

APPENDIX A

Nottinghamshire County Council Planning Obligations Strategy - Summary of Responses February 2018

The following table summarises the responses received as part of the consultation which took place on Nottinghamshire County Council's (NCC) Updated Planning Obligations Strategy between 13th November and 22nd December 2017. It also sets out the County Council's response to the comments made and, where appropriate, the changes which it is proposed to be made to the document as a result.

Section	Consultee	Comment	NCC Response / Proposed Change
General Comments	NCC Country Parks and Green Estate	There is nothing in the strategy to cover the impact of development on green infrastructure. There is reference to open space as a district council service in para 1.11 but the County Council is also a service provider of open space and green infrastructure through its country parks, greenways and the green estate. Asks if it is possible to include a reference to this and an accompanying appendix.	Accepted – Appendix 6 Natural Environment has been amended to reflect these comments and the title of the appendix has been amended to "Green Space". It has also been moved and is now appendix 3
	Gedling Borough Council	<p>In general the document provides some useful guidance on the sort of contributions that may be sought by the County Council and may assist developers in estimating the level of contributions likely to be sought. In this context, the Borough Council will give consideration to such requests on a case by case basis provided they are justified by evidence and meet the policy and tests that are helpfully set out in paragraphs 2.3 – 2.5 of the document. However, whilst the Borough Council are happy to take the document into account they could not recommend its formal endorsement by Gedling Borough Council as they have a number of concerns;</p> <p>Concern is expressed about the tone of the document in general and the list of services for which contributions may be sought unnecessarily raises expectations that cannot be</p>	<p>Noted – The County Council have reviewed the comments made and where considered appropriate, amended the document. They request that the amended strategy is endorsed by the Borough Council and that its contents be given consideration when determining planning applications.</p> <p>Accepted – The County Council are aware that requests for contributions need to be based on requirements within the NPPF along</p>

Section	Consultee	Comment	NCC Response / Proposed Change
General Comments continued	Gedling Borough Council continued	<p>delivered in practice. Section 2 setting out the purpose, use and application of planning obligations is more realistic in this regard (reference paragraphs 2.3 – 2.5) but it is unfortunate that this is not reflected elsewhere in the document. The Borough Council would argue that there is an internal conflict within the document between the introduction and the strict tests set out in paragraphs 2.3 – 2.5.</p>	<p>with the 3 statutory tests referred to in paragraph 2.5. The strategy is not intended to be perceived as a “shopping list” of contributions which will be sought on every occasion. To clarify this the following wording has been inserted at the end of paragraph 1.1:</p> <p><i>“It should be noted that contributions will not be requested as a per dwelling payment as a matter of course. It is the impact of each individual proposal that will need to be assessed on a site by site basis to identify what contributions may be needed to make development acceptable.”</i></p>
	Gedling Borough	<p>The response notes that the Borough Council has through negotiation secured a number of planning obligations providing significant contributions particularly towards education, transport and health in recent years which by far tend to take the “lions share” of contributions. Where viability has been an issue in these negotiations, the tendency has been to negotiate with developers a reduction in the affordable housing element whilst meeting the needs identified for other infrastructure such as education and health in full. It is therefore necessary to prioritise contributions in such circumstances and we would request that the County Council acknowledges this and sets out its</p>	<p>Noted – Where contributions are considered to be CIL compliant by district / borough council's but the issue of viability is raised the County Council would look assess the priorities for infrastructure. Paragraph 3.11 of the document has been amended to reflect this. However it is not considered appropriate to provide a list of infrastructure priorities in the Planning Obligations Strategy as these would have to be considered on a case by case basis.</p>

Section	Consultee	Comment	NCC Response / Proposed Change
General Comments continued	Council continued	<p>priorities more clearly in the Planning Obligations Strategy.</p> <p>The Borough Council refer to the progress that has been made with their Local Plan and that infrastructure requirements are identified within the Infrastructure Delivery Plan. Other policies in the Local Planning Document require S106 contributions such as for affordable housing and open space. The infrastructure needs have been identified following consultation with service providers and the Local Plan Viability Appraisal has assumed a reasonable level of developer contributions alongside affordable housing and CIL charges. There is clear and justified policy support for these contributions;</p> <p>The NPPF places an emphasis on plan delivery. Concern is expressed that if the level of contributions being sought is applied to their sites it would make a number of them undeliverable;</p>	<p>Noted – The County Council will continue to work with District / Borough Council's and developers to help identify the infrastructure which will be required to support the delivery of housing and economic growth within Local Plans.</p> <p>The County Council note this concern. They are aware that the NPPF places emphasis on plan delivery. As set out above the obligations strategy is not intended to be perceived as a "shopping list" of contributions. It is not the intention that everyone type of infrastructure referred to in the strategy will be requested on every occasion. Each site will be considered on its own merits and requests will only be made where they are required to mitigate the impact of development make the development acceptable in planning terms.</p>
General	Gedling Borough	The document should provide greater recognition of the role	Accept – Paragraph 1.15 has been amended to reflect this

Section	Consultee	Comment	NCC Response / Proposed Change
Comments continued	Council continued	<p>of the District / Boroughs in determining planning applications and assessing the reasonableness of such requests on the merit of each case against policy in the NPPF and the relevant CIL regulations and having regard to the development plan.</p> <p>It is also important that when making requests following consultation on planning applications, the County provides evidence on the current capacity of services to justify why contributions may be needed to meet additional demand arising from the development.</p>	<p>Noted – When seeking contributions for education a detailed Education Statement is submitted as part of strategic planning comments which are sent to District / Borough Council's. The County Council will seek to ensure that requests for other types of infrastructure are also supported by the appropriate level of justification to help demonstrate that requests are compliant with the CIL Regulations. Bullet point 5 of paragraph 3.25 has been amended to reflect this</p>
	Broxtowe Borough Council	<p>It would be useful if the County Council could rank the different types of infrastructure by order of priority. In addition the Borough Council ask, if viability means that not all contributions can be secured, what would be the most important to seek contributions towards and are there other sources of funding available should there be a delay or inability to secure S106 contributions;</p>	<p>Noted – Where contributions are considered to be CIL compliant by district / borough council's but the issue of viability is raised the County Council would look assess the priorities for infrastructure. Paragraph 3.11 of the document has been amended to reflect this. However it is not considered appropriate to provide a list of infrastructure priorities in the Planning Obligations Strategy as these would have to be considered</p>
General			

Section	Consultee	Comment	NCC Response / Proposed Change
Comments continued	Broxtowe Borough Council continued	<p>In terms of priorities the Borough Council ask if there would be different priorities within different borough's or within different parts of the same borough;</p> <p>Where the County Council are aware of significant existing "pressures" on infrastructure within part of the County it would be useful if these could be referred to in the appropriate appendices to the strategy;</p> <p>It would be useful if more specific / detailed estimates of the levels of contributions which would be sought for each type of infrastructure including actual or typical figures could be provided within the appendices to this strategy. This could include the likely range of financial contributions which may be sought for each type of infrastructure;</p>	<p>on a case by case basis.</p> <p>As stated above, priorities would be considered on a case by case basis. Therefore depending on the situation which is prevalent at the time an application is considered priorities may differ across the same District / Borough and within different District / Boroughs.</p> <p>No change required - The position regarding infrastructure pressures can change over a short period of time, especially in respect to education. Pressures relating to infrastructure should be identified within District / Borough Infrastructure Delivery Plans which are produced in conjunction with the County Council. Therefore whilst it is acknowledged that the Strategy will be a "live document" which can be changed more readily it is not considered appropriate to provide such a list at this time</p> <p>No Change required – It is not considered practical to provide estimates of contributions which may be sought as every case will be considered on its own merits having consideration to the capacity</p>
General			

Section	Consultee	Comment	NCC Response / Proposed Change
Comments continued	Broxtowe Borough Council continued	The Borough consider that the inclusion of supporting information within the relevant appendices would be useful especially in case where this is needed to work out “approximate” levels of contributions. Examples are given in respect of Waste Management and Education. Where data is needed to estimate contributions the greater the information that can be provided the more useful the strategy will be.	of each type of infrastructure. NCC accept the need for as much information as possible to be provided to allow calculations to be made. Where information for calculations is available the document has been amended e.g. libraries.
	Newark & Sherwood District Council	<p>The District Council confirm that NPPF requires LPA’s to factor in viability to a scheme including whether any developer contribution costs are reasonable and allow for a landowner/developer to make competitive returns in delivering a development. The POS needs to acknowledge that in making requests for contributions, these need to be robust and backed by appropriate and up to date evidence to justify the level of contribution being sought. Requests need to be reasonable and wholly related to addressing the impact of any particular development to ensure that they comply with the Community Infrastructure Levy (CIL) Regulations. If a request is made to the District which is not, in our opinion as decision maker, CIL compliant the planning application will be assessed as such. This may result in some contributions not being sought;</p> <p>The formula for any calculations going forward should be clear in terms of the basis for the calculation, how they relate to the costs of the scheme they will be providing / contributing to, and how these fit with any already committed S106 plans. Requests should be backed by up to date factual evidence. A failure to provide such evidence may result in the LPA taking a decision that a request is not</p>	<p>Noted – When seeking contributions for education a detailed Education Statement is submitted as part of strategic planning comments which are sent to District / Borough Council’s. The County Council will seek to ensure that requests for other types of infrastructure are also supported by the appropriate level of justification to help demonstrate that requests are compliant with the CIL Regulations. Bullet point 5 of paragraph 3.5 has been amended to reflect this.</p> <p>Accepted – Where a financial contribution is sought the document seeks to provide clarity as to how this will be calculated. In terms of the provision of evidence see above response.</p>
General			

Section	Consultee	Comment	NCC Response / Proposed Change
Comments continued	Newark & Sherwood District Council continued	<p>CIL compliant and thus unlawful;</p> <p>Where the District Council is satisfied a robust viability argument has been made by an applicant, careful consideration will need to be given as to whether the respective development is still sustainable and that an appropriate level of infrastructure to support the development can still be achieved. This will often mean that the proportionate split of contributions will need to be directed to the infrastructure most required in that location and further emphasises the need for a robust evidence base in support of developer contribution requests;</p> <p>The District Council note that where the level of developer contribution requests are proposed to increase, this will not presently correspond with the figures set out within the District Council's Developer Contributions Supplementary Planning Document. The District Council is currently going through a Review of its Development Plan and a review of its own Developer Contributions Supplementary Planning Document will also take place. The County Council's Planning Obligations Strategy will not form part of the Local Development Framework but will form a material consideration. It is the Council's own Development Contributions SPD which will subsequently put any changes in to force should it be agreed that the triggers and level of contributions are appropriate and can be robustly justified</p>	<p>Noted – Where contributions are considered to be CIL compliant by district / borough council's but the issue of viability is raised the County Council would look assess the priorities for infrastructure. Paragraph 3.11 of the document has been amended to reflect this.</p> <p>It is understood that the cost information contained in the District Council's Developer Contributions SPD relating to contributions such as education is based on information provided by the County Council. As part of the review of the SPD it is requested that the District Council amend these costs to reflect the updated information contained within County Council's Planning Obligations Strategy.</p>
General Comments	Persimmon Homes	Delivering contributions through S106 is a key consideration to ensuring that a proposal is acceptable in planning terms and to mitigate the impact of development. Persimmon Homes recognise this and confirm that they work with relevant bodies to ensure that a fair and reasonable contribution is made;	The commitment to ensuring that fair and reasonable contributions are made is welcomed and supported.

