

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – 23 SEPTEMBER 2014

Title of report	LEICESTERSHIRE PLANNING OBLIGATIONS POLICY - RESPONSE TO CONSULTATION
Key Decision	a) Financial No b) Community No
Contacts	Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk Director of Services 01530 454555 steve.bambrick@nwleicestershire.gov.uk
Purpose of report	To advise Cabinet of the publication and consultation by Leicestershire County Council of its Planning Obligations Policy
Reason for Decision	To agree the Council's position
Council Priorities	Not applicable
Implications: Financial/Staff Link to relevant CAT Risk Management Equalities Impact Assessment Human Rights Transformational Government	None Not applicable The District Council as local planning authority is responsible for securing Planning Obligations. However, the County Council as a service provider has an important role to play and is entitled to set out what its requirements may be. The District Council will need to determine what weight should be attached to the County Council's policy and subsequent requests on a case-by-case basis. None No discernible impact Not applicable
Comments of Head of Paid Service	The report is satisfactory

Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	Portfolio Holder
Background papers	<p>Leicestershire Planning Obligations Policy – Draft for consultation June 2014 which can be viewed at http://www.leics.gov.uk/lpop_version_2_doc.pdf</p> <p>The Statement of Requirements for Developer Contributions in Leicestershire (December 2006, interim review December 2007) which can be viewed at http://www.leics.gov.uk/dev_cont_update_121207-2.pdf</p>
Recommendation	THAT CABINET AGREES THE COUNCIL'S RESPONSE TO THE LEICESTERSHIRE COUNTY COUNCIL'S PLANNING OBLIGATIONS POLICY AS SET OUT AT APPENDIX A OF THIS REPORT TOGETHER WITH ANY OTHER COMMENTS WHICH CABINET MIGHT WISH TO MAKE.

1.0 BACKGROUND

- 1.1 Leicestershire County Council has published a draft policy in respect of Planning Obligations.
- 1.2 The consultation ran from 27 June 2014 until 8 August 2014. Due to the fact that the consultation period finished before the draft policy could be considered by Cabinet it has been necessary to send officer comments. The County Council has been informed that these comments are subject to confirmation by Cabinet.
- 1.3 The policy is intended to replace the Leicestershire County Council *Statement of Requirements for Developer Contributions in Leicestershire* which was adopted by the County Council in December 2006 followed by an interim review in 2007.
- 1.4 The policy covers those services and facilities for which the County Council is responsible and which could be impacted upon by new development, especially residential development. These are:-
- Adult Social Care and Health
 - Civic Amenity
 - Economic development
 - Education
 - Highways and Transportation
 - Library Services
 - Sports & Recreation facilities

- 1.5 The responsibility for securing planning obligations rests with the local planning authority, which in the case of the vast majority of developments is the district or borough council. In such instances the County Council will be consulted in order to ascertain their views as to the likely impact upon their services, but the ultimate decision about what should be included in any planning obligation will rest with the local planning authority. However, the County Council is the planning authority in respect of minerals applications and so in those instances the County Council will be responsible for securing appropriate planning obligations.

2.0 COMMENTS ON THE DRAFT POLICY

- 2.1 As a matter of principle it is considered appropriate for the County Council to prepare such a policy, especially as it helps to clarify for all those with an interest in potential new development what type of contributions the County Council may seek and how it will calculate such contributions.
- 2.2 There are however a number of concerns which have been identified as set out at Appendix A of this report.

