

REPORT TO CABINET

REPORT OF: Economic Development Portfolio Holder

REPORT NO: PLA914

DATE: 7th November 2011

TITLE:	Planning Obligations Supplementary Planning Document: Consultation Draft	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Key Decision	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Cllr Frances Cartwright Economic Development Portfolio Holder	
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INITIAL IMPACT ASSESSMENT:	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
Equality and Diversity	N/A	
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	PLA830 Adoption of Core Strategy	

1. RECOMMENDATIONS

- 1.1 That Cabinet approves the Draft Planning Obligations Supplementary Planning Document (as set out in Appendix A of this report) for the purposes of public consultation for a period of 8 weeks.

2. PURPOSE OF THE REPORT

- 2.1 To enable the Cabinet to consider the issues surrounding the contributions sought from new development as a result of the Draft Planning Obligations SPD.
- 2.2 Public consultation on the Draft Planning Obligations SPD is proposed for a period of eight weeks beginning in December 2011. This consultation will fulfil the statutory requirement to undertake public consultation as outlined in the

Town and Country Planning (Local Development) (England) Regulations 2004 (as amended).

- 2.3 The statutory period for consultation on SPD's is six weeks, however given that the consultation period for this SPD will run over the Christmas break it is considered that it would be beneficial to grant a further two weeks for representations to be made to take account of the holiday period.

3. DETAILS OF REPORT

- 3.1 Planning Obligations (which are also known as Section 106 Agreements) are the mechanism by which local authorities secure contributions towards infrastructure improvements from new developments.

- 3.2 The provisions governing Planning Obligations are set out in DCLG Circular 05/05 wherein a series of test are applied to their use. The tests state that Planning Obligations must be:

- a. Relevant to planning
- b. Necessary to make the proposed development acceptable in planning terms
- c. Directly related to the proposed development
- d. Fairly and reasonably related in scale and kind to the proposed development; and
- e. Reasonable in all other respects

- 3.3 The Governments policy in respect of Planning Obligations (as set out in Circular 05/05) has been well established for some time. In recent years the interpretation of its policy test has become much wider, and it has become common for local authorities to adopt a tariff based approach requiring general financial contributions towards the delivery of infrastructure. On a strict interpretation of the Circular 05/05 policy test, it is arguable that many of these contributions could be said to be neither 'necessary' nor 'directly related to development'.

- 3.4 The SPD seeks to ensure that contributions will only be sought from development where there is a recognised need to mitigate the impact of the development proposal. If there is sufficient infrastructure capacity within the locality of the development site then contributions will not normally be sought in the area of infrastructure to which this is applicable.

- 3.5 From the 6th April 2010, the policy tests were given legal force through Regulation 122 of the CIL Regulations (2010). Regulation 122 provides that "a Planning Obligation may only constitute a reason for granting planning permission if the obligation is:

- a. Necessary to make the development acceptable in planning terms
- b. Directly related to the development; and
- c. Fairly and reasonably related to the scale and kind of the development

