

**DRAFT**

**Planning Obligations**  
**Supplementary Planning**  
**Document.**

**For Committee and Cabinet**  
**Review**

VERSION 1  
APRIL 2007

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## Introduction

1.1 This document is the Supplementary Planning Document (SPD) for Planning Obligations concerning development within the Stockton-on-Tees Borough. The document is produced in draft and is subject to a formal six-week public consultation period, from ? to ?. Comments on this draft can be made in writing and sent to [www.stockton.gov.uk](http://www.stockton.gov.uk), or posted to the following address:

Stockton-on-Tees Borough Council  
Development & Neighbourhood Services  
Spatial Planning Section  
Gloucester House  
Church Road  
Stockton-on-Tees  
TS18 1TW.

1.2 The purpose of the SPD is to provide developers, planning officers and the general public information and guidance concerning the Council's approach towards securing planning obligations associated with development within the Borough. The SPD expands on policies contained within the adopted Local Plan, and expands on policy areas that will be the subject of future Development Plan Documents (DPD).

1.3 Any development proposals shall be made in accordance with the adopted Local Plan, or Alteration Number 1. This SPD supplements the policies contained within these documents, and as such, is a material consideration in determining planning applications. The SPD is one of the documents identified in the Local Development Scheme (2006).

1.4 The SPD is subject to a six-week public consultation period, together with a Sustainability Appraisal. The process for producing this document is detailed in Planning Policy Statement 12: Local Development Frameworks.

1.5 The SPD is also to be informed by a Sustainability Appraisal (SA). The objective of the SA is to appraise the social, economic and environmental impacts of any document contained within the LDF, and to inform the development of the guidance contained within the document.

1.6 Planning obligations are a legally binding agreement entered into between a developer and the Council. Circular 05/2005 'Planning Obligations' provides guidance as to how planning obligations should be applied. They are an effective tool in ensuring all development within the Borough of Stockton-on-Tees contributes to the objective of sustainable development. Planning obligations should however, only be used to "make acceptable development which would otherwise be unacceptable in planning terms" (Circular 05/05, Para. B3). Every planning obligation must, according to the government's guidance, meet the following tests:

- Be relevant to planning;

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

1.7 A developer may wish to enter into a unilateral undertaking as opposed to a planning obligation. Such an undertaking is offered by the applicant in support of an application (or appeal), as opposed to agreeing an obligation following negotiation with the Council.

#### Planning Context.

1.8 The legal framework for planning obligations is set out under Section 106 in the Town and Country Planning Act 1990, as amended by section 12 of the 1991 Planning and Compensation Act. Circular 05/2005 'Planning Obligations' was issued by the government in July 2005, and supersedes Circular 1/97. Planning Policy Statement 1: Delivering Sustainable Development also contains further guidance, surrounding planning's requirement to deliver sustainable development.

1.9 In terms of local policy context, the Adopted Local Plan and Alteration Number 1 form the current policy framework. However, the Planning and Compulsory Purchase Act (2004) introduced a statutory requirement for Local Planning Authorities to produce a Local Development Framework (LDF). The LDF consists of a folder of documents, including this SPD, to guide development and land use in the area. Over a period of time, this framework and the Regional Spatial Strategy will replace the existing Local Plan and Alteration Number 1.

1.10 During the transitional period between the old and the new system, some policies within the Local Plan and Alteration Number 1 are 'saved' for the next three years, or until they are replaced by new documents within the Local Development Framework. Initially, the Council is preparing the Core Strategy and Regeneration DPDs. The Core Strategy sets out strategic level policies, the Regeneration DPD sets out the site allocation policies.

1.11 Currently, the Council has no specific planning obligation policy within the Adopted Local Plan or Alteration Number 1, although some policies refer to the need to incorporate open space and crime prevention measures within proposals (HO11), satisfactory access arrangements (GP1), and environmental enhancements (EN11). Therefore, in accordance with policies within Circular 05/2005 (paragraph B27), this document "sets out the implications for planning obligations of the relevant topic based DPD policies" (e.g. transport, open space).

1.12 According to Circular 05/2005, a planning obligation may be applied in the following forms:

- Prescriptive – i.e. requiring that a certain proportion of a housing development is affordable;
- Compensates – i.e. secures a contribution from a developer to fund open space development
- Mitigates – i.e. increased public transport provision.

## Planning Obligations and Stockton-on-Tees Borough Council

1.13 The following is a list of topic areas where the Council will seek planning obligations when appropriate, in that the development requires their provision to ensure that the essential infrastructure requirements are addressed:- Affordable Housing, Education, Highway Infrastructure, Open Space and Recreation, Landscape and Biodiversity schemes, Employment and Training Initiatives, Community Facilities and Community Safety, and Public Art. It must be noted this list is not exhaustive, and is in no order of priority. Other obligations may be negotiated in particular circumstances, dependent on the scale and nature of the particular proposal.

### Delivery

1.14 Wherever possible, planning obligations shall be provided on-site by the developer. For instance, this may be delivered in the form of affordable housing, or open space. However, there may be circumstances where this is not practicable, or appropriate. Such circumstances may include new or improved highway works in the local area. If the developer is unable to provide either on or off-site improvements, a financial sum may be paid to the Council to fund their provision. In all cases, the obligations secured shall be relative to the type, size, and intended uses of the development.

1.15 Potential applicants should be aware that planning obligations are not limited to physical developments. For instance, the document includes information on employment and training obligations.

### Maintenance Payments

1.16 There may be instances where the Council requires the developer to fund the maintenance of a facility provided, such as highways infrastructure or open space, for an agreed length of time. The Council will therefore seek contributions as laid out elsewhere in this document.

### Project Management Costs

1.17 All planning obligations require drafting, implementing, monitoring, and, if necessary, enforcing. As such, the Council will require a project management cost, based on a percentage of the cost of the value of the contribution or the costs of works required through the obligation. The project management costs are applied in addition to any other fees incurred by the Council when implementing the obligation. Such an approach is in line with Circular 05/2005 (paragraph B34).

## Index Linking of Financial Contributions

1.18 All financial contributions made with regards to planning obligations will be index linked to the Retail Prices Index. On receipt, all monies will be held in an interest bearing account, and identifiable by a unique reference. Any contributions (apart from open space commuted revenue maintenance sums) remaining unspent at the end of a period agreed between the Council and developer will be returned, with interest, to the payee.

