

## REPORT OF THE CABINET

### A: LEICESTERSHIRE COUNTY COUNCIL PLANNING OBLIGATIONS POLICY

#### Introduction

1. This report presents the County Council's Planning Obligations Policy for approval.

#### Background

2. The County Council's Planning Policy Obligations is referred to in the Constitution as being part of the Council's policy framework and, as such, requires the approval of the full Council.
3. The Policy provides the framework for developer contributions towards county-wide services and infrastructure in Leicestershire and is attached as Appendix 1.
4. The purpose of planning is to help achieve sustainable development and support sustainable economic growth. It is important that any development, in order to be sustainable, is in the right place with sustainable transport links and that it provides the social and community facilities that local communities need. Developments that fail to meet those needs run the risk of being unsustainable and will fail the needs of the communities that they seek to create. It is essential, therefore, that appropriate contributions are sought from developers to help to secure sustainable development.
5. The County Council's existing Statement of Requirements for Developer Contributions in Leicestershire (SRDCL) was adopted by the County Council in December 2014. The policy requires an update and refresh 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 introduction of the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance (PPG).
6. In addition, Leicestershire faces major growth over the next 20-30 years, and to meet the challenges and opportunities this presents, the County 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

7. 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.
8. The remaining document updates the procedure and the overall approach to planning obligations and Section 106 developer contributions.

### **Community Infrastructure Levy**

9. 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 Section 106 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.

10. Regardless of whether CIL is introduced in any part of the county, Section 106 agreements will continue to play a significant role in the foreseeable future.

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

11. 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.
12. 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 on the draft Policy**

13. 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 and 31<sup>st</sup> January 2019. The key comments received during the consultation exercise are set out at paragraphs 16 – 20 below.
14. 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 and Rescue, Police;
  - LPAs in Leicestershire (district councils);
  - 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
15. Prior to formal consultation, the district councils, as LPAs, were invited to comment. The draft was then circulated for wider consideration.

### **Overview of the Consultation Response**

16. 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

17. The document was generally positively received. There were some concerns expressed as to the status of the document, its value as a material planning consideration and the weight to be given to it in planning application decisions. This has been clarified: as the County Council is a planning authority and routinely enters into and enforces Section 106 agreements, the document will be a policy of the County Council and will become a material consideration in determining planning applications.
18. 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.
19. 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.
20. 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 Section 106 planning obligations. The fee should be proportionate and reasonable. In anticipation of government guidance, the County Council has updated its monitoring contribution to a level which it considers to be fair and proportionate.

### **Consideration by the Scrutiny Commission**

21. The Scrutiny Commission considered the draft Policy at its meeting on 12<sup>th</sup> June 2019 and queried its impact on the viability of schemes but were reassured that 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.

22. 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

23. 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.
24. 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.

### Consideration by the Cabinet

25. The Cabinet considered this matter at its meeting on 26<sup>th</sup> June and noted the comments received during the consultation process and the changes made to the draft policy. The Cabinet also agreed to ask the Council to:
- (i) Approve the revised Leicestershire Planning Obligations Policy;
  - (ii) Authorise the Chief Executive and County Solicitor, following consultation with the Cabinet Lead Member for Planning Matters, to make any necessary future revisions to the Leicestershire Planning Obligations Policy to ensure that it is up-to-date and relevant provided that these do not constitute material changes to the Policy.

### (Motion to be moved:-

**That the revised Leicestershire Planning Obligations Policy, referred to in Section A of the report to the Cabinet, be approved and that the Chief Executive be authorised, following consultation with the Cabinet Lead Member for planning matters, to make any necessary future revisions to the Leicestershire Planning Obligations Policy to ensure that it is up-to-date and relevant provided that these do not constitute material changes to the Policy.)**

26<sup>th</sup> June 2019

N. J. Rushton  
Leader of the Council

## **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**

Leicestershire County Council Planning Obligations Policy (June 2019)