



CABINET – 10th APRIL 2018

**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 developments across the County, following the previous report to the Cabinet in October 2017.

Recommendation

2. It is recommended that the 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 will continue to be monitored as part of the planning and development process.

Policy Framework and Previous Decisions

6. The Leicestershire Planning Obligation 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. The Policy is under review and will be subject to a future Cabinet report.

Resource Implications

7. Developer contribution requests are coordinated through the Chief Executive's Department and 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

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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 and October 2017 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 October 2017 the County Council has entered into 26 Section 106 planning agreements totalling a value of £14.25m¹, and has received contributions from operational agreements and developments totalling £2.74 million².
12. The Council continues to respond to developer contribution consultations from District Councils in a timely manner to meet their deadlines, and since October 2017 it has responded to over 87 requests specifically on Section 106 and service requirements.
13. In terms of planning appeals, since October 2017, 8 appeal decisions have been issued by the Planning Inspectorate in cases where the County Council

¹ as at 26th January 2018

² as at 1st March 2018

presented evidence on the need for contributions for services. Whilst three quarters of the planning appeals were dismissed, none of the decisions recorded any CIL (Community Infrastructure Levy) compliance issues with the contributions sought, mainly because in over half of the cases the Inspector made no comment and in the remainder found them CIL compliant³.

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 may affect the amount of contributions developers may be able or say they can afford to pay.
15. Since the last report to the Cabinet in October 2017, there have been a number of examples of issues arising that have led to the County Council not receiving the level of developer contributions it requested and a summary of these is provided in the table below. Having said that, overall it is a relatively small amount compared to the £14.25m secured in s106 agreements during the same period.

TABLE 1 – EXAMPLES OF DEVELOPER CONTRIBUTION ISSUES

PA No.	Location	No. of Houses	Developer contributions requested by the County Council	Developer contributions not accepted	Reasons	Planning status
15/01188	Arthur Street, Barwell (HBBC)	42	£116,449	£3,400	Libraries and CA not CIL compliant	Approved
17/00765	Big Pit, Hinckley (HBBC)	60	£229,365	£229,365	Viability of the scheme	Refused
16/01120	Breedon Priory Nurseries (NWLDC)	27	£97,823	£71,012	Viability of the scheme	Pending
16/1359	Cemetery Road, Sileby (CBC)	108	£361,287	£5,508	CA not CIL compliant	Approved

³ Community Infrastructure Regulations 2010 and subsequent amendments

16. The two proposals in Hinckley and Bosworth and Charnwood (i.e. Arthur Street, Barwell and Cemetery Road, Sileby) were deemed to be partially not CIL compliant by the local planning authority, in respect of requests for library and civic amenities provision, including an issue relating to pooling (i.e. more than five obligations entered into for a specific project.).
17. The two proposals in Hinckley and Bosworth and North West Leicestershire (i.e. Big Pit, Hinckley and Breedon Priory Nurseries) have been subject to a viability claim by the developers. In the case of the development at Big Pit, this application was for 100% affordable housing and the developer argued that payment of any contributions would make such a scheme unviable. This development was, however, refused planning permission by the local planning authority and no appeal has yet been lodged. Regarding the proposed development at Breedon Nurseries, this planning application is yet to be determined, but indications are that a viability assessment is proposing a significant reduction in contributions to the County Council (i.e. a reduction from £97,823 to £26,811 – which is proposed to be used for education purposes).
18. There has also been a challenging issue concerning highway advice on two development proposals in Sileby (an application for 170 houses at Peashill Farm and an application for 195 houses at Seagrave Road). This is based around the limitations to development that the Sileby and Barrow-Upon-Soar Transport Study has identified. Whilst Peashill Farm was granted planning permission, Seagrave Road is the subject of a planning appeal. The County Council has supported the local planning authority's case on highway matters at the appeal. The appeal proceedings have suggested that the County Council could be at risk of costs if it uses the Study for the purpose of providing highway advice on specific planning applications. As a result, in future, highway advice for current and future applications will be based on the site specific impacts of each proposal in line with the National Planning Policy Framework.

Equality and Human Rights Implications

19. 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>

Report to the Cabinet on 10th October 2017 – Developer Contributions towards County Council Services

<http://politics.leics.gov.uk/documents/s132175/Developer%20Contributions%20Towards%20CC%20Services%20-%20Update.pdf>

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