

Summary of issues

The comments below form the responses to the Planning Obligations policies SS7-SS9 of the draft CS and its supporting text. The vast majority of comments relate to the need to ensure adequate provision is made for infrastructure through the use of planning obligations (S106). At the time of the Draft Core Strategy the new regulations for moving to CIL had only just been introduced and therefore the officer comments have been made in light of the greater restrictions now placed on the use of S106s and the requirements of the Council to produce an IDP to support the Core Strategy. Some comments on specific infrastructure have come from stakeholders who have subsequently fed into the IDP. In addition, some comments have been made about moving to a tariff or roof tax approach and CIL would be similar to this and create more certainty for the developer. Viability of development is also raised and will need to be tested as part of CIL. There are no specific representations in relation to adopting CIL and therefore the consultant's recommendations can be assessed as they stand as there are no material issues raised. There is some support for a single planning obligation policy in the interim as recommended by the consultants.

Concerns re Viability are addressed by the CIL Evidence Base which is in essence a Viability Assessment

Policy/Paragraph/ Section	Summary of Issues	Officer Comment	Recommendation
Planning Obligations			
Planning Obligations (paras 4.66 – 4.69)	* More houses require more school places - is provision being made for this?	A separate infrastructure study is being carried out (IDP) and education needs will form part of this. Infrastructure will be required to support new housing growth.	No change.
	* Need amenities for young people to be provided alongside new housing.	A separate infrastructure study is being carried out (IDP) and play facilities and youth provision needs will form part of this. Infrastructure of this nature will be required to support new housing growth and will be provided.	No change.
	* Will local bus services and transport links be improved with new housing?	A separate infrastructure study is being carried out (IDP) and transport provision will form part of this. Infrastructure of this nature will be required to support new housing growth and transport policies for modal shift address this issue	No change.
	* Land price should be put back into better quality build.	It is not for the planning system to determine how land price is determined but it is accepted that quality of build is important however it is achieved and design policies address this	No change.
	* Include places of worship in new development. .	A separate infrastructure study is being carried out (IDP) and community facilities will form part of this. Infrastructure of this nature will be required to support new housing growth and will be provided.	No change.

	* Paragraph 4.67 - this approach is a high risk strategy to take in current economic climate. Council needs to be sure that proposals are needed and viable.	Noted. The Council already has an adopted Protocol for ensuring that the level of contributions sought under S106 and development viability are properly considered. Any emerging CIL will need to consider development viability as part of the process and will be subject to public examination.	No change.
	* Paragraph 4.68 - 2nd sentence should make reference to 'bridleways, and 'multi-use paths' as an example in the last sentence.	The list as identified is not intended to identify every requirement for new development. The use of the generic terms of footpaths and cycleways is considered to be more understandable.	No change.
	* Paragraphs 4.66-4.67 - fails to mention important 'soft' mitigation measures	Soft mitigation' is not considered to be a term widely recognised by the public. Reference is made within para 4.68 to landscaping which is more widely understood.	No change.
Phasing and Cumulative Impact			
Policy SS6 Phasing and Cumulative Impact (and para 4.70)	*Policy not sound as makes no reference to safeguarding the historic environment or monitoring the real capacity of places to absorb development.	This is a policy for phasing of infrastructure alongside growth. It would not be appropriate to include impact on the historic environment in this policy.	No change.
	* Provisions of policy are understood but it does nothing to add to the requirements of the Planning Act and what is commonly accepted as a statutory process, therefore it is not necessary.	Use of planning obligations to secure timeliness of infrastructure delivery is important and therefore set out as a clear statement of policy intent.	No change.
	* Need more emphasis to explain how the IDP and core strategy link and how viability agrees with the scale of growth. How will the infrastructure come forward? - role of infrastructure providers and LSP not clear.	Noted.	Amend to explain connections between the IDP and CS.
	* Is there sufficient capacity in existing schools (particularly Ilminster primary, Chard Holyrood and Crewkerne Wadham)?	A separate infrastructure study is being carried out (IDP) and education provision will form part of this. Infrastructure of this nature will be required to support new housing growth address this issue. At present the IDP identifies the need for additional primary school provision in both Crewkerne and Chard but none for the schools mentioned.	No change proposed but will amend if IDP indicates additional capacity required.