## Thresholds

1.19 Certain types of development are subject to thresholds, for instance affordable housing. To avoid development sites being sub divided which may create separate development schemes falling below thresholds, regard will need to be had to the entirety of development.

1.20 Where no minimum threshold exists, any obligations sought by the Council must meet the tests laid out in paragraph 1.6, with the Council being required to demonstrate the proposed development would generate the requirement for the relevant obligation.

## Outline Applications

1.21 The Council would seek to agree the terms of a planning obligation with the developers at the point when an application for outline planning permission is made. As the exact scale of the development may not be known, the nature and terms of the obligations would not specify an exact sum to be paid by a developer or infrastructure requirement. Instead, the obligation would stipulate:

- The formula to be used for calculating contributions;
- The scheduling of payment in relation to the development (to ensure that new facilities will be provided in advance of need);
- The apportionment of other costs. (e.g. legal costs for drawing up the agreement).

1.22 Similarly, where the cumulative impact of several different developments results in a need for additional infrastructure etc, the Council may pool contributions to fund such improvements. This will be done in an equitable way, to avoid unreasonable costs being borne by one developer.

## Planning Gain Supplement

1.23 This draft guidance is concerned with the current status of planning obligations and guidance, and therefore has not considered the potential use of the Planning Gain Supplement (PGS) the government is currently consulting on. Should the new PGS regime be adopted, this will scale back

the application of S106 agreements and therefore the SPD would need to be reviewed.

### Future Guidance

1.24 This SPD is the first planning obligations policy document produced by Stockton-on-Tees Borough Council, and as such draws together existing best practice where applicable. Currently, an exercise is underway across the Tees Valley local authorities to explore common approaches to securing planning obligations. However, in the absence of such a Tees Valley wide approach in the immediate future, this guidance has been prepared for the interim period. As new policies and strategies emerge, the SPD will be reviewed and amended as necessary.

### Priorities

1.25 Planning obligations will be negotiated on a case-by case basis, and the priority given to the different types of obligations outlined in this document will be at the discretion of the Council. Consideration needs to be given to a range of policy issues, site characteristics, government guidance and comments received from consultations during the development process.

## 2 Open Space and Recreation

### Policy Background

2.1 Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation (Para. 23), states “planning obligations should be used where appropriate to seek increased provision of open spaces and local sports and recreational facilities, and the enhancement of existing facilities”. The guidance also comments “planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space, sports and recreation facilities. Local authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local needs”.

2.2 PPS 3: Housing also requires local authorities to have regard to the areas open space requirements when developing housing densities.

2.3 Circular 05/2005 (Para. B15) justifies the use of planning obligations to seek open space and recreation facilities through planning obligations.

2.4 Policy HO 11 of the adopted local plan requires that:

“New residential development should be designed and laid out to:

- (i) Provide a high quality of built environment which is in keeping with its surroundings;
- (ii) Incorporate open space for both formal and informal use;**
- (iii) Ensure that residents of the new dwellings would have a satisfactory degree of privacy and amenity;
- (iv) Avoid any unacceptable effect on the privacy and amenity of the occupiers of nearby properties;
- (v) Pay due regard to existing features and ground levels on the site;
- (vi) Provide adequate access, parking and servicing; and
- (vii) Subject to the above factors, to incorporate features to assist in crime prevention.”

### Open Space Typologies

2.5 The term ‘open space’ has been broken down to the following typologies, as per the guidance in Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation:

- Parks and Gardens;
- Natural Greenspace;
- Green Corridors;
- Sports Facilities;
- Amenity Greenspace;
- Play Areas;
- Allotments;
- Cemeteries and Churchyards;

- Civic Spaces.

## Thresholds

2.6 Currently, there are no minimum thresholds below which planning obligations may not be sought in connection with open space and recreation; therefore proposals will be assessed on a case-by-case basis. The size, type, location and intended uses of the development, along with existing needs, will form the basis of negotiations where open space obligations and contributions are sought.

2.7 The Council is presently producing a number of strategies in relation to open space and recreation. These include:

- Open Space Audit, which identifies current provision within the Borough.
- Revised Parks, Open Spaces and Countryside Strategy;
- Play Strategy, which the Play Area Strategy, and Informal Ball & Wheeled Sports Strategy feed into;
- Sports and Leisure Strategy 2007-2010;
- Playing Pitch Strategy.

2.8 Once adopted, these strategies will form the basis of the standards, thresholds, and requirements concerning open space and recreation within the Borough, which will allow a standard calculation to be developed. Until such a time, the policy of assessing each application on a case-by-case basis will continue.

## Delivery

2.9 The presumption will be for on-site provision, unless there are clear reasons as to why this is inappropriate, or off-site provision would be of more benefit.

2.10 Where the Council and the developer have agreed an open space or recreation scheme as part of a planning obligation, development shall not commence until the scheme has been submitted to, and received written approval from, the Council's Environmental Development Officer.

2.11 Potential applicants are required to refer to the Council's 'Design Guidance Notes for Open Space to be transferred to the Council for Future Maintenance' document. This contains information on the land transfer procedures that the Council expects developers to follow. It must be noted however, the maintenance rates set out in Appendix A of the document have been superseded. Applicants are therefore requested to contact the Council's Environmental Development Officer to establish the current expected contribution.

## Commutated sums

2.12 There are both 'revenue' and 'capital' commuted sums concerning open space. The procedure for each is as follows:

- Revenue: Where revenue commuted maintenance sums are received, the funds are placed into an interest bearing account, and the interest is used solely for grounds maintenance. The Council is not required to return revenue maintenance funds back to the developer, even if they remain unspent for a certain length of time.
- Capital: Where a capital commuted sum is received, the sum will normally be placed into a working account and transferred to the relevant department to apply the funds. Developers are entitled to receive the contribution back should it remain unspent after a certain length of time, which is to be agreed by both parties.
- Commuted sums are individually identifiable by a unique reference number.

