

**Appendix B:**  
**Responses to consultation on the Revised Draft S106 Supplementary Planning Document (July – September 2011)**

<b>Ref</b>	<b>Consultee</b>	<b>Main issues raised</b>	<b>Council's response/ How issues have been taken into account</b>
1A	British Waterways	Request clarification on whether the following provisions include towpath improvements: public transport improvements; highway and access improvements (including pedestrian and cycling initiatives) open space and recreation (including play and sports facilities; green infrastructure and landscape features.	Towpath/ waterway improvements may fall under all categories listed depending upon the mitigation requirements.
1B	British Waterways	Request information on what element of CIL will go to neighbourhoods and what element goes to the local canal environment.	Details will be set out in the forthcoming Draft CIL Charging Schedule.
1C	British Waterways	Highways and access improvements including pedestrian and cycling should be a higher priority.	Priorities identified in the S106 SPD reflect those in the adopted Core Strategy. Sustainable Transport is priority 1 – highest priority category.
1D	British Waterways	Specific mention should be given to towpath improvements for Ponders End and Meridian Water Place Shaping priority areas.	Requirements for specific S106 requirements will be set out in forthcoming masterplans as detailed in section 4.2 of the SPD
1E	British Waterways	Business and employment initiatives could include business barges.	Definition of business and employment initiatives is set out in section 6.9
1F	British Waterways	Clarification requested on whether infrastructure delivery and management fee requirements applies to towpath and waterway improvement.	The requirement applies to all S106 provisions.
1G	British Waterways	Works to towpaths and waterways could fall within walking and cycling under	Creation of new walkways, such as the Riverside Walk would

		sustainable transport. Boat charging points should be identified under sustainable transport	fall under the sustainable transport category. Definition of sustainable transport (p25) to be amended to include 'infrastructure to support electric vehicles'
1H	British Waterways	Climate change mitigation should include encouraging use of sustainable transport (including waterborne freight). Use of Navigation for heating and cooling of buildings should be recognised under climate change adaptation. Clarification on carbon fund projects requested.	Noted. Further work will be carried out to develop a strategy for the carbon fund.
1I	British Waterways	Reference to waterways should be made in the public realm section.	Definition of public realm (6.7) amended to include waterways
1J	British Waterways	Question whether contributions for business and employment initiatives could be used to support British Waterways volunteer programmes.	Section 6.9 sets out the definition of business and employment initiatives. Contributions will be used to fund industrial land regeneration projects, employment training schemes, job brokerage services or business support initiatives (6.9.7).
1K	British Waterways	Improving the built environment could include under bridge lighting; Built heritage should include industrial heritage of the canal network; blue infrastructure including water based recreation should be referenced under 'open space and recreation. Suggest waterway environment fund for pooling contributions.	Requirements for under-bridge lighting and waterway environmental improvements will be assessed on a site by site basis. Built heritage includes heritage in all locations – it is not possible to list all forms of heritage within the document – further information is set out in Enfield's Characterisation Study.
1L	British Waterways	Support for biodiversity enhancements. Improvements adjacent to Lee Navigation should be in	Noted.

		consultation with British Waterways.	
1M	British Waterways	Strongly object to blanket policy requiring second path on the offside of the Lee Navigation. Concern raised that this would encourage antisocial behaviour; reduced opportunities for secure moorings and environmental improvements; and increased maintenance liabilities. Request that contributions go towards upgrading and maintaining exiting towpath.	Noted. The advantages and disadvantages of creating a second pathway will be fully assessed at the application stage in consultation with British Waterways.
2A	Coal Authority	No comment	Noted.
3A	CGMS on behalf of Notting Hill Housing	Noted that the current draft is not substantially different from the original report although some minor modifications and clarification made. Further comments made on issues not addressed in the revision.	Noted.
3B	CGMS on behalf of Notting Hill Housing	The document refers to the North Circular AAP. The SPD should refer to the draft nature of this AAP and other documents.	The 'draft' status on AAPs or other documents will be taken into account at the application stage.
3C	CGMS on behalf of Notting Hill Housing	The SPD should consider delivery of phased developments – housing tenure and monetary requirements should be based on consideration of whole area rather than individual sites.	This matter will be considered through masterplanning work associated with North Circular Road Area Action Plan and at the application stage.
3D	CGMS on behalf of Notting Hill Housing	There should be a distinction between contributions that are expected in relation to affordable housing compared to a private tenure	In order to simplify the process of seeking contributions a standardised approach based on 2002 London Household Survey data relating to owner occupied housing is used. This is considered to be the most up to date robust evidence available.