- 3.6 In essence, the Council must be able to demonstrate the need for any requirement and not simply apply a wish list for contributions entirely unconnected to the development.
- 3.7 The Planning Obligations SPD will help to ensure that development proposals make a positive contribution to sustainable development by providing social, economic and environmental benefits to the community as a whole. In addition to this, it will help to increase understanding of Planning Obligations and enable developers to take the potential costs of a proposed development into account at the earliest opportunity.
- 3.8 At present the need for a Section 106 Agreement or Planning Obligation is identified by the Development Control (Management) team having regard to the planning merits of the development and likely impacts that may arise. Generally it is major housing and commercial developments that trigger a Section 106 Agreement and/or the Council may be advised of the need for contributions by a statutory consultee.
- 3.9 The current process for entering into a Section 106 Agreement is that the Planning Officer coordinates the process as part of the planning application, relying on the expertise and input of a variety of internal and external stakeholders. In many circumstances they will have to exercise their judgement on the negotiations, especially in circumstances where viability is an issue or where the need for a contribution is challenged.
- 3.10 The SPD will set out the Councils approach, policies and procedures for Planning Obligations and aims to:
- a. Give an indication of the requirements that are likely to be needed to make development acceptable which would otherwise be unacceptable in planning terms.
 - b. Set out guidance on standard formulae for calculating contributions wherever appropriate.
- 3.11 The Council currently seeks contributions from development towards affordable housing, children's play areas, highways, town centre enhancements/CCTV, public art, education and healthcare. The SPD intends to expand the range of infrastructure requirements that it requests from development in order to better reflect the impact that development has upon infrastructure across the District.
- 3.12 New contributions include public realm, community centres and village halls, library facilities, childcare provision, fire and rescue services, lifetime homes, employment and training initiatives, the natural and built environment, renewable energy measures, waste and recycling facilities and air quality management.
- 3.13 In order to successfully secure contributions from this wider range of requirements, the authority need to provide an evidence base and justification for the increased demands from development. Work has been undertaken alongside Lincolnshire County Council colleagues, and external agencies

such as the Primary Care Trust to ensure that the authority has the necessary evidence to support, and provide justification for, the new (and existing) contributions.

- 3.14 The SPD is split into two sections. The first section deals with the general principles that the Council will apply when dealing with planning obligations, whilst the second section deals with the specific requirements for each planning obligation area.

Section 1 – General Principles

- 3.15 This section of the SPD sets out the purpose of the SPD, where it sits within the Local Development Framework and what the national and local policy framework is for securing planning obligations. The thresholds for contributions are also set out.

Community Infrastructure Levy

- 3.16 The relationship of the SPD to the Community Infrastructure Levy (CIL) is set out in this section. The Council intends to develop a CIL by 2014, however in the interim period the Planning Obligations SPD is intended to provide guidance on the use of Section 106 Agreements.

Indexation and Late Payment

- 3.17 Section 1 sets out the requirement for index linking and late payment interest to be applied to all financial contributions to ensure that the value of contributions is maintained from the date of the decision to grant permission until the date that the development commences, or as specified in the agreement, a later payment date.
- 3.18 All financial contributions will be index linked from the date of agreed Heads of Terms using the Retail Price Index. Developers will however be given a 6 month grace period whereby if payment is made within 6 months of the date on which final Heads of Terms are agreed, no indexation will apply.

Pooling of contributions

- 3.19 Pooling of contributions from the combined impact of more than one development is set out as a general principle to which the Council will apply financial contributions received.

Review of figures

- 3.20 In order to ensure best value, the Council will annually review all figures used in calculating Planning Obligations. The level of financial contribution towards each infrastructure area is set out in Appendix A of the SPD to enable this appendix to be removed and replaced with the updated figures each year.

Economics of Provision

- 3.21 For the Council to consider reducing or waiving certain requirements, the developer must be able to demonstrate that there are exceptional abnormal costs associated with the site which could not have reasonably been foreseen at the time of purchase. It is not acceptable for the developer to pay an enhanced purchase price in the expectation that they can then use this to minimise planning obligation requirements.
- 3.22 if the developer claims they are unable to deliver the full planning obligation requirements, they will be required to prove their case through a standard industry recognised economic appraisal. Such appraisal should be undertaken by the developer and submitted to the Council and to an independent surveyor (acting on terms of reference provided by the Council) for assessment. The developer will cover the costs of both the economic appraisal and the independent assessment. The assessors report must be submitted directly to the Council.
- 3.23 If the independent assessment shows real viability issues then it may be possible to renegotiate some of the terms of the Section 106 Agreement. If the appraisal identifies the level of Section 106 contribution that the development can support, then this would normally be equalised on a pro-rata basis across the range of contributions sought.

Legal and Administration costs

- 3.24 The SPD requires developers to pay the Councils legal costs for preparing and completing the Section 106 Agreement. Developers will also be required to cover abortive legal fees and expenses.