## Maintenance

2.13 Where the Council are to assume responsibility for the maintenance of either on or off-site open space provision, developers will be required to provide maintenance payments via a commuted revenue lump sum. For open space land that is only of benefit to the development in question, a commuted lump sum for the equivalent of 15 years maintenance is required. Where the open space land is of benefit to the community as a whole, a commuted lump sum for the equivalent of 5 years maintenance is required. As mentioned in paragraph 2.11, potential applicants should contact the Council's Environmental Development Officer to establish the contribution.

2.14 The calculation of the maintenance contribution will be established following the approval of the landscaping scheme, however payment of the sum is not due until immediately prior to completion of the title transfer. Since there is a time delay between these two events, RPI inflation shall be added annually for every year from the date of calculation to the transferring of the land that is required from the developer.

2.15 Circumstances may arise where long-term maintenance may be provided by a management company. In such circumstances a covenant is required to ensure the area remains in the agreed use, and a management plan is to be drawn up and agreed with the Council to ensure the open space is suitably maintained. The management plan will be required to establish the details of the open space maintenance for a minimum period of 25 years, and be subject to review every 5 years. On completion of the initial 25 year period, a replacement management plan will be required for a further 25 years. This procedure will be required in perpetuity where a management company takes responsibility for the maintenance of open space.

**3 Landscape and Biodiversity**

## Policy Background

3.1 Circular 05/2005 provides justification for requiring planning obligations in respect of landscape and biodiversity.

3.2 Planning Policy Statement 9: Biodiversity and Geological Conservation points out that “development proposals provide many opportunities for building–in beneficial biodiversity or geological features as part of good design”. The policy continues, stating that “local planning authorities should maximise such opportunities in and around developments, using planning obligations where appropriate.”

## Thresholds

3.3 There are no minimum thresholds below which planning obligations may not be sought in connection with landscape and biodiversity schemes; therefore proposals will be assessed on a case-by-case basis. Normally contributions for landscaping are only required when the proposal is of a significant scale and / or it involves the treatment of land outside the applicant’s control. However, proposals will be assessed in the context of the existing local and sub-regional policy and strategy framework, including:

- A revised Stockton Parks, Open Spaces and Countryside Strategy
- Tees Valley Biodiversity Action Plan
- The Tees Forest Plan

## Delivery

3.4 When planning new development consideration needs to be given to landscape character and biodiversity. Planning obligations may be used to protect or manage landscape features, species or habitats, or be required to integrate development into the wider landscape. Existing landscape characteristics may need to be enhanced, or in some cases it may be considered appropriate to create ‘new’ landscapes. Planning obligations may also contribute towards habitat creation and thus to wider biodiversity objectives (e.g. Local Biodiversity Action Plan targets). As part of this process developers may be required to undertake landscape character assessments or site surveys to identify wildlife, habitat or landscape features. Such information would inform the development of effective mitigation or enhancement measures.

3.5 Where the Council and the developer have agreed a landscape or wildlife scheme as part of a planning obligation, development shall not commence until the scheme has been submitted and received written approval from an officer with appropriate knowledge and expertise.

3.6 It is the usual practice for the developer to assume responsibility for any related landscaping or wildlife schemes, rather than the Council to

assume ownership through title transfer. Therefore, the applicant must also submit a management and maintenance plan for the proposed scheme, to be agreed by the Council.

## **4 Tees Forest**

4.1 Policy EN11 of the adopted local plan is concerned with the Tees Forest, formerly known as the Cleveland Community Forest. This states:

“ The planting of trees, of locally appropriate species, will be encouraged within the area indicated on the proposals as community forest. In considering applications for planning permission in the community forest area, the LPA will give weight to the degree to which the applicant has demonstrated that full account has been taken of existing trees on site, together with an appraisal of the possibilities of creating new woodland or undertaking additional tree planting. In the light of the appraisal the LPA will require a landscaping scheme to be agreed which makes a contribution to the community forest”.

### Thresholds

4.2 There are no minimum thresholds below which planning obligations may not be sought in connection with the Tees Forest for proposals within the designated area; therefore proposals are assessed on a case-by-case basis. However, there may be instances where through a landscape, **wildlife** or open space obligation, any Tees Forest requirement has been satisfied.

### Delivery

4.3 Any obligation secured in connection with the Tees Forest must be related to schemes directly relating to the development site, and not be used as a commuted sum to be spent on another area.

4.4 Development is not permitted to commence until the developer has submitted and received written approval of a landscaping scheme contributing to the Tees Forest from a Council landscaping officer.

## **5 Highways and Transport**

### Policy Background

5.1 Circular 05/2005, (Para. B10 and B15) provides justification for seeking planning obligations related to highways and transport matters, for example improving or providing new access roads, or improving public transport links.

5.2 'Planning Policy Guidance 13; Transport' states that obligations "may be used to achieve improvements to public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved, either on their own or as part of a package of measures", and that they should be "based around securing improved accessibility to sites by all modes, with the emphasis on achieving the greatest degree of access by public transport, walking and cycling". The guidance also states "the Government considers that travel plans should be submitted alongside planning applications which are likely to have significant transport implications".

5.3 Policy GP1 of the Stockton-on-Tees Local Plan (1997) states that all proposals for development will be assessed "in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

(iii) The provision of satisfactory access and parking arrangements"

5.4 The Council recently published 'Supplementary Planning Document 3: Parking Provision for New Developments'. This document offers guidance on appropriate levels of parking provision for different types of land use.

5.5 The Local Transport Plan contains a set of five priorities, to which all development should make a contribution towards. These are:

- Accessibility;
- Congestion;
- Road Safety;
- Air Quality; and
- Quality of Life.

#### Highways Agency

5.6 Developers must consider the global impact of development on the entire highway network, of which a scope should be agreed. This may include the trunk road network, which is operated by the Highways Agency. Developments that are not directly adjacent to trunk roads may still have an impact on the trunk roads. As such, development proposals should be communicated to the Highways Agency as well as the Local Highway Authority at the earliest opportunity, so that the impact on the trunk and local roads can be assessed and any mitigation identified. The trunk road network and local highway network are often inextricably linked and where Transport Assessments are prepared, impact and mitigation on both networks should be considered coherently.

## Highway Infrastructure Works.

### Thresholds

5.7 There are no minimum thresholds concerning planning obligations and highways infrastructure, therefore no types of development are exempt. Every application will be judged on a case-by-case basis. Where there is likely to be a development that has significant transport implications, a Transport Assessment (TA) should be submitted along with the planning application.