	* National Grid is a leading international energy infrastructure business, and includes electricity and gas transmission networks and gas distribution networks in the UK. National Grid has no high voltage electricity overhead transmission lines/underground cables within South Somerset district; but has five gas transmission assets. Southern Gas Networks owns and operates the local gas distribution network in South Somerset.	Noted. This should be picked up within the IDP if there are issues with capacity.No capacity issues have been identified as at November 2011	No change
	*Object to reference in para 4.70 to necessary services, statutory services are largely outside the control of the developer . The obligation should be on the District Council to engage with these providers to ensure timely delivery of gas etc.	Noted. This is where the role of the IDP links to the growth strategy. There is already an obligation to work with other infrastructure providers through the IDP which will be considered alongside the CS. Necessary services goes beyond just statutory services when providing sustainable development and working alongside all agencies to deliver services is needed.	Clarify importance of delivering sustainable development.
	* Support policy SS6, provision of an Infrastructure Delivery Plan and revised charging schedule to be used with Policy SS7.	Noted.	No Change.
Planning Obligations			
Policy SS7 Planning Obligations (and paras 4.71 – 4.77)	* Noted that many of the larger Local Plan allocations did not come forward before the economic collapse and now face problems of viability. Uncertainty in the housing market continues. In seeking to secure 'land value capture' from developments in the future, the District Council will need to be extremely wary of imposing costs on major new development that are designed not only to increase capacity for that development , but are also designed to obviate existing problems. Costs cannot be borne indefinitely especially when combined with other planning gain requirements. Viability assessment supporting Aylesbury Vale Core Strategy shows that a combination of high off-site highway costs combined with affordable housing, frequently generates very large negative values.	Noted. Viability is an issue which will be addressed on a site by site basis through open book negotiation for planning obligations. There is clear guidance under the CIL amendments that obligations can only be sought based on strict criteria. It is accepted that planning obligations must be proportionate and also that any move to a CIL charging schedule must have regard to viability but it is also accepted that not all sites will be viable in the current climate and it would be inappropriate to waive all contributions in order to deliver a site unless this was critical to the overall strategy.	Amend text in this section to ensure viability is acknowledged, to make reference to the IDP schedule of infrastructure and funding for infrastructure through planning obligations and potentially CIL in the longer term.
	* To protect against judicial review - need to ensure that Council is not encouraging contributions which do not accord with the tests set out in the CIL Regs which are now law.	Noted.	No change.
	* No reference is made in the Core Strategy supporting text to Circular 5/05 Planning Obligations. This should be rectified.	Reference is made to Circular 05/05 in para 4.71. However, the CIL regulations supersede these in respect of the appropriate tests for use of planning obligations which is also explained in this para.	No change unless further changes are made to the CIL regulations.

	<p>* Whilst the inclusion of a list of some of the elements that could be associated with a S.106 Agreement is not unreasonable and it is noted that the Core Strategy does not limit itself to the issues listed, experience with other Core Strategy examinations has shown that this approach leads to unnecessary uncertainty and such lists have been rendered superfluous.</p>	<p>It would be unreasonable to expect every type of obligation to be listed. Most authorities have included a non exhaustive list and their CS in this respect have generally been found sound.</p>	<p>No change.</p>
	<p>* Supporting text should refer to the New Homes Bonus scheme. Communities should be aware of such provisions and how they could benefit through growth beyond normal S.106 provisions.</p>	<p>Funding for infrastructure is a key issue and NHB can potentially form one of the funding streams. However, it would be unreasonable to refer solely to this one source of potential funding though reference needs to be made to the importance of finding funding for infrastructure.</p>	<p>Add text to refer to funding for infrastructure.</p>
	<p>* Paragraph 4.74 - May be useful to consider opportunities to 'future proof' sites through measures such as charging points for electric vehicles and appropriate cabling for high-speed broadband.</p>	<p>Noted. These issues are likely to be site specific and would be capable of being dealt with through planning conditions. Also covered within modal shift policies.</p>	<p>No change.</p>
	<p>* Policy makes no reference to the requirement for a comprehensive Section 106 agreement for the growth and in the absence of such a requirement it is very difficult to see how the Council will secure the co-ordinated delivery of infrastructure and associated facilities.</p>	<p>A separate infrastructure study is being carried out (IDP) which will be linked to the Core Strategy and form part of the evidence base. This will provide a coordinated list of the infrastructure required by different stakeholders to deliver the growth proposed and the likely timescale for delivery. Funding for infrastructure is critical and new funding streams are also being looking into which includes the possibility of SSDC adopting a CIL charging schedule in due course.</p>	<p>No change.</p>
	<p>* Reference to 3 tests of lawfulness welcomed. Policy wording appears to be focussed solely on residential development, it is therefore unclear how the council will seek to ensure contributions for non residential development. As currently worded there is a danger that housing development will be only source of contributions.</p>	<p>Text does not refer to housing but accept that greater clarity is needed that obligations will be sought from all appropriate development.</p>	<p>Clarify to ensure reference made to all appropriate development.</p>
	<p>* The difference in private housing proposals and affordable housing developments has not been recognised by excepting affordable housing proposals from development proposals in policies SS7 & SS8. Disappointing that a tariff based contribution system has not been introduced.</p>	<p>There is no intention to introduce tariffs although it is likely that the Council will seek to move to a CIL in due course. Planning obligations will be sought on all appropriate schemes taking viability issues into account.</p>	<p>No change.</p>

