

**CABINET – 25<sup>th</sup> JUNE 2019****REPORT OF THE CHIEF EXECUTIVE****LEICESTERSHIRE COUNTY COUNCIL PLANNING OBLIGATIONS  
POLICY****PART A****Purpose of the Report**

1. The purpose of this report is to advise members of the outcome of the recent consultation process and seek approval for the County Council's revised planning obligations policy for developer contributions towards county-wide services and infrastructure in Leicestershire prior to its submission to the County Council for approval.

**Recommendations**

2. It is recommended that:
  - a) The key comments received during the consultation exercise (as set out in paragraphs 27-32) and the changes made to the draft policy as a consequence as set out in the Appendix of the report, be noted;
  - b) The County Council at its meeting on the 10 July be recommended to:
    - i. Approve the revised Leicestershire County Council Planning Obligations Policy;
    - ii. Authorise the Chief Executive, following consultation with the Lead Member for planning matters, to make necessary future revisions to the Leicestershire County Council Planning Obligations Policy to ensure that it is up to date and relevant provided that these do not constitute material changes to the Policy.

**Reasons for Recommendations**

3. It is essential that the impacts of new development are mitigated through the provision of appropriate and necessary infrastructure, services and community facilities and that developers contribute appropriately to those requirements.
4. The County Council adopted its current developer contributions policy '*The Leicestershire Planning Obligations Policy (LPOP)*' in December 2014. The policy needs to be updated in response to recent changes to the planning system, for example the recently reviewed National Planning Policy Framework

(NPPF) (February 2019) and to reflect the changing costs and funding opportunities for providing infrastructure to support new development.

5. The Policy falls within the plans and strategies forming part of the County Council Policy Framework by Local Choice (Schedule 2 to Article 4.01 of the Constitution) and thus requires approval by the County Council.
6. A delegation to enable the Chief Executive to make amendments to the Policy is being sought to enable minor changes to be made to keep the document up to date, proportionate to infrastructure costs and consistent with revised planning policy and legislation.

#### **Timetable for Decisions (including Scrutiny)**

7. The Draft Leicestershire Planning Obligations Policy was considered by the Scrutiny Commission on 12<sup>th</sup> June 2019 and a summary of its comments are included in Part B of the report.
8. Subject to approval by the Cabinet, the Policy will be considered by the County Council at its meeting on the 10<sup>th</sup> July 2019 after which it would become adopted as County Council policy.

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

9. The existing developer contributions policy – *The Leicestershire Planning Obligations Policy (LPOP)* - was adopted by the County Council on 3<sup>rd</sup> December 2014. The LPOP was prepared in conjunction stakeholders and partners including the District Planning Authorities (DPAs).
10. On 18<sup>th</sup> October 2018, the Cabinet approved a revised draft policy on developer contribution for consultation.

#### **Resource Implications**

11. The legal framework for planning obligations provides the means by which the additional impacts and demands on necessary services and infrastructure arising from new development can be funded through the planning process. These can be provided in the form of financial payments and/or direct infrastructure facilities.
12. Any changes to the regime for developer contributions, including the s106 process, will have important consequences for the method by which the County Council can ensure that it receives appropriate funding towards the demands on its services and infrastructure as a consequence of development.
13. The Director of Corporate Resources has been consulted on the resources implications of this report.

**Circulation Under the Local Issues Alert Procedures**

14. A copy of this report has been circulated to all members of the County Council.

**Officers to Contact**

Mr N. Thomas (Tel 305 7040)

Head of Planning, Historic and Natural Environment, Chief Executive's Department

Email: [nic.Thomas@leics.gov.uk](mailto:nic.Thomas@leics.gov.uk)

Mr. A. Tyrer (Tel. 305 8223)

Developer Contributions Officer, Chief Executive's Department

Email: [andrew.tyrer@leics.gov.uk](mailto:andrew.tyrer@leics.gov.uk)