5.8 As a guide, the Council requires a TA to be completed and submitted with applications for developments that are:

- More than 50 residential properties;
- Non-residential development of more than 2500m<sup>2</sup>;
- Retail development of more than 1000m<sup>2</sup>;
- If there is an increase in densities above that previously stated, including outline approval;
- If, in the opinion of the Council there are special circumstances that require an assessment. Guidance should be sought at the pre-application stage by developer.

### Delivery

5.9 Where the TA shows a requirement to improve or construct new highway infrastructure in order to access the development in a safe and appropriate manner, then the Council as the Local Highways Authority will secure contributions from the developer towards the provision of new infrastructure.

5.10 Where Section 38 and Section 278 (S38 & S278) Agreements are entered into, the Council will require the developer to complete the highway infrastructure works as agreed, before the Council assumes ownership.

- |   |
|---|
| <ul style="list-style-type: none"><li>• Section 38 Agreements are applicable to new highway infrastructure works;</li><li>• Section 278 Agreements are applicable to off site highway infrastructure works.</li></ul> |
|---|

5.11 For S38 agreements, development will only be permitted to commence when the following steps have been taken:

- The developer enters into a bond with an approved surety, based on the estimated cost of the agreed works. This ensures the Council is protected should the developer default in any way with regard to the works;

- The developer has submitted and received written approval of detailed engineering drawings by the Council;
- The developer has paid fees covering the costs incurred by the Council in approving the engineering drawings, inspection of the works and administration of the agreement.

5.12 For S38 agreements the development is not to be occupied until:

- An engineer has issued a S.38 Part 2 'Certificate of Substantial Completion' – If the development is to be phased, certain phases of the development may be occupied in accordance with the phasing agreement, providing the relevant highway works for that particular phase are completed;
- Upon the issue of a Part 3 Certificate, the developer maintains responsibility for the infrastructure works for a minimum period of 12 months, after which an engineer will issue a S38 Final Certificate, providing the developer has remedied any defects identified. Following the issue of these Certificates, the Council takes over responsibility for the maintenance of the highway infrastructure and the bond is released.

5.13 S278 agreements differ from S38 agreements insofar as the Council design and procure the works in accordance with the terms set out in the agreement. The works are off-site, and the developer does not have any maintenance responsibilities. Any fees incurred by the Council are covered by the terms of the S278 agreement.

5.14 Therefore, for S278 agreements, development will only be permitted to commence when the following steps have been taken:

- The developer enters into a bond with an approved surety, based on the estimated cost of the agreed works. This ensures the Council is protected should the developer default in any way with regard to the works;
- The S278 agreement has been signed.

5.15 For S278 agreements, the relevant development will not be occupied until:

- The off -site S278 works are substantially completed.

5.16 In circumstances where a TA identifies that cumulative development in an area would require improvements to the local highway infrastructure, the Council may consider pooling developer contributions. Pooling contributions will avoid early developments taking all the capacity in the infrastructure, and allow the costs of providing such infrastructure to be shared proportionally between all related developments.

## **Travel Plans**

### Thresholds

5.17 Applications for development that meet the requirements for a TA are expected to submit a Travel Plan along with the application.

5.18 Should the development be occupied by a number of different organisations, then support shall be given to an overall travel plan for the site in question, rather than individual occupiers adopting a travel plan of their own. For speculative developments, a preliminary travel plan shall be agreed, followed by a more detailed plan after 6 months occupation of the site.

### Monitoring and Maintenance

5.19 Any travel plan submitted should have measurable outputs, to monitor its effectiveness. These may, for example, include a reduction in single occupancy vehicle trips, or an increase in numbers of employees using public transport to work.

5.20 Maintenance of Travel Plans are the responsibility of the occupier, although monitoring responsibility may be shared between the developer and the local planning authority.

5.21 Government guidance (DfT, 2002) suggests that agreement should be made for the applicant or developer to provide funding for a term of 5 years to enable either the Council or an independent third party to monitor the travel plan, or for the developer or applicant to provide funding for an independent validation of the data using an agreed third party.

## **Traffic Signal Obligations**

5.22 With respect to obligations concerning new traffic signal controlled junctions and / or pedestrian crossings, the developer is expected to fund all costs associated with the installation of the scheme including detailed design and site supervision.

## **Traffic Regulation Orders Fee**

5.23 Traffic Regulation Orders (TRO) permit the Highways Authority to regulate the speed, movement, and parking of vehicles, alongside regulating pedestrian movement that is enforceable by law.

5.24 Should the highway infrastructure works result in the need for either a new or amended TRO, a fee will be required to cover the costs incurred by the Council in introducing or amending the TRO. Currently, this is £1250, although this amount is subject to inflation to account for increased costs over time; therefore developers are requested to contact the Council's Traffic Management Department to establish the exact amount required by the Council.

### **Street Trees Commuted Maintenance Payments**

5.25 Where the Highway Infrastructure Works include the associated provision of new trees, the Council will seek a commuted maintenance payment where such works result in a net increase in street trees. The maintenance payment will only be applicable to the number of trees over and above those that existed before commencement of development.

5.26 Such a payment will be required following the issue of a certificate of adoption for the trees, although this may not be issued at the same time as the certificate of adoption for the highway infrastructure works. The actual sum required for the maintenance will be through negotiation with the Council.

## **6 Affordable Housing**

### Policy Background

6.1 Circular 05/2005 (Para. B12) states that “planning obligations can be used to secure the inclusion of an element of affordable housing in a residential or mixed –use development where there is a residential component”.

6.2 Planning Policy Statement 3: Housing requires that Local Development Documents “set out the expected developer contributions to facilitate the provision of affordable housing”, with the presumption that the housing will be delivered on site, facilitating the governments objectives of creating sustainable, mixed communities. The guidance also requires that policy sets out justification for off-site provision, or an equivalent financial contribution in-lieu of on site provision, providing these continue to make a contribution to the delivery of mixed communities.

#### Definition of Affordable Housing

6.3 ‘Affordable Housing’ as defined in PPS 3: Housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. According to the guidance, affordable housing should:

- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices;
- Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision’.

