



**CABINET – 16<sup>TH</sup> OCTOBER 2018**

**REVIEW OF LEICESTERSHIRE COUNTY COUNCIL'S PLANNING  
OBLIGATIONS POLICY – CONSULTATION DRAFT**

**REPORT OF THE CHIEF EXECUTIVE**

**PART A**

**Purpose of the Report**

1. The purpose of this report is to advise members of progress on the review of the County Council's Planning Obligations Policy and to seek approval to commence a public consultation exercise on the revised draft Policy document.

**Recommendations**

2. It is recommended that:
  - (a) The revised draft Leicestershire Planning Obligations Policy document attached as an Appendix to this report be approved for consultation;
  - (b) That a further report be submitted to the Cabinet in February 2019 regarding the outcome of the consultation exercise and presenting the final revised Planning Obligations Policy for approval.

**Reason for Recommendation**

3. It is essential that the effects of new developments approved by the Leicestershire local planning authorities and the County Council in its Local Planning Authority role are mitigated through the provision of appropriate and necessary infrastructure, services and community facilities funded via developer contributions secured by way of s106 planning obligations.
4. The County Council adopted its current Planning Obligations Policy in December 2014. It is necessary to keep the Policy under review in the light of changes in planning policy, good practice, the law, and market conditions. This policy review reflects the changes that have taken place over the past four years.

**Timetable for Decisions (including Scrutiny)**

5. Subject to approval by the Cabinet, an 8-week public consultation on the draft document will take place between October and December 2018. The Scrutiny

Commission will consider the draft Policy as part of this consultation at its meeting in November 2018.

6. It is intended that a report on the outcome of the consultation will be presented to the Cabinet on 8<sup>th</sup> February 2019 and, if approved, the revised draft Policy will be submitted to full Council for approval and adoption shortly thereafter.

### **Policy Framework and Previous Decisions**

7. The current Planning Obligations Policy was adopted by the County Council on 6<sup>th</sup> December 2014. The Policy forms part of the Council's Policy Framework (Schedule 2 to Article 4.01 of the Constitution) and therefore requires approval by full Council.

### **Resource Implications**

8. There are no direct resource implications arising from this report. Monitoring compliance with the s106 Planning Obligations Policy rests with the Planning Historic and Natural Environment Section of the Chief Executive's Department and work undertaken in this regard will be resourced within existing budgets.
9. Planning obligations are a lawful way (subject to compliance with the statutory regime that govern them) to secure contributions (financial and otherwise) towards County Council services and infrastructure both at present and for the future. Such contributions are needed to meet the impacts and demands placed on services by new developments and are necessary to make some developments acceptable. It provides the means by which necessary resources to address such matters can be funded through the planning process. These can be provided in the form of financial payments and/or direct infrastructure facilities.
10. Once finalised, this Policy will guide future County Council requests for s106 planning obligations submitted to Local Planning Authorities. It will also be referred to where requested s106 planning obligations are disputed at Planning Inquiries. As the Policy will have been the subject of public consultation it will be given appropriate "weight" in the decision-making process, at Planning Committee level and by the Planning Inspectorate.
11. 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 Procedures**

12. None.

**Officers to Contact**

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## **PART B**

### **Background**

13. The County Council's existing Planning Obligations Policy was adopted by the County Council in December 2014. It requires updating and refreshing in the light of changes to the planning system, for example, the revision to the National Planning Policy Framework (NPPF) (published July 2018), and to reflect the County Council's experiences in negotiating with developers and local planning authorities for the receipt of planning obligations.
14. In addition, Leicestershire faces major growth over the next 5-10 years, and to meet the challenges and opportunities this presents, the Council's planning obligations policy needs to be revised to ensure it is 'fit for purpose' to enable it to secure the necessary and proper provision of infrastructure and services that will support this.