Monitoring

- 3.25 The Council has an established process for monitoring and managing Section 106 Agreements. All Council departments who receive planning obligation contributions will supply information to the Section 106 Monitoring Officer to enable this to be maintained.
- 3.26 Bi-annual reports will be submitted to Councillor with details of planning agreements which have been signed together with the amounts negotiated and received. These reports will also provide details of where funds have been committed for projects through the capital programme.

Section 2 – Specific Requirements

Affordable Housing

- 3.27 The SPD repeats the Core Strategy's threshold for contributions to affordable housing of all developments comprising 5 dwellings or more and sets out where financial contributions may be appropriate in lieu of on-site provision and how this will be calculated.
- 3.28 For sites of between 5-14 dwellings provision may be made as a commuted sum in lieu of on-site or off-site provision depending on the viability of the site. The least preferred option is for a financial contribution to be made. Where a financial contribution is acceptable to the Council, the amount will be calculated using the following formula:
- OMV of private dwellings – Cost of providing affordable units = Commuted sum
- 3.29 The open market value (OMV) sum will be based on the average cost of an equivalent property within the local area. This sum will be updated annually to ensure it is consistent with current market trends.
- 3.30 For the purposes of calculating sums payable in lieu of affordable housing, the sum shall be equivalent to the difference between open market valuation of the private dwellings which are being provided on site and the purchase price that a Registered Housing Provider (RHP) would be willing to pay for these units as affordable housing units. For social rented units, RHP values are assumed to be equivalent to 40% of OMV, and for intermediate units RHP values are assumed to be equivalent to 60% of OMV.
- 3.31 Financial contributions for affordable housing will be held for a period of 10 years. Any funds left unspent at the end of this period may be repaid at the developers express request.
- 3.32 Working Example

Development of 13 dwellings

There is a policy requirement to provide 35% Affordable Housing (with 60/40 split in favour of intermediate housing). This equates to 5 affordable units (3 intermediate & 2 social rented).

OMV of 5 private dwellings – Cost of providing 5 affordable dwellings = Commuted sum

Assuming an OMV of £140,000 per unit then:

5 x £140,000 = £700,000 (the OMV of 5 private dwellings)

Intermediate units are purchased at a rate of 60% of OMV which = £84,000 per unit
3 x £84,000 = £252,000 (cost of providing 3 intermediate units)

Social rented units are purchased at a rate of 40% of OMV which = £56,000 per unit
2 x £56,000 = £112,000 (cost of providing 2 social rented units)

$\pounds 700,000 - (\pounds 252,000 + \pounds 112,000) = \pounds 336,000$ commuted sum
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3.33 The SPD also make provision for overage where a developer demonstrates to the Council's satisfaction that a scheme is not currently viable at the affordable housing target rate and the Council determines that it is appropriate to negotiate a reduced or nil contribution rate then the Section 106 Agreement will include an overage clause. If a profit above the profit margin set out in the developer's appraisal is achieved by the development, then the overage clause will normally require the surplus above this level to be recouped by the Council up to the remaining balance of the affordable housing contribution at the affordable housing target rate of 35% applicable in the Council's Core Strategy.

Public Open Space

3.34 The SPD utilises the localised open space standards set out in the Council's Study of Open Space, Sport and Recreation in South Kesteven District (2009) to set out the standards of open space which qualifying development must provide.

3.35 The SPD sets the threshold for contributions to open space at 10 dwellings or more.

3.36 There are five main types of open space set out in the SPD:

- Informal and natural green space
- Outdoor Sports Space
- Children and young peoples equipped space
- Allotments
- Parks and recreation grounds

3.37 The SPD calculates open space requirements using assumed population figures as follows:

- 1-bed house or flat = 1.5 people
- 2 bed house or flat = 1.9 people
- 3-bed house or flat = 2.4 people
- 4 bed or more house or flat = 3 people

3.38 The open space standards are then multiplied by the assumed population figures to give an overall quantum of open space required from the development:

- Informal/natural green space = 20 sqm per person
- Outdoor sports spaces = 10 sqm per person
- Children and young peoples equipped space = 3 sqm per person
- Allotments = 2 sqm per person
- Parks and recreation grounds = 3 sqm per person