6.4 There are different forms of affordable housing, which are defined in the Government’s paper entitled ‘Delivering Affordable Housing’ (Communities and Local Government, 2006) which are as follows (A detailed explanation is given in Appendix A):

- Affordable Rented Homes;
- Intermediate Rented;
- Discounted Sale;
- Shared Equity; and
- Shared Ownership

6.5 The Local Housing Needs Assessment (LHNA) recommended that 9% of all new housing development over the next five years be classed as affordable, which equates to 200 actual dwellings over the same period. However, since some smaller sites may be unable to deliver any affordable dwellings, it is recommended that overall, 15% of all new residential development is affordable. This figure is solely concerned with newly arising need, and will be updated annually.

6.6 The LHNA also includes a section on the distribution of affordable housing across seven sub-areas of Stockton-on-Tees. The following table summarises the recommendations of the LHNA as to the differing needs of each sub area. For example, 21.6% of all households that are unable to afford general market housing live in Billingham, which translates to a need of 43 affordable dwellings out of the total five-year requirement of 200. Therefore, sub-areas with the highest need for affordable dwellings are Stockton, Billingham and Thornaby.

Sub-area	Affordability (%)	Number
Billingham	21.6	43
Ingleby Barwick	5.0	10
Other	0.1	0
Rural Villages	1.6	3
Stockton	46.9	94
Thornaby	15.9	32
Yarm/Preston/Eaglescliffe	8.9	18
<b>Stockton-on-Tees</b>	<b>100</b>	<b>200</b>

6.7 The above table is included to give developers an indication as to the areas where the need for affordable dwellings is at its greatest. However, delivery of affordable schemes depends on the suitability and viability of sites that come forward, therefore the Council may pursue an affordable requirement on sites in those sub-areas where the affordability requirement is lower, to take into account the affordable housing need across the Borough as a whole.

#### Thresholds

6.8 The policy contained within the adopted Local Plan (Policy HO4) is not to be 'saved' under regulations concerning the transfer from the previous planning system to that which came into force following the 2004 Planning and Compulsory Purchase Act. National Policy contained in PPS 3:Housing states that the minimum site size threshold is 15 dwellings, although this may be lower in some areas, where this is viable and practicable.

6.9 Given the advice in recent national policy, and the LHNA, the Council will actively pursue a target of 15% affordable housing on sites with 15 or more dwellings proposed.

#### Type and Tenure

6.10 In terms of tenure, the LHNA recommended that a range of accommodation should be offered, specifically Shared Equity, Shared Ownership, together with high quality Social Housing (provided through the Local Authority or Registered Social Landlords).

6.11 The LHNA also researched the Borough's resident's preferences concerning the type and size of affordable units. The response showed a clear preference for two and three-bedroom semi-detached dwellings, and that presently there is a significant oversupply of one bedroom properties. Developers are encouraged to enter into pre-application negotiations with the Council, concerning the quantity and tenure mix of the affordable dwellings.

#### Exceptions

6.12 The following types of residential development will not be subject to affordable housing obligations: sheltered housing, nursing homes, or student accommodation.

#### Delivery

6.13 The Council will expect the developer to provide the affordable dwellings on-site in most circumstances. This can be achieved through:

- The transfer of land from developers to a Registered Social Landlord (RSL) or similar organisation;
- The developer may sell the completed dwellings to a RSL or similar organisation; or
- The sale of units at a discount below market value.

6.14 However, there may be exceptional circumstances where the developer can demonstrate that off-site provision is more suitable. In such circumstances, the developer is encouraged to enter into early discussions with the Council to identify a suitable site.

6.15 Where the Council and developer have agreed to on or off-site provision, no more than 50 % of the open market housing shall be developed prior to the handover of the affordable dwellings to an RSL.

6.16 In exceptional circumstances, an agreement may be reached whereby the developer provides a commuted sum, or cash in-lieu payment as opposed to actually building out the affordable dwellings. The Council will require the developer to demonstrate why this approach should be followed. Since this would only be applicable in exceptional circumstances, the exact level of payments will be established on a site-by-site basis.

6.17 The sum for each unit will be based on the difference between the RSL purchase price and the open market value of an equivalent dwelling in the locality and be payable before 50% of the open market dwellings have been completed on the original site. The total calculation will be based on the equivalent number of affordable dwellings that would have been required on the original development site.

6.18 Any cash in lieu payments received by the Council relating to the provision of affordable housing shall be used to deliver the Councils affordable housing requirements across the Borough, where the need and deliverability exists. Agreement will be reached between the Council and developer over the period of time within which the funds must be spent, before the payee becomes eligible for their return, with interest.

6.19 The Council actively encourages that on-site affordable dwellings shall be mixed into the open market dwellings to generate a mixed community. This 'pepper potting' should also ensure the affordable dwellings are integrated with the overall design of the development. There may be exceptions to the rule however, for instance where pepper potting would cause management difficulties.

6.20 Where the developer has agreed to transfer part of a site to an RSL or to the Council to hold for an RSL, services shall be built out to the edge of the affordable site by the developer. In these circumstances, the developer shall not complete in excess of 25% of the open market dwellings prior to the land transfer.

6.21 Planning obligations shall also ensure that the conditions over the future occupancy of the affordable dwellings are retained, preferably through a handover to a RSL.

## **7 Employment and Training**

### Policy Background

7.1 Circular 05/2005 supports local planning authorities seeking planning obligations that contribute towards employment and training, arising from a proposed development.

7.2 In all cases, any planning obligations related to employment and training must not contravene other legislation, for instance equal opportunities legislation and EU legislation concerning the targeting of a local workforce. Developers are therefore advised to refer to the Local Government Best Value Order 2001, which is concerned with the recruitment of a local workforce.

7.3 Stockton Borough Council's Community Strategy lists as one of its five key improvement priorities Economic Regeneration and Transport, which seeks to bring more people in to employment. This will be achieved by improving the employment and skills opportunities for local people. The strategy aims to "maximise local employment and training through regeneration and public procurement".

7.4 Promoting local employment and training opportunities in construction to the long term unemployed and young people have important benefits, offering the chance to develop new skills, especially in a sector where skilled labour is often in short supply. This will help to achieve long-term sustainable benefits for local communities that will help address social exclusion. Such an approach also contributes to sustainable development, in reducing transport and the resulting pollution impacts of long distance commuter travel.

