

Summary of Proposed Changes to Planning Obligations Policy

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General Changes Proposed

1. Update references to outdated national and local policies, including...
 - i. National Planning Policy Framework (NPPF)
 - ii. Regulations 122 and 123 of the Community Infrastructure Regulations 2010 (as amended)
 - iii. Leicestershire County Council's Enabling Growth Plan 2018-2019
 - iv. Leicestershire County Council's Strategic Growth Plan 2018-2022
 - v. The County Council Infrastructure Plan (Sept 2016)
 - vi. Department for Education (DfE) guidance on securing developer contributions
2. To avoid outdated information (i.e., costs, land specifications etc.) being included in the policy, it is proposed to have links to relevant literature / guidance that contain the most recent information, summarised in a table, with this link to be included under section 6. The same section should set out the County Council's expectations on indices to be used to uplift contributions secured in agreements.
3. Each service specific appendix relates to expectations on phased payments (known as triggers). To assist in pro-active and consistent monitoring of development sites, it is proposed to remove individual references to trigger points within each departmental section and include these as part of the Legal section (paragraphs 6.8 and 6.9) and ensure consistency (where possible) on wording of when triggers should be paid and repaid.
4. Under Section 6, insert a paragraph explaining how the County Council will refresh its requests for developer contributions if the application remains undetermined 12 months after the initial consultation response has been sent back, and also upon receipt of an appeal (irrespective of when the last update was) in order to give applicants, and district and borough councils the most up to date position on our requests.
5. Under paragraph 6.3 (Viability) it is proposed to add a preferential order and % of contributions where not all monies are likely to be collected in the event of a viability challenge and add that the County Council may choose to object to an application on the grounds that the development does not contribute towards sustainable development if a reduced contribution either cannot be justified, or if it is not accepted.
6. To factor in an annual uplift of all contribution requests, where required and/or necessary.

Appendix 1: Adult Social Care and Health

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
Adult Social Care	<p><i>Dwelling threshold: 10+</i> <i>Current S106 Balance: £0</i></p> <p>Can request contributions towards capital expenditure to mitigate the impacts of development on a case-by-case basis.</p>	<p><i>Dwelling threshold: 10+</i></p> <p>To work closer with district and borough councils to deliver extra care and supported living accommodation in line with district and borough councils Affordable Housing requirements.</p> <p>To try to influence the design of major development schemes to ensure that they meet the future needs of the population as residents from the development age.</p>	<p>LCC is no longer able to collect contributions towards capital funded Adult Social Care and has previously struggled to justify how financial contributions comply with relevant planning policy and legislation without having capital infrastructure to spend contributions on.</p> <p>Working closer with district and borough councils to deliver relevant types of accommodation and influence the design of development (i.e., dementia friendly) will help to future proof developments for the aging population, however, these requests are not for LCC infrastructure, and should not be included as a County obligation in a S106, or in the County's consultation response back to LPA's</p>	<p><i>Planning Policy and Legislation</i> Not being able to justify financial contributions in respect of relevant planning policy and legislation.</p> <p><i>Viability</i> Delivering extra care and supported living accommodation is more expensive and could come at the cost of other requests for developer contributions.</p> <p><i>Other</i> Delivering extra care and supported living accommodation may come at the sacrifice of district and borough council's affordable housing targets.</p>

Appendix 2: Household Waste Recycling Centres and Waste Management

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
Waste	<p><i>Dwelling threshold: 10+</i> <i>Contribution threshold: £500+</i> <i>Current S106 Balance: £837,929</i></p> <p>Request contributions towards capital improvements at the nearest HWRC to a development site, based on the proportionate Ha capital cost of new site built pre-2015.</p> <p>Each HWRC seeks a different contribution per dwelling depending upon its size per Ha relative to the cost of that benchmarked HWRC.</p> <p>Where a waste site has capacity to accommodate demand within its “catchment” area, a contribution is not sought.</p>	<p><i>Dwelling threshold: 10+</i></p> <p>Request contributions towards capital improvements at the nearest HWRC to a development site, based on the proportionate Ha capital cost of new site built more recently.</p> <p>Each HWRC seeks a different contribution per dwelling depending upon its size per Ha relative to the cost of the new build benchmark.</p> <p>Where a waste site has capacity to accommodate demand within its “catchment” area, a contribution is not sought; but an annual review mechanism will be factored in to ensure that we are only collecting contributions for sites where we are able to demonstrate their necessity.</p>	<p>The current costs are based on a site built pre-2015, and the revised costs are more up to date.</p>	<p><i>Viability</i></p> <p>An increase in cost per dwelling for each site may result in a viability challenge from an applicant and push back from the district and borough councils.</p>

