



CABINET – 16 OCTOBER 2018

**DEVELOPER CONTRIBUTIONS TOWARDS COUNTY COUNCIL
SERVICES**

REPORT OF THE CHIEF EXECUTIVE

PART A

Purpose of the Report

1. The purpose of this report is to inform the Cabinet of the work undertaken to address concerns that the Council's reasonable expectations of receiving Developer Contributions via s106 planning agreements are being met to meet demands placed on services created by developments across the County. This follows a report to the Cabinet in April 2018.

Recommendation

2. It is recommended that progress with regard to securing Developer Contributions continues to be monitored.

Reasons for Recommendation

3. It is important that the County Council does what it can to meet the demands on its services in increasingly difficult financial circumstances. Ensuring that developers make appropriate contributions to mitigate the consequences of their developments via Developer Contributions is essential if communities are not disadvantaged and the County Council is not put under excessive financial demands which it will not be able to meet.
4. Local planning authorities should do all they can to ensure developments are sustainable and meet the reasonable obligations requested of them.

Timetable for Decisions (including Scrutiny)

5. This is an ongoing issue which will continue to be monitored as part of the planning and development process.

Policy Framework and Previous Decisions

6. The Leicestershire Planning Obligation Policy, adopted on 3 December 2014, sets out how the County Council will approach requiring developer contributions through Section 106 obligations and includes a protocol between the County Council and the local planning authorities (district councils) on working

arrangements. This Policy is currently being reviewed and is the subject of a report elsewhere on the agenda for this Cabinet meeting.

Resource Implications

7. Requests by the County Council for developer contribution requests are monitored and coordinated through the Chief Executive's Department and by the Developer Contributions Officer. A new IT package – Master Gov has recently been purchased to assist with the recording and monitoring process of developer contributions. Highway Authority consultee responses are delegated to the Director of Environment and Transport. Legal Services undertake the drafting and approval of the clauses in S106 Agreements and Unilateral Undertakings dealing with the County Council's requirements and as necessary support the Developer Contributions Officer at Planning Inquiries where the developer contributions are disputed. The staffing costs are to be contained within existing budgets.
8. The Director of Corporate Resources, Director of Environment and Transport and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

9. None.

Officers to Contact

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PART B

Background

10. On 17 June 2016, the Cabinet resolved:
- (a) That local planning authorities be reminded of:
 - i. the County Council's continued support for sustainable coordinated growth across the county and its desire to play its part in delivering a strong economy, quality environment and well supported communities;
 - ii. the importance of the County Council's role in the planning process both as highway authority and service provider;
 - iii. the need to support, through section 106 contributions, the delivery of County Council services required as a consequence of proposed developments so as to ensure that proposed developments are sustainable and local communities are not disadvantaged;
 - iv. the need to collaborate with the County Council where developments are unlikely to meet the County Council's section 106 or highway requirements.
 - (b) That in the interests of greater awareness and transparency, the County Council will:
 - i. report back to Cabinet on planning decisions that do not reflect the County Council's section 106 requirements;
 - ii. notify its members of County Council requests for section 106 contributions that fall within their division;
 - iii. report back to Cabinet on any significant planning decisions which as far as officers are aware that do not reflect the advice of the Highway Authority.
11. In November 2016, October 2017 and April 2018 the Cabinet received further reports regarding planning decisions and Developer Contribution funding requests made by the County Council.

Current Progress

12. Since the last report to the Cabinet in April 2018 the County Council has entered into 28 Section 106 planning agreements totalling a value of £27.24m, and has received contributions from operational agreements and developments totalling £5.6 million.

13. The County Council continues to respond to developer contribution consultations from District Councils in a timely manner to meet their deadlines and since April 2018 it has responded to over 87 requests specifically on Section 106 and service requirements.
14. In terms of planning appeals, since April 2018, 7 appeal decisions have been issued by the Planning Inspectorate in cases where the County Council presented evidence on the need for developer contributions for services. Except for one case, which related to contributions to library stock, the planning inspectors accepted the obligations requested by the County Council as complying with the statutory requirements, i.e. being Community Infrastructure Levy (CIL) compliant. One of the appeals related to a highway reason for refusal at Seagrave Road, Sileby¹. The appeal was allowed and a partial award of costs was awarded against Charnwood Borough Council for unreasonable behaviour resulting in unnecessary expense in respect of the Council's reliance on the Sileby and Barrow upon Soar Transport Study for the initial part of the inquiry.
15. As members will be aware, there will always be a tension between developers, the District Council planning authority and infrastructure providers such as the County Council, when requesting and negotiating developer contributions. This can continue to later stages, including when Legal Services are finalising the required S106 Agreement/Unilateral Undertaking with solicitors acting for the developer and the planning authority. In the majority of cases the County Council has been able to demonstrate to the satisfaction of the planning authority the need for the contributions that it seeks are CIL compliant. However, there are occasions where developers claim viability issues that may affect the amount of contributions developers are able to provide which the local planning authority accepts. Alternatively, the local planning authority may decide that one or more of the County Council's requested developer contributions are not CIL compliant.
16. Since April 2018, there have only been only 4 occasions that have led to the County Council not receiving the level of developer contributions it requested and a summary of these is provided in the table 1 below. Overall it is a relatively small amount (£130,682.82) compared to the £27.24m secured in S106 agreements during the same period.

¹ Planning Application No. P/15/0047/2

TABLE 1 – EXAMPLES OF DEVELOPER CONTRIBUTION ISSUES

PA No.	Location	No. of Houses	Developer contributions requested by the County Council	Developer contributions not accepted	Reasons	Planning status
17/01330	Birch Close, Earl Shilton (HBBC)	16 (100% affordable)	Education £54,354.38; Libraries £450	Education £54,354.38; Libraries £450	Viability of the scheme Libraries not CIL compliant	Approved
16/00926	Sysonby Lodge, Nottingham Rd, Melton Mowbray (MBC)	24	Education £71,683.44; Civic Amenities £1,984.00;	Education £71,683.44 Civic Amenities £1,984.00;	Viability of the scheme	Approved
16/00818	The Horsefair, Hinckley (HBBC)	27 (apartments)	Education £14,034.85; Civic Amenities £1,337; Libraries £820	Civic Amenities £1,337; Libraries £820	Not CIL compliant	Approved
17/00964	Crimson Way, Burbage (HBBC)	30	Education £72,594.06; Civic Amenities £1,486;	Civic Amenities £1,486;	Not CIL compliant but received via developer UU	Approved

Equality and Human Rights Implications

17. There are no equality and human rights implications directly arising from this report.

Background Papers

Report to the Cabinet on 10 April 2018 – Developer Contributions towards County Council Services

<http://politics.leics.gov.uk/documents/s136724/Final%20-%20Developer%20ontributions%20Towards%20CC%20Services%20-%20update.pdf>

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