the SPD is not designed to raise contributions towards major infrastructure projects.</p> <p>Luton is a dense urban borough where any development will have a similar impact regardless of location. The situation may need to be reassessed upon the advent of the growth area.</p> <p>Major infrastructure projects are generally linked to the growth area and are expected to be part or fully funded through the standard S106 routes.</p> <p>The specific contribution towards the Luton-Dunstable Bus way is set at £400,000 per year and could be better set out in the SPD.</p> <p>The shortfall has been revised to £27.25m and the derivation is shown in the following table, which will be incorporated after paragraph 4.13:</p>

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Table X Derivation of identified shortfalls in LTP2			
Main Areas of Work; Integrated Transport	Indicative LTP 2006-2011 (£ thousands)	Additional funding required 2006-2011 (£ thousands)	Difference 2006-2011 (£ thousands)
Congestion (Traffic Management Act)	1,000	5,000	-4,000
Bus route improvements	2,000	7,500	-5,500
Intelligent Transport Systems (UTMC)	1,000	5,000	-4,000
Traffic Signal Modernisation	1,000	3,500	-2,500
Area Studies	2,500	9,500	-7,000
Strategy implementation; accessibility, freight, walking cycling, bus	2,000	5,000	-3,000
Parking; review of CPZ and residents parking	750	2,000	-1,250
Total	10,250	37,500	-27,250
<p>The first column shows the main areas of work carried out using LTP Integrated Transport funding. The second column shows the amount that is likely to be allocated to each area over the life of the current LTP (2006-2011) and the third column the level of funding necessary to fully meet our aims within the life of the current plan. Therefore, it is necessary to seek a contribution of some £27.25m from developers to make up the difference and enable the timely delivery of an integrated and sustainable transport system by 2011.</p>			

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			The approach used is the same as other authorities in the region. LBC considers it to be open and equitable. Above all, it affords developers a consistent system where they know 'up-front' the obligations required of them.
Transport	4.13	'Real Time Transport Information', this should Real Time Passenger Information, (RTPI).	Replace " Transport information" with " ... Passenger Information"
Transport	4.17	Calculations in Para 4.17 are incorrect:- £5,400,000 divided by 23,032 trips equals £234.46.	In Paragraph 4.17, replace £272 with £234.
Open Space and Play	5.2	Paragraph 5.2 refers to the maintenance of play equipment for a period of 10 years or an appropriate commuted sum. Paragraph 5.8 requires a period of 20 years for commuted sums. It is not clear whether this is an error or whether it is intentional. To avoid any confusion, it may be better to delete, 'The provision of play areas and equipment and its maintenance for a period of 10 years, or an appropriate commuted sum in lieu, will be secured through a Section 106 Agreement.' (Paragraph 5.2). Paragraph B18 of Circular 05/05 states that in some circumstances such provision may be required in perpetuity.	In Para 5.2, delete. "The provision of play areas and equipment and its maintenance for a period of 10 years, or an appropriate committed sum in lieu, will be secured through a Section 106 Agreement".
Open Space and Play	5.6	There may be a missed opportunity here in addressing the cumulative impact of development for smaller developments that do not meet the thresholds in terms of open space provision.	Para 5.6(2) does specify that the level of contribution sought will be the cost of whatever improvement, and associated maintenance, is considered necessary and appropriate by the Council. No standard charges have been formulated because the Council does not have any costed schemes proposed which could be applied to individual dwellings. However, it is acknowledged that this paragraph does not add any certainty to developers. It is therefore proposed to mitigate any unreasonable demands by the Council. In Para 5.6(2), insert "reasonable" between "whatever" and "improvement".
Education	6.5	The SPD needs to state that if it is agreed that an educational facility can be constructed by the developer, then this should only be acceptable where a specification is agreed by the local authority.	Insert additional sentence to Para 6.5: "If the facility is to be constructed by the developer, then this will only be acceptable where the specification is agreed by the Council in advance."

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Economic Development, Training and Employment	9.2	No definition as to what uses comprise 'commercial development' is provided. The draft guidance is unclear as to what contributions, as set out in Appendix 2, relate to commercial development and under what circumstances contributions would be sought. Further clarity is required before the guidance is formally adopted.	Paragraph 9.2, after, 'new commercial floor space', insert, 'i.e. private, non-residential'.
Preparing/ Completing Obligation Agreements	11.1	The agreement should include the relevant scales/rates to be charged in an appendix or by giving a contact number to obtain them.	In Paragraph 11.1, after "costs" insert, "(obtainable from Planning Administration, telephone 01582 546605)".
Preparing/ Completing Obligation Agreements	11.1	It is not clear whether 'initial payment' is commencement of development or commencement of the legal document. This will need to be clarified to avoid confusion. Refunds may cause financial and administration difficulties, particularly if this needs to be calculated for every application. It may be better to work out a standard fee for unilateral undertakings and one for s106 agreements. Where it is difficult to predict costs from the outset for the larger schemes a solicitors undertaking to pay the Council's costs is the normal process.	Add "of work on the legal document" to end of penultimate sentence of Para 11.1.