3E	CGMS on behalf of Notting Hill Housing	The mitigation requirements for loss of employment needs to be justified. No reference is made to the length of time that a property has been vacant or meeting overall regeneration aims/ enabling development. Insufficient link to Core Policies 13 and 16.	The Development Management Document will provide further policy guidance.
4A	Drivers Jonas Delloite on behalf of USS Ltd	USS have commercial and retail properties at Dundee Way and Enfield Retail Park	Noted.
4B	Drivers Jonas Delloite on behalf of USS Ltd	Support consideration of viability issues on negotiations for S106. Request that in the current economic climate that viability issues are taken into consideration on all sites not just those acquired before guidance on S106 was in place.	The Council's approach to considering viability issues on all sites is detailed in 5.3.1.
4C	Drivers Jonas Delloite on behalf of USS Ltd	Support purpose of SPD and clarity provided in the contributions table. Request clarity on how priority system will work in practice. Request recognition that on site provision of facilities is not just dependent on the size of the site.	The identification of priorities provides guidance for implementation through the development management process. Wherever possible provision of new facilities and services should be onsite (5.1.3)
4D	Drivers Jonas Delloite on behalf of USS Ltd	Request more detailed guidance on residual viability assessment to be used for non residential schemes and details of the circumstances in which advice of an independent inspector will be required.	Document amended to provide further guidance in section 5.3.
4E	Drivers Jonas Delloite on behalf of USS Ltd	Support recognition that phased payment may be appropriate for schemes. Suggest that the need for phased payments is not just for large sites.	5.4.1 and 5.3.1 recognise that phasing of payments is acceptable in some circumstances. Document amend to reflect that contributions for all schemes may be payable at alternative trigger points where this assists viability.

4F	Drivers Jonas Delloite on behalf of USS Ltd	Broadly supportive 1000m2 commercial/ retail threshold for seeking contributions but suggest that this will not always be feasible/ viable.	Noted. Section 5.3 sets out the Council's approach to dealing with viability issues.
4G	Drivers Jonas Delloite on behalf of USS Ltd	Request greater clarify on the circumstances in which retail and other uses will be required to contribute towards policing.	Requirements will be determined on a site by site basis following consultation with the Police and colleagues from Licensing and Community Safety.
4H	Drivers Jonas Delloite on behalf of USS Ltd	Request that the Council takes into account the Draft National Planning Policy Framework (NPPF) particularly paras 39 and 19 relating to deliverability and viability.	Noted. The SPD complies with the draft NPPF including paras 39 and 19. Para 68 in particular refers to the CIL tests for S106.
5A	Environment Agency	Tackling climate change and Biodiversity should be listed as priority 1 to reflect the London Plan and Core Strategy.	The priorities identified in the SPD (affordable housing, transport, education) reflect the London Plan, Core Strategy and local evidence.
6A	Fusion Residential	Concern raised that the SPD would prevent many developments coming forward.	5.3 of the SPD details the Council's approach to assessing viability.
6B	Fusion Residential	It is unreasonable for the applicant to pay for the Council's independent valuation simply because the Council wish such an expert to be involved to assess viability assessments	In some cases it may be appropriate and in the interests of the developer for an independent expert to be appointed to assist the processing of a planning application – in these circumstances it is considered reasonable for the developer to pay for the fees.
6C	Fusion Residential	For smaller schemes S106 contributions should be paid at completion of development	The SPD recognises that it may be appropriate for payments to be made at other trigger points. However, to mitigate harm, certain provisions must be paid on commencement