APPENDIX A

Paragraph/Appendix Number	Comment
General	It would be helpful if the document included a clear guiding principle that contributions received by the County Council as a result of a particular development will be spent within the community (or communities) affected by the development concerned.
General	It would be helpful to make it clear that where the County Council is the planning authority that it will make sure that District/Borough Council and Parish/Town Council's are signatories to any S106 Agreements where such authorities have a role and responsibility to deliver the S106 Agreement commitments.
2.1	It is stated that the document has " <i>undergone a formal consultation</i> ". It is not clear what this consultation has involved to date. It would be helpful if the final document could provide more information, possibly in the form of an appendix.
2.2	It is not clear as to what the justification is for saying that the document is capable of being a material consideration in the determination of planning applications. That is a matter for individual local planning authorities to decide when determining planning applications.
3.7	This should be amended to say that in the event of the Community Infrastructure Levy being introduced across Leicestershire that " <i>section 106 may continue to have a role..</i> " rather than "will" as currently stated.
4.6 - 4.9	It would be helpful for clarification purposes to note in here that the potential to pool contributions will be limited after April 2015 under the government's current proposals.
6.1	This section refers to and identifies a number of Sustainable Urban Extensions across Leicestershire. It would be helpful to identify which ones are included in adopted local Plans/Core Strategies for the avoidance of doubt as a number of those listed (including Bardon Grange) are not included in an adopted plan.
7.4	As currently written this is potentially misleading as it implies that viability is only an issue on previously developed land. It needs to be made clear that this is not the case and so viability needs to be considered for all sites.
7.5	As currently worded the second sentence is not clear as to what it is saying.
7.6	This paragraph suggests that where the County Council's requests have not been accepted by the local planning authority then any agreement should include a review mechanism so that there could be an uplift in the level of contributions. This would only be relevant where viability is the reason why the full contributions requested by the County Council are not secured initially. If there are other reasons (for example because it is considered that the request is not reasonably related in scale) then it would not be appropriate to seek to readdress at a later date. This paragraph should be amended to provide more clarity on this distinction in circumstances.

10.1	This paragraph is concerned with cost recovery to cover the cost of negotiations and monitoring of agreements. The paragraph would benefit from rewording for clarity.
10.3	This refers to a (ii) in the previous paragraph but there is no (ii). It also suggest that 3% of the total sum of contributions or £300 per contribution as a charge to cover the County Council's costs as outlined above. No justification is provided for these figures. These need to be explained and justified, particularly as monitoring costs will only contribute towards an increase viability issues.
13.1	The second bullet point refers to regular monitoring reports in respect of the operation of the County Council's policy but it is not clear as to where such reports are made or how often. This needs to be clarified.
Appendix 1, Paragraph 2	This suggests that new development can impact upon the County Council's Adult Social care provision service but it is not clear in what ways this may happen. It would be helpful to have some examples of how new development could impact on social care.
Appendix 1, paragraph 9	This notes that the threshold for seeking contributions is normally 10 or more dwellings, but that on occasion it may be less than 10 dwellings. This may change under the government's current proposals to restrict planning obligations to only developments of 10 or more dwellings. This should be noted in this paragraph.
Appendix 2, paragraph 8	This refers to the pooling of contributions. Such pooling will no longer be possible after April 2015 (as noted in respect of paragraphs 4.6 to 4.9 above).
Appendix 2, paragraph 10	As worded this paragraph does not make sense.
Appendix 2, paragraph 15	This also refers to the issue of thresholds for seeking contributions. This may change under the government's current proposals to restrict planning obligations to only developments of 10 or more dwellings.
Appendix 3, paragraph 7	This appendix is concerned with contributions in respect of education. This paragraph seems to contradict what is said in paragraph 6 in terms of the issue of capacity.
Appendix 3, paragraph 44	This paragraph suggests that agreement should be worded so as to provide flexibility for the County Council in terms of which schools' funding is to be directed to. This will be difficult to do under the government's current proposals to stop the pooling of contributions. It will be necessary to identify a specific project that any monies will be directed towards.
Appendix 3	Consideration should be given to not requiring a contribution to education provision from proposals for affordable housing to meet a local need as it is likely that the education needs are already being met in the locality (ie the development is not generating a new need).
Appendix 4	This appendix is titled 'Economic Growth' but it is not clear as to why this is included nor what should be contributed to and by whom.
Appendix 5	This appendix is concerned with contributions in respect of Highways and Transport and includes a table within which a number of potential contributions are highlighted with a **, but it is not clear what the ** means.

Appendix 7	This section is concerned with Sport and Recreation. This is normally a district/borough function so its inclusion is queried.
Appendix 9	<p>This appendix is entitled Notification Procedure for Planning Obligations. There are a number of aspects in this section (for example paragraphs 5 and 11) which appear to be seeking to dictate how specific matters are to be dealt with. However, such matters are the responsibility of the local planning authority to determine how it deals with them. It would be appropriate to reword these sections to make it clear that the County Council will request that such actions are undertaken, but that they are not specific requirements.</p> <p>Paragraph 22 refers to consultation with the Fire, Police and Health Authorities. As these are not a County Council function (as noted in the policy) it is considered inappropriate to be included in this document.</p>