Table 2: Comparison between 2019 and 2024 Costs per Dwelling per Waste Site

<u>HWRC</u>	<u>2019 Cost per Dwelling</u>	<u>2024 Cost per Dwelling</u>	<u>Change</u>
Barwell	£49.53	£72.26	£22.73
Bottesford*	£63.59	£104.68	£41.09
Coalville	£65.38	£80.57	£15.19
Kibworth*	£44.61	£133.29	£88.68
Loughborough*	£84.96	£112.09	£27.13
Lount*	£61.41	£55.60	-£5.81
Lutterworth	£72.74	£98.71	£25.97
Market Harborough	£80.04	£87.77	£7.73
Melton Mowbray	£82.66	£107.93	£25.27
Mountsorrel	£51.67	£67.27	£15.60
Oadby*	£45.92	£70.15	£24.23
Shepshed	£42.71	£80.41	£37.70
Somerby*	£99.20	£102.11	£2.91
Whetstone	£23.87	£75.32	£51.45
Average	£62.02	£89.15	£27.13

** These sites do not show a capacity shortfall and therefore requests for contributions will not be sought, but this may change either way in the future if circumstances change.*

Appendix 3: Education

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
<p>Education</p> <p><i>* For SEND education, the threshold is 100+ dwellings and this is not proposed to change</i></p> <p><i>** Balance includes monies held for Early Years Education</i></p>	<p><i>Dwelling threshold: 10+*</i> <i>Current S106 Balance: £54,838,642**</i></p> <p>Contributions are based on a calculation which looks at the overall number of pupils from each education sector likely to be generated from a development (pupil yield) multiplied by the average cost per pupil place for each sector based on the costs of extension and rebuild projects taken from the National School Delivery Cost Benchmarking Report (NSDCBR). This is weighed up against the available capacity within the catchment schools nearest the development, and a contribution is sought where there is no capacity within those catchment schools.</p> <p>Where a new school is required, LCC look to work with developers to provide land and either deliver the school, or pay a contribution towards delivering the school, but the policy does not set out a methodology for doing so.</p> <p>Contributions can also be sought towards home to school transport where required, but the policy does not set out a methodology for the costs of provision.</p>	<p><i>Dwelling threshold: 10+*</i></p> <p>Update policy to reflect changed position on calculating school capacity (assuming all schools are at 100% of aggregated capacity), but then re-assess the contribution and delivery solution based on 95% capacity 3 months prior to commencement of development.</p> <p>Update cost multipliers to reflect actual costs to deliver expansions to schools, and land required to do so.</p> <p>Change wording to emphasise LCC's preference is for developers to lead on construction of new schools, subject to LCC specifications.</p> <p>Update home to school transport costs methodology.</p>	<p>Increases in the cost of construction, and the liability of escalating costs being met by LCC.</p> <p>The NSDCBR multipliers are updated regularly but we have concerns that they are not reflecting the current costs.</p> <p>There has been pushback from applicants, and district and borough councils on the approach taken to calculate capacity and contribution requirements for new schools.</p> <p>Updated policy and guidance from the Department for Education which reflects and recommends some of this practice.</p>	<p><i>Service Delivery</i> Not revising the policy in line with new costs and methodology means that the service may not be able to deliver or appropriately plan to deliver infrastructure etc. in line with demand.</p> <p><i>Viability</i> An increase in costs and a change in capacity calculation may result in a viability challenge from an applicant and push back from the district and borough councils.</p>