	* The list of community infrastructure types should include reference to health provision. (PCT)	It would be unreasonable to expect every type of obligation to be listed. The IDP should identify areas where health provisions is required and if a CIL is introduced the IDP will be used to target resources. Most authorities have included a non exhausted list for S106 contributions and their CS in this respect have generally been found sound.	No change.
	* Concern that the planning obligations do not acknowledge or indeed contribute to the conservation and enhancement of the natural environment. Planning obligations should seek to support the objectives of the AONB Management Plans.	It would be unreasonable to expect every type of obligation to be listed. Most authorities have included a non exhaustive list and their CS in this respect have generally been found sound.	No change.
	* Add bullet point: secure proposals for Biodiversity Action Plan delivery, landscape restoration and enhancement, and green infrastructure. Proposals should link and complement the existing environmental resource, and overall plans should aim for a net gain for the natural environment.	It would be unreasonable to expect every type of obligation to be listed but green infrastructure should be mentioned.	Add green infrastructure under para 4.74.
	*Policy is unrealistic and unsound , fails to recognise that planning gain is derived from 'land value capture', land values have fallen, planning obligations should track land value and so should be reduced and the scope should not be extended in this current market.	There no intention to extend the scope of S106 obligations beyond that set out in Circular 05/05 and the amendments within the CIL regulations. All schemes where planning obligations are sought will be subject to viability and the council already has an adopted Protocol for schemes of this nature.	No change.
	*High Speed Broadband is an essential infrastructure requirement . For rural communities it will encourage employment, reducing the need to travel. Broadband requires greater emphasis.	Noted. The list of planning obligations being sought is not exhaustive. High speed broadband is currently being rolled out across Somerset as part of a national programme	No change.
	*Funding may be required for strategic flood risk/drainage solutions, as these may be more sustainable than onsite measures for strategic sites - see Level 2 SFRA. Include under Strategic Infrastructure section in Policy.	Noted. This should be picked up within the IDP if there are issues with specific FRA works. In some locations the IDP has indicated the need for on site works to be funded as part of the development in that location including at Crewkerne, Ilminster, Bruton and Martock and SUDs are recommended for most new development. The need for flood prevention and mitigation identified in the IDP do not however, preclude areas from possible growth. Funding would either be via EA or from developers as part of development proposals on individual sites.	No change.

