



CABINET – 26 MARCH 2024

REFRESH OF THE LEICESTERSHIRE COUNTY COUNCIL PLANNING OBLIGATIONS POLICY

REPORT OF THE CHIEF EXECUTIVE

PART A

Purpose of the Report

1. The purpose of the report is to seek the Cabinet's approval to undertake a refresh of the County Council's Planning Obligations Policy including consultation on the proposed changes. A summary of the proposed changes is appended to this report.

Recommendations

2. It is recommended that
 - a) The proposed changes to the County Council's Planning Obligations Policy as summarised be supported;
 - b) That consultation is undertaken on the proposed changes to the Planning Obligations Policy;
 - c) That the Chief Executive be authorised to make minor amendments to the proposed changes to the Policy before it is issued for consultation;
 - d) That a further report be submitted to the Cabinet in September 2024.

Reasons for Recommendations

3. To accord with national legislation which sets out the mechanism for securing developer contributions from new development. This includes the Community Infrastructure Regulations 2010 (as amended) which set out additional legislation on the use of planning obligations.
4. To ensure that the County Council's approach in securing developer contributions for new developments is based on up-to-date evidence and costings.
5. Consultation on the proposed changes will help inform the revised Policy.

Timetable for Decisions (including Scrutiny)

6. The Scrutiny Commission will consider a report prior to commencement of the consultation exercise at its meeting on 10 April 2024.
7. It is intended that the Cabinet will receive a further report in September 2024 regarding the outcome of the consultation and presenting the revised Policy.
8. The County Council would be asked to approve the final Policy at its meeting on 25 September 2024, as it forms part of the Authority's Policy Framework.

Policy Framework and Previous Decisions

9. The existing Leicestershire County Council Planning Obligations Policy (LPOP) was adopted by the County Council on 10th July 2019. The LPOP was prepared in conjunction/consultation with several key stakeholders and partners including the LPAs.
10. The review of the Policy will have implications for all directorates within the Authority and therefore accords with all the Strategic Outcomes referenced in the Leicestershire County Council Strategic Plan 2022-26. For example:
 - a. Clean and Green: Changes to contributions sought towards Sustainable Travel will encourage residents of new developments to travel by methods other than by car.
 - b. Improved Opportunities: Making changes to the way contributions towards Education infrastructure are costed and calculated will help to ensure that there are sufficient pupil places available at the catchment schools, and that those schools are built, extended, or maintained to a high standard to support educational attainment.
 - c. Strong Economy, Transport and Infrastructure: The policy seeks to collect contributions from developers towards creating, or enhancing County Council infrastructure, including Schools, Libraries, Waste Sites and Local and Strategic Highways. Updating the policy ensures robustness in the methodology by which the Authority is able to justify and collect contributions towards this infrastructure, making Leicestershire an attractive place to live and work.
11. A Health in All Policies assessment has been carried out, and the outcome is that the policy will have a positive or neutral impact on all areas referenced in the assessment.

Resource Implications

12. 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.

13. It is not proposed that the remit of the Planning Obligations Policy is extended to encompass other service areas not currently requesting developer contributions (more detail is given in Part B of this report below).
14. There are no proposed fundamental changes to the approach to securing the contributions, and as there is no scope to widen the request for developer contributions across the Authority, there are currently no other resource implications.
15. The Director of Corporate Resources and Director of Law and Governance have been consulted on this report.