3.39 Open space will be expected to be provided on-site. Where this is not possible the Council will accept a financial contribution in lieu of on-site provision to

improve/extend/enhance open spaces reasonably capable of serving the application site at the following rates:

- Informal/natural green space = £23.21 per sqm
- Outdoor sports spaces = £27.88 per sqm
- Children and young peoples equipped space = £150 per sqm for provision of a LAP; £87.50 per sqm for provision of a LEAP; and £70 per sqm for provision of a NEAP
- Allotments = £28.92 per sqm
- Parks and recreation grounds = £31.88 per sqm

3.40 In situations where the Council adopts public open space on a development, the developer will be required to maintain the open space to the Council's reasonable satisfaction for a minimum period of 12 months after the Council has certified it has been laid out satisfactorily. At the end of the maintenance period the developer will transfer ownership of the land to the Council and pay a commuted sum to cover the Council's maintenance costs for a period of 30 years.

3.41 For town centre development sites, the Council may also spend public open space contributions on public realm improvements as well as more traditional forms of open space.

3.42 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Highways and Transportation

3.43 The SPD sets the threshold for contributions at 1 dwelling or more for residential development and 1 sqm or more for commercial development.

3.44 For developments of 50 dwellings or more, the level of contribution for off-site highways works can only be determined through Transport Assessments. For developments of less than 50 dwellings, pre-application discussions will need to be undertaken with the County Council to determine the appropriate level of contribution required.

3.45 The full cost of mitigation measures will need to be met by the developer and in the vast majority of cases the mitigation works will need to be carried out before the legal completion of the first unit.

3.46 Financial contributions will be payable per unit for residential development and per 1,000 sqm gross floor space for commercial development. The precise level of contribution will be determined on a case-by-case basis to reflect the individual circumstance of the scheme.

3.47 Contributions will normally be used to provide transportation improvements including pedestrian and cycling improvements, near to the site or specific public transport improvements that directly benefit the development. However in certain circumstances proportional contributions may be used towards

major enhancements or wider transport schemes that provide wider benefits as well as directly providing benefits to the development.

- 3.48 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Public Realm and Public Art

- 3.49 The threshold for contributions to public art and/or public realm at 50 dwellings or more for residential and 1,000 sqm gross floor space or more for commercial development.
- 3.50 On qualifying development the developer will be required to implement a scheme of public realm and/or public art improvements up to the value of 1% of development costs.
- 3.51 Contributions received will be spent on public realm and/or public art improvement projects reasonably capable of serving the application site from which it was secured.

Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Education

- 3.52 The threshold for contributions towards the construction of new, and/or expansion/extension of educational facilities at 10 dwellings or more.

For developments of 100 dwellings or more a contribution towards the expansion of new or existing further education facilities will normally be required, subject to existing spare capacity.

- 3.53 For developments of 1,000 dwellings or more a primary school will normally be required on-site, unless there is sufficient accessible permanent capacity in local schools. The provision of a secondary school on-site may be required in limited circumstances.
- 3.54 The County Council will apply assumptions for pupil numbers generated by development. Financial contributions towards education will be levied at the following rates:
- £13,043 per primary school place generated by the development
 - £19,588 per secondary school place generated by the development
 - £21,396 per sixth form place generated by the development
 - Further education places arising from development will be calculated on a case-by-case basis.

- 3.55 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Community Centres and Village halls

- 3.56 The threshold for contributions towards community centres and village halls is development of 5 dwellings or more. Contributions will only be sought where there is insufficient capacity in existing community centres or village halls to cope with the additional demand generated by new housing developments. On large residential sites a new community centre may be required on-site.
- 3.57 Contributions will be sought on a cost per dwelling basis for new, improved and/or extended community centres and village halls.
- 3.58 The Council's Study of Open Space, Sport and Recreation in South Kesteven District (2009) identified a localised standard of provision of 0.25 sqm per person for community centres and village halls which is what the SPD requirement has been based upon.
- 3.59 Financial contributions towards community centres and village halls will be sought at a rate of £245 per person. Using the assumed population figures this equates to:
- 1-bed house or flat = £367.50
 - 2-bed house or flat = £465.50
 - 3-bed house or flat = £588
 - 4-bed or more house or flat = £735
- 3.60 In situations where a developer has provided a new community centre facility, the Council will seek a commuted sum to provide for the maintenance of the facility for an agreed period. In most circumstances this will be 15 years, although in some cases a longer period may be required.

Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Library Facilities

- 3.61 The threshold for contributions towards libraries is development of 5 dwellings or more. Contributions will only be sought where there is insufficient capacity within existing local library facilities to cope with the additional demand arising from development.
- 3.62 Financial contributions will be sought at a rate of £114 per person. Using the assumed population figures this equates to:
- 1-bed house or flat = £171
 - 2-bed house or flat = £216.60
 - 3-bed house or flat = £273.60
 - 4-bed or more house or flat = £342

3.63 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Sports Facilities

3.64 The threshold for contributions towards sports facilities is development of 10 dwellings or more and will only be sought where the existing local facilities do not have sufficient spare capacity to accommodate the increased population.

3.65 Contributions towards sports facilities will vary depending on the type of sports provision that is required locally. There are three main types of sports facilities that will be sought which have been identified through the Councils Study of Open Space, Sport and Recreation in South Kesteven District (2009):

- Sports Halls
- Swimming Pools
- Synthetic Turf Pitches

3.66 The sports facilities contribution will be determined by multiplying the assumed population figure for a development by the cost of providing the required sports facility which will be levied at the following rates (based on Sport England's 'Sports Facility Calculator' rates):

- Swimming Pools = £94 per person
- Sports Halls = £169 per person
- Synthetic Turf Pitches = £19 per person for 3G, and £15 per person for sand

3.67 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Healthcare Facilities

3.68 The threshold for contributions towards healthcare is development of 5 dwellings or more and will only be sought where the existing local facilities do not have sufficient spare capacity to accommodate the increased population

3.69 The threshold for requiring the delivery of a new GP health centre will be developments of 1,000 dwellings or more and the facility will be expected to be provided on-site. On larger sites a pharmacy may also be required which would require a contribution of £500,000 towards its provision.

3.70 The level of financial contribution required is based upon the PCT's calculation for providing a Primary Care Team of GP, District Nurse, Health Visitor and associated administration support and will be levied at the following rate:

- 1-bed house or flat = £297
- 2-bed house or flat = £376
- 3-bed house or flat = £475

- 4-bed or more house or flat = £594
- 3.71 Where dental facilities are also required contributions will be as follows:
- 1-bed house or flat = £609
 - 2-bed house or flat = £771
 - 3-bed house or flat = £974
 - 4-bed or more house or flat = £1,218
- 3.72 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Community Safety Measures

- 3.73 The threshold for contributions to Community Safety is 1,000 dwellings or more for residential development and 5,000 sqm gross floor space for commercial development
- 3.74 Contributions will be sought on a cost per dwelling basis for residential, and on a cost per gross floor space provided for commercial development for a range of measures including, but not limited to CCTV.
- 3.75 In instances where the Council seeks contributions towards CCTV, this will be levied at a rate of £65,000 per camera required which is based upon installation costs of £20,000 and maintenance costs of £4,500 per annum to cover a ten year period.
- 3.76 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Childcare Provision

- 3.77 The threshold for contributions towards childcare facilities is development of 300 dwellings or more and will only be sought where the existing local facilities do not have sufficient spare capacity to accommodate the increased population
- 3.78 The formula used to determine the level of contribution is:
- (number of places needed – spare capacity) x multiplier for places = sum required
- 3.79 The County Council will use population multipliers from the 2001 Census to determine the number of children generated by development in age bands. The number of children in each age band will then be multiplied by the following rates to determine the overall contribution:
- 0-1 years = £8,316
 - 2-4 years = £6,574
 - 5-10 years = £5,861

- 11-14 years = £5,861

3.80 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Fire and Rescue

3.81 There is no lower threshold for contributions towards fire and rescue and will be sought on a case-by-case basis. Where there is sufficient existing provision to serve the new development then a contribution will not be required.