Section	Consultee	Comment	NCC Response / Proposed Change
continued	Persimmon Homes continued	<p>It is noted that there a number of district / boroughs in the County have the Community Infrastructure Levy and others which do not therefore it is important that the strategy covers both scenarios to assist with decision making;</p> <p>Developer obligations are a key part of the viability go sites and therefore key to component commercially on how Persimmon Homes operate. They wish to continue to work with authorities to ensure that homes are delivered and the appropriate infrastructure delivered alongside this.</p>	<p>Noted - Paragraphs 2.10 – 2.12 set out the relationship between S106 obligations and CIL and circumstances where S106 obligations may / may not be sought</p> <p>The commitment to ensuring that homes and appropriate infrastructure alongside this is welcomed and supported.</p>
General Comments	Rushcliffe Borough Council	<p>In general terms, the principle of the strategy is supported as it provides some clarity for the Borough Council and applicants in relation to what scale and type of planning obligations will be sought from new development. The Borough Council does however have a number of detailed comments and observations in relation to the draft revised strategy and which are summarised elsewhere in this document</p> <p>In respect of the trigger points for seeking contributions in the various appendices; the Borough Council note that they have their own Developer Contribution SPD which currently sets a threshold of 25 units for financial contributions, however this threshold is being reviewed as part of the preparation for Part 2 of the Local Plan;</p> <p>Any requests from the County Council for financial contributions will need to be supported by robust evidence to justify the contribution.</p>	<p>Noted – The support for the principle of the strategy is welcomed. Responses to specific issues raised are dealt with throughout the consultation responses document</p> <p>Noted - The County Council support the review of triggers for contributions which are being proposed as part of the preparation of Part of the Borough Councils Local Plan</p> <p>Noted – When seeking contributions for education a detailed Education Statement is submitted as part of strategic</p>

Section	Consultee	Comment	NCC Response / Proposed Change
continued	Rushcliffe Borough Council continued		planning comments which are sent to District / Borough Council's. The County Council will seek to ensure that requests for other types of infrastructure are also supported by the appropriate level of justification to help demonstrate that requests are compliant with the CIL Regulations. Bullet point 5 of paragraph 3.25 has been amended to reflect this
Section 1 Introduction	NCC Pupil Place Planning	<p>Page 1, Para 1.5 – Query the date of the Strategy and ask if this should say 2018;</p> <p>Page 2, Paragraph 1.7 - A question is raised as to how the Planning Obligations Strategy will help ensure that the vision statements within the County Council's four year plan will be achieved</p> <p>Page 2, paragraph 1.14 – Propose deletion of this paragraph</p> <p>Page 3, paragraph 1.15 – Proposes changes to this paragraph regarding the strategies status and the endorsement of the document by LPA's</p>	<p>Noted – The reference to 2017 is deleted and the sentence reworded</p> <p>The Obligations Strategy will provide a steer for the infrastructure which will be required to mitigate the impact of development e.g. education and which will be one aspect of helping meet the objectives of the County Councils strategic objectives</p> <p>No change required – This sentence provides clarification about the status of the document in relation to the 2014 strategy</p> <p>No Change required – The paragraph is solely factual and it is not possible to require LPA's to endorse the document.</p>
	Persimmon Homes	Paragraph 1.2 highlights the NPPF as a key strategy and	Noted - The County Council

Section	Consultee	Comment	NCC Response / Proposed Change
Section 1 Introduction continued	Persimmon Homes continued	<p>supports sustainable development. The document should also recognise that the NPPF supports delivery of viable sites through cooperation with a willing landowner and developer;</p> <p>Page 2, Paragraph 1.10 - Whilst document covers the NCC administrative area and does not include the City Council there should joined up infrastructure plans between the two areas;</p> <p>Page 3, Paragraph 1.15 - It is noted that the document is intended to be a material consideration in the determination of applications. Whilst SPD's do have some weigh the paragraph is onerous on its approach for using the document as a reason for refusal. This is a guidance document that should assist LPA's in their decision making whilst setting a benchmark for planning obligations. If a proposal differs from this it should not be the sole reason for refusal and the appropriate weight should be given to the document relative to other planning policies</p> <p>The document needs to recognise that a plan-led system is in operation where development is planned through the Local Plan process</p>	<p>acknowledge what the NPPF says about ensuring sustainable development is viable. Therefore the first sentence of this paragraph has been amended to say:</p> <p><i>"The Strategy fits with the overall aims of the National Planning Policy Framework by supporting sustainable and viable development."</i></p> <p>NCC acknowledge this and would seek to work with the City Council on infrastructure work through the review of the Greater Nottingham Aligned Core Strategy</p> <p>Accepted – Paragraph 1.15 has been amended and the onus on the strategy being used as a reason for refusal has been deleted.</p> <p>Accept – The following wording has been inserted into this paragraph to form a new fourth sentence:</p>
Section 1 Introduction			

Section	Consultee	Comment	NCC Response / Proposed Change
continued	Persimmon Homes continued		<i>"It is the Local Plan and supporting Infrastructure Delivery Plans which will form the basis for seeking planning obligations that are required to mitigate the impact of allocated sites."</i>
Section 1 Introduction	Rushcliffe Borough Council	<p>Page 1, paragraph 1.3 - It is considered that the strategy can also play an important role in the formulation of policies and proposals within Local Plans. This is particularly the case when assessing plan wide viability, site specific viability and in the development of infrastructure delivery plans. It is important that there is a consistent approach when requesting contributions for infrastructure provision on allocated sites. It is difficult to understand therefore why the document appears to separate out the plan making and decision taking processes in this paragraph as in a plan-led system, normally one flows from the other when it comes to the provision of appropriate infrastructure;</p> <p>Page 1, paragraph 1.3 - Paragraph 113 of the Government consultation 'planning for homes in the right places' states that the Government: 'propose to make clear in the National Planning Policy Framework that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage.'. Whilst the commitment to work with Districts and Borough Councils on infrastructure requirements in local plans is welcomed, the strategy should go further and recognise that Local Plans and their respective IDPs should be used as the starting point for seeking planning contributions when considering planning applications on allocated sites.</p>	<p>Accepted – Paragraph 1.3 has been amended to highlight the role the Strategy can play in the formulation of policies and proposals in Local Plans</p> <p>Accept – The following wording has been inserted into this paragraph to form a new fourth sentence:</p> <p><i>"It is the Local Plan and supporting Infrastructure Delivery Plans which will form the basis for seeking planning obligations that are required to mitigate the impact of allocated sites."</i></p>

Section	Consultee	Comment	NCC Response / Proposed Change
continued	Rushcliffe Borough Council continued	<p>Page 1, Paragraph 1.4 – states that the maximum number of contributions to a single project or type of infrastructure is set at 5. Reference is made to CIL Regulation 123. It is considered that the second sentence in paragraph 1.4 appears to be incorrect, and is not what regulation. 123 says. There is no limit on the number of obligations that can be entered into. The restriction is on how many can be taken into account in deciding whether to grant planning permission.</p> <p>Page 3, Paragraph 1.15 - The paragraph encourages Districts & Borough Council to endorse and use the Strategy, however later on in paras. 3.18 and 3.19 the tone changes to “requires”. Whilst the document may be a material consideration, it has no statutory basis, and the weight given to it will be a matter for plan-makers and decision-takers. It is considered that ‘endorses, advises, or the County Councils approach’ or other similar terminology should be used throughout the document.</p>	<p>No Change Required - The County Council have sought legal advice on this matter. Based on this it is considered that the pooling restriction within the CIL Regulations allows 5 projects.</p> <p>Noted – Paragraphs 3.18 and 3.19 have been amended to reflect this</p>
Section 2 Purpose, Use and Application of Planning Obligations	Gedling Borough Council	Page 5, Paragraph 2.11 – In submitting requests the County should themselves take into account each Regulation 123 list to avoid requesting contributions towards services that may be included on the list.	Accepted – The County Council are aware of the Districts / Boroughs which have an adopted CIL Charging Schedule and supporting Regulation 123 list. When assessing requirements for infrastructure the County Council will give consideration to the Regulation 123 list to ensure that contributions being sought are lawful and that no “double counting” takes place

Section	Consultee	Comment	NCC Response / Proposed Change
Section 2 Purpose, Use and Application of Planning Obligations continued	NCC Pupil Place Planning	Page 4, Paragraph 2.5 – Clarification is sought as to the meaning of the last sentence;	No change required this is a factual statement which clarifies the position about the use of planning obligations
	NCC Pupil Place Planning continued	Page 5, paragraph 2.9 – The insertion of “ <i>through its Place Department</i> ” is suggested in the third sentence after “ <i>In such circumstances, Nottinghamshire County Council</i> ” It is suggested that after paragraph 2.9 a new paragraph should be inserted setting out the consequences should discussions between the developer, LPA and County Council not take place where the issue of viability arises	Accept – Wording of this paragraph has been changed. No change required – The impacts of reduced or zero contributions are set out in paragraph 3.15
	Ashfield District Council	NPPF para 203 to 206 reflect ‘Planning conditions and obligations.’ Therefore, in relation to POS para 2.5 (page 4) add ‘conditions’ so that first sentence says: <i>“The Community Infrastructure Levy Regulations (as amended) and paragraphs 203 – 206 of the NPPF set out information on the use of planning conditions and obligations and the tests which should be applied”</i> Planning Practice Guidance sets out ‘contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area).’ (Paragraph: 031 Reference ID: 23b-031-2016111)6. Therefore paragraph 2.7 of the Planning Obligations Strategy should reflect that ‘gross’ relates to gross internal floorspace.	Accepted – Paragraph 2.5 has been amended to reflect this. Accepted – The word internal has been inserted into line 2 of Paragraph 2.7
	Persimmon Homes	Page 4, Paragraph 2.1 – This paragraph highlights that planning law expects contributions from developers. Developers should not be subsidising infrastructure providers; if there are already capacity issues within an area that is proposed for development infrastructure providers	Accepted – The County Council will only seek contributions which are required to mitigate the impact of proposed development and not remedy existing deficiencies

Section	Consultee	Comment	NCC Response / Proposed Change
Section 2 Purpose, Use and Application of Planning Obligations continued	Persimmon Homes continued	<p>should already be working to ensure that this is relieved under their statutory obligations and not be reliant on developers for this;</p> <p>Page 4, Paragraph 2.4 – This identifies that obligations run with the land alongside the planning permission. It needs to be recognised that obligations only become enforceable on implementation of a permission and if it expires the legal obligation can be removed;</p> <p>Pages 4 & 5, Paragraph 2.7 – This paragraph refers to the PPG which gives an indication that contributions should not be sought from minor developments. This should be carried through to the County Council and in such cases contributions should not be sought;</p> <p>Page 5, Paragraph's 2.10 & 2.11 – In respect of the relationship between S106 and CIL; there is a need for cooperation between NCC and LPA's who have a CIL Charging Schedule. This is to ensure that appropriate infrastructure is identified that is cross boundary and that planning obligations are fair and reasonable. There should be a commitment from NCC that they will cooperate in the production of CIL Regulation Lists;</p>	<p>Accept – Paragraph 2.4 has been amended to reflect the comment made.</p> <p>Noted – The County Council will not seek contributions where a development is for 10 dwellings <i>and</i> which has a maximum gross internal floorspace of no more than 1,000sq. Metres. Where a development is for 10 dwellings or more and over 1,000sq. Metres a contribution may be sought.</p> <p>Accepted – Paragraph 2.11 has been amended to include the following wording: <i>“As part of the infrastructure planning and delivery process the County Council will work with CIL Charging Authorities in the production / review of their Regulation 123 List”</i></p>
	Rushcliffe Borough Council	Page 5, Paragraphs 2.10 and 2.11 - The Borough Council recognises that the CIL regulations may change, however this could be a lengthy process and the Budget	Accepted - The following wording has been inserted to create a new third sentence within the paragraph:

