

**REPORT OF CHAIRMAN OF ENVIRONMENT AND SUSTAINABILITY
COMMITTEE**

REVISED PLANNING OBLIGATIONS STRATEGY

Purpose of the Report

1. To seek Policy Committee approval to adopt the revised Planning Obligations Strategy. The revised Planning Obligations Strategy can be found in Appendix 1.

Information and Advice

2. The Planning and Compulsory Purchase Act 2004 (as amended), makes provision for voluntary legal agreements to be entered into with developers/landowners as part of a grant of planning permission. These agreements are known by a variety of names: Section 106 agreements, planning contributions, planning obligations and developer contributions.
3. When developments take place, they frequently bring with them impacts on the local physical and social infrastructure, which must be addressed to make the development acceptable both in planning terms and to society in general. Planning contributions can be used to overcome these impacts, thereby enabling development schemes to go ahead that might otherwise be refused permission.
4. In March 2007 the County Council approved a Planning Contributions Strategy (PCS) for Nottinghamshire. The strategy is intended to provide guidance regarding the indicative criteria, development thresholds and the types and levels of planning contributions that the County Council will seek towards the provision of its services should the need arise as a result of proposed development. It also enables developers and landowners to be aware of the potential costs at the earliest stage of the planning process.
5. The strategy contains information relating to archaeology, education, libraries, minerals and waste, natural heritage, and transport in the form of tables which outline the circumstances in which planning contributions are likely to be required and the levels of contributions which will be sought. There is a requirement to review the strategy on a regular basis to ensure that both the costs of providing infrastructure and services, plus any new guidance regarding planning contributions are accurately included.

6. The 2007 strategy was subsequently reviewed in 2008 and 2010 to include updated information.

Review of the Planning Contribution Strategy

7. Since the last update to the Planning Contributions Strategy in 2010, the Government has significantly changed the planning system with the introduction of the National Planning Policy Framework (NPPF), the abolition of the Regional Spatial Strategy for the East Midlands (RSS) and the introduction of the Community Infrastructure Levy (CIL) Regulations in 2010 which have been amended with the most recent update in January 2014.
8. The CIL Regulations and paragraphs 203-206 of the NPPF set out guidance on the use of planning obligations and the tests which should be applied. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. However planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning obligations should only be sought where they are:
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
9. The Planning Contributions Strategy has been renamed to reflect the new approach and will be called the 'Planning Obligations Strategy', all references to the RSS have been removed from the document and the text in the main body of the strategy has been updated to reflect these significant changes nationally.
10. Five new sections have been incorporated into the document:
 - Community Infrastructure Levy (CIL); which addresses this new mechanism for raising financial contributions for strategic items;
 - Viability; which sets out the County Council's position on this issue;
 - Implementation, monitoring and legal charges; which seeks a charge towards the administration of the Section 106 agreements which includes monitoring, undertaking site visits and chasing up outstanding payments;
 - Flood Risk Management; which reflects the 2009 regulations and 2010 Flood and Water Management Act with regards to the County Council's responsibilities as the Lead Local Flood Authority; and
 - Public Health: To acknowledge the County Council's responsibilities for some public health functions.
11. Overall the strategy has been simplified to facilitate an 'easier read' including updates to each section in the appendices relating to specific service requirements.

12. Environment and Sustainability Committee on 10 October 2013 approved the draft review of the Planning Obligations Strategy and agreed for a targeted consultation to be undertaken between 16 October and 13 November 2013.
13. 41 comments were received during the consultation from a total of 5 different organisations including 3 from local district/borough councils and 2 from the private sector. Following consideration of the comments changes have been necessary to the draft strategy arising from the representations.
14. There were a number of comments received requesting clarity on some statements within the draft Strategy and also suggesting additional factual information be included. These have been mainly accepted.
15. The responses received from the private sector were regarding the status of the strategy, viability issues and the County Council's responsibilities. These comments are not accepted as the strategy makes it clear that it has no statutory status, is intended to provide Local Planning Authorities and developers with an idea of any potential costs that may be relevant to a proposed development at an early stage in the planning process and that viability is tested on a site by site basis.
16. Environment and Sustainability Committee on 30 January 2014 approved the officer responses to the consultation and the proposed revisions to the Planning Obligations Strategy and recommended that the revised strategy be considered at Policy Committee for adoption.

Other Options Considered

17. For the County Council not to update the current strategy however, this is significantly out of date and does not reflect current national guidance.

Reason/s for Recommendation/s

18. To ensure that Nottinghamshire County Council sets out an up to date position in respect of its requirements to mitigate the potential impacts that new developments may have on its infrastructure and services.

Statutory and Policy Implications

19. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

20. There are no direct financial implications however the County Council does receive monies from planning obligations towards the cost of providing additional services and infrastructure when required.

RECOMMENDATION/S

1) That Policy Committee approve the adoption of the Nottinghamshire County Council Planning Obligations Strategy, April 2014.

Councillor Jim Creamer, Chairman of Environment and Sustainability Committee

For any enquiries about this report please contact: Sally Gill, Group Manager Planning, 01159696536

Constitutional Comments (SHB. 13/03/14)

21. Committee have power to approve the Strategy.

Financial Comments (SEM 18/03/14)

22. There are no specific financial implications arising directly from this report.

Background Papers and Published Documents

Consultation Responses Report

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Electoral Division(s) and Member(s) Affected

All

APPENDIX 1