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
Early Years Education	<p><i>Dwelling threshold: 100+</i></p> <p>Contributions are based on 8.5 pupils requiring early years provision per 100 dwellings, multiplied by the same cost multiplier as is used for Primary Education (as recommended by the Department for Education).</p> <p>These contributions are largely to be spent on enhancing early years provision at Primary Schools but could also be spent on building a new facility.</p>	<p><i>Dwelling threshold: 50+</i></p> <p>Updated yield rates from 8.5 to 12.9 to account for the changes in free childcare legislation and free entitlement for children aged from 9m+</p> <p>Update cost multipliers to reflect current cost of delivery, bringing in line with DfE guidance on matching the Primary Education cost multiplier</p>	<p>Accounting for the changes in free childcare legislation.</p> <p>To better inform applicants and district and borough councils on the costs of delivering Early Years Education.</p>	<p><i>Service Delivery and Viability</i></p> <p>Upcoming changes to entitlement to free childcare will have an impact on the demand across the sector, which will likely result in an increase in contribution requests as providers have less capacity.</p>

Appendix 4: Highways and Transportation

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
<p>Local Highway Infrastructure</p> <p><i>* Total balance, including contributions towards major schemes</i></p>	<p><i>Dwelling threshold: N/A</i> <i>Current S106 Balance: £25,054,035*</i></p> <p>The Local Highway Authority (LHA) is a statutory consultee to the planning process.</p> <p>In accordance with National Policy, highway obligations are currently sought towards...</p> <ul style="list-style-type: none"> • Bus stop improvements • Construction traffic routing • Public Rights of Way • Traffic signs and signals • Traffic calming • Traffic Regulation Orders • Tree replacements 	<p>In line with national policy, it is anticipated that a greater focus will be placed on supporting the delivery of growth that maximises sustainable and active travel connectivity and transport options. This is likely to be reflected in a greater proportion and focus on obligations and schemes that furthers this aim.</p> <p>Continue to ensure that the costs of providing this infrastructure is either fully met by the developer or is conditioned to be delivered by the developer in a Section 278 agreement. This will be assessed on a case-by-case basis, dependent upon which is more preferential for the County Council.</p>	<p>The pending introduction of the new Local Transport Plan (LTP4). 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.</p> <p>This shift will assist the County Council in meeting its Carbon and Public Health targets.</p>	<p><i>Service Delivery</i> Not revising the policy in line with new costs and methodology means that the service may not be able to deliver or appropriately plan to deliver infrastructure etc. in line with demand and local and national policy.</p> <p><i>Viability</i> An increase in costs and a change in capacity calculation may result in a viability challenge from an applicant and push back from the district and borough councils.</p>

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
Major Programmes	The LHA collect, and pool developer contributions from developments where a cumulative impact on the highway from multiple developments means that significant improvements are required.	<p>Continue to ensure the costs of providing this infrastructure is either fully met by the developer or is conditioned to be delivered by the developer in a Section 278 agreement.</p> <p>Ensure the Policy continues to remain relevant to the major schemes linked to sustainable travel and active travel, pending the introduction of LTP4.</p>	<p>To either continue to ensure that the costs are fully met by the developer, or to oblige the developer to deliver this infrastructure via other means, where necessary.</p> <p>The pending introduction of the new Local Transport Plan (LTP4). 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.</p> <p>This shift will assist the County Council in meeting its Carbon and Public Health targets.</p>	<p>Service Delivery Not revising the policy in line with new costs and methodology means that the service may not be able to deliver or appropriately plan to deliver infrastructure etc. in line with demand.</p> <p>Viability An increase in costs and a change in capacity calculation may result in a viability challenge from an applicant and push back from the district and borough councils.</p>