6D	Fusion Residential	5% fee is considered disproportionate to likely level of work involved in monitoring. Concern raised that this fee could increase and be used to fund 'areas' that the Council would be expected to fund.	Under sections 111 Local Government Act 1972 and s.2 of the Local Government Act 2000 the Council as has wide powers to do anything that is calculated to facilitate or is conducive or incidental to the discharge of its functions that may improve the economic social or environmental well being of its area. The management fee, which covers the cost of managing S106 obligations only with such monies being used only in this connection, is an acceptable use of the powers available to the Council.
6E	Fusion Residential	If the Council re-appraises a scheme when an assessment demonstrates that the provision of social housing is not viable, the Council must accept that they will make a repayment to the contributor for social housing contributions made with interest.	Section 6.1.7 'scheme re-appraisals' only applies to proposals for 10 units and above. If the applicant wants to vary the approved scheme a new application must be submitted.
6F	Fusion Residential	Concern raised regarding the formula used to calculate affordable housing: schemes and land values differ significantly across the borough; apartment developments attract different residual land percentages to a dwellinghouse; individual schemes attract varying abnormal costs.	The methodology for calculating contributions has been tested through the Affordable Housing Viability Study. Contributions will be sought subject to viability.
6G	Fusion Residential	Request that 15% for 'site acquisition and servicing costs' is deleted from the calculation for affordable housing – it is a cost the developer would already	The contribution for 'site acquisition and servicing' is required because the contribution is made in lieu of on site

		incur in bringing the site forward	provision.
6H	Fusion Residential	Affordable housing contributions should be standardised across the borough as the cost of providing affordable housing is the same regardless of location.	The cost of providing housing varies considerable across the borough due to variations in land values. Standardised contributions based on borough wide open market values were consulted upon in the initial Draft S106 SPD (May 11). Following consultation it was concluded that contributions based on actual open market values represented the fairest approach.
6I	Fusion Residential	Repayment timescales for unused S106 should be lowered to 5 years from 10 and should include interest accrued	Repayments will be made subject to the details of the individual S106 clause, negotiated on a site by site basis. Negotiations will have regard to 5.4.3.2 which states that 'it may take many years to deliver some of the identified infrastructure, particularly transport related infrastructure. S106 agreements will therefore need to contain clauses which reflect the long horizons for implementation'.
6J	Fusion Residential	Reliance on 2009 viability study in 2011 economic market criticised.	Contributions for affordable housing will be sought in accordance with Core Strategy policy 3, subject to viability.
6K	Fusion Residential	Provision of travel pack would impose financial and administrative burdens on developer and provide little benefit.	The requirement reflects London Plan and Core Strategy priorities.

6L	Fusion Residential	Clarification requested on whether existing dwellings/ uses will be offset against level of contributions expected for new development.	Reference is made throughout the document to net increase in unit: 6.1.11 and 6.1.15 (housing) 6.2.1.1 (transport) 6.3.1 (education) Section 6.6 (childcare) amended for clarification.
6M	Fusion Residential	Increased revenue from Council tax paid by the occupiers of the new dwellings should be a sufficient contribution towards education.	Contributions will be sought, as necessary, to mitigate harm caused by the development through increase pressure on social infrastructure.
6N	Fusion Residential	1 bed units should be excluded from the education contributions calculations; considered unlikely that a 1 bed unit would house a child of school age	The child yield data demonstrates that a small yield from 1 bed flats for primary school aged children – the level of contribution required from this size of unit is reflective of this smaller yield and requirements are fairly and reasonably related in scale and kind to the development.
6O	Fusion Residential	Requirement to submit Employment Strategy and employ local labour in construction is an unnecessary bureaucratic burden. Requirement for local labour in construction brings administrative and financial burdens. Training is already paid for through the Construction Industry Training Board Levy.	Mitigation is required to address harm caused to the local economy. Requirements for local labour in construction are not met by Construction Industry Training Board Levy.
6P	Fusion Residential	Contributions should not be required for redevelopment of vacant employment sites as there is no loss of employment.	S106 requirements or contributions are necessary to mitigate the harm caused to the local economy. The SPD (6.9.7) states that evidence on vacancy periods and marketing will be used to establish the