Section	Consultee	Comment	NCC Response / Proposed Change
Section 2 Purpose, Use and Application of Planning Obligations	Rushcliffe Borough Council continued	announcement reiterates their commitment to CIL. It would therefore be of benefit to highlight some bullets as to how the County Council will assist District and Borough Councils when developing or revising CIL and S123 Infrastructure List.	<i>"As part of the infrastructure planning and delivery process the County Council will work with CIL Charging Authorities in the production / review of their Regulation 123 List. This will include providing information to District / Borough Councils regarding the types of infrastructure which is required in their area and which would be best suited to delivery through CIL and responding to statutory consultations on Preliminary Draft and Draft Charging Schedules."</i>
Section 3 County Councils Approach to Planning Obligations	Gedling Borough Council	<p>The document seeks a general level of contributions above that identified through the Local Planning Document process and there should be a reference within Section 3 to the primacy of the development plan in identifying key infrastructure requirements;</p> <p>The Borough Council re-emphasise their concern about the risk of the document raising expectations and there is a</p>	<p>Accept – As confirmed in response to a comment from Persimmon Homes regarding section 1 of the strategy; the following wording has been inserted into this paragraph to form a new fourth sentence in paragraph 1.3:</p> <p><i>"It is the Local Plan and supporting Infrastructure Delivery Plans which will form the basis for seeking planning obligations that are required to mitigate the impact of allocated sites."</i></p> <p>Noted as confirmed as part of the response to section 1, the County</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Gedling Borough Council continued	<p>need for a caveat which confirms that contributions can only be justified if they are directly related to the development, necessary and reasonable. There are some items which would be secured as an exception rather than the norm and GBC will only consider requests for infrastructure that are necessary and required as a direct result of the development;</p> <p>Page 6, Paragraph 3.4 – The NPPG refers to planning obligations not being applied to developments of 10 dwellings or less. The requirement should therefore only be applied to developments of 11 dwellings or more;</p> <p>Page 8, Paragraph 3.11 – The Borough Council respectfully comment that it is for the District / Borough Councils to consider viability and to commission independent assessments where they see fit. In this context NCC will be aware the District / Borough Councils are subject to strict targets for the determination of planning applications and the suggested process could lead to unacceptable delays;</p>	<p>Council are aware that requests for contributions need to be based on requirements within the NPPF along with the 3 statutory tests referred to in paragraph 2.5. The strategy is not intended to be perceived as a “shopping list” of contributions which will be sought on every occasion. To clarify this the wording of paragraph 1.1 has been amended</p> <p>Noted – The County Council will not seek contributions where a development is for 10 dwellings <i>and</i> which has a maximum gross internal floorspace of no more than 1,000sq. Metres. Where a development is for 10 dwellings or more and over 1,000sq. Metres a contribution may be sought.</p> <p>Accepted – Paragraph 3.11 has been amended to confirm that it will be the District / Borough Council who consider the viability merits of a planning application. However the ability of the County Council to request visibility of appraisals has been retained. This is to it to gain understanding of the issues raised and to brief senior officers and Members on the implications of</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Gedling Borough Council continued	<p>Page 8, Paragraph 3.12 - The document should include the reference numbers of the appeals being referred to in evidence and we would be grateful if NCC could confirm which appeals are being referred to.</p> <p>Page 8, Paragraph 3.13 - The issue of “claw back” would be considered by the Boroughs/Districts depending upon the merits of a particular case and in particular it may be appropriate to use such provisions in the agreement for affordable housing provision for example, if the housing market improves during the implementation of the scheme.</p> <p>Page 9, Paragraph 3.18 – The Borough Council agree that the County Council being a signatory to the legal agreement is preferable in circumstances where development triggers a County Council infrastructure requirement.</p>	<p>zero or reduced contributions.</p> <p>The first sentence of this paragraph has been deleted</p> <p>Accepted - The County Council accept that it will be for the District / Borough Councils to determine if a “claw back” clause is required and that this may not be appropriate or possible in all cases. The paragraph has been amended to reflect this as well as saying that a “claw back” clause <i>may</i> be requested by the County Council. In addition an additional; sentence has been added to the end of this paragraph which acknowledges that where reviews undertaken there may be circumstances where the level of contribution decreases.</p> <p>It is accepted that the County Council cannot require to be a party where others do not agree. However in such circumstances where NCC infrastructure is to be secured it is considered to be in line with the Duty to Cooperate, good practice and appropriate for them to</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Gedling Borough Council continued	Page 11, Paragraph 3.25 - The commitment to support the Districts/Borough Councils at appeal is noted and welcomed. Paragraph 3.27 – The Borough Council welcome the final sentence referring to the: “various contributions which <u>may</u> be sought” (their underlining) and would suggest adding on a case by case basis.	be a signatory. and the wording of the paragraph has been amended to reflect this Comment Noted Accepted – The words “ <i>on a case by case basis</i> ” have been added to the last sentence of this paragraph
	Barton Willmore (on behalf of Urban & Civic)	Page 9, Paragraph 3.17 – This has been introduced and relates to serviced site requirements where land is being provided for a new school. This requires: ‘ <i>A site remediated to an appropriate standard and without the presence of contamination, ordnance or protected species ...</i> ’. However, sites may be remediated and available for use but still have the presence of protected species (e.g. breeding birds or foraging bats along hedgerows), but such issues would have been addressed by a mitigation strategy (e.g. not removing vegetation in the bird breeding season and retaining hedgerows for bats). Therefore, it may be more accurate to state ‘ <i>A site remediated to an appropriate standard and without the presence of contamination, ordnance or outstanding protected species issues ...</i> ’, or words to that effect.	No Changes required – This paragraph has been considered both in terms of developers and the County Council and it is considered that it sets out the appropriate requirements for the transfer of land and the protection of species.
	Steve Clyne, Educational Facilities Management Partnership Ltd	Paragraph 3.17 – Respondee suggests adding to (including a Sprinkler installation) ‘in case sprinklers become mandatory’. The reason being that a primary school with direct access to the outside from the classrooms does not need them.	NCC disagree with the proposed change. It is felt that sprinklers should be provided in all cases, not only such a requirement becomes mandatory
	NCC Pupil Place	Page 6, Paragraph 3.4 – Query is raised about the use of	The definition is taken from the