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
Sustainable and Active Travel Transport	<p>Contributions are currently sought for;</p> <ul style="list-style-type: none"> • Travel packs - £52.85 per dwelling • Bus passes – Between £360 and £480 per pass, with each dwelling entitled to 2 bus passes. • Travel Plan Monitoring fees of either £6,000 (for residential developments) or £11,337.50 (for commercial developments). • Bus service contributions – negotiated on a case-by-case basis with the applicant. 	<p>Consider the LHAs position in relation to Sustainable Transport and Active Travel obligations to maximise efficiency and cost effectiveness of obligations that maximise mode shift and positive behaviour change. Further work is required that may include amending how s106 money can be used to promote and encourage sustainable transport and active travel.</p> <p>Travel plan monitoring fees are set to change to be more in line with increased staffing costs.</p> <p>The preference is for developers to provide bus services directly; however, we will work with developers on a case-by-case basis where we feel that this best meets the needs of the bus routes / communities / existing networks in the area.</p>	<p>Cycling and walking strategy, changes to bus services,</p> <p>To continue to ensure that the costs are fully met by the developer, or to oblige the developer to deliver via other means, where necessary.</p>	<p>Service Delivery Not revising the policy in line with new costs and methodology means that the service may not be able to deliver or appropriately plan to deliver infrastructure etc. in line with demand.</p> <p>Viability An increase in costs and a change in delivery method may result in a viability challenge from an applicant and push back from the district and borough councils.</p> <p>CIL Compliance Bus passes and travel packs have often been seen as contentious requests – consultees may use this as an opportunity to question how a sustainable travel voucher makes a development necessary when it can be spent on non-development specific items.</p>

Appendix 5: Economic Growth

- This section will be updated to reflect the changes across the Economic Growth service (now called the Growth Service) to better reflect the relationship between developer contributions and growth.

Appendix 6: Library Services

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
Libraries	<p><i>Dwelling threshold 10+</i> <i>Current S106 Balance: £670,395</i></p> <p>Contributions are based on the assumed occupancy per dwelling, based on the dwelling type and number of bedrooms.</p> <p>This figure is multiplied by the minimum library stock holdings as set out by the Department of Culture, Media and Sport (DCMS) which sets out 1,157 items of stock per 1,000 people in a library catchment area, and then multiplied by the average cost of an item of library stock, which is currently £8.70 (June 2017).</p> <p>The contributions are spent either on library stock (books etc.) or furniture, equipment, or reconfiguring library space (either internal or external).</p>	<p>Increase the cost per item from £8.70 to £11.25 of stock to reflect the increase since June 2017.</p>	<p>To reflect the increase in buying library stock since June 2017.</p>	<p><i>Viability</i> An increase in costs may result in a viability challenge from an applicant and push back from the district and borough councils.</p>

Appendix 7: Sports and Recreation

- As the County Council is not directly responsible for delivering Sports and Recreation, and do not request developer contributions for this purpose, there are no fundamental changes to this section, however, this section will be re-written in partnership with Leicestershire and Rutland Sports (now known as Active Together) to reflect any changes in practice, especially in conjunction with updates from Public Health (see appendix 9).

Appendix 8: Community Safety

- As the County Council is not directly responsible for delivering Community Safety, and do not request developer contributions for this purpose (any requests from Leicestershire Police are led by District and Borough Councils), the only change proposed to this section is to link to the County Councils webpage on Community Safety and the Community Safety Strategy 2022-26, subject to any other updates from Public Health (see appendix 9).

Appendix 9: Public Health

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
Public Health	<p>Influencing contributions towards Public Health via the district and borough councils' consultation with the NHS.</p> <p>The policy allows for provision of County led developer contributions towards public health.</p>	<p>To continue to influence developer contributions via the district and borough councils' consultation with the NHS.</p> <p>To influence developer contributions via district and boroughs through health impact assessment reviewing the wider determinants of health, supported by Local Plan policy.</p> <p>To influence the county council's requests for developer contributions to ensure that relevant aspects of public health are considered, which may include financial and non-financial contributions. This may be more prevalent in Highways and Sustainable Transport, factoring in LTP4 (although this will be process led rather than policy driven).</p> <p>This may be led by the number of dwellings proposed, or the location of a development based on health inequality (or both).</p>	<p>LCC is currently unable to seek contributions for capital-funded public health initiatives and may face challenges in substantiating the alignment of financial contributions with relevant planning policies and legislation in the absence of capital assets for deployment of such funds.</p> <p>Enhanced collaboration with district and borough councils as well as the NHS to implement public health interventions and potentially aligning these efforts with the infrastructure needs of the County Council further amplifies the benefits and reinforces partnership working across the County and potential to reduce health inequality in Leicestershire by mitigating risk of harm and amplifying opportunities to improve health.</p>	<p><i>Planning Policy and Legislation</i></p> <p>Not being able to justify financial contributions in respect of relevant planning policy and legislation.</p> <p><i>Viability</i></p> <p>Influencing public health in other County Council requests may increase the contributions required, which could have an impact on viability, however, efforts will be made to reduce this risk and focus on health inequality reduction rather than increasing overall contribution requests.</p>