			potential number of jobs lost.
6Q	Fusion Residential	There is no justification to seek contributions for development in or near a heritage asset. Owners of buildings/ land on the Heritage at Risk register are liable for the upkeep of buildings/ land.	Core Policy 46 identifies that contributions for built heritage will be sought.
6R	Fusion Residential	Section 6.12.3.1 Green Infrastructure and Landscape Features – criteria for when contributions will be sought/ calculating level of contribution is imprecise.	Mitigation requirements/ contributions will be assessed on a site by site basis.
6S	Fusion Residential	Policing facilities, and fire and emergency services should be funded through increased revenue from Council tax.	Contributions will be sought, as necessary, to mitigate harm caused by the development through increase pressure on social infrastructure.
7A	Greater London Authority	Concern raised that few of the comments made on the Draft S106 SPD (May 2011) have been addressed in the latest document.	Noted that the previous representation on the initial draft commented on 15 sections of the SPD. 6 of these matters have been addressed.
7B	Greater London Authority	No mention of TfL or the Mayor's involvement in the planning application/ S106 process	There are a wide range of stakeholders and consultees that must be involved in the application/ S106 process. It is not possible to refer to all consultees within the document, however, reference is made to TfL in 5.4.2.
7C	Greater London Authority	No mention is made of the London Plan or the mayor's intention to develop a Community Infrastructure Levy	Section 4.1.2 refers to London Plan policy 6A.4
7D	Greater London Authority	Table of mitigation measures refers to both 'transport' and 'sustainable transport'	Table amended to refer to sustainable transport.
7E	Greater London Authority	Learning and skills requirements are given the same priority as affordable housing which is inconsistent	Noted. Learning and skills requirements (education) are given the same priority to

		with the London Plan.	reflect evidence on local need.
7F	Greater London Authority	No mention is made to transfer of money to TfL in cases where TfL is responsible for the delivery of the mitigation.	Noted. Money will be transferred to infrastructure providers as appropriate. 5.4.2 provides further details on delivery stages and states that the Council will 'procure the required work from third parties such as Transport for London'
7G	Greater London Authority	No mention of TfL's involvement in providing advice and approval for works to TfL Road Network.	Noted. TfL will be involved in the planning application process for development that affects the TfL road network.
7H	Greater London Authority	TfL's previous concerns regarding the viability of delivering a fully accessible station at Edmonton Green has not been addressed in the revised SPD.	Noted. This issue will be explored as part of the preparation of the Edmonton Green masterplan.
7I	Greater London Authority	Ponders End; Meridian Water: The extent of any works to stations/ interchange improvements should be agreed with TfL. Changes to bus routes or frequencies will be subject to the stakeholder engagement process which will determine service outcome. Place Shaping should include soft measures to strengthen links (walking and cycling) to overcome barriers.	Noted. The appropriate masterplans and Area Action Plans will provide further details on these matters. TfL is a key stakeholder and is involved in the preparation of these documents.
8A	Hertsmere Borough Council	No comment.	Noted.
9A	Mansfield, Joan	Applying S106 requirements to developments of fewer than 10 dwellings will harm small builders and self builders, whom make valuable contributions to employment in the borough.	The requirement for affordable housing contributions for 1-9 units has been established in the adopted Core Strategy.

10A	Miller, Tim	Provision of primary and secondary school places should be a higher priority than housing. Concern raised regarding shortage of school places.	The priorities identified in the SPD reflect the Core Strategy and London Plan. Learning and Skills (education) is identified highest priority alongside housing and transport based on evidence of local shortages.
11A	Natural England	Support inclusion of provision for contributions to climate change; open space and recreation; green infrastructure and landscape features; biodiversity and geodiversity. Clarification in sections 6.12.1- 6.13.3 welcomed. Draft appears to be inline with approach taken by other London boroughs.	Noted.
12A	Nicholas Holdings Ltd	Viability concerns raised.	Section 5.3 deals with development viability.
12B	Nicholas Holdings Ltd	Affordable housing threshold of 10 for 40% onsite provision is too low.	The threshold has been established in the adopted Core Strategy and is in accordance with the London Plan (and therefore the approach taken elsewhere in London)
12C	Nicholas Holdings Ltd	Independent experts appointed by the Council should be locally based and the applicant should not be required to pay the fees.	In some cases it may be appropriate and in the interests of the developer for an independent expert to be appointed to assist the processing of a planning application – in these circumstances it is considered reasonable for the developer to pay for the fees.
12D	Nicholas Holdings Ltd	It is not realistic to expect contributions on smaller sites. The impact is negligible and it would take many years for cumulative impact to be seen.	Cumulative impact is significant. Contributions will be requested that are in scale and kind to the development subject to viability.

