

Report to the Cabinet

Meeting to be held on Thursday, 9 November 2017

Report of the Director of Corporate Commissioning

Part I

Electoral Divisions affected:
All

Revised Planning Obligations in Lancashire Policy Paper

(Appendix 'A' refers)

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Executive Summary

The Planning Obligations in Lancashire policy currently sets out how developer contributions will be applied in the administrative county area. This existing policy requires revision in light of recent changes to the legislation around the use of planning obligations and the introduction of the Community Infrastructure Levy. This report seeks approval for the proposed Infrastructure and Planning policy at Appendix 'A' which will replace the currently adopted Planning Obligations in Lancashire Policy.

This is deemed to be a Key Decision and the provisions of Standing Order No. 25 have been complied with.

Recommendation

The Cabinet is recommended to:

- (i) Revoke the existing Planning Obligations in Lancashire Policy.
- (ii) Approve the adoption of the Infrastructure and Planning Policy as set out at Appendix 'A'.

Background and Advice

In 2005, the Lancashire Planning Officers Society (comprising planning officers from Lancashire's District Councils and the County Council) prepared and consulted on a *Planning Obligations in Lancashire Policy*, with the aim of ensuring a consistent approach to the negotiation of planning obligations between planning authorities and developers across the county.

Lancashire County Council adopted the completed document in 2006; it was the only Lancashire authority to adopt the document.

The adopted document is available on the County Council's website and is used by officers within the County Council to inform their consideration of planning applications submitted to and determined by District Councils. These applications may have an impact on Lancashire County Council services through, for example, an increase in vehicle movements arising from the development resulting in a road safety issue or congestion; or an increase in dwellings resulting in the prospect of oversubscribed local school places. The adopted document provides methodologies for calculating a financial contribution to be payable by the developer for the provision of County Council services necessary to mitigate this impact.

However, the adopted document includes reference to a large number of service areas that are not relevant to the County Council in its delivery of services and others that are no longer compatible with the current planning legislation governing planning obligations due to their tariff based methodology, or the nature of the service area. Whilst these are not pursued by officers of the County Council in their representations on planning applications, their presence in the adopted document serves to undermine confidence in the County Council's representations and causes some unnecessary difficulties during negotiations with developers and District Councils.

In light of these difficulties the adopted document has been revised. This revised policy, entitled *Infrastructure and Planning* (Appendix 'A' refers), accords with the limitations imposed upon the use of developer contributions by the Community Infrastructure Levy Regulations.

The proposed revised policy describes how Lancashire County Council will engage with the planning process as a service and infrastructure provider potentially impacted upon by new developments and is focussed on the main service areas that are typically impacted on by new development, namely transport services and highways capacity, provision of school places and flood management. It provides information on these service areas, key priorities, and how development proposals will be considered against these priorities, together with possible mitigation measures (and in the case of education provision a formulae for calculating the developer's contribution towards the cost of these mitigation measures).

It is proposed that the *Planning and Infrastructure* policy (Appendix 'A' refers) is adopted and published to replace the now out of date *Planning Obligations in Lancashire Policy*.

Consultations

County Council officers have been consulted, representing all service areas referenced in the adopted document, namely transport and highways, public rights of way, libraries, school planning, sustainable travel, estates