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Planning NCC Pupil Place Planning continued	<p>“Major” in the first sentence”</p> <p>Page 7, Paragraph 3.6 – First bullet point, delete “major”</p> <p>Page 7, Paragraph 3.6 – second bullet point, delete reference to 14 days and replace with 15. In addition delete reference to 10 working days which is contained in brackets;</p> <p>Page 7, Paragraph 3.6 – third bullet point, Change “<i>statutory 21 day</i>” to “<i>statutory 20 working day</i>” day and delete reference to 15 working days which is set out in brackets;</p> <p>Paragraph 3.10 Suggests the inclusion of “On rare occasions” at the start of the paragraph</p>	<p>interpretation section of The Town and Country Planning (Development Management Procedure) (England) Order 2010 – No change required</p> <p>No change required – District / Boroughs have a 15 working day timescale for responding to screening and scoping opinions. Therefore it is considered that 10 working days is an appropriate level of time for NCC to respond to such consultations</p> <p>No change required – This is a statutory timescale. In respect of the timescale for internal responses to consultations; a shorter time is give due for the need for strategic planning officers to coordinate the response and, where appropriate seek Member approval.</p> <p>No change required – It is not considered that this would add anything to the content of the document</p> <p>No change required – As noted elsewhere in the document (paragraph 3.15) reduced or zero contributions may impact on development. It is important the</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	NCC Pupil Place Planning continued	<p>Page 8, Paragraph 3.11 – Last sentence, delete all wording after “Members”</p> <p>Page 8, Paragraph’s 3.12 to 3.14 – Delete Paragraphs</p> <p>Page 8, Paragraph 3.15 – Delete majority of paragraph so that it states “<i>There is a significant impact on the delivery of infrastructure where full contributions are not secured</i>” although it is suggested that the impacts referred to could be described;</p>	<p>document provides clarity that where appropriate senior officers and Members will be notified if such circumstances arise</p> <p>No change required – These paragraphs recognises that it will be the district / borough councils who will determine planning applications and decide if the contributions sought are reasonable. Paragraph 3.14 acknowledges that there may be circumstances where viability changes over time which in turn may allow for contributions to be secured. This approach could have benefits to the County Council in terms of the securing of monies for infrastructure which is required to mitigate the impact of development</p> <p>Disagree – It is considered that these paragraphs are still required although they have been amended to reflect comments made from other consultees</p> <p>Noted – For clarity paragraph amended to confirm that reduced or zero contributions will have an impact on the delivery of infrastructure and examples of these impacts are given.</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	NCC Pupil Place Planning continued	<p>Page 8, Paragraph 3.15 - A query is raised as to whether NCC still objects to an application where it becomes evident that a reduced or zero contribution will be secured</p> <p>Page 9, Paragraph 3.18 – It is noted that it is not always current practice for NCC to be a signatory to an agreement where development triggers a requirement in respect of County Council infrastructure. Also asks how the requirement for NCC to be a signatory to an agreement would be enforced</p> <p>Page 10, Paragraph 3.19, in respect of the requirement for the developer to notify the County Council when development commences and triggers are reached, it is queried how this would be enforced</p> <p>Page 1, Paragraph 3.25 – It is suggested that the second sentence is changed to say “<i>The County Council will provide Local Planning Authorities with evidence to support questions for contributions for any subsequent appeal...</i>”</p>	<p>Agree – The County Council will not raise an objection where reduced or zero contributions will be secured. Document amended to reflect this.</p> <p>The County Council acknowledges that they cannot require themselves to be a signatory to a legal agreement. However in such circumstances where NCC infrastructure is to be secured it is considered to be in line with the Duty to Cooperate, good practice and appropriate for them to be a signatory. The wording of the paragraph has been amended to reflect this.</p> <p>This is difficult to enforce however where this does not occur there is a risk that developers may be charged interest on late payments</p> <p>No change required – This sentence seeks to confirm that, where appropriate, NCC will support LPA's at appeal where the reason for refusal relates to the provision of NCC infrastructure</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued			
	Ashfield District Council	<p>Planning Practice Guidance sets out <i>'contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area).'</i>' (Paragraph: 031 Reference ID: 23b-031-2016111)6. Therefore paragraph 3.4 of the Planning Obligations Strategy should reflect that 'gross' relates to gross internal floorspace;</p> <p>Page 6, Paragraph 3.5 bullet point 2, add "Supplementary Planning Documents";</p> <p>Pages 6 & 7, Paragraph 3.5 add bullet point "to provide support and appear as necessary at local plan examinations including responses to inspector's prehearing questions and appearing at the Hearings";</p> <p>Page 7, Paragraph 3.6 - It is considered that the timescales set out in the paragraph are reasonable;</p> <p>Page 8, Paragraph 3.11 - Noted that the County Council will ask to inspect copies of viability appraisals where it impacts upon NCC infrastructure. While the District Council considers this as reasonable it needs to be appreciated that some of this information may be commercially sensitive and in such circumstances, developers provide information in confidence. In these circumstance, the District Council will have to obtain the developer's consent to pass on information of this nature;</p>	<p>Agree – The third bullet point has been amended to clarify that gross relates to internal floorspace</p> <p>Agree – Reference to Supplementary Planning Documents added</p> <p>Agree – Additional bullet point added to paragraph 3.5</p> <p>Noted – No action required</p> <p>Accepted – Paragraph 3.11 has been amended. This includes saying that the County Council <i>may</i> ask to view viability appraisal that have been submitted. In addition of the following sentence has been added:</p> <p><i>"The County Council acknowledges that some of this information may be commercially sensitive and in</i></p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Ashfield District Council continued	<p>Page 8, Paragraph 3.13 - paragraph sets out that <i>'In circumstances where Local Planning Authorities do not accept the County Council's full request for developer contributions, a system for reviewing of planning obligations as the development proceeds will be required and will be expected to be incorporated into any agreement.'</i> This will not necessary be practical as it is a matter of judgement by the LPA. Both the Courts and inspectors on appeal have ruled that the inclusion of an overage clause in a planning obligation would add to uncertainty and potentially continue to prejudice the implementation of schemes. Therefore, an overage clause cannot be applied for all applications;</p> <p>The District Council note that viability is a key issue for proposed developments and there is reference to paragraph 173 of the NPPF. They confirm that there are relatively low residential values in the district and that through experience there is a balance to achieve between bringing housing forward, which is a major objective of the Government,</p>	<p><i>such circumstances, developers provide information in confidence. In these circumstances, it is appreciated that District / Borough Councils will have to obtain the developer's consent to pass on information of this nature and it some cases this may not be possible."</i></p> <p>Accepted - The County Council accept that it will be for the District / Borough Councils to determine if a "claw back" clause is required and that this may not be appropriate or possible in all cases. The paragraph has been amended to reflect this as well as saying that a "claw back" clause <i>may</i> be requested by the County Council. In addition an additional; sentence has been added to the end of this paragraph which acknowledges that where reviews undertaken there may be circumstances where the level of contribution decreases.</p> <p>The County Council accept the situation regarding land values in the district and that the District Council will have to consider the need to deliver new homes and infrastructure. Where contributions</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Ashfield District Council continued	<p>(Housing White Paper) provision of affordable housing and infrastructure, which may well include other requirements than NCC infrastructure contributions such as health facilities</p> <p>The Government is proposing to replace the Community Infrastructure Levy with a hybrid system of a broad and low level Local Infrastructure Tariff (LIT) and Section 106 for larger developments. It is also proposing to remove s106 pooling limitation for Authorities with CIL, low values and strategic sites. The Budget identified there will be viability changes to the NPPF in 2018 with a 'simplified approach'. This is likely to have implication for the POS;</p> <p>Page 9, Paragraph 3.18 – The District Council note that it has not agreed to NCC being typically a signatory to S106 agreements;</p> <p>Page 10, paragraph 3.20 – Refer to the Government proposing to move towards a standard application of indexes which will need to be reflected in the Strategy;</p>	<p>are considered to be CIL compliant by district / borough council's but the issue of viability is raised the County Council would look assess the priorities for infrastructure</p> <p>Noted – The Planning Obligations Strategy will be amended as required to reflect changes in National Policy in respect of planning obligations S106 and CIL.</p> <p>The County Council acknowledges that they cannot require themselves to be a signatory to a legal agreement. However in such circumstances where NCC infrastructure is to be secured it is considered to be in line with the Duty to Cooperate, good practice and appropriate for them to be a signatory. Paragraph 3.18 has been amended to say "will request that they be a signatory" and not "requires that it will be a signatory"</p> <p>Accepted – An additional paragraph has been added which notes that the Government are looking at changing the approach to</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Ashfield District Council continued	<p>Page 10, Paragraph 3.23 - It is not clear what is meant by 'Pay the required developer contributions upfront to allow funds to be spent on the identified project.' For the District Council, where sums are typically retained until NCC identify that the projects is proceeding, we would not be in a position to pay the sums 'upfront';</p> <p>Page 10, paragraph 3.24 – The District Council ask if they retains the sums in question would they need to be part of any "Grant Agreement".</p>	<p>indexation and that should this occur the Obligations Strategy will be amended to reflect this. Noted – The wording referred to by the District Council is not meant to imply that they will give contributions to NCC before they are received from the developer. This wording of this paragraph has been amended to reflect this</p> <p>No the District Council would not be part of the Grant Agreement. The monies would be transferred to NCC who would then transfer it to the respective academy. The grant Agreement will include a clause which ensures that monies are used in accordance with the S106 to which it relates</p>
	Persimmon Homes	<p>This section of the document highlights how NCC will respond and identifies the approach. It is considered encouraging that the Council is pro-active and will respond direct to enquiries. Persimmon Homes support this to ensure that all planning obligations are known as early as possible;</p> <p>Page 7, Paragraph 3.6 – This sets out the timescales for responding to applications and these should be adhered to where possible. It notes that the statutory period for response is 21 days. Any delay to responding to consultations can lead to delays to the planning process and deliver of sites. The extension to the statutory period</p>	<p>Support noted and is welcomed</p> <p>The County Council acknowledge that delays in responding to consultations within the statutory time can lead to delays in the planning and development process. A further sentence has been added as a bullet point 3 of paragraph 3.5 which</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Persimmon Homes continued	<p>should also be with the applicants consent alongside the LPA;</p> <p>Viability is a clear concern for NCC and there is a section on this matter which discusses how to manage this. The use of viability appraisals assists in the understanding of this and the level of contributions which can be sustained;</p> <p>Page 8, Paragraph 3.11 – viability appraisals are scrutinised by LPA and potentially an independent surveyor. NCC's request to see these appraisals is not considered necessary or common practice. It is the LPA who determines the planning application and it is they who consider the request for obligations as part of the planning balance including the viability appraisal. Involving NCC in the decision making process is beyond necessary and will delay the planning process</p> <p>Page 8, Paragraph 3.12 makes a sweeping generalisation that the levels of contributions are acceptable. The document has not been tested at an examination and whilst</p>	<p>says:</p> <p><i>"Where it is not possible to respond by a specified date, the County Council will contact the District / Borough to notify them at the earliest opportunity including the reasons why the revised date by which comments will be submitted"</i></p> <p>Comment noted</p> <p>Accepted – Paragraph 3.11 has been amended to confirm that it will be the District / Borough Council who consider the viability merits of a planning application. However the ability of the County Council to request visibility of appraisals has been retained. This is to it to gain understanding of the issues raised and to brief senior officers and Members on the implications of zero or reduced contributions.</p> <p>Accepted – First sentence of the paragraph has been deleted and the second has been amended to say:</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Persimmon Homes continued	<p>it carries some weight this is minor when comment to adopted planning policy that has been consulted on and examined. The statement that <i>“that the general level of contributions outlined in this document are reasonable and in general should be met by the development”</i> should be removed</p> <p>Pages 8 & 9, Paragraphs 3.13 and 3.14 – The County Council request that review mechanisms be placed into legal agreements where contributions are not accepted due them being unreasonable or not viable. This is not pragmatic or reasonable and does not meet the legal tests for planning obligations. A review mechanism could stifle development and to fully assess the scheme under a review would require a new planning application. This is to ensure that the outcome is appropriate and a reflection of the current market context.</p> <p>Page 9, Paragraph 3.15 – Where there is a reduction of contributions to zero this will be made clear in viability appraisals where there is high abnormal costs related to site delivery. It is considered that this paragraph should be revised to make it clear that the County Council will not object to a proposal where there is clear justification for reduced contributions. In addition there should be reference</p>	<p><i>“The County Council request that this document, which indicates what level of contributions are needed, be taken into account in the financial appraisal of proposed development at an early stage, prior to agreement over other negotiable items such as land price.”</i></p> <p>The County Council accept that it will be for the District / Borough Councils to determine if a “claw back” clause is required and that this may not be appropriate or possible in all cases. The paragraph has been amended to reflect this as well as saying that a “claw back” clause <i>may</i> be requested by the County Council. In addition an additional; sentence has been added to the end of this paragraph which acknowledges that where reviews are undertaken there may be circumstances where the level of contribution decreases.</p> <p>Accepted – Paragraph 3.15 has been amended to reflect the point raised including the addition of a new sentence at the beginning which refers to Paragraph 173 of the NPPF.</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Persimmon Homes continued	<p>to Paragraph 173 of the NPPF which ensures that the site is deliverable and that the policy constraints placed by planning obligations are not stifling development;</p> <p>Page 9, Paragraph 3.18 – This stipulates that NCC should be a signatory to the legal agreement. This is not considered necessary and should not occur. The contributions secured are collected by the LPA and then transferred to the County Council. There is often significant delays when signing the S106 and the requirement for NCC to be a signatory could add to this. When NCC is a signatory would expect monitoring of the contribution to be done by them;</p> <p>Page 10, Paragraph 3.22 – In respect of legal fee that are required to be paid; this should be reasonable and the paragraph should be amended to reflect this;</p> <p>The document is intended to be a material consideration therefore clarification on the matters raised above. If the document is adopted in its current format further information is required to ensure that there is minimal delay in agreeing contributions. For example the approach the County Council will take to accepting viability appraisals and the level of information required if this is to be accepted.</p>	<p>The County Council acknowledges that they cannot require themselves to be a signatory to a legal agreement. However in such circumstances where NCC infrastructure is to be secured it is considered to be in line with the Duty to Cooperate, good practice and appropriate for them to be a signatory. Paragraph 3.18 has been amended to say “will request that they be a signatory” and not “requires that it will be a signatory”</p> <p>Accepted – The word “reasonable” has been inserted into the first sentence of this paragraph.</p> <p>Noted – The County Council have considered all of the comments made as part of the consultation on the Planning Obligations Strategy and amended the content of the document where considered appropriate</p>
	Rushcliffe Borough Council	Pages 6 & 7, Paragraph 3.5 - The thrust of paragraph 3.5 is welcomed. Whilst throughout this paragraph the document states that the county Council will provide a coordinated	Noted – When seeking contributions for education a detailed Education Statement is