12E	Nicholas Holdings Ltd	S106 contributions should not be payable on commencement of development.	The SPD recognises that it may be appropriate for payments to be made at other trigger points. However, to mitigate harm, certain provisions must be paid on commencement
12F	Nicholas Holdings Ltd	It is not reasonable to charge a management fee, when the Council is receiving a sizeable free benefit in cash or kind.	Under sections 111 Local Government Act 1972 and s.2 of the Local Government Act 2000 the Council as has wide powers to do anything that is calculated to facilitate or is conducive or incidental to the discharge of its functions that may improve the economic social or environmental well being of its area. The management fee, which covers the cost of managing S106 obligations only with such monies being used only in this connection, is an acceptable use of the powers available to the Council.
12G	Nicholas Holdings Ltd	If the Council seeks to re-appraise a scheme where assessment has shown that provision of social housing is not viable, it must be prepared to make a repayment if a scheme for which a social housing contribution has been made is subsequently found on re-appraisal not to be viable.	Section 6.1.7 'scheme re-appraisals' only applies to proposals for 10 units and above. If the applicant wants to vary the approved scheme a new application must be submitted.
12H	Nicholas Holdings Ltd	Affordable housing contributions should be standardised.	Standardised contributions based on borough wide open market values were consulted upon in the initial Draft S106 SPD

			(May 11). Following consultation it was concluded that contributions based on actual open market values represented the fairest approach.
12I	Nicholas Holdings Ltd	Timescale for use of S106 agreements should be 5 years not 10 and refunds should include interest.	'Refunds' will be made subject to the details of the individual S106 clause, negotiated on a site by site basis. Negotiations will have regard to 5.4.3.2 which states that 'it may take many years to deliver some of the identified infrastructure, particularly transport related infrastructure. S106 agreements will therefore need to contain clauses which reflect the long horizons for implementation'.
12J	Nicholas Holdings Ltd	Conclusions from Affordable Housing Viability Study (2009) are not applicable in the current market.	The conclusions from the Affordable Housing Study informed the Core Strategy policy, which was found to be sound by an Independent Inspector and was adopted in 2010.
12K	Nicholas Holdings Ltd	Increased revenue from Council tax paid by the occupiers of the new dwellings should be a sufficient contribution towards education.	Contributions for education are necessary to mitigate harm caused by the development.
12L		1 bed units should be excluded from the education contributions calculations; considered unlikely that a 1 bed unit would house a child of school age.	The child yield data demonstrates that a small yield from 1 bed flats for primary school aged children – the level of contribution required from this size of unit is reflective of this smaller yield and requirements are fairly and reasonably related in scale and kind to the development.

12M	Nicholas Holdings Ltd	Training is already paid for through the Construction Industry Training Board Levy. Construction may be carried out by a series of small subcontractors who cannot afford to employ trainees. The requirement would prejudice small local employers.	Requirements for local labour in construction are not met by Construction Industry Training Board Levy. The responsibility to comply with the S106 agreement lies with the landowner not the contractor.
12N	Nicholas Holdings Ltd	If premises are converted to other uses it is because there is no longer a market for the existing use. It would be unreasonable to charge for non-existent loss of jobs.	S106 requirements or contributions are necessary to mitigate the harm caused to the local economy. The SPD (6.9.7) states that evidence on vacancy periods and marketing will be used to establish the potential number of jobs lost.
13A	NLP on behalf of SEGRO	SEGRO maintains objection to proposed mechanism for mitigating the loss of employment. Reference is made to the draft NPPF and the Governments advice that Local Planning Authorities should avoid the use of unnecessary S106 obligations particularly when this would undermine the viability of development proposals.	S106 obligations will only be sought if necessary and subject to the CIL tests detailed in 2.1 and viability.
13B	NLP on behalf of SEGRO	It is unclear how the requirement to relocate existing businesses and/ or provide equivalent number of jobs elsewhere would work in practise.	This will be assessed on a case by case basis negotiated through the development management process. The S106 SPD would require developers, as part of their Employment Strategy, to consider whether this is feasible.
13C	NLP on behalf of SEGRO	The document should be more transparent in justifying how the £4K payment per job lost would be invested.	The SPD states contributions will be required for 'industrial land regeneration projects, employment training schemes, job brokerage services or business support