## **PART B**

### **Background**

15. The purpose of the planning system is to help achieve sustainable development and support sustainable economic growth. It is important that any development, in order to be sustainable, needs to be in the right place with sustainable transport links and provide social and community facilities that local communities need that makes an essential and important contribution to their health, social and cultural well-being. Developments that fail to meet those needs run the risk of being unsustainable and fail the needs of the communities that they seek to create. It is essential, therefore, that appropriate contributions are sought from developers that secure sustainable development.
16. The County Council's existing Leicestershire Planning Obligations Policy (LPOP) was adopted by the County Council in December 2014. The policy requires an update in the light of changes to the planning system, particularly given recent experience of operating the Community Infrastructure Levy (CIL) legal compliance tests on developer contributions and other changes, for example, the revision of the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).
17. In addition, Leicestershire faces major growth over the next 20-30 years, and to meet the challenges and opportunities this presents, the Council's developer contributions 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 needed to support the areas of growth and its local communities.

### **The Draft Consultation Document**

18. A draft policy – Leicestershire County Council Planning Obligations Policy (2019) has been prepared and is attached as an appendix to the report. It is similar to the existing policy, with the general sections being followed by detailed considerations on each County Council Service area. The key changes are:
  - a) Education  
An enhanced, detailed educational methodology and justification of the requirements for education contributions including new pupils yield rates, early years provision and revised transitional arrangements;
  - b) Social Care and Health  
An enhanced social care and health statement;
  - c) Economic Growth  
Revised to acknowledge the County Council's priority for growing the economy, allowing contributions to be requested for skills training, apprenticeships and land/buildings for employment use;

d) Highways and Transport

Provisions have been added to ensure, where appropriate, new developments will be required to mitigate any effect they have on the proper and efficient operation of the transport system. 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;

e) Waste Management

A more integrated approach is proposed that takes into consideration the wider waste network and infrastructure requirements that new development may demand;

f) Other

Amendments relate to the need to update procedure and the need for the overall approach to be consistent with the revised NPPF.

19. The remaining document updates the procedure and the overall approach to planning obligations and s106.

### **Community Infrastructure Levy (CIL)**

20. The Community Infrastructure Levy (CIL) is a charge on developers that local authorities can choose to implement to deliver infrastructure in their area. To date, none of the Leicestershire local authorities have implemented CIL. The revised Policy recognises the potential implications for the County Council if CIL is introduced. It explains how the County Council will have to play a key role in identifying the infrastructure which will be required through development plan preparation; the level of CIL that could be available to the infrastructure and the mechanism by which the CIL will be made available to meet those infrastructure requirements. In 2015, the Government introduced legislation that allows no more than five contributions to be imposed through s106 agreements towards a single piece of infrastructure. This is known as 'pooling'. The Government has recently consulted upon a proposal to lift the restriction on contributions, which will allow additional contributions to be 'pooled'. The option to implement CIL remains.
21. Regardless of whether CIL is introduced in any part of the county, s106 will continue to play a significant role in the foreseeable future.

### **Local Plan Policies and Obligations**

22. In preparing local plans, each Local Planning Authority (LPA) will address, in their Local Plans, their approach to planning obligations. Along with the infrastructure schedules that accompany local plans, they set out policies on how developer contributions and the delivery of infrastructure will be achieved. The revised Policy would assist LPAs in developing those approaches in local plans where appropriate.

23. It is essential that the appropriate cost of infrastructure and community facilities arising from new development (both major schemes and the accumulative impact of smaller schemes) be secured from the appropriate developer contributions. This is a valid and important source of funds towards the essential service provision of the County Council.

### **Consultation**

24. Formal consultation has been carried out with stakeholders to seek views on the revised LCC Planning Obligations Policy. This includes District/Borough Councils, Parish Councils, other service providers, representatives of the development industry and house builders. This consultation took place between 15<sup>th</sup> November 2018 to 31<sup>st</sup> January 2019. The key comments received during the consultation exercise are set out at paragraphs 27-32, below.
25. This included publication of the document on the County Council's web site and direct consultation by email to the following key partners and stakeholders: -
- County Council Services;
  - Other service providers e.g. Health, Fire & Rescue, Police;
  - District Planning Authorities in Leicestershire;
  - Adjacent unitary authorities and County Councils;
  - Leicester and Leicestershire Enterprise Partnership;
  - Business interests and representative bodies;
  - Developers and Home Builders Federation;
  - Parish Councils;
  - Professional bodies e.g. Royal Town Planning Institute
26. Prior to formal consultation, District Council planning authorities were invited to comment before the draft was circulated for wider consideration.