	<p>*Section 106 money should go directly to the settlement where the need for the money is generated i.e. if 100 houses built in Ilminster, all the S106 money generated from that development should go to Ilminster. There is a history of money going to strategic facilities and not benefitting settlements who take the development.</p>	<p>Currently S106 monies fall into site specific works and strategic works off site. With the proposed CIL charge, should SSDC adopt this approach a proportion would be set aside for local facilities with the IDP schedule of infrastructure required being used to identify other priorities. It would inappropriate to insist on all monies being spent locally as infrastructure is needed in locations where development would be unacceptable.</p>	<p>No change unless further changes are made to the CIL regulations.</p>
	<p>*Development of Ultra Light Rail services for Yeovil should be included in the IDP.</p>	<p>Noted. This should be picked up within the IDP if there are any firm proposals which there are not at this time.</p>	<p>No change.</p>
	<p>*Contributions should be made for industrial/employment land.</p>	<p>Text does not refer solely to housing but accept that greater clarity is needed that obligations will be sought from all appropriate development.</p>	<p>Clarify to ensure reference made to all appropriate development</p>
	<p>*Policy should be based on a 'roof tax' and the obligations should be spent on local needs.</p>	<p>There is no intention to adopt a "roof tax". With the proposed CIL charge, should SSDC adopt this approach a proportion would be set aside for local facilities with the IDP schedule of infrastructure required being used to identify other priorities. It would inappropriate to insist on all monies being spent locally as infrastructure is needed in locations where development would be unacceptable.</p>	<p>No change.</p>
	<p>*Why are gypsy and traveller sites (in the form of an offsite provision of a strategic nature) not funded with planning obligations.</p>	<p>Planning obligations and conditions can only be sought for appropriate uses meeting the tests set out in Circular 05/05 and CIL Regulations</p>	<p>No change.</p>
	<p>*There is an undue emphasis on funding of strategic sports and cultural facilities - identified community need only. Contribute to strategic infrastructure where it has a very clear and demonstrable benefit for the community.</p>	<p>It is not considered that there is such an emphasis. The IDP will identify where infrastructure is required and allow priorities to be set.</p>	<p>No change.</p>
	<p>*The Community/Parish Plan should be the tool for deciding where planning obligations money should be spent. For small rural villages funding creamed off for strategic developments elsewhere in the District should be subsidiary to meeting local needs.</p>	<p>The CIL regulations set out the mechanism for spending on both strategic infrastructure and on more local projects.</p>	<p>No change unless further changes are made to the CIL regulations.</p>

	<p>*Western Power Distribution - would expect developers to pay to divert less strategic electricity circuits operating at 11,000 volts or below (may include underground or low voltage overhead lines). Seek to retain 132,000 Volts, 66,000 Volts and in some cases 33,000 Volts lines, particularly if diverting would place a financial obligation on Western Power.</p> <p>Assuming that required minimum statutory clearances can be maintained, WPD does not generally have any restriction on the type of development possible in proximity to strategic overhead lines, but sensible for planning guidance and layout to WPDs position into account and consider compatible uses. WPD should be consulted if there are lines overhead or underground in proposed development locations.</p>	Noted. Requirements of Western Power will be picked up through IDP.	No change.
	<p>*All contributions from new development should be site specific and used to provide facilities within the town taking the development, any district-wide or area-wide facilities to gain should be clearly stated at planning stage.</p>	Currently S106 monies fall into site specific works and strategic works off site. With the proposed CIL charge, should SSDC adopt this approach a proportion would be set aside for local facilities with the IDP schedule of infrastructure required being used to identify other priorities. It would be inappropriate to insist on all monies being spent locally as infrastructure is needed in locations where development would be unacceptable.	No change unless further changes are made to the CIL regulations.
	<p>*Object to reference that planning obligations will be sought to secure a range of housing types from new residential development, including market housing - imposes excessive and unrealistic obligations and is contrary to national policy in Circular 05/2005 (para.B5) and CIL Regulation 122(2).</p>	There is no intention to seek different types of market housing through planning obligations but it is intended to ensure the policy requirements for affordable housing area achieved through S106.	Clarify text to ensure it is clear regarding market housing.
	<p>To ensure delivery of key strategic sites, Core Strategy and IDP should be used as a tool to secure alternative sources of funding where possible as unlikely that development alone will be able to support infrastructure and other planning obligations required.</p>	Noted and agreed.	No change unless further changes are made to the CIL regulations.
	<p>*Planning obligations should include the need to support health provision.</p>	Noted. The IDP does indicate that additional provision will be required in certain locations but these will be funded by the Health Authorities.	No change.
	<p>* Support the inclusion of cultural provision and enhancements - hope this refers to theatres as well as swimming pools.</p>	Noted, confirm this would cover a range of cultural facilities.	No change.
	<p>*Support Policy SS7 and proposed flexible approach towards contributions.</p>	Support noted.	No change.
Viability			