			initiatives'
13D	NLP on behalf of SEGRO	It is unreasonable for the Council to expect contributions for loss of vacant employment land. The baseline position to reflect the current status of the site and not a notional employment based on outdated employment densities.	The SPD (6.9.7) states that if the proposal involves the loss of vacant premises employment densities and evidence on vacancy periods and marketing will be used to establish the potential number of jobs lost. Regard will also be had to the number and quality of jobs generated by the development.
13E		Concern raised that this is contrary to the NPPF.	Noted. The SPD complies with the draft NPPF including paras 39 and 19. Para 68 in particular refers to the CIL tests for S106.
13F	NLP on behalf of SEGRO	Objection to the principle of planning obligations being required of developments that result in the loss of jobs or employment land. Employment obligations are considered to be too onerous.	S106 requirements or contributions are necessary to mitigate the harm caused to the local economy.
14A	Planning Perspectives LLP	Noted that some changes have been made to the document but the majority the document remains as previously drafted.	Noted.
14B	Planning Perspectives LLP	Reiterate comments and concerns previously raised. In particular consideration should be given to implementation of CIL. Each case should be considered on its own merit having regard to viability/ exceptional circumstances.	An economic viability assessment has been commissioned to inform Enfield's CIL charging schedule. Document amended to include further information on Enfield's CIL (2.3)
15A	Savills (L&P) Ltd	Strong objection raised. Current supply of new homes in the borough is severely limited. Savills not aware of any substantial development opportunities coming through that are likely to change the situation. The SPD will make the situation worst by	The adopted Core Strategy sets out details of planned growth – the proposed growth exceeds Enfield's London Plan targets. Section 5.3 sets out the Council's intentions to facilitate

		restricting the ability of property developers to secure viable development land.	sustainable growth and approach to considering the impact on viability.
15B	Savills (L&P) Ltd	Question whether the SPD is deliverable and beneficial. The Draft SA shows that only 1.1% of the S106 provisions would have a significant beneficial effect and 38% was appraised as having unclear effects.	The SA provides an appraisal of the additional benefit arising compared to the current approach. The proposed approach to seeking contributions for many provisions is similar to that currently undertaken. The purpose of the SPD is to provide clarity and transparency to the developer so that requirements are known in advance of land acquisitions. The SA shows that 77% of the provisions will have a beneficial impact on the SA objectives.
15C	Savills (L&P) Ltd	Threshold for affordable housing contributions is contrary to requirements from other boroughs that require contributions for development of 15 units or more: Hillingdon; Chiltern; St Albans; Wycombe; South Bucks; Windsor and Maidenhead and Aylesbury Vale.	The threshold requirement for affordable housing contributions is set out in the Core Strategy, in accordance with the London Plan.
15D	Savills (L&P) Ltd	The proposed financial contribution for 1-9 units (8.785%) renders most developments financially unviable. Land costs are in the region of 40%; build costs 35%. Leaving 15% for other planning and sales costs leaving no money for developer company, wages and overheads.	The methodology for calculating contributions has been tested through the Affordable Housing Viability Study. Contributions will be sought subject to viability.
16A	Shandler Homes (Late submission)	The method of calculation for many provisions does not meet the required 'tests'	Where set out, the formula for calculating contributions, is considered to be fair and reasonably related in scale and kind to the development having regard to harm caused/