### **The Revised Draft Planning Obligations Policy**

15. The revised draft Planning Obligations Policy is appended to this report. It is similar in content and form to the current published Policy, with the general sections being followed by detailed considerations on each County Council Service area.
16. Following initial consultation with County Council departments, some key changes are proposed, namely:
  - Education – an enhanced, detailed educational methodology and justification of the requirements for education contributions has been added, including new pupil yield rates, early years provision and transitional arrangements;
  - Social care and health – a set of metrics have been developed to better assess the impacts that new developments may have on social infrastructure required to meet national policy requirements of sustainable development;
  - Highways and transport – to maintain growth, provisions have been added to ensure, where appropriate, new developments will be required to mitigate any stifling effect they have on the proper and efficient operation of the transport system. Also, to encourage sustainable transport the Policy now emphasises the need to ensure, so far as possible, contributions are targeted to achieve better use of public transport;
  - Waste management – a more integrated approach is proposed that takes into consideration the wider waste network and infrastructure requirements that new development may demand;

Other proposed amendments pertain to the need to update procedure and the need for the overall approach to be consistent with the NPPF.

### Community Infrastructure Levy Regulations (CIL)

17. Planning obligations contained in s106 agreements/unilateral undertakings are governed by the CIL regulations<sup>1</sup> which, amongst other things, limit the scope of obligations in decision-making, particularly around pooling. The CIL is generally an alternative to how development funds infrastructure requirements; it is a tool for local authorities which uses a tariff-based approach for certain types of development. As none of the Leicestershire local planning authorities have yet introduced CIL there has been no need to amend the Policy in this regard at present.

### National Planning Policy Framework (NPPF), Local Plan Policies and Obligations

18. In preparing local plans, each local planning authority will need to address their approach to planning obligations. Along with the infrastructure schedule that should accompany local plans, local planning authorities should set out clear policies on developer contributions and how infrastructure will be delivered.
19. Local plans that are prepared in line with the new NPPF<sup>2</sup> (July 2018) will need to set out strategic policies that detail the infrastructure and community facilities needed to support the pattern, scale, quantum and quality of development proposed. Planning applications that comply with the policies will be assumed to be viable, and it will up to developer applicants to justify why a viability assessment is required. In any event, the NPPF states that viability assessments should be made public.<sup>3</sup> Also, if large scale developments are to be proposed in local plans, then their location should take advantage of existing and planned investment in infrastructure<sup>4</sup>.
20. Drawing these threads (NPPF and Local Plans) together shows it is essential that the cost of infrastructure and community facilities arising from new development (both major schemes and the accumulative impact of smaller schemes) is secured from appropriate developer contributions, provided they meet the CIL tests summarised in the draft Policy (the CIL Regulations place restrictions on the pooling of planning obligations).

### Consultation

21. It is proposed that an 8-week public consultation exercise be undertaken between October and December 2018. This will comprise an online questionnaire on the County Council website, available to the general public, which will be promoted through the local media. Consultation targeted at key stakeholders, listed below, will also be undertaken.

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<sup>1</sup> Community Infrastructure Regulations 2010 (as amended)

<sup>2</sup> Local Plans submitted from 24 January 2018 onwards (para 214 NPPF)

<sup>3</sup> Paragraph 57 NPPF

<sup>4</sup> Paragraph 72 NPPF

- County Council services and other service providers;
  - Local planning authorities in Leicestershire;
  - Adjacent unitary authorities and County Councils;
  - The Leicester and Leicestershire Enterprise Partnership (LLEP);
  - Government agencies;
  - Business interests and representative bodies;
  - Developers and house builder representative bodies;
  - Association of Parish Councils;
  - Professional bodies e.g. Royal Town Planning Institute.
22. The County Council's Scrutiny Commission will be consulted as part of this process on 14<sup>th</sup> November 2018.
23. It is anticipated that following the consultation the final Policy document will be presented to the Cabinet in February 2019 and thereafter to the full County Council for approval.

### **Equality and Human Rights Implications**

24. Developer Contributions support the County Council's efforts to develop its services to all sectors of the community.
25. The securing of necessary funding from developer contributions for various local infrastructure and services has benefits for all sections of the community and developer contributions seek to mitigate any disadvantages arising from the impacts of new development.

### **Background Papers**

Leicestershire County Council Planning Obligation Policy December 2014  
[https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2017/2/1/lpop\\_version\\_4\\_final\\_0.pdf](https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2017/2/1/lpop_version_4_final_0.pdf)

National Planning Policy Framework (July 2018)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/733637/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733637/National_Planning_Policy_Framework_web_accessible_version.pdf)

### **Appendix**

Draft revised Leicestershire County Council Planning Obligations Policy