



CABINET – 10th OCTOBER 2017

**DEVELOPER CONTRIBUTIONS TOWARDS COUNTY COUNCIL
SERVICES - UPDATE**

REPORT OF THE CHIEF EXECUTIVE

PART A

Purpose of the Report

1. The purpose of this report is to update the Cabinet on the work undertaken to address concerns that the Council's reasonable expectations of receiving Developer Contributions via S106 planning agreements are being met to meet demands placed on services created by development across the County, following the previous report to the Cabinet in November 2016.

Recommendation

2. It is recommended that the present update be noted and that progress on Developer Contributions continue to be monitored.

Reasons for Recommendation

3. It is important that the County Council does what it can to meet the demands on its services in increasingly difficult financial circumstances. Ensuring that developers make appropriate contributions to mitigate the consequences of their developments via Developer Contributions is essential if communities are not disadvantaged and the County Council is not put under excessive financial demands which it will not be able to meet.
4. Local planning authorities should do all they can to ensure developments are sustainable and meet the reasonable obligations requested of them.

Timetable for Decisions (including Scrutiny)

5. This is an ongoing issue which needs to be continually monitored as part of the usual planning and development process.

Policy Framework and Previous Decisions

6. The Leicestershire Planning Obligations Policy adopted on 3rd December 2014, sets out how the County Council will approach Section 106 obligations and

includes a protocol between the County Council and the local planning authorities on working arrangements.

Resource Implications

7. Developer contribution requests are co-ordinated through the Chief Executive's Department and the Highway Authority consultee responses are delegated to the Director of Environment and Transport. The consequences outlined in this report are to be contained within existing budgets.
8. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

None.

Officers to Contact

Mr. Lonek Wojtulewicz (Tel. 0116 305 7040)
Head of Planning, Historic and Natural Environment
Email: lonek.wojtulewicz@leics.gov.uk

PART B

Background

9. On 17th June 2016, the Cabinet resolved:
 - (a) That local planning authorities be reminded of:
 - i. the County Council's continued support for sustainable coordinated growth across the county and its desire to play its part in delivering a strong economy, quality environment and well supported communities;
 - ii. the importance of the County Council's role in the planning process both as highway authority and service provider;
 - iii. the need to support, through section 106 contributions, the delivery of County Council services required as a consequence of proposed developments so as to ensure that proposed developments are sustainable and local communities are not disadvantaged;
 - iv. the need to collaborate with the County Council where developments are unlikely to meet the County Council's section 106 or highway requirements.
 - (b) That in the interests of greater awareness and transparency, the County Council will:
 - (i) report back to Cabinet on planning decisions that do not reflect the County Council's section 106 requirements;
 - (ii) notify its members of County Council requests for section 106 contributions that fall within their division;
 - (iii) report back to Cabinet on any significant planning decisions which as far as officers are aware that do not reflect the advice of the Highway Authority.
10. In November 2016 the Cabinet received an update on progress regarding planning decisions and Developer Contribution funding requests made by the County Council.

Current Progress

11. Since the last report to the Cabinet in November 2016 the County Council has entered into 58 Section 106 planning agreements totalling over £15 million in value. For the financial year 2016/17 the total value of agreements amounted to just over £80 million, and so far in this financial year the value of agreements is approximately £5 million. Receipt of contributions from operational agreements and developments in the last financial year (2016/17) was £12 million, and in the current period it is approximately £4 million.
12. The County Council continues to respond to developer contribution consultations from District Councils in a timely manner to meet their deadlines. Since November 2016, the Council has responded to over 160 requests specifically on Section 106 and service requirements.

13. In terms of planning appeals, since the last update in November 2016, 16 decisions have been issued by the Planning Inspectorate in cases where the County Council presented evidence on the need for contributions for services. Whilst just under half of the planning appeals were dismissed, in nearly all cases the Inspector deemed that the requests from the Council for contributions were accepted as being compliant with the regulations¹.
14. As members will be aware, there will always be a tension between developers, the planning authority and infrastructure providers such as the County Council when requesting and negotiating developer contributions. In the majority of cases the County Council has been able to demonstrate and justify the need for the contributions that it seeks. However, there are occasions where developers claim viability issues which may affect the amount of contributions they may be able, or say they can afford to pay.
15. Elsewhere on the agenda for this meeting the Cabinet will be considering its response to the Government's consultation "*Planning for the right home in the right place*" in which it highlights the complexity and uncertainty that viability assessments bring to the planning process which can result in fewer contributions for infrastructure being secured. The range and complexity of variables in assessing viability are such that the process may be viewed as not being transparent and therefore viewed with suspicion.
16. Recently there have been a few examples of viability claims being accepted by District Councils which are likely to lead to a reduction in the contributions received by the County Council. Two proposals in the Hinckley and Bosworth district relating to 100% affordable housing schemes (i.e. the proposed development on land adjacent to 121 Station Road, Bagworth for the erection of 10 houses and 4 flats, and the development on the Dunlop Ltd. site, Station Road, Bagworth for the erection of 61 dwellings), have reduced the potential contributions to the Authority by approximately £250,000. The funds were requested mostly for education purposes. The assessment of viability is a matter for the District/Borough Councils as the local planning authority although the County Council provides full information about its contribution requirements. As is often the case, the County Council has not been party to the viability assessments.
17. It should be noted that District Councils are also sometimes affected by viability claims. An example of this is the viability assessment of the Lower Bardon Grange site in North West Leicestershire which is currently being considered and which might result in a reduction in the number of affordable houses being proposed on the site (a district council responsibility), rather than the funds required by the Authority to support housing and transport infrastructure in the area.
18. With regard to other reasons for not accepting County Council requests, Hinckley and Bosworth Borough Council did not accept a request for library and

¹ Community Infrastructure Regulations 2010 and subsequent amendments

civic amenity requirements on a proposal in Earl Shilton (the development of 27 dwellings at Heath Lane) although the contributions were very modest.

19. There have been some minor issues with a few developers disputing payments relating to house types and indexation, but these are being resolved.

Equality and Human Rights Implications

20. There are no equality and human rights implications directly arising from this report.

Background Papers

Report to the Cabinet on 17th June 2016 – Developer Contributions towards County Council Services

<http://politics.leics.gov.uk/documents/s119778/final%20Cabinet%20Report%2020160617%20s106.pdf>

Report to the Cabinet on 23rd November 2016 – Development Contributions towards County Council Services

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=4607&Ver=4>

This page is intentionally left blank