			impact on infrastructure.
16B	Shandler Homes (Late submission)	Applicants should not be required to pay the fees of independent experts. Concern raised that the applicant would have to pay for RICs expert to initially evaluate scheme and then an independent expert.	In some cases it may be appropriate and in the interests of the developer for an independent expert to be appointed to assist the processing of a planning application – in these circumstances it is considered reasonable for the developer to pay for the fees.
16C	Shandler Homes (Late submission)	S106 contributions should not be payable on commencement of development for smaller schemes.	5.4.1 and 5.3.1 recognise that phasing of payments is acceptable in some circumstances. Document amend to reflect that contributions for all schemes may be payable at alternative trigger points where this assists viability.
16D	Shandler Homes (Late submission)	5% monitoring fee is disproportionate to the level of work involved. Concern raised that this fee could increase and be used to fund 'areas' that the Council would be expected to fund.	Under sections 111 Local Government Act 1972 and s.2 of the Local Government Act 2000 the Council as has wide powers to do anything that is calculated to facilitate or is conducive or incidental to the discharge of its functions that may improve the economic social or environmental well being of its area. The management fee, which covers the cost of managing S106 obligations only with such monies being used only in this connection, is an acceptable use of the powers available to the Council.

16E	Shandler Homes (Late submission)	If the Council seeks to re-appraise a scheme where assessment has shown that provision of social housing is not viable, it must be prepared to make a repayment if a scheme for which a social housing contribution has been made is subsequently found on re-appraisal not to be viable.	Section 6.1.7 'scheme re-appraisals' only applies to proposals for 10 units and above. If the applicant wants to vary the approved scheme a new application must be submitted.
16F	Shandler Homes (Late submission)	Concern raised regarding the formula used to calculate affordable housing: Setting residual land value at 38.2% does not reflect the market. Object to adding a further 15% for 'site acquisition and servicing costs'	The methodology for calculating contributions has been tested through the Affordable Housing Viability Study. Contributions will be sought subject to viability. The contribution for 'site acquisition and servicing' is required because the contribution is made in lieu of on site
16G	Shandler Homes (Late submission)	Reliance on 2009 viability study in 2011 economic market criticised.	Contributions for affordable housing will be sought in accordance with Core Strategy policy 3, subject to viability.
16H	Shandler Homes (Late submission)	Object to requirements to provide a travel pack.	The requirement reflects London Plan and Core Strategy priorities.
16I	Shandler Homes (Late submission)	Object to requirements for a Local Employment Strategy due to financial and administrative burdens. Training is already paid for by development industry through the Construction Industry Training Board Levy.	Requirements for local labour in construction are not met by Construction Industry Training Board Levy. The responsibility to comply with the S106 agreement lies with the landowner not the contractor.
17A	Sport England	Welcome inclusion of sports facilities, open space and recreation in objectives for community infrastructure and green infrastructure provision	Noted.
17B	Sport England	Evidence of unmet demand for sports halls and artificial grass pitches quantified in Sport	Noted.

		England's Facilities Management Model 2010 justify seeking developer contributions. Welcome acknowledgement of deficiencies in para 6.8.5	
17C	Sport England	Recommend the use of Sport England's Sport Facility Calculator (SFC) for calculating increased demand for sports facilities and cost equivalent.	The SFC may be an appropriate tool for assessing infrastructure needs to inform Enfield's CIL.
18A	Thames Water	Request specific reference in Section 5.1 or Table 5.1 that water and wastewater infrastructure is explicitly excluded from the tariff based approach with contributions negotiated on a site by site basis. Such development does not give rise to any impacts on the wider community in terms of additional burdens on schools, open space, libraries, public transport or other infrastructure.	Water and wastewater infrastructure development is excluded from table 5.1. A specific reference to this within the document is not required.
18B	Thames Water	The SPD should recognise that the proposed Deephams Sewage Work Upgrade represents essential infrastructure development that must be undertaken by Thames Water.	The upgrade of Deephams will not be funded through S106 contributions.
19A	Highways Agency	No further comments.	Noted.
20A	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	A large number of the infrastructure contributions set out do not meet the CIL tests – they are unnecessary and not calculated in a fair and reasonable way.	The scope of provisions has already been established through the London Plan and Enfield's adopted Core Strategy. Both these documents have found to be sound by independent inspectors. Where set out, the formula for calculating contributions is considered to be fair and reasonably related in scale and kind to the development having