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Rushcliffe Borough Council continued	<p>response, the experience of the Borough Council is that there is little consideration of the impact of a request from one section on another or the viability of the development. The Borough Council would emphasise the need for evidence and reasoned justification which is compliant with the CIL regulations in support of the County Councils response to planning applications;</p> <p>Page 6 – Footnote 4 - Suggested amendment For “provide” substitute “provided”</p> <p>Page 7, Paragraph 3.5, bullet point 8 - The Borough Council suggest the bullet point should indicate that any response should be ‘timely’ and perhaps refer to payment triggers, etc as part of the heads of terms to be incorporated into the S106 obligations;</p> <p>Page 7, Paragraph 3.6 – This paragraph requests, amongst other things, that the Districts and Boroughs allow 21 days (15 working days) for the County to provide comments on planning applications. The Borough Councils experience is that this is often not achieved and it has to chase for comments. This can lead to delays occurring in dealing with planning applications. Whilst this paragraph is a request to District and Borough Councils, it would be beneficial for the document to include a commitment to respond within 15 working days, and that the County Council, at the earliest opportunity, notify the district or Borough Council where they cannot respond by a particular date, the reasons why,</p>	<p>submitted as part of strategic planning comments which are sent to District / Borough Council’s. The County Council will seek to ensure that requests for other types of infrastructure are also supported by the appropriate level of justification to help demonstrate that requests are compliant with the CIL Regulations. Bullet point 5 of paragraph 3.5 has been amended to reflect this</p> <p>Agree – Amendment made to document</p> <p>Agree – Strategy amended to say that comments will be provided in a timely manner and that Heads of Terms will include reference to proposed triggers.</p> <p>Noted – The County Council are committed to providing responses to consultations in a timely manner. Bullet point 3 in paragraph 3.5 states that the County Council will provide a coordinated response to planning applications within the consultation timeline. However the following sentence has been added at the end of this bullet point:</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Rushcliffe Borough Council continued	<p>and to set out a revised date to respond by.</p> <p>Page 8, Paragraph. 3.10 - Suggested amendment Insert “to” after “order” in line 4.</p> <p>Pages 7- 9, Paragraphs 3.7 – 3.14 - In the section on viability, the document requires that districts and Boroughs liaise with and take into account the views of the County Council. There does not appear to be a firm commitment or acceptance from the county in this document that, where justified in a viability appraisal, to accept anything less than the full amount requested on all items of infrastructure requested. In a recent case when the Borough Council approached the County to raise issues of viability. The response was not one which would accept lower contributions, the County Council simply provided a raft of information to justify the contributions had requested;</p> <p>Page 8, paragraph 3.11 - Notwithstanding differing views</p>	<p><i>“Where it is not possible to respond by a specified date, the County Council will contact the District / Borough to notify them at the earliest opportunity including the reasons why the revised date by which comments will be submitted”</i></p> <p>Agree – Amendment made to document</p> <p>Accepted – Paragraph 3.11 has been amended to confirm that it will be the District / Borough Council who consider the viability merits of a planning application. However the ability of the County Council to request visibility of appraisals has been retained. This is to it to gain understanding of the issues raised and to brief senior officers and Members on the implications of zero or reduced contributions. In addition paragraph 3.15 has been amended. This refers to Paragraph 173 of the NPPF and the need to ensure that planning obligations do not stifle development. It also confirms that where there is justification for reduced contributions the County Council will not object.</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Rushcliffe Borough Council continued	<p>across the country, at present, the Borough Council does not have guidance or policy in place that requires that viability appraisals are disclosed in full. The Borough Councils current position is that it considers viability appraisals to be confidential/commercially sensitive and that on some occasions, developers or agents are not willing to allow the Borough Council to share such information;</p> <p>Page 8, Paragraph 3.12 - It is the role of the Districts and Boroughs as decision-takers to apply a balanced judgement and determine if the development would be unacceptable if certain contributions are not achieved;</p> <p>Page 8, Paragraph 3.12 - The approach that the planning contributions should simply come off the price paid for the land is incorrect. The NPPF specifies that when considering land values, a competitive return should be factored into any appraisal. The approach supported at numerous planning appeals is that the approach to assess the viability of a proposal is to assume that any uplift in land value between the existing use and the proposed use is split 50/50 between the landowner and to pay for planning obligations;</p> <p>Page 8 Paragraph 3.13 - It is considered that the use of review mechanisms where there are viability considerations</p>	<p>Accepted – Paragraph 3.11 has been amended to confirm that it will be the District / Borough Council who consider the viability merits of a planning application. However the ability of the County Council to request visibility of appraisals has been retained. This is to it to gain understanding of the issues raised and to brief senior officers and Members on the implications of zero or reduced contributions.</p> <p>Accepted - The first sentence of this paragraph has been removed. In addition paragraph 3.11 has been amended to reflect the fact that it will be for the District / Borough Councils to decide if an obligation is CIL compliant as part of the overall planning balance.</p> <p>This comment is suggesting that the Draft Strategy says something which it does not. As a result whilst the first sentence has been removed to reflect a comment from another consultee it is not considered that any further clarification is required on this point.</p> <p>Accepted – The County Council</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Rushcliffe Borough Council continued	<p>should only be used on schemes that have multiple phases and are likely to take a number of years to complete over different market conditions. Even in these cases, it is the Borough Councils experience that large schemes will take the risk of offering from the outset contributions above what is viable where there is it is a fixed amount at the start, rather than being subject to multiple reviews throughout the development period. In addition, it also has to be recognised that the use of review mechanisms could also lead to the reduction in contributions should market conditions worsen;</p> <p>Page 9, Paragraph 3.17 - Suggested amendment substitute “and” for “&” in lines 2 and 4.</p> <p>Page 9, Paragraph 3.17 – It is unclear whether the paragraph setting out serviced land requirements applies to all land. It is queried as to whether land for free schools or academies have to be passed to the County Council first or can a third party design, build and seek a partner to manage an academy or free school without the transfer of land?</p> <p>Page 9 & 10, Paragraphs 3.18 – 3.20 - Reference is made to the long established and unique arrangement with the County Council for the preparation of Section 106 agreements, so that there is no requirement for the County Council to be a party and the Borough Council collects and holds contributions, committing them to appropriate projects on request;</p>	<p>accept that it will be for the District / Borough Councils to determine if a “claw back” clause is required and that this may not be appropriate or possible in all cases. In addition an additional; sentence has been added to the end of this paragraph which acknowledges that where reviews undertaken there may be circumstances where the level of contribution decreases.</p> <p>Agree – Amendment made to document</p> <p>This paragraph only applies to the provision of new schools and not other types of infrastructure. Land for a new school will initially be transferred to the County Council unless the transfer is taking place between the developer and a Foundation Trust in which case the latter will own the land.</p> <p>The County Council acknowledges that they cannot require themselves to be a signatory to a legal agreement. However in such circumstances where NCC infrastructure is to be secured it is considered to be in line with the Duty to Cooperate, good practice</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Rushcliffe Borough Council continued	<p>Page 9 & 10, Paragraphs 3.18 – 3.20 – For other District and Borough Councils and in special cases involving Rushcliffe Borough Council it may be helpful to explain in more detail in what circumstances the County Council would wish to be a party with the District/ Borough Council and in what circumstances it may be appropriate for it to enter into a separate Section 106 Agreement;</p> <p>Pages 9 & 10, Paragraphs 3.18 – 3.20 - It would be helpful for the document to mention how the County Council wishes to deal with Unilateral Undertakings in relation to contributions where offered.</p>	<p>and appropriate for them to be a signatory. Being a signatory also ensures direct enforceability of obligations and provides greater transparency all parties in respect of the contributions secured. This should also avoid unnecessary delay in the completion of agreements and the issue of decision notices. Paragraph 3.18 has been amended to say “will request that they be a signatory” and not “requires that it will be a signatory”</p> <p>See response to above point regarding the same paragraphs.</p> <p>Accepted – A new paragraph has been inserted covering Unilateral Undertakings which says:</p> <p><i>“The County Council’s preference is to secure S106 obligations through a bilateral agreement to which they are a party to ensure greater enforceability and transparency. However where a Unilateral</i></p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Rushcliffe Borough Council continued	<p>Pages 9 & 10, Paragraphs 3.18 – 3.20 - The County Council cannot “require” to be a party to an agreement where other parties do not agree. Paragraph 3.18 does not sit well with para. 3.5, bullet point 8, in that bullet point 8 refers to the County Council providing Districts and Boroughs with heads of terms for them (i.e. the Districts/ Boroughs) to incorporate appropriate clauses into their Section 106 agreements. It is anticipated that any input from the County Council on value and the projects on which contributions will be spent will have been discussed and settled at the heads of terms stage. Maybe further clarity is needed regarding in what circumstances the County Council Legal Services will need to be involved in the detailed drafting of agreements, as distinct from the County Council’s Planning Policy team’s involvement at the heads of terms stage.</p> <p>Page 9, paragraph 3.19 – This section refers to the signing of legal agreements. The established practice for Rushcliffe Borough Council is that agreements include obligations for developers to inform the ‘Borough Council’ when triggers are hit and to pay the money to the Borough Council. The Borough Council will then notify the County when this money has been received;</p> <p>Page 10, Paragraph 3.21 – This is one of the paragraphs</p>	<p><i>Undertaking is put forward the County Council will give consideration as to whether such an approach is suitable to help ensure the delivery of an obligation for County Council infrastructure taking account of the specific circumstances.”</i></p> <p>The County Council acknowledges that they cannot require themselves to be a signatory to a legal agreement. However in such circumstances where NCC infrastructure is to be secured it is considered to be in line with the Duty to Cooperate, good practice and appropriate for them to be a signatory. The wording of the paragraph has been amended to reflect this.</p> <p>It is acknowledged that the Borough Council have an established process however for monitoring purposes it is considered appropriate for the developer to notify the County Council when triggers are reached.</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Section 3 County Councils Approach to Planning Obligations continued	Rushcliffe Borough Council continued	<p>which relates to indexation. The Borough Council does not subscribe to the BCIS All-In Tender Price Index or the CPT Cost Index. However, officers of the Borough Council have agreed with officers of the County Council that the County Council will provide the Borough Council with the uplift on contributions when an index has been used that Borough Council do not subscribe to. It is suggested that the paragraph could be clearer in relation to this commitment where Districts or Boroughs do not have access to such cost indexes.</p> <p>Page 10, Paragraph 3.23 – This paragraph relates to the payment of S106 monies. It is not currently the Borough Councils practice for funds to be paid directly to the County Council and the Borough Council cannot give a commitment to change our procedures at this time;</p> <p>Page 10, Paragraph 3.23 - If funds are to be paid to the County prior to completion of a project, the Borough Council would expect the County Council to provide a written guarantee that if the project is not undertaken/completed or the money is not spent on an appropriate project, the county will be expected to pay the money back to the Borough or to the developer if they make a request for repayment of the contribution and it is deemed that the money has not been used for a legitimate purpose and/or the payback period has passed. The document would benefit from further text in this respect.</p>	<p>Accept – Paragraph 3.21 amended to confirm that, where the District / Borough Council does not subscribe to an index being used, the County Council will provide information about the level of uplift to the contribution.</p> <p>Accepted – This paragraph has been reworded and bullet point 2 of this paragraph has been removed.</p> <p>Accepted - A new paragraph has been inserted to reflect this.</p>
Appendix 1 Archaeology	Gedling Borough Council	The Borough Council question the circumstances in which a legal obligation could be required? They see relatively few circumstances in which S106 would be needed to secure a contribution and most situations would be covered by policy	The County Council acknowledge that a majority of requirements set out in this section can be dealt with via condition. However it is felt that

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 1 Archaeology continued	Gedling Borough Council continued	and conditions. The use of a planning obligation would be an exception and we question the need to include this section in the document.	there are certain circumstances including large scale and / or complex schemes where it may be appropriate to seek contributions for some items of infrastructure. The third paragraph of the appendix has been amended to provide more justification as to the need for the County Council to have the opportunity to seek contributions.
	Newark & Sherwood District Council	The District Council is mindful the County Council has recently withdrawn its consultation service and that for future advice on planning applications there would be an associated fee. It is therefore questioned whether the County Council would be able to effectively monitor where such a request might be made, particularly if the District Council chose to obtain independent advice on a development proposal from someone other than the County Council. Furthermore, the areas of work referred to where a contribution might be sought are usually addressed via an appropriately worded condition and therefore the relevance of a section on archaeology within the document is questioned.	Please see above response to Gedling Borough Council
	Ashfield District Council	It is considered that this is typically to be dealt with through a planning condition	Please see above response to Gedling Borough Council
	Rushcliffe Borough Council	The County Council do not provide advice Borough Councils in relation to archaeology as they do not contribute financially to this service.	Whilst not currently responding directly, the County Archaeologist provides comments for inclusion in strategic planning responses to applications in all districts / boroughs in the County.