3.82 Contributions will be sought towards the provision of fire hydrants to serve the development for both residential and commercial development.

3.83 Fire hydrant provision should be provided at a maximum of 200m apart in residential developments and a maximum of 100m apart in commercial developments

3.84 Financial contributions will be sought at a rate of £800 per fire hydrant required.

3.85 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Lifetime Homes

3.86 The threshold for contributions towards lifetime home provision is development of 10 dwellings or more.

3.87 Contributions will be sought at a rate of 10% of the total number of dwellings on site to be provided to the Council Lifetime Homes Standards which are based on the Joseph Rowntree Foundations Standards.

3.88 Lifetime Homes have sixteen design features that ensure a new dwelling will meet the needs of most households. This does not mean that every family is surrounded by things they do not need. The accent is on accessibility and design features that make the home flexible enough to meet whatever comes along in life: a teenager with a broken leg, a family member with serious illness, or parents carrying in heavy shopping and dealing with a pushchair.

3.89 The Council will not accept a financial contribution in lieu of on-site provision of lifetime homes.

Employment and Training Initiatives

3.90 The threshold for contributions towards employment and training initiatives is development of 100 dwellings or more.

- 3.91 Qualifying development will be expected to sign up to a 'Recruitment and Training Agreement'. This aims to maximise employment and training opportunities for local unemployed people by enabling the developer, Council and Job Centre to work together to try to provide job opportunities for local unemployed people through new development.

Natural and Built Environment

- 3.92 In certain circumstance the Council may seek contributions towards the conservation of the natural environment and natural habitats. These may involve costs of mitigation for damage done or enhancement including management of schemes outside of the application site.
- 3.93 There is no lower threshold or defined financial contribution as each development will be assessed on a case-by-case basis.
- 3.94 Flooding - Planning obligations may be sought for the provision of, and maintenance of, suitable surface water drainage systems, especially those using Sustainable Urban Drainage principles which may have off site implications.
- 3.95 All likely flood risk impacts will need to be individually assessed on both residential and commercial development sites in order to determine the level of contribution required.
- 3.96 Built heritage and archaeological interest – in the majority of cases requirements associated with built heritage and archaeological interest matters can be dealt with through negotiation or condition but in some instances it may be necessary to include these issues within a Section 106 Agreement. For example where new development is being allowed in order to fund works to a heritage building a planning obligation may be negotiated to tie the development to the funding of the heritage works.

Renewable Energy Measures

- 3.97 The Council will not take any responsibility for the future management, maintenance or ownership of renewable energy measures. Planning obligations may be negotiated to ensure that the developer is able to demonstrate they have an appropriate mechanism in place for ensuring the future maintenance and management of any renewable energy measures located on or serving development site.

Waste and Recycling Facilities

- 3.98 The threshold for contributions towards waste and recycling facilities is development of 5 dwellings or more. For developments of flats larger than 5 units a 1,100 litre waste and recycling bins would be required which would require a case-by-case assessment of waste and recycling contributions.

- 3.99 Financial contributions will be sought at a rate of £46 per dwelling to provide silver and green bins to encourage recycling in new development and enhance their sustainability.
- 3.100 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Air Quality Management

- 3.101 The threshold for contributions towards air quality management is 80 dwellings. For commercial development the threshold for contributions will be 1,000 sqm gross floor space. However where development is likely to impact upon an existing Air Quality Management Area (AQMA) then a reduced threshold may be applicable.
- 3.102 Where development is proposed within an existing AQMA then the threshold will be 1 dwelling and/or 1 sqm gross floor space.
- 3.103 The Council will seek financial contributions towards the provision/maintenance/extension of Air Quality Management equipment and/or measures to help improve air quality. The precise level of contribution will be determined on a case-by-case basis.
- 3.104 Financial contributions will normally be held for a period of 10 years. Any funds that remain unspent at the end of this period may be repaid at the developers express request.