			regard to harm caused/ impact on infrastructure.
20B	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	Further clarification requested that sheltered housing or assisted living extra care will be exempt from elements of contributions where there is limited or no direct mitigation to be addressed.	Contributions will be sought in accordance with the CIL tests detailed out in the document.
20C	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	Occupancy levels for retirement housing or below average. Contributions calculated on standard occupancy levels for retirement living would not be fairly and reasonably related in scale and kind to the development	The only contributions based on occupancy are for 'learning and skills' and 'childcare'. 6.3.1 (learning and skills) states that 'development of residential care homes for the elderly will be exempt'. Document to be amended to confirm that this also applies to contributions for childcare
20D	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	The Council should be duty and legally bound to return contributions that remain unused within 'say' 5 years of their collection.	5.4.3.2 states that 'it may take many years to deliver some of the identified infrastructure, particularly transport related infrastructure. S106 agreements will therefore need to contain clauses which reflect the long horizons for implementation'.
20E	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	Payment of contributions should be realistically set to reflect the phase of development.	5.4.1 and 5.3.1 recognise that phasing of payments is acceptable in some circumstances – also see response to xx
20F	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	Object to requirement to pay the Council to seek additional external valuations and assessments – this should be covered by the planning application fee. At the very least instruction of the independent valuer should be a joint one.	In some cases it may be appropriate and in the interests of the developer for an independent expert to be appointed to assist the processing of a planning application – in these circumstances

			it is considered reasonable for the developer to pay for the fees.
20G	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	Object to post completion re-appraisal. This could prejudice efficient building as there would be no incentive to keep costs at a low level. Question whether the Council would be liable to refund contributions if the post completion viability appraisal shows a smaller profit level. Reference is made to the HCA Investment and Planning Obligations – responding to the downturn July 2009 Good Practice Note which advises (para 48) that clawback is not appropriate for single phased developments and (para 35) may be contrary to circular 5/05). Development that has not commenced within 3 years already has the mechanism for reconsideration.	Section 6.1.7 ‘scheme re-appraisals’ only applies to proposals for 10 units and above. If the applicant wants to vary the approved scheme a new application must be submitted. It is anticipated that scheme re-appraisals will only be required in a small number of cases for phased development.
20H	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	The threshold of 50 units will unduly penalise some forms of low impact sustainable development.	Threshold of 50 units is considered to be appropriate for consideration of the need for additional infrastructure. Mitigation/ contributions required will be fairly and reasonably related in scale and kind to the development.
20I	The Planning Bureau (on behalf of McCarthy and Stone Retirement Lifestyles Ltd)	Reference is made to the need to have regard to the Planning for Growth ministerial statement.	The ‘planning for growth’ statement details the Government’s intention to produce the NPPF. The S106 SPD is in accordance with the NPPF.
21A	Theatres Trust	Suggest title of ‘Public Arts, <i>Cultural Activities</i> and other Community Infrastructure’ should be amended to read ‘ <i>Cultural Facilities</i> ’. Activities are not tangible and cannot receive contributions	Document amended to refer to cultural facilities. Section 6.8 defines ‘public art, cultural activities [facilities] and other community

		whereas 'facilities' are built structures. 'Community Infrastructure' should be renamed 'Social Infrastructure' . Community Infrastructure includes schools and hospitals not relevant in the section of the document.	infrastructure – and clarifies that schools and hospitals are excluded.
21B	Theatres Trust	Typo: 'archieve' should be 'archive'	Document amended to reflect comments.
22A	Tibbalds Planning and Urban Design Ltd (on behalf of Middlesex University	Support the principle of setting out S106 expectations in an open and transparent way. Document is considered sound and based on policy. No objection. Expect S106 for any proposed development at the University would only be required if necessary to enable development where this cannot be achieved through use of conditions.	Noted. S106 will be sought subject to the tests set out in section 2.1.1.