Section	Consultee	Comment	NCC Response / Proposed Change
		The Borough Council do not generally include requirements in Section 106 agreements for payment of money for archaeological monitoring etc. The Borough Council normally cover his by condition.	Please see above response to Gedling Borough Council
Appendix 2 Education	Steve Clyne, Educational Facilities Management Partnership Ltd	<p>Page 13, suggests that 2nd paragraph is amended to say:</p> <p><i>“The annual Department for Education (DfE) School Capacity (SCAP) Return requires the local authority to include where places are required as a result of new housing developments (increased demand) and to identify where those additional places are covered by s106 agreements or CIL. In addition, there is a requirement to list the new school or school expansion projects funded by Section 106 / CIL education contributions.”</i></p> <p>Page 14, Para 8 – Respondee considers that the content of this paragraph is not true. The ESFA allows for a 2% uplift in each school planning area. In the old days of removing surplus places – 95% occupancy across the authority area – was the benchmark regarding how many places to remove. (Audit Commission publications 1996 – 2002)</p>	<p>Agreed – Document amended to reflect this.</p> <p>Second sentence of the paragraph amended to say:</p> <p><i>“The DfE anticipates that Local Authorities will maintain a margin of 2% to allow for in-year movement between schools.”</i></p>
	NCC Pupil Place Planning	<p>Amend title to say “<i>Statutory Education Provision</i>”</p> <p>Page 13, First Paragraph – Amend to say “<i>The Education Act 1996 states that all Local Authorities have a duty to ensure a sufficiency of school places for all children of statutory school age.</i>”</p> <p>Page 13 - Proposes deletion of paragraph which discusses Early Years provision</p>	<p>Noted – Document amended</p> <p>Agreed – First paragraph amended to reflect national legislation regarding the role of Local Authorities and education provision.</p> <p>It is understood that such contributions may be sought so this is to be retained.</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 2 Education continued	NCC Pupil Place Planning continued	<p>Page 13 - Proposes deletion of the wording which refers to the two sources for funding additional school places</p> <p>Page 13 – Where reference is made to the SCAP returns it is suggested that a quote from the SCAP Guidance is inserted</p> <p>Page 13, Last paragraph – Suggests minor amendment to paragraph and inclusion of hyperlink to SCAP</p> <p>Page 14 – Methodology for forecasting school places – suggests deletion of paragraphs 2 to 8 due to the proposed link to the SCAP guidance referred to above;</p> <p>Page 14, Demographic Changes – Suggests amending second and third sentences to say <i>“This has been seen by an increase in numbers at primary schools, and the increase is currently moving into the secondary education phase Historically the County Council has rarely required secondary education contributions, however these are more likely to be required moving forward.”</i></p> <p>Page 14, Demographic Changes – Suggests deletion of second and third paragraphs;</p> <p>Page 15, first paragraph of “Meeting expected demand</p>	<p>No change required – This information is factual and for transparency it is considered that this should be retained Accepted – Link added.</p> <p>Accept changes to sentence as proposed</p> <p>Noted – It is considered appropriate to provide information about the process which is accessible to all. Therefore it is proposed to retain this section however the first paragraph will confirm that more detailed information is available and the link to the SCAP Guidance is provided</p> <p>Accepted – Strategy amended to reflect updated position regarding the need for secondary places to be provided and contributions secured</p> <p>Accepted – Paragraphs deleted</p> <p>Noted – See above response to</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 2 Education continued	NCC Pupil Place Planning continued	<p>resulting from proposed housing developments” suggests amending second and third sentence to say:</p> <p><i>“Seemingly ‘spare’ capacity at a school does not necessarily equate to there being sufficient capacity at that school as it is a DfE expectation that schools should not operate at 100% capacity to accommodate the normal in-year movement. This does not include new families moving into an area as a result of them occupying newly built houses.”</i></p> <p>Page 15, third paragraph of “Meeting expected demand resulting from proposed housing developments” suggests amending last sentence to say:</p> <p><i>“Where a new school is required, the base level of contribution will be an area of land for the required size of school, as outlined by the DfE, plus the cost of building the school.”</i></p> <p>Page 15, suggests deletion of last paragraph of “Meeting expected demand resulting from proposed housing developments.”;</p> <p>Page 15 & 16 – Suggests deletion of all the section entitled “Delivering education places”;</p> <p>Page 16, “What if there is spare capacity at the existing</p>	<p>comment from Steve Clyne</p> <p>Accept – Strategy amended to reflect suggested wording</p> <p>Accept – Paragraph deleted</p> <p>The purpose of this is to provide clarity to LPA’s and developers as to how places, especially new schools will be provided. It is therefore considered appropriate to retain this section however minor changes have been made to ensure clarity</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 2 Education continued	NCC Place Planning continued	<p>catchment schools?" suggests deletion of "and Published Admission Number (PAN)" in the first bullet point;</p> <p>Page 17, "<i>How are the costs calculated and what are they?</i>", suggests changing January 2016 to May 2016;</p> <p>Page 17, "<i>How are the costs calculated and what are they?</i>", suggests deletion of last bullet point;</p> <p>Page 17, Query about the need to include the section entitled "Do any discounts apply";</p> <p>Page 17, Section entitled "What about large developments which generate the need for a new school?" – Amend bullet points to say:</p> <ul style="list-style-type: none"> • <i>Where this is the case, the County Council will require fully serviced land from the developer, plus sufficient monies to build a new school;</i> • <i>The cost of the new school will depend upon its required size, therefore statistics will not be provided. Any relevant building standards requirements and the BB 103 and NCC specific requirements and issues relating to the</i> 	<p>Agree – Strategy amended to reflect comment</p> <p>Agree – Strategy amended to reflect comment</p> <p>It is important that contributions are received at the appropriate time to allow places to be provided (including to allow the undertaking of site investigation and feasibility). However the County acknowledge the point raised by the consultee and note that the strategy already refers to the payment of contributions in phases.</p> <p>No change required – The County Council will not seek contributions on certain types of residential development and this section provides clarification on this and the circumstances when this will occur</p> <p>First bullet point – comments noted minor changes made to the wording;</p> <p>Second and third bullet points – Comments accepted and changes made to the strategy</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 2 Education continued		<p><i>proposed site itself;</i></p> <ul style="list-style-type: none"> <i>The County Council will provide the developer with the option of building the new school, subject to meeting the required DfE and NCC standards.</i> 	
Appendix 2	Newark & Sherwood District Council	<p>Page 17 - It is noted that the cost per dwelling is proposed to increase by circa £460 for Primary Education. The increase in cost needs to be justified. There is also a lack of clarity on the issue of circumstance in which the figure applies or whether one looks at the build cost itself, which is clearly higher. It is accepted that where a development is large enough to generate a full new school on site that a build cost will be appropriate. This cannot be the case where the development is of a size whereby it would only need to provide an extension to a school (either permanent or temporary) in which case there should be some certainty and clarity that the formula figure per dwelling/pupil place will apply;</p> <p>Secondary education within the District will be via the District Council's Community Infrastructure Levy (CIL). The Planning Obligations Strategy needs to reference that in cases where this is the case, requirements may be flagged up but recognition will be given as to whether these are already covered. Consideration also needs to be given to cases where the catchment of a Secondary School spans more than one Local Authority boundary where it is covered by CIL on one side of the boundary but that developer contributions would be required in the neighbouring District and whether there are any implications for the Rule of 5 in terms of contributions being secured;</p> <p>For primary education, justification is required where</p>	<p>The cost per pupil place has risen since the current Planning Obligations Strategy was adopted and therefore the County Council consider that it is appropriate to amend these costs to reflect this. The document has been amended to provide clarity that build cost will only be used when a new school is required. All other contributions will be calculated using formula as set out in the Obligations Strategy</p> <p>The County Councils consider that where a development is in a district or borough where CIL monies are collected for education but the catchment school is located in an adjoining authority which does not have CIL it would be appropriate to seek a planning obligation to mitigate the impact on the catchment school. An additional paragraph 2.12 has been inserted to reflect this and to provide clarification</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Education continued	Newark & Sherwood District Council continued	contributions are sought and it is deemed that the nearest school is at capacity but the next nearest school (possibly out of catchment) is still within walking distance and has capacity. It should be explored as to whether the capacity at the nearest school has been taken by out of catchment pupils for example. The District Council also ask if a developer should be required to make contributions towards the school which is at capacity even if it is reasonable to direct pupils elsewhere.	<p>The statutory obligation is for the provision of places at the catchment school. As a matter of good practice Local Authorities review Planning Areas which will include other school options. If the Local Authority looks at school places beyond 2 miles for primary or 3 miles for secondary there is a revenue cost to the County Council which is not funded by the government.</p> <p>If a school is at capacity the County Council would be obliged to seek contributions to mitigate the impact of development and to make the necessary improvements at this school to accommodate the demand for places generated by the development. Therefore it is considered acceptable to request contributions in such cases even if there is capacity at schools elsewhere.</p>
Appendix 2	Ashfield District Council	<p>Page 16, Table – It is considered that that part entitled “Type and Size of development” repeats (to some extent) that within “Type of facilities”. The District Council question whether the following wording needs to be repeated:</p> <p><i>The contributions will be used for:</i></p> <ul style="list-style-type: none"> • <i>Extending and/or improving existing schools and pre-school provision that serve the development; and/or</i> 	Agreed - document amended to avoid repetition

Section	Consultee	Comment	NCC Response / Proposed Change
Education continued	Ashfield District Council continued	<ul style="list-style-type: none"> <i>Building a new school or pre-school facility where there is a significant housing proposal (see new school costs below).</i> <p>In respect of the number of pupils generated by 100 dwellings (21 for primary and 16 for secondary) the District Council assume that these can be justified if challenged by a developer;</p> <p>In respect of school capacity; the District Council ask if the DfE expectation that schools should not operate at more than 90-95% of their capacity set out on page 14 be repeated in the Table;</p> <p>Page 17 – In respect of costs per school place; a single cost is quoted for primary and for secondary schools in relation to school places. The District Council ask if this cover both the extension of existing schools as well as the provision of new school. They understand that there is typically a higher figure for new schools;</p> <p>Page 17 – In respect of costs; the District Council note that costs are based on DfE figures at January 2016. The figures appear to be up-dated by BCIS All-In-Tender Price Index from the date of the relevant legal agreement. They ask what happens between Jan 2016 and the date of the legal agreement i.e. if the Agreement is signed on Jan 2018 are the figure already two years out of date;</p> <p>Large development – The POS does not appear to cover the Ashfield scenario where there are a number of sites,</p>	<p>The number of pupil places generated is based on the analysis of information provided by the Office of National Statistics. This will vary across the Country.</p> <p>Agree – The sentence referred to (which has been amended to reflect other consultee response) is added to the table in the section entitled “What if there is spare capacity at the existing catchment schools”</p> <p>The document has been amended to provide clarity that build cost will only be used when a new school is required. All other contributions will be calculated using formula as set out in the Obligations Strategy</p> <p>The costs per pupil place set out in the document are the most up to date available and where contributions are sought they will be subject to indexation as set out elsewhere in the document</p> <p>The County Council acknowledge</p>
Appendix 2 Education			