Policy SS8 Viability (para 4.78)	* Support the principle but policy does not go far enough and should state that where viability is marginal Planning Obligations will not be sought.	Support noted. SSDC have an adopted protocol which considers viability. This is clearly mentioned in para 4.78.	No change.
	* Policy is welcomed as it demonstrates a clear understanding that issues of viability must be taken into consideration as part of the planning application process.	Support noted.	No change.
	Support, policy recognises viability.	Support noted.	No change.
	* Support this policy, in particular the use of planning obligations to secure green infrastructure.	Support noted.	No change.
	Issues made in response to SS7 apply equally. Ability to contribute will depend on market circumstances. Land prices have been reduced by up to 50 % during the recession and house prices by up to 25%. Open book does not deal with the essential question as to the baseline value from which viability determinations should be made. Viability studies that assume viability where development value exceeds the current agricultural value. This is unrealistic very few landowners/farmers would be willing to dispose of land even at a substantial multiple above agricultural value. On Brownfield sites the imposition of onerous S.106 obligations generates viability issues at an early stage.	Noted. Viability is already acknowledged through use of the Planning Obligations Protocol. If SSDC move to a CIL approach the CIL charge will need to be tested against viability and set at an appropriate level in any forthcoming CIL charging schedule which will be then be considered at Inquiry.	No change.
	*Policy not sound as makes no reference to safeguarding the historic environment or monitoring the real capacity of places to absorb development.	Policy is referring to viability and it would not be appropriate to specifically refer to historic environment. Paragraph 4.74 makes it clear that planning obligations can cover a whole range of issues.	No change.
	* Wording of Policy lacks clarity. Reference should be made to Circular 05/2005 and the planning obligation tests now enshrined in law under the Community Infrastructure Levy.	The tests are mentioned in 4.71 as part of the discussions on use of planning obligations. It is not considered necessary to iterate part of policy.	No change.
	* Policies SS6, SS7 & SS8 could easily be incorporated into 1 policy.	This was considered but felt to be clearer under 3 separate policies	Consider amending in Publication Plan
	* Support the principle of pro-rata contributions for proposals which form part of larger proposals and the recognition that viability will be a consideration in seeking financial contributions.	Support noted	No change.

	<p>* The difference in private housing proposals and affordable housing developments has not been recognised by excepting affordable housing proposals from development proposals in policies SS7 & SS8. Disappointing that a tariff based contribution system has not been introduced.</p>	<p>There is no intention to introduce tariffs although it is likely that the Council will seek to move to a CIL in due course. Planning obligations will be sought on all appropriate schemes taking viability issues into account. Occupiers of affordable housing have the same needs for infrastructure as other users but it is accepted that viability is of paramount importance.</p>	<p>No change.</p>
	<p>Highways Agency advice. Improvements to the Strategic Road Network will need to be funded by the developer or other non-agency source.</p>	<p>A separate infrastructure study is being carried out (IDP) and transport provision forms part of this. Infrastructure of this nature will be required to support new housing growth.</p>	<p>No change proposed but will amend if IDP indicates additional capacity required.</p>
	<p>*Object, council needs to take a more realistic and informed economic approach to viability, taking into account of fact that planning gain is derived from 'land value capture', land values have fallen, planning obligations should track land value and so should be reduced and the scope should not be extended in this current market.</p>	<p>The existing Planning Protocol adequately takes viability into account. Should the Council move towards a CIL then the level of CIL charge will need to be set at an appropriate level but it is accepted in the legislation that it does not need to be set so that ALL development can subsequently come forward. It is a question of balance and this will be need to form part of the CIL Charging Schedule if the Council proceeds along this route.</p>	<p>No change.</p>
	<p>*Viability of schemes has constrained development in the past, to ensure future schemes are deliverable it is essential that the Local Authority adopts a more flexible approach to planning obligations - need to be realistic about land values.</p>	<p>The existing Planning Protocol adequately takes viability into account. Should the Council move towards a CIL then the level of CIL charge will need to be set at an appropriate level but it is accepted in the legislation that it does not need to be set so that ALL development can subsequently come forward. It is a question of balance and this will be need to form part of the CIL Charging Schedule if the Council proceeds along this route.</p>	<p>No change.</p>
	<p>*This policy is too narrow and does not address economic infrastructure.</p>	<p>The existing Planning Protocol adequately takes viability into account. Should the Council move towards a CIL then the level of CIL charge will need to be set at an appropriate level but it is accepted in the legislation that it does not need to be set so that ALL development can subsequently come forward. It is a question of balance and this will be need to form part of the CIL Charging Schedule if the Council proceeds along this route.</p>	<p>No change.</p>