#### Thresholds

7.5 The Council expects that a minimum of 10% of the total labour supply for the construction of commercial developments in excess of 1000 sq metres, or residential developments of 10 dwellings or more, will be provided by new entrant trainees as agreed with the Council's Labour Market Co-ordinator, or another agency named by him / her.

#### Delivery

7.6 Should a developer already provide an accredited training scheme, then it may be appropriate to reduce or waive the requirements outlined above. In these circumstances, it is up to the developer to prove that this is the case.

7.7 The Council will also seek to secure employment and training schemes other than within the construction sector. For example, there may be circumstances when opportunities exist to provide training for the end user of the proposed development.

7.8 In all circumstances, the contributions from the developer will be related to the scale and size to the proposed development. The requirement for end user training will not apply to residential development.

7.9 Where planning obligations have been secured in relation to employment and training, developers would be expected to make a contribution towards the services of the Council's Labour Market Co-ordinator. Developers should contact the Councils Labour Market Co-ordinator on 01642 526184 for further details.

## **8 Education**

Policy Background

8.1 Circular 05/2005 (paragraph B15) provides justification for seeking contributions concerning education facilities.

8.2 The Council has a statutory duty to ensure that sufficient school places are available to meet the needs of pupils resident in the Borough. This requires capital investment that is not fully supported by government allocations. In these circumstances it is reasonable to expect a developer to contribute to meeting those costs.

8.3 Planning obligations relating to education will be applied solely to residential development, and only be applied if as a result of a residential development, the number of extra pupil places generated is in excess of the existing school capacity. The pupil capacity of each school is assessed in accordance with the DfES net capacity measure introduced in 2002.

#### Delivery

8.4 The number of pupils on roll at each school is recorded annually at a census taken in January. This information is used by the Tees Valley Joint Strategy Unit (JSU) to prepare projections of future pupil numbers for each school. The projections and capacity data are published annually on the Council website in the School Organisation Plan. The Plan also indicates in general terms whether the Council intends to increase or reduce the supply of school places in response to demographic trends in particular areas of the Borough.

8.5 Information within the School Organisation Plan provides background information that may be used by developers to gain an early indication of the likely education contribution. However, the information must be taken with caution, since individual school populations vary from year to year, and cannot be predicted with certainty. As such, it is possible that vacant school places predicted at an earlier stage may no longer exist by the commencement of any given development.

8.6 The following types of residential development will be exempt from education obligations: sheltered housing, student accommodation, care homes, one-bedroom dwellings, studio flats, and residential homes for the elderly.

8.7 Education obligations will usually consist of a financial contribution for the provision of off-site facilities. However, there may be exceptional instances where major residential development results in the need for new on-site educational facilities.

8.8 If the available data indicates a likely shortfall in school places around a proposed housing development, the Council would seek to agree the terms of a planning obligation with the developers at the point when an application for outline planning permission is made.

8.9 At that stage the exact timescale for development and the final number of homes of each type may not be known. This makes it impossible for the Council to estimate with any accuracy at that stage whether (or how many) additional school places may be required in relation to any planned development. For this reason, the agreement would not specify an exact sum to be paid by a developer. Instead it would stipulate:

- The formula to be used for calculating contributions;
- The scheduling of payment in relation to the development (to ensure that new facilities will be provided in advance of need);
- The apportionment of other costs. (e.g. legal costs for drawing up the agreement).

8.10 Appendix B provides an example of the formulae to be used by the Council for calculating education contributions.

#### Pooling Contributions

8.11 In areas where there may be more than one potential development site, the extra school places created by the initial development may be served by existing spare capacity in the school(s). This may place a greater burden on subsequent development within the same area. Therefore, when considering developer contributions, the Council may look at sites over a certain timescale to ensure the costs of education contributions are shared proportionally between all related developments.

## **9 Community Facilities**

### Policy Background

9.1 Circular 05/2005 provides the justification for seeking planning obligations in respect of community facilities.

#### Delivery

9.2 New residential development can often place a demand on the existing community facilities within the locality. Whereas some facilities are able to adequately cater for any increased need resulting from a development, others may be unable to do so. In these circumstances, a developer should remedy the situation by either providing services “in kind” or through a commuted sum.

9.3 The focus for contributions secured through obligations will be to improve the existing facilities, rather than providing on site provision, unless the scale of the development warrants otherwise. The term community facilities covers a range of facilities, some examples of which are listed below:

- Libraries;
- Day Care Facilities;
- Adult Education /Lifelong Learning;
- Crèche Facilities;
- Young People Centres;
- Community meeting halls / rooms;
- Museums and Archives;
- Crematorium / Burial Grounds;
- Waste Management.

#### Thresholds

9.4 Each development will be assessed on a case-by-case basis, with the following principles applied when determining whether development proposals shall be subject to planning obligations:

- Development that generates a new or significantly larger population may require the provision of new facilities;
- Where the development does not require the provision of new facilities, existing facilities may require improvement or extending; and
- Development in an area where existing facilities are at/ near capacity may require such facilities to be improved and / or extended.

#### Library Facilities

9.5 The Council is required to meet the Department for Culture, Media and Sports (DCMS) Public Library Standards. Currently, Stockton Borough

Council meets nine out of the ten standards although the development of new housing within the Borough increases the strain on resources of the Council's Library Services. Appendix C provides details on the calculation that will be used when dealing with contributions to Library facilities in respect of planning obligations.

9.6 Contributions secured through planning obligations in respect of Library facilities will be spent either on the provision of new library books or other information materials, or improving facilities at the nearest public library to the development.

#### Waste Management and Recycling.

9.7 The Council has drawn up guidance for developers concerning the provision of on site waste and recycling facilities for residential development. Appendix D provides details of the requirements of different housing types, together with the requirements of different site sizes. Agreement will also need to be reached between the developer and the Council on a management plan for any waste management scheme secured through a planning obligation.

9.8 Where such waste management and recycling requirements are unable to be provided on site, the developer will be required to make a contribution to enable such facilities to be provided off site.