Community Trusts

- 3.105 On larger development sites there is a need to secure the long term maintenance and management of community facilities and other area on the site. This may be achieved through the establishment of a Community Trust to help new residents manage their community themselves.
- 3.106 In instances where such a contribution is required, the Council wil include a document setting out eh details of the Community trust within the Section 106 Agreement governing the site.

4. Next Steps

- 4.1 The Town and Country Planning (Local Development) (England) Regulations 2004 (as amended) set out the requirement for a period of statutory public participation to be undertaken when developing an SPD. This must be in line with the authority's Statement of Community Involvement. The intention is to put the document out to full public consultation for a period of 8 weeks.
- 4.2 The consultation will:

- a. Send the SPD documents to relevant specific and general consultation bodies such as Town and Parish Councils, Developers, Planning Consultants and Service Providers
- b. Make SPD documents available for inspection in Council Offices and libraries
- c. Make SPD documents available on the website
- d. Advertise details of the consultation in local newspapers by way of public notice

4.3 During the consultation period, all representations received will be acknowledged and all responses will be recorded and summarised.

4.4 It is anticipated that the SPD will then come back before Cabinet in early 2012 to outline the main issues raised, and changes to the SPD in response. Cabinet approval will be sought for formal adoption of the document at this stage.

5. Other Options Considered

5.1 The Adopted Core Strategy provides the overarching policy framework within which this SPD complies. Policy SP4: Developer Contributions, sets out the Council's position with regard to Planning Obligations.

5.2 Policy SP4 also states that the Council intends to charge a Community Infrastructure Levy (CIL) throughout the District. The authority intends to develop a CIL by 2014. There is not a statutory obligation to do so, however, failure to put a CIL in place by his date will leave the Council disadvantaged as the use of Planning Obligations will be scaled back from 2014, limiting the ability to secure contributions towards infrastructure improvements without a CIL in place. The CIL will replace Planning Obligations as the mechanism for securing contributions towards providing infrastructure to support new development. Under current CIL arrangements affordable housing will continue to be secured through Section 106 Agreements, although the option of bringing this within the scope of CIL is the subject of a current Government consultation.

5.3 The Planning Obligations SPD is intended to provide policy support for securing Section 106 contributions in the interim period between now and the adoption of a CIL.

6. Resource Implications

6.1 None arising from this report. There will be cost implications associated with the subsequent consultation period, the costs of which have been included in the Planning Policy and Partnerships Service Budget for 2011/2012.

7. Risk and Mitigation

7.1 None identified.

8. Issues Arising from Equality Impact Assessment

- 8.1 The Core Strategy which establishes the policy framework under which this SPD sits has been the subject of an equality impact assessment.

9. Crime and Disorder Implications

- 9.1 None.

10. Comments of Financial Services

- 10.1 I have no specific financial comments to make in respect of this report. All costs associated with the development of the Local Development Framework can be met from within existing budgets supported by the monies received from the Housing and Planning Delivery Grant award.

11. Comments of Legal and Democratic Services

- 11.1 The purpose of the report to Cabinet is to consider the draft Planning Obligations SPD for consultation purposes. It is proposed, following consultation, the results of the consultation be reported to Cabinet. Cabinet will be asked to consider and approve the SPD taking into account relevant representations made as a result of the consultation.

12. Comments of all other relevant services

- 12.1** The Planning Obligations SPD is fully supported by the officers in the Development Management team, for whom the SPD will prove an invaluable tool in ensuring that the impacts of significant development on the environment and the local community are appropriately mitigated and the benefits that should accrue to the local community are fully and effectively secured and delivered through Section 106 Obligation Agreements that are in accord with this well founded SPD that is consistent with the South Kesteven District Council Core Strategy.

13. Appendices:

- 13.1 Appendix A: Draft Planning Obligations SPD