### **Overview of Consultation Responses**

27. 34 responses were received as part of the consultation process as set out below:

<b>Consultee</b>	<b>Responses Received</b>
Town / Parish Councils	14
Developers / Agents	7
Local Planning Authorities	7 (+1 letter from the Strategic Planning Group)
Consultees	4
Residents	1

28. The document was generally positively received. There were some concerns expressed as to the status of the document and its value as a material planning consideration and the weight to be given to it in planning application decisions. This has been clarified that as the County Council is a planning authority and routinely enters into and enforces s106 agreements, the document will be a

policy of the County Council and will become a material consideration in determining planning applications.

29. Developer viability was raised as part of the consultation responses in relation to the provision of infrastructure and the County Council's role and whether contributions would accord with the NPPF. In response to the feedback received, the policy has been amended to make this clearer.
30. Some comments were received concerning the thresholds at which contributions would be sought and the evidence that underpins the charging structure. It is important the thresholds are set at a realistic level which captures necessary developments and ensures the impacts from development are mitigated. Justification for contributions will be provided as part of individual planning application responses, as existing process dictates.
31. The County Council proposes to continue seek a contribution towards monitoring costs. Under the CIL review, the government intends to make it clear how local authorities can seek a monitoring fee through s106 planning obligations. The fee should be proportionate and reasonable and in anticipation of government guidance, the County Council has updated its monitoring contribution to a level which it considers to be fair and proportionate.
32. The Scrutiny Commission considered the Draft Plan at its meeting on 12<sup>th</sup> June 2019 and queried the impact of the Policy on the viability of schemes but were reassured that the County Council infrastructure was recognised as an important part of delivering sustainable development and that engagement with district councils where viability issues arose would be important to maximise contributions to County Council services. The Commission also sought and was given assurances that the majority of issues raised during the consultation had been addressed, recognising that it would not be possible to resolve all concerns. Concern was raised around the value for money represented by travel packs, although it was confirmed that these requests were modest in value and reflected Government policy. Confirmation was also given that library contributions included community libraries.
33. Members felt that more should be done to influence the Local Plan process in the context of the climate emergency that had been declared by full Council, for example through designing homes for life. They also recognised the positive spirit of co-operation between local authorities in Leicestershire and wished to see this built on.

### Summary and Conclusion

34. Leicestershire faces major growth over the next 30 years and to meet the challenges and opportunities this presents, the County Council's developer contributions policy has been revised to ensure that it is '*fit for purpose*' to enable it to secure the necessary and proper provision of infrastructure and services needed to support the areas of growth and its local communities.

35. The review of the developer contributions policy – *Leicestershire County Council Planning Obligations Policy* - represents an opportunity to ensure the County Council has an up to date document to assist and facilitate the delivery of essential infrastructure and services to support the planned growth of its local communities in Leicestershire.

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

36. Developer Contributions support the County Council efforts to develop its services to all sectors of the Community. The securing of necessary funding from developer contributions for 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.
37. An Equalities and Human Rights Impact Assessment screening of the draft Policy document has been undertaken. This process has found that the policy will have a neutral impact and as such it is not necessary to proceed with a full Equality and Human Rights Impact Assessment.

### **Background Papers**

Report to the County Council - Wednesday 3<sup>rd</sup> December 2014 – Leicestershire County Council Planning Obligations Policy

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=134&MId=4023&Ver=4>

Report to the Scrutiny Commission – Wednesday 12 June 2019 - Leicestershire County Council Planning Obligations Policy Consultation Draft

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=137&MId=5697&Ver=4>

CLG Community Infrastructure Levy: Detailed Proposals and Draft Regulations for reform – consultation outcome

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/193362/cil\\_response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/193362/cil_response.pdf)

CLG: Community Infrastructure Levy Regulations

<https://www.gov.uk/guidance/community-infrastructure-levy>

National Planning Policy Framework (2019)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

National Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

### **Appendix**

Appendix - Leicestershire County Council Planning Obligations Policy (June 2019)