Section	Consultee	Comment	NCC Response / Proposed Change
continued	Ashfield District Council continued	which generate a need for a new school but individually no site is big enough to generate a need for a new school in isolation. A key aspect is the cost of the new school. It is important that that the County Council identify the likely cost of the school required so that appropriate contributions can be identified wherever possible;	the issue raised. They are currently working with the District Council regarding the provision of education over the Local Plan period. Where such circumstances arise the County Council would enter discussions with the Local Planning Authority to discuss options. Where a new school is required as a result of the cumulative impact of smaller sites a proportionate contribution would be requested (based on build cost) from the developments concerned and equalisation agreement entered into to ensure equity of contribution.
Appendix 2 Education	Persimmon Homes	<p>Page 17 - The calculation of education contribution is generally clear however the triggers put forward should be amended. The request for payment of contributions prior to first occupation is considered unreasonable and is unlikely to be in accordance with build programmes for both new schools and expansion of existing schools. In addition the impact on education places will not be apparent until much further into the sites development. In addition the impact from development on school places will not be apparent until much further into the sites development;</p> <p>The delivery of a school using the PFI framework adds a potential 15% to the cost. This is considered unreasonable and not justified. In addition it is not clear when this will apply making it difficult to account for when considering the impact of planning obligations.</p>	<p>It is important that contributions are received at the appropriate time to allow places to be provided (including to allow the undertaking of site investigation and feasibility). The County Council acknowledges the point raised by the consultee but notes that the strategy already refers to the payment of contributions in phases which are linked to the costs of school provision.</p> <p>The costs relating to the provision of places at a school delivered via PFI agreement are more expensive than other contract terms. Therefore</p>

Section	Consultee	Comment	NCC Response / Proposed Change
continued			to ensure that places can be provided in such circumstance it is considered appropriate to include the level of uplift referred to in the document.
Appendix 2 Education continued	Rushcliffe Borough Council	The Borough Council generally accept that contributions will be required for education provision where requested, however, when making such requests, the Borough Council will expect the County Council to provide robust evidence of need for contributions, e.g. lack of capacity in schools to accommodate additional pupils and a robust feasibility study to demonstrate whether a school is capable of further extension;	The County Council accept that there is a need for evidence to justify the contributions sought. As part of their response to formal applications they provide a detailed education statement which seeks to provide such justification.
	Rushcliffe Borough Council continued	<p>Pages 16 & 17 - The table suggests that contributions would be used to fund equipment. It is assumed that this relates to things like computers. The Borough Council does not necessarily see this as an appropriate use of developer contributions, the contributions are required to meet a shortfall in pupil places, interpreted as classroom space;</p> <p>Page 17 - The Borough Council does not agree that contributions should include a PFI uplift where the school was originally built under a PFI contract. The cost of a pupil</p>	<p>Where the need for evidence is required to show if a school can be expanded / extended this would need to be assessed in more detail once there is more certainty as to whether the contribution will be secured</p> <p>Where a new classroom / extension is required to mitigate the impact of development they will also need to include equipment to allow teaching of pupils to take place e.g. interactive white boards. Therefore considered appropriate to request contributions for such items</p> <p>The costs relating to the provision of places at a school delivered via PFI agreement are more expensive</p>

Section	Consultee	Comment	NCC Response / Proposed Change
	Rushcliffe Borough Council continued	<p>space should be the same for all developments in all areas;</p> <p>Page 17 - For reasons of viability it is sometimes necessary to phase the payment of contributions and it may not, therefore, be possible to require payment of the full contribution prior to occupation of the first dwelling;</p> <p>In respect of the trigger point, the Borough Council note that they have its own Developer Contribution SPD which currently sets a threshold of 25 units for financial contributions, however this threshold is being reviewed as part of the preparation for Part 2 of the Local Plan</p>	<p>that other contract terms. Therefore to ensure that places can be provided in such circumstance it is considered appropriate to include the level of uplift referred to in the document.</p> <p>It is important that contributions are received at the appropriate time to allow places to be provided (including to allow the undertaking of site investigation and feasibility). However the County acknowledge the point raised by the consultee and note that the strategy already refers to the payment of contributions in phases. In addition the document has been amended to delete reference to phased development. This in recognition that some developments may be done in one phase over a longer period.</p> <p>The County Council acknowledge that the Borough Council have a different threshold for seeking contributions and as such they will not seek contributions from residential developments of less than 25 dwellings.</p> <p>In addition the County Council</p>

Section	Consultee	Comment	NCC Response / Proposed Change
			support the Borough Council's proposal to amend their trigger for seeking contributions as part of the production of their Local Plan and would request that the new threshold be set as 10 dwellings or more
Appendix 3 Flood Risk Management	Gedling Borough Council	<p>As appendix 1, the Borough Council query the value of this section as in most situations this would be covered by condition;</p> <p>The text refers to the scope for contributions which could provide a catalyst for delivering wider flood alleviation benefits. However, the policy requirement is to grant planning permission subject to it being safe from flooding and that the development does not increase the risk of flood risk elsewhere and contributions to schemes delivering wider benefits are unlikely to be justified. The Borough Council also point out that wider flood alleviation schemes are largely the remit of the Environment Agency who are responsible for main river courses.</p>	Having reflected further on this element of infrastructure the County Council have considered all the comments made and it is felt that matters relating to Flood Risk Management can be addressed through good design and planning conditions. It is therefore considered that appendix 3 should be deleted from the document.
	Barton Willmore (on behalf of Urban & Civic)	In the interests of transparency, consistency and fairness, it is considered that guidance should be provided on the adoption and maintenance regimes for drainage schemes. This should include maintenance costs for dry and wet areas on a £ per sq. m basis, and should set out the maintenance period that any commuted sum is to cover. It is considered that the maximum maintenance period should be 20 years as this should provide sufficient support before its inclusion in other funding streams;	The County Council do not adopt surface water drainage systems. As a result further detail on this matter is not required in the strategy. Further guidance on the adoption and maintenance of surface water systems should be sought from the Local Planning Authority
	Newark & Sherwood District Council	Paragraph 5 of this section is questioned in respect of whether new development could provide the catalyst for delivering wider flood alleviation benefits to existing	See above response to comment from Gedling Borough Council.

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 3 Flood Risk Management continued		communities and in these situations a contribution towards such works may be sought. Having regard to the CIL regulations any request for a contribution would still need to be wholly related to the development and clear justification would need to be presented. NCC would need to demonstrate that the development places further pressure on the flood risk of the area (in which case one would question the principle of its acceptability) and demonstrate that contributing to wider flood mitigation is the only reasonable and proportionate way to address such harm.	
	Ashfield District Council	The District Council note that the text is descriptive. They ask if it should require contributions towards site-specific flood risk management schemes where the development is anticipated to contribute towards the risk of flooding;	See above response to comment from Gedling Borough Council.
	Persimmon Homes	Obligations in legal agreements relate generally to transfer of land and monies which is outside the scope of planning conditions. It is considered that further justification is required as to why this should be included as part of a legal agreement. Further clarification should be provided where the County Council appears to be seeking contributions for flood risk betterment above the impact of the proposal	See above response to comment from Gedling Borough Council.
	Rushcliffe Borough Council	Page 18 - The document states that, <i>"In certain areas, new development could provide the catalyst for delivering wider flood alleviation benefits to existing communities and in these situations a contribution in the form of a planning obligation from developers towards such works may be sought."</i> Contributions can only be required to make the development acceptable, not to address existing issues or deliver 'wider flood alleviation benefits' to existing communities. It is accepted that this may be appropriate only where the development may impact on, for example, exiting surface water flooding issues by increasing surface water flooding, although the Borough Council is required to	See above response to comment from Gedling Borough Council.

Section	Consultee	Comment	NCC Response / Proposed Change
		ensure that developments provide appropriate sustainable drainage systems to limit surface water run off to existing greenfield rates with an allowance for climate change.	
Appendix 4 Highways and Transport	NCC Development Control	<p>Respondee considers that the Draft POS is less helpful than current strategy. Would rather have more prescriptive information as to how NCC charge developers for highway works e.g. per area of land or per dwelling;</p> <p>The proposed document does not give any indication as to where NCC should take the value of works from as a starting point in negotiations with the developer. With no information how to calculate highway works required NCC it open for the developer to claim that they had no idea how much they would be charged and then claiming that the scheme is not viable, etc. which might lead to the LPA not requesting the money or requesting a reduced value in order to push the development forward;</p> <p>The document does not address the implications of cumulative impact of a number of sites. One isolated site may not make much difference on the highway network and is unlikely that NCC will be able to collect any monies for a smaller development. However a number of smaller development by different developers could have significant highway implications</p> <p>It is unclear in the proposed document how any highway improvements are to be calculated and justified in order for them to be safeguarded at planning stage. There seem to be a great push for the bus stop improvements and not</p>	<p>The Highways and Transport section has been amended to ensure that it is balanced to consideration to all types of transport infrastructure</p> <p>NPPF does not allow for any assumed starting point for negotiation. All costs will be calculated on a case by case basis.</p> <p>Where LPA's operate a CIL policy then the cumulative impact of all qualifying development would be catered for.</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 4 Highways and Transport continued	NCC Development Control continued	<p>much else.</p> <p>The proposed wording of the proposed POS 2017 is very “wishy-washy” when it comes to highway improvements and developers would argue every single matter in order not to pay any highway contributions or pay absolute minimum and get away with it. It seems that as long as developers pay for new bus stops it is all fine as they have ticked the box to create a sustainable development.</p> <p>If the section for highway improvements is left as proposed in POS 2017 draft, the County Council runs a risk of getting none of very little highway contributions from new developments except for bus stop improvements. We need a document that is prescriptive with clear information what is expected from the developers for Local Highways Authority and developer’s sake.</p> <p>Respondee requests that the word “monitoring” is removed from the final paragraph of page 19 and the first box on page 21 in favour of “management and review”</p>	<p>The table in this appendix has been revised to cover all types of transport and not just bus infrastructure. Whilst it does not give a specific calculation, the document does give a steer on the County Councils approach</p> <p>It is accepted that the 2017 Draft strategy placed significant emphasis on bus infrastructure however the document has been amended to provide a balance between the various types of transport infrastructure</p> <p>Noted – Following review this paragraph has been amended however the reference to “monitoring” has been retained</p>
	Gedling Borough Council	<p>Bottom of Page 19 - Should read “travel plan monitoring to pay a separate reasonable fee”;</p> <p>Page 20 - Consideration will be given to requests for public transport infrastructure on a case by case basis which meet the tests set out in the regulations. It would be helpful if the public transport section was categorised into larger major developments (for example 100 plus homes) and smaller</p>	<p>Accept – The document has been amended to confirm that a separate fee will be paid in proportion to the size of the development.</p> <p>Accept- The document has been rewritten to reflect a range of public transport infrastructure measures. Each application will be dealt with on a case by case basis dependent</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 4 Highways and Transport continued	Gedling Borough Council continued	<p>schemes, as the latter are unlikely to merit such requirements for example, new bus stops. The Borough Council's experience is that there have in the past been requests for improvements to bus stops for very small developments including for example along the A60 corridor, which they have not accepted as reasonable;</p> <p>Page 21 – The threshold should be 11 dwellings or more;</p> <p>Public transport contributions – larger developments will be subject to a transport assessment which should identify mitigation and whether contributions to public transport should apply;</p> <p>Page 23 Form in which contributions should be made – For bus stop improvements a condition is not suitable but rather set out in an S106 as in it will be in the form of a financial contribution.</p>	<p>upon need.</p> <p>Noted – The County Council will not seek contributions where a development is for 10 dwellings <i>and</i> which has a maximum gross internal floorspace of no more than 1,000sq. Metres. Where a development is for 10 dwellings or more and over 1,000sq. Metres a contribution may be sought.</p> <p>Noted – A new, final paragraph has been inserted which emphasis that the size of contribution will be proportionate to the particular characteristics of the development</p> <p>Agree – The part of the table entitled "Form in which contributions should be made" has been amended to confirm that contributions for transport infrastructure will be through a S106 agreement unless the infrastructure is to be delivered by CIL as set out on a Local Authorities CIL Regulation 123 list.</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 4 Highways and Transport continued	Newark & Sherwood District Council	Any request for contributions need tying down to being directly related to the impact of the development for example where requests are made towards off-site public transport and cycling / walking measures. This must include the scheme which is required and its overall cost which can be tied at the point of issuing a planning permission.	Accept – The draft document acknowledges that the Local Planning Authority may only require a developer to make a contribution to a highway improvement or sustainable transport facility where the requirement for it is both a direct consequence of the development proceeding and that without it the development could not function properly. The level of contribution will be based on outline designs of appropriate transport measures as it is not feasible to have fully costed information available.
	Newark & Sherwood District Council continued		
	Ashfield District Council	While the introduction text (page 19) identifies that off-site transport and cycling / walking measures may be required no indication, is set out as to how these may be derived;	Accept- The document has been rewritten to reflect a range of transport infrastructure measures. Each application will be dealt with on a case by case basis dependent upon need.
	Persimmon Homes	It is recognised that the impact of highways is often the most contentious locally with development proposals and wish to ensure that there is a strong strategic road infrastructure which is operating within capacity for all new developments. However requests for contributions have to be fair and reasonable. Reference is made to paragraph 32 of the NPPF which highlights that if the proposal tips the highway network into severe that it should be refused. It is noted that further improvements can only be undertaken if they are cost effective. If a highway is already at capacity	The Highway Authority may only expect the Local Planning Authority to require a developer to make a contribution to a highway improvement or sustainable transport facility where the requirement for it is both a direct consequence of the development proceeding and that without it the development could not function