## **10 Community Safety**

### Policy Background

10.1 Planning Policy Statement 1: Delivering Sustainable Development states that “Planning should facilitate and promote sustainable and inclusive patterns of development by ensuring that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community”.

10.2 The Crime and Disorder Act 1998 section 17 imposes a statutory obligation on Local Authorities to “exercise its functions with due regard to...the need to do all it reasonably can to prevent crime and disorder in its area”.

10.3 The Adopted Local Plan (1997) contains two policies which refer to community safety. Policy GP 1 states:

“Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (vi) The desire to reduce opportunities for crime”

10.4 Policy HO 11 of the Local Plan states:

“New residential development should be designed and laid out to:

- (i) provide a high quality of built environment which is in keeping with its surroundings;
- (ii) Incorporate open space for both formal and informal use;
- (iii) Ensure that residents of the new dwellings would have a satisfactory degree of privacy and amenity;
- (iv) Avoid any unacceptable effect on the privacy and amenity of the occupiers of nearby properties;
- (v) Pay due regard to existing features and ground levels on the site;
- (vi) Provide adequate access, parking and servicing;
- (vii) Subject to the above factors, to incorporate features to assist in crime prevention.”

## Thresholds

10.5 In the context of the above policies, there are no minimum thresholds below which community safety obligations will not be required, although where obligations are sought the Council is required to demonstrate the proposed development would generate the requirement for essential infrastructure of this nature.

## Delivery

10.6 The design and layout of a development may not always be sufficient to achieve satisfactory safety and crime prevention measures, for either community safety purposes or for the security of the site itself.

10.7 Therefore, contributions may be sought from developers to fund the provision of additional crime prevention infrastructure. An example of this may include the installation and networking of CCTV. The levels of provision and or contributions sought will be dependent on the size and type of proposed development. Negotiations will be based on the information provided within this document, advice given by the Police Architectural Liaison Officer, and Secured By Design principles.

10.8 Examples of the types of community safety infrastructure that developers may be expected to contribute to include:

- CCTV;
- Secured By Design measures;
- Lighting;
- Local Police Base.

#### Maintenance

10.9 Where community safety infrastructure is provided, the Council will seek to secure the relevant maintenance costs, to cover an agreed period. This may be applicable to instances where CCTV is required, and the developer is requested to contact the Councils Neighbourhood Safety Officer at the earliest opportunity for further guidance on associated costs.

## **11 Public Art**

### Policy Background

11.1 'Planning Policy Statement 1: Delivering Sustainable Development' identifies the need for Local Planning Authorities to "plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes".

11.2 Other background information on the importance of the public realm and design is provided in the Urban Design Compendium (English Partnerships and Housing Corporation, 2000) and By Design (CABE, 2000).

#### Threshold

11.3 There are no minimum thresholds for public art, therefore where Developers submit applications for major developments, they will be encouraged to provide a contribution towards the provision of public art related to the development.

#### Appendix A

Definitions of Affordable Housing – Taken from 'Delivering Affordable Housing', Communities and Local Government, 2006.

## **Social Rented Housing**

Normally, only households on local authority and RSL registers are eligible for social rented housing. Rents are set by a national rent regime; are well below market levels; and are normally based on relative property values, local earning levels and property size.

When a household ceases to occupy a social rented home, it is normally made available to other households eligible for social rented housing. Social rented homes are normally owned and / or managed by a RSL (or other body agreed by Housing Corporation), and will be required by regulation or contract to meet the criteria.

Some tenants have the legal right to purchase at a discount the social rented home in which they live, e.g. RSL tenants with a Right to Acquire (RSL tenants) or Local Authority tenants with Right to Buy. Where these rights are exercised the home itself ceases to be affordable, though procedures are in place to reuse receipts. Receipts from Right to Acquire sales are recycled to provide more social rented housing to help other eligible households. Receipts from Right to Buy are partly (25%) retained by the local authority for use however the authority chooses; the remainder (75%) is kept by the Government to be reinvested in new supply.

Local authority homes which are let in connection with the tenant's employment, or are particularly suitable for occupation by disabled or elderly persons are exempt from Right to Buy. Publicly funded housing in small rural settlements is exempt from Right to Acquire, as replacing them with other affordable homes would be extremely difficult. (It is not exempt from Right to Buy, but the landlord may require that properties sold under that scheme can only be resold to people who live or work locally.) Landlords will also usually have a right of first refusal to buy back any homes sold under the Right to Acquire and Right to Buy, if they are resold within 10 years.

## **Intermediate Affordable Housing.**

These are types of housing between market and social rented housing. They include the following:

Intermediate Rented Homes - Provided at rent levels above those of social rented but below private rented. The Government offers these to some key workers who do not wish to buy.

Discounted Sale Homes – These homes have a simple discount for the purchaser on its market price, so the purchaser buys the whole home at a reduced rate.

Shared equity – Where more than one party has an interest in the value of the home e.g. an equity loan arrangement or a shared ownership lease. There may be a charge on the loan, and restrictions on price, access and resale.

Shared ownership – Form of shared equity under which the purchaser buys an initial share in a home from a housing provider, who retains the remainder and may charge a rent. The purchaser may buy additional shares (staircasing) and this payment should be recycled for more affordable housing. In most cases, a purchaser may buy the final share (staircase out) and own the whole home, though this may be restricted in some rural areas.

## **Appendix B**

### **Example Formula for calculating developer contributions - Education.**

Stockton-on-Tees Borough Council uses the DfES guidance on space requirements and local building costs.

Primary school place = 5sq metres.

Local building costs (2006) = £1600 per sq metre.

Cost per Primary School place =  $1600 \times 5 = £8000$

Secondary School place = 8.1 sq metres

Local building costs = £1600 per sq metre.

