

7 December 2021

Agenda Item: 8

**REPORT OF THE CORPORATE DIRECTOR, PLACE****DEVELOPER CONTRIBUTIONS STRATEGY – CONSULTATION RESPONSE****Purpose of the Report**

1. To enable the Committee to consider the responses received on the draft Developer Contributions Strategy issued for consultation and to adopt the amended Developer Contribution Strategy (Appendix A) to replace the existing Planning Obligations Strategy.

**Information**

2. On 7<sup>th</sup> September, ED&AM Committee gave approval to consult on the revised Developer Contributions Strategy in replacement of the existing Planning Obligations Strategy.
3. The consultation on the content of the draft strategy was open from Monday 13<sup>th</sup> September to Monday 11<sup>th</sup> October on the NCC Consultation Hub. Responses were to be submitted via an online survey which posed questions on key aspects of the strategy. The District / Borough Planning Authorities and local developers and their agents were notified of the consultation. District Councils across Nottinghamshire had already been briefed on proposals to revise the Strategy as part of individual officer meetings held in February and March 2021 and had given useful feedback which informed the writing of the Draft Strategy. This may have influenced the low number of responses from local authorities as detailed below.
4. Responses were received from the following planning authorities: Newark & Sherwood District, Gedling Borough and Mansfield District Councils. No responses were received from the private development industry. All comments have been reviewed and the strategy has been amended to address the issues raised and to ensure it is robust. A summary of the feedback has been provided below.

**Summary Consultation Responses**

5. *Newark & Sherwood District Council*: No objections were raised, and comments were broadly supportive of the Council's approach to seeking developer contributions, with the guidance generally considered to be robust and fit-for-purpose. Several requests for clarification and further information were highlighted but these did not affect the overall principles. However, NSDC did raise concern relating to the appropriateness of seeking contributions towards school transport provision in addition to funding for new school places.
6. *Gedling Borough Council*: Concern was raised about the number of additional services being incorporated within the strategy and noted that contributions sought for those purposes could have an impact on the viability of development and result in other priorities (namely affordable housing) being reduced. GBC raised an objection to NCC seeking contributions towards

SEND places and school transport provision, and expressed concern with PROW contributions, which were not considered to be compliant with regulations governing the use of planning obligations. An objection to the inclusion of guidance on social care within this strategy was also raised because this is not a matter dealt with through planning obligations.

7. *Mansfield District Council*: No objections were raised, and comments were broadly supportive of the Council's approach to seeking developer contributions; this included expressed support for broadening the scope of infrastructure provision to include, for example, SEND provision. Several requests for clarification and further information were highlighted with regards to the methods used to justify and calculate contributions, but this did not affect the overall principles. MDC queried the inclusion of guidance on social care within this strategy because this is not a matter dealt with through planning obligations.

### Revisions to the Strategy

8. Where further clarification has been sought by respondents, officers have revised the strategy to provide additional detail or figures. In a few cases, it has not been possible to provide further clarification, for example where information is sought on probable infrastructure costs, as this information may be situation specific. Similarly, no clarity has been added with regards to the Council's developer contribution priorities. This is because the Council only seeks contributions where they are necessary to make the development acceptable in planning terms; any prioritisation will be dependent on individual circumstances. The main issues (where objections have been raised) are addressed below.

### *Main Issues:*

9. The objection from GBC to the inclusion of a methodology for seeking SEND contributions has been considered. Recent guidance from the DfE advises LAs to seek developer contributions for non-mainstream education provision and local methodologies have been adopted by various Education Authorities including Leicestershire and Derbyshire County Councils. Based on the proposed methodology, only developments of 100 dwellings or more would be eligible to contribute towards SEND and this is considered to be fairly related in scale and kind to the development, as well as consistent with other LA methodologies. The Strategy has been revised to provide assurances that evidence will be provided to support any request and that this assessment will be considered separately to mainstream provision. Therefore, its inclusion does not represent an education surcharge as such. Given the lower levels of education developer contributions being sought in recent years because of lower pupil projections, this does not represent a significant additional financial burden on developers.
10. The concerns raised by respondents relating to the potential requirement for school transport costs is acknowledged however these concerns were partly due to apprehension that this would be applied as a standard per dwelling charge on all development. This is not the case. Any request for contributions towards bus services, including for education purposes, are subject to an assessment of service capacity locally and so school transport contributions would only apply in some circumstances. This has been clarified in the revised strategy and is similar to approaches adopted by other authorities such as Staffordshire County Council.
11. An additional section had been included within the draft strategy providing guidance on social care matters, such as the provision of extra care housing and accommodation for looked after children. However, as identified in the consultation responses, there are no proposals to seek developer contributions for social care provision and therefore this guidance is not relevant to the developer contributions strategy. Upon reflection, officers consider that this issue should be dealt with through separate guidance outlining NCC's approach to planning consultations.

Therefore, the social care section has been removed. This ensures that the strategy maintains a clear focus on developer contributions and can be endorsed by the Local Planning Authorities.

12. The final version of the strategy, as amended, is appended to this report (Appendix A), The Strategy will be subject to graphic design work before it is published. As before, officers will continue to update the Strategy as required to reflect changes to national policy guidance and update figures for calculating contributions, as new information becomes available. Where changes are made notification of this will be given to the Local Planning Authorities and where significant changes are intended, these will be subject to re-consultation prior to adoption by the County Council.

### **Other Options Considered**

13. Do not update the Planning Obligations Strategy. This would reduce the Council's ability to obtain necessary contributions towards its services from new development as the approach would be outdated.

### **Reason for Recommendations**

14. To ensure that the Council has the most up-to-date guidance available on its protocol for seeking and expending developer contributions.

### **Statutory and Policy Implications**

15. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **RECOMMENDATIONS**

1. That the Committee considers the representations received on the Draft Developer Contributions Strategy and the officer responses as detailed in the report.
2. That the Committee adopts the attached revised Developer Contribution Strategy to replace the existing Planning Obligations Strategy.

**Adrian Smith**  
**Corporate Director, Place**

**For any enquiries about this report please contact:** William Lawrence, Developer Contributions Practitioner, Tel 0115 804 2738

### **Constitutional Comments (SG 12/11/2021)**

16. This decision falls within the Terms of Reference of the Economic Development and Asset Management Committee.

## **Financial Comments (SES 10/11/2021)**

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

## **Background Papers and Published Documents**

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.

- None

## **Electoral Division(s) and Member(s) Affected**

- All