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 4 Highways and Transport continued		<p>and in the “severe” category it is often the case that development proposals will not change the situation much. This needs to be made clear within this section to ensure the current framework is identified for which contributions will be sought;</p> <p>The cost for monitoring fees, particularly for Travel Plans, should be removed and not be sought. Reference us made to the 2015 High Court case (Oxfordshire CC v SoSCLG) which made it clear that these fees were not enforceable under the legislative framework</p>	<p>properly.</p> <p>NCC is aware of the High Court Case but legal advice has been sought re the collection of fees. These fees are required to support the development to achieve its specified targets.</p>
	Rushcliffe Borough Council	<p>The Borough Council does not always rely on S106 to collect contributions for highway improvements, where appropriate these may be subject to conditions and money collected through the Section 278 process. The document should acknowledge this alternative approach.</p> <p>It is accepted that contributions for public transport may be justified on a case by case basis, however, when requests are made for such contributions, the Borough Council considers that they should be supported by robust evidence.</p>	<p>The document deals with fees as a block. These could be through either CIL, S106, or S278 etc.</p> <p>The County Council will seek to ensure that requests for other types of infrastructure are also supported by the appropriate level of justification to help demonstrate that requests are compliant with the CIL Regulations.</p>
Appendix 5 Libraries	Gedling Borough Council	<p>The Borough Council express concern about the inclusion of this section. They emphasise their comments made elsewhere about the 3 statutory tests which need to be met. The Borough Council would wish to see evidence of the overuse in a particular library within the catchment;</p>	<p>Noted – Justification for library contributions will be provided where these are sought. As set out in the document, the need for a contribution will be established by comparing the current capacity of the library and population it serves against the number of people likely to be generated by the new</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 5 Libraries continued	Gedling Borough Council continued	<p>Do not consider that the application of population ratios to library floorspace which was used as a proxy for demand in the 2014 document is adequate to measure actual demand which is likely to arise from development. This also applies to library stock;</p> <p>The threshold of 50 dwellings for triggering a contributions is considered far too low and the point about the need for the County Council to be clear on infrastructure priorities is reiterated</p>	<p>development. Where the existing library's capacity would be exceeded, a contribution will be required;</p> <p>No change required - The County Council has adopted the National Library Tariff formula produced by the Museums Libraries and Archives Council (MLA).</p> <p>Noted – The trigger for seeking contributions is considered reasonable however as stated above, contributions will only be sought where it can be demonstrated that the existing library capacity would be exceeded. In terms of priorities this will be considered on a case by case basis</p>
	Newark & Sherwood District Council	A building cost figure of £202.10 per dwelling (based on 2.4 occupants per dwelling) was previously given and this is included within the District Council's Developer Contributions SPD. It is noted that no such figure is included within the County Council's Draft Planning Obligations Strategy update. Whilst it is accepted that building costs can often be difficult to justify (on the basis that physical expansion is rare and refurbishment is difficult to justify as a direct consequence of the development proposed), is this intentional? If so, is there a danger that if in future on those rare occasions where significant expansion or replacement of a Library is required, this will be difficult to justify?	<p>Noted – The draft strategy seeks to allow for the provision of a new library / extension to an existing facility where this will be required to mitigate the impact of development. As stated in the document this will be based on buildings costs linked to the RICS Tender Price index and will be subject to negotiation with the developer.</p> <p>In addition document has been</p>

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 5 Libraries continued	Newark & Sherwood District Council continued	Despite numerous previous requests for an evidence base to justify contributions showing why a development will place an impact which cannot be reasonably absorbed by the existing infrastructure, such evidence is still lacking in consultation replies.	amended to confirm that build costs will be subject to negotiation with the developer See response to similar comment from Gedling BC
	Ashfield District Council	Given the other infrastructure requirements the District Council whether such contributions can be justified.	Noted – As stated above the County Council will only seek contributions where this can be fully justify based on existing library capacity
	Rushcliffe Borough Council	<p>Pages 24 & 25 - As with the comment relating to equipment made against the education section, the Borough council does not necessarily see this as an appropriate use of developer contributions, the contributions should be required to meet a shortfall in accommodation.</p> <p>Pages 24 & 25 - In addition the multiplier of 2.4 persons per dwelling is higher than the average household size in Rushcliffe, which was assessed as 2.3 persons per dwelling in both the 2001 and 2011 census. It is recommended that the multiplier applied should be based on district specific household sizes for robustness.</p>	<p>Noted - The County Council consider that it is appropriate to seek contributions for library stock to help meet its statutory duty to provide a comprehensive and efficient library service for all persons desiring to make use thereof.</p> <p>Noted – The number of people per dwelling has been amended to reflect the 2011 census figure which is 2.3 people per dwelling.¹ In addition the document has been amended to provide a new cost per</p>

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<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/populationandhouseholdestimatesfortheunitedkingdom/2011-03-21>

Section	Consultee	Comment	NCC Response / Proposed Change
			dwelling figure of £35.24 to reflect this.
Appendix 6 Natural Environment	Gedling Borough Council	It is considered that the requirements set out in this section can all be dealt with satisfactorily by the use of conditions unless a management agreement is to be secured and again this will be the exception rather than the norm.	The County Council acknowledge that a majority of requirements set out in this section can be dealt with via condition. However it is felt that there are certain circumstances including large scale and / or complex schemes where it may be appropriate to seek contributions for some items of infrastructure. Therefore appendix 6 has been redrafted to reflect this and renamed "Green Space"
Appendix 6 Natural Environment continued	Gedling Borough Council continued		
	Newark & Sherwood District Council	The areas of work referred to where a contribution might be sought are usually addressed via an appropriately worded condition particularly if mitigation of impact is on the natural environment within the application site. The relevance of this section within the document is therefore questioned. In circumstances where a development proposal has an impact on the natural environment outside the site, robust evidence on how a development is having a direct impact and how the level of contribution has been calculated would need be given.	See response to Gedling BC above
	Ashfield District Council	The District Council note that is typically dealt with via a planning condition	See response to Gedling BC above
	Rushcliffe Borough Council	Pages 26 & 27 - The triggers that are identified are effectively on a case by case basis, which is supported. The Borough Council also has its own internal consultees in respect of some aspects of the natural environment and on landscape matters where advice on mitigation measures may be provided.	The Borough Council's comments are welcomed. The Borough Council's comments are noted

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 7 Waste Management and Recycling	Gedling Borough Council	It is considered that the request for such contributions towards waste recycling are only likely to be justified for very large strategic sites. The worked example in some respects helps illustrate the point as it is quite a complicated example and unique to an area. Consequently as a rule of thumb it is not that helpful. The threshold of 200 homes is rather low and appears very arbitrary with no justification. The Borough Council would suggest that this section is removed.	The County Council have given consideration to the level of housing which is proposed across the County and it is clear that this will put pressure on existing facilities. As such it is considered appropriate to seek contributions from new development to mitigate the impacts that this will have. It should be noted that contributions will not necessarily be sought on from all development above the 200 dwelling threshold. Consideration will be given to the level of existing provision and contributions will only be sought when development would generate a level of waste which would mean existing capacity. This will vary by District / Borough. When responding to planning applications the County Council will provide evidence to support their request for a contribution.
Appendix 7 Waste Management and Recycling continued	Gedling Borough Council continued		
			In respect of the threshold for seeking contributions. This is considered appropriate. Due to the variety of housing allocation sizes across the districts / boroughs, NCC need a threshold figure that is going to capture what it considers significant housing across the

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 7 Waste Management and Recycling continued	Gedling Borough Council continued		County. Whilst some districts / boroughs will have several major developments such as Rushcliffe and Bassetlaw, there are others, particularly Ashfield, where individual developments tend to be much smaller and a 200 dwelling development is on the larger side. Based on the above the County Council consider that the ability to request contributions to mitigate the impact of development is appropriate and as such it is proposed that this section of the document is retained.
	Newark & Sherwood District Council	Any request for a contribution would need to be appropriately evidenced and justified. The scale of residential development referred to that would necessitate a contribution towards a new or improved recycling facility is that of large residential schemes. The District Council would query whether a more strategic approach should be taken towards such provision through the Plan process.	Please refer to above response to Gedling Borough Council.
	Rushcliffe Borough Council	The Borough Council considers that this has not been applied consistently in the past. If this is to be applied to development over 200 units, in the case of Rushcliffe, there would be a significant shortfall in the contributions to cover the £2.5M cost of a new facility. How is the shortfall to be funded?? What is the certainty of the facility being delivered if no land is identified for such provision, for instance.	Please refer to above response to Gedling Borough Council In terms of delivery; the Nottinghamshire and Nottingham Replacement Waste Local Plan Part 1: Waste Core Strategy identifies broad locations which may be suitable for a range of waste management facilities, including Household Waste Recycling Centre

Section	Consultee	Comment	NCC Response / Proposed Change
Appendix 7 Waste Management and Recycling continued	Rushcliffe Borough Council continued		provision, where required. This also sets out general site criteria highlighting the types of locations where such facilities would generally be supported. The County Council will continue to work with District / Borough Councils through the planning and infrastructure delivery process to help ensure the suitable provision of waste management facilities
Appendix 8 Mineral Development	No comments were received on this section	N/A	N/A
Appendix 9	No comments were received on this section	N/A	N/A