Cost per Secondary School place =  $1600 \times 8.1 = £12960$

(Any agreement would be subject to index linking in accordance with the Tender Index published by the Building Cost Information Service)

### **Historical child yield factor (supplied by the JSU).**

Average child yield per family home (2 or more bedrooms):

Primary = 0.26

Secondary = 0.20

### **Cost per place**

Current values:

Primary =  $0.26 \times £8000 = £2080$

Secondary =  $0.20 \times £12960 = £2592$

Maximum total per dwelling if no vacant places existed in schools within the area (index linked) = £4672

### **Final stage**

Agreed Contribution – discount for every vacant place in neighbouring schools

- Subtract from the agreed contribution a discount for every vacant place in neighbouring schools at the time of the last annual school census before the commencement of the development.
- Must specify the particular schools, and discount would be at the full cost per place rate

## **Appendix C**

### **Example Formula for calculating developer contributions - Libraries**

## Basis of Calculation

The calculation will be based on the following information:

- Average number of persons per dwelling on a ward basis. This information is taken from the Joint Strategy Unit Ward Data.
- The Stockton requirement for net library floor-space per 1000 population
- The provision cost per m<sup>2</sup> of library floor-space.

The average number of persons per dwelling in Stockton is 2.35 on a ward basis is set out below (Figures from the Joint Strategy Unit):

Ward	Avg. number of people per household	Ward	Avg. number of people per household
Billingham Central	2.17	Mandale and Victoria	2.22
Billingham East	2.27	Newtown	2.23
Billingham North	2.52	Northern Parishes	2.44
Billingham South	2.36	Norton North	2.13
Billingham West	2.35	Norton South	2.44
Bishopsgarth and Elm Tree	2.36	Norton West	2.30
Eaglescliffe	2.43	Parkfield and Oxbridge	2.11
Fairfield	2.41	Roseworth	2.45
Grangefield	2.57	Stainsby Hill	2.39
Hardwick	2.14	Stockton Town Centre	1.83
Hartburn	2.44	Village	2.22
Ingleby Barwick East	2.72	Western Parishes	2.47
Ingleby Barwick West	3.01	Yarm	2.37
		<b>Stockton</b>	<b>2.35</b>

The International Federation of Library Associations recommends a standard of 42m<sup>2</sup> of library accommodation per 1000 population, Stockton uses this figure.

The cost of provision per m<sup>2</sup> for library floor-space within Stockton is £2700.

In all cases the calculation is to be based upon the net increase in population.

The following is an example:

Proposal for 40 dwellings in Billingham North

Number of persons generated	40 x 2.52	= 100.8
Requirement per 1000 population		= 42 m <sup>2</sup>
Cost of provision per 1000 population		= £2700

Cost of provision per 1000 population	= £113,400
Therefore cost of provision per person	= £113.40
Contribution for 100.8 persons (£113.40 x 100.8)	= £11430.72

The contribution would be subject to index linking as set out elsewhere in the document.

Contributions secured through Planning Agreements will be spent on one or both of the following:

- The provision of new library books
- Improvement works to the nearest public library to the development

## **Appendix D – Waste Management & Recycling**

The following schedule is intended to act as a general guide only. There will be circumstances where these guidelines do not apply and where a local

solution will need to be agreed upon with the developer. Advice should be sought from the Waste Management Section in these instances.

### Housing Types

<b>Housing Type</b>	<b>Requirement</b>
Detached house/bungalow Semi-detached house/bungalow Terraced property (with garden) Flats with ground floor access	240 litre wheeled bin 55 litre recycling box 45 litre reusable recycling bag Storage unit for the above 3 items and space for garden waste container equivalent to 240 litre wheeled bin 330 litre composter (made from recycled plastic) Access large enough between garden and collection point to allow the movement/wheeling of container(s)
As above but without garden(s)	240 litre wheeled bin 55 litre recycling box 45 litre reusable recycling bag Storage unit for the above 3 items Access per above
Terraced property	240 litre wheeled bin 55 litre recycling box 45 litre reusable recycling bag Storage unit for the above 3 items and space for garden waste container equivalent to 240 litre wheeled bin Access large enough between garden and collection point to allow the movement/wheeling of container(s)
Terraced property in Alleygate scheme	3 x 1100 litre wheeled recycling containers (glass/cans/paper) secured to secure lockable frame within alley area. (This assumes houses will already have refuse containers and recycling boxes)
Low-Rise Flats (with communal bin area)	3 x 1100 litre wheeled recycling containers (glass/cans/paper) secured to secure lockable frame in a secure area OR, 55 litre boxes and 45 litre reusable recycling bags for paper issued to each property if acceptable to residents.

Medium-Rise Flats (with communal bin area)	3 x 1100 litre wheeled recycling containers (glass/cans/paper) secured to secure lockable frame in a secure area or adj. to bin room. 45 litre reusable recycling bags for paper issued to each property.
High-Rise Flats (with refuse chutes)	Eco 6 Eco-Island Underground Recycling Unit or equivalent sited at convenient location, which could include containers for waste as well as recyclables OR 3* x 1100 litre wheeled recycling containers (glass/cans/paper) secured to secure lockable frame either within bin room or in secure external area. *more containers could be provided depending on demand 45 litre reusable recycling bags for paper issued to each property
New Development as a whole (more than 50 properties)	Eco 6 Eco-Island Underground Recycling Unit or equivalent sited at convenient location to accept domestic waste as well as recyclables
Sheltered Housing/Care Homes	3 x 1100 litre wheeled recycling containers (glass/cans/paper) secured to secure lockable frame in a secure area or adj. to bin room. 45 litre reusable recycling bags for paper issued to each property.

*NB. It is likely that the standard issue 240 litre wheeled bin will be replaced by a smaller 140 litre wheeled bin as and when Cabinet approve a range of waste management policy amendments.*

### **Size of Development**

At the planning application stage, developments will be set out via drawings, Planning and Design Statements. These will advise the total number of

residential properties and the types of each as well as a range of other issues e.g. street furniture, road/path layouts etc.

It would be helpful therefore, to indicate the type of recycling facilities required in relation to the size of development. The table above relates to housing types rather than volumes of properties.

<b>Development Type</b>	<b>Requirement</b>
Semi-detached housing – up to 50 properties	Individual recycling and waste containers as above
Detached housing – up to 50 properties	Individual recycling and waste containers as above
Terraced housing – up to 50 properties	Individual recycling and waste containers as above
Semi-detached housing – more than 50 properties	Communal recycling & waste facility - Eco Island 6 Unit or equivalent
Detached housing – more than 50 properties	Communal recycling & waste facility - Eco Island 6 Unit or equivalent
Terraced housing – more than 50 properties	Communal recycling & waste facility - Eco Island 6 Unit or equivalent
Flats	Per above recommendations