Circulation Under the Local Issues Alert Procedures

16. None.

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PART B

Background

17. In preparing local plans, each Local Planning Authority (LPA) will need to address in their plans their approach to planning obligations. Along with the infrastructure schedule that should accompany local plans, they will typically set out policies on how developer contributions and the delivering of infrastructure will be achieved. The revised policy would assist LPAs in developing those approaches and therefore the LPAs should be consulted.
18. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires that Supplementary Planning Documents (SPDs), such as Planning Obligations Policies (or similar) drafted by LPA's must be subject to public consultation prior to their adoption by the local planning authority. The County Council's Planning Obligations Policy is not an SPD, however subject to the Cabinet's approval, a draft policy will be published for public consultation.
19. The purpose of planning is to help achieve sustainable development and support sustainable economic growth. It is important that any development, 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 wellbeing. 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 that secure sustainable development.
20. Appropriate and sustainable also means financially viable to deliver; the current housing and development market is volatile, with sales low, and prices of materials and labour increasing due to several factors. The County Council must help LPAs maintain a balance between the viability of development sites in conjunction with the needs of the Authority given increases in population and demands on infrastructure.
21. With this uncertainty (and further changes expected arising from the Levelling Up and Regeneration Act), it is not proposed that the remit of the Policy is extended to cover areas of the County Council that do not currently make a request for developer contributions, except to add in a new appendix following the mandatory introduction of Bio-Diversity Net Gain under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Requirement for a Refresh of the Policy

22. The LPOP was adopted by the County Council in July 2019. It now requires updating in the light of changes to the planning system, particularly the revision of the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (PPG). The NPPF has undergone 2 revisions since 2019, but the LPOP has not yet been updated to reflect those changes.

23. Since the adoption of the LPOP in 2019 there have been several internal changes in practice, either in the calculation of a developer contribution, or in the cost multiplier/s used. Some of these changes have been universally accepted by LPA's and applicants, and some are still subject to scrutiny and justification, either to the LPA, or to a Planning Inspector. This refresh seeks to bring the Policy in line with these changes of practice and uplifts in cost, which will formalise the practice, with a view to making them less complicated and resource intensive to justify.
24. The current Policy allows an uplift in the costs set out therein, however, no uplifts or increases have occurred, except for pupil cost multipliers, which have been updated twice. In some instances, this means that the Authority is not collecting enough money to deliver required infrastructure.
25. This position is worsened reflecting the severity of growing budget pressures across the County Council, and those costs now need to be revised and included in the LPOP.
26. Leicestershire faces major growth over the next 5-10 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.
27. The Policy also needs to be revised in full context of changes in the local and national planning arena, locally in respect of the significant increase in the cost of construction materials since the Coronavirus pandemic, and its impact on the delivery of infrastructure, and nationally, changes being introduced as part of the Department for Levelling Up Housing and Communities' introduction of the Levelling Up and Regeneration Act (LURA) and other mandatory changes, such as the introduction of Bio-Diversity Net Gain under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).
28. The LURA is expected to fundamentally change the way the planning system works but in the main, "root and branch" reform and "simplification" referenced in the Act have not yet materialised, and much of the LURA requires secondary legislation before the implications are fully known.
29. Once more is known about the LURA, and its implications on Developer Contributions (for example through the proposed Infrastructure Levy), then consideration will be given to a further review of the Policy.

Proposed Changes to the Policy

30. In addition to referencing relevant, up to date national and local policies, the Policy sets out departmental changes as highlighted below;
31. Adult Social Care

- a. The proposed policy confirms that the County Council cannot collect financial contributions towards Adult Social Care because the department does not have any capital funded infrastructure. The proposed policy does propose a change in the way that the department is consulted on planning applications with an aim to influence district council decision-making.

32. Waste

- a. The existing policy uses a cost multiplier that was calculated in 2015. The proposed policy seeks to update the cost multiplier used to calculate Waste contributions and is benchmarked on a site delivered more recently.
- b. The average contribution sought across the County is proposed to increase from £62.02 per dwelling to £89.15 per dwelling.