Appendix 10: Biodiversity Net Gain (New addition)

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
Ecology (Biodiversity Net Gain)	Contributions are not currently sought towards Biodiversity Net Gain (BNG).	<p>Biodiversity Net Gain is a mandatory introduction to the planning process under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).</p> <p>There may be development sites that are able, or a 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.</p> <p>In addition, a monitoring fee to monitor development sites in respect of BNG will be required.*</p>	To comply with mandatory legislation.	<p>Viability BNG becoming mandatory means that it “comes first” in the order of financial contributions. This may have an impact on the viability of schemes, affecting other County Council sought contributions, but because BNG is mandatory, it sits outside of any viability assessment.</p>

* Whilst BNG is mandatory, very little is known about the full impact, and calculating required contributions towards monitoring and off-setting is at a very early stage. The County Council is working with other 2-tier authority areas to establish consistency in approach, 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 & Rural Affairs (DEFRA).

We are also working on behalf of Leicestershire district councils against a service level agreement. This means that the County Council will be assuming some responsibility for monitoring district development sites' compliance with BNG. There may be a requirement for reciprocal arrangements with partner authorities on Section 106, where land is owned by either Authority, because an Authority cannot enter into a legal agreement with itself. However, part of the additional guidance we are waiting for should include more information on conservation covenants, which are an alternative legal agreement that can secure management of land for BNG.

Appendix 11: Notification Procedure for Planning Obligations

Service Area	Summary of Current Policy Position	Summary of Revised Policy Position	Reason for Change	Risks
County Council Monitoring Fee	<p>Current S106 Balance: £495,514</p> <p>Contributions towards monitoring are either £300, or 0.5% of the total value of each obligation, whichever is the greatest. *</p> <p>Contributions are spent on providing the monitoring database and staffing costs.</p>	<p>Increase the cost to £375 or 0.5% of the total value of each obligation, whichever is the greatest.</p> <p>Add in the requirement to index link the contribution.</p> <p>Reserve the right to waive monitoring fees on applications where contributions sought are not necessary (negotiated on a case-by-case basis).*</p> <p>Reserve the right to cap monitoring fees to ensure they are not excessive but reduce the cap to £20,000.*</p>	To reflect the actual effort required to undertake monitoring activities in 2024 and to ensure that future monitoring cost increases are covered. **	<p>Viability</p> <p>An increase in costs may result in a viability challenge from an applicant and push back from the district and borough councils.</p>

* Monitoring fees are often the most negotiated contributions; this could be for many reasons, including where the requested contribution does not exceed the value of the monitoring fee, which may also result in the request itself being dropped, or where the applicant opts to pay all contributions in advance.

However, monitoring fees are also the least guided of all developer contribution requests, and there is no clear government (or other) guidance that sets out a formula for calculating or capping monitoring fees like there are with other requests, and it is largely left to the monitoring authority to determine.

** Work has been undertaken to ascertain the effort involved with monitoring development sites, which has been calculated at £620 per obligation, however concerns were raised about the fee being too excessive for smaller sites, and not enough for larger sites, so it was instead agreed to take the middle ground and uplift the current £300 fee to £375 which brings it in line with increases in staffing costs. To maintain that uplift, it is proposed to index the contribution in line with the Retail Price Index (RPI).

Where a larger, more complex development is proposed, for example a sustainable urban extension (SUE), then these tend to require more complex monitoring of parcels of land, multiple developers etc. over a longer period, and there are typically more obligations to monitor, however, to avoid the fee being excessive, a cap of £20,000 should be applied, which more accurately reflects the effort required.

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