33. Education

- a. The current policy contains outdated cost multipliers from 2018, some of which have been updated twice since the adoption of the current policy. It is proposed to update those cost multipliers to bring them in line with current requirements.
- b. Further, in line with Department for Education (DfE) guidance, it is proposed to change the methodology used to calculate the surplus or deficit places available in catchment schools, to make the request for contributions more robust, accurate, and relevant.
- c. For Early Years Education, the cost multiplier will also be updated to reflect best practice recommended by the DfE (to match the cost of providing a Primary place), and due to changes in Legislation announced by Central Government on free childcare places, which is expected will increase demand, to reduce the threshold for seeking Early Years contributions from 100 dwellings to 50 dwellings.

34. Highways, including Local Highways Infrastructure, Major Programmes, and Sustainable and Active Travel

- a. The current policy references Highways' role as a statutory consultee as the Local Highway Authority, and as such, much of the requests for contributions are sought in line with National Policy. However, some of the costs used to calculate contributions are outdated, and the proposed policy seeks to bring those calculations up to date.
- b. The pending introduction of the new Local Transport Plan (LTP4) proposes transformational changes which shift away from planning for vehicles, and towards planning for people and places, reducing a reliance on private car travel and supports sustainable economic development and regeneration to promote active lifestyles, and

contributions will be sought in line with the requirements set out in LTP4.

- c. This shift will assist the County Council in meeting its Carbon and Public Health targets
- d. Notwithstanding the above, the preference is for developers to deliver Highways infrastructure, either through a planning condition or through a separate Section 278 Agreement.

35. Libraries

- a. The current cost multiplier has not been updated since 2017, and the proposal seeks to update that cost multiplier.

36. Public Health

- a. Although the County Council cannot directly collect contributions towards Public Health, the Public Health appendix in the policy will be updated to reflect the “Health in All Policies” approach taken by the County Council, in partnership with the district councils.

37. Biodiversity Net Gain (BNG)

- a. There may be development sites that are able, or are required, to offset the ecological impact of a development site on County Council infrastructure. This could be via a financial and/or non-financial contribution towards BNG offsetting. In addition, a monitoring fee to monitor development sites in respect of BNG will be required.
- b. However, mandatory BNG is in its infancy and there is little guidance available on how fees should be calculated and charged; the County Council is working with other 2-tier authorities on this, and it is envisaged that by the time the policy is out for consultation, more will be known, or there will be further guidance from the Department for Environment, Food and Rural Affairs (DEFRA).

38. Monitoring Fees

- a. Increase the monitoring fee from £300 to £375 per clause, but retain the “or 0.5% of the value of the clause, whichever is greater”, and cap the overall monitoring fee at £20,000.
- b. Allow monitoring fees to be indexed at Retail Price Index (RPI) to reflect any increase in staffing costs.

Consultation

- 39. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires that Supplementary Planning Documents (SPDs), such as Planning Obligations Policies (or similar) drafted by LPA’s must be subject to public consultation prior to their adoption by the local planning authority. The

County Council's Planning Obligations Policy is not an SPD, however subject to Cabinet approval, the draft Policy will be published for public consultation.

40. This consultation is proposed to run in May and June 2024, with a view to taking a subsequent paper to the Cabinet setting out the final proposals in September 2024.
41. The County Council will directly notify the district councils and Developers of the consultation, and public communications will be issued and managed through the Communications and Digital Team prior to the start of the consultation period, and half way through.
42. The consultation will be hosted online, for 8 weeks, through the County Council's website. Respondents will be presented with the appendix, and a "Yes / No" question for each section of the appendix asking if the respondent is in support of the updated position, with an opportunity to provide further comments if the answer is "No".
43. Members will be advised when the consultation starts.

Equality Implications

44. Developer Contributions support the County Council's 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.
45. An Equalities Impact Screening Assessment has been carried out and concluded that there are no equality implications arising from the recommendations in this report.

Human Rights Implications

46. There are no human rights implications arising from the recommendations in this report

Background Papers

Report to the County Council on 10 July 2019 – "Leicestershire County Council - Leicestershire Planning Obligations Policy"

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=134&Mid=5788>

Appendix

Summary of Proposed Changes to the Leicestershire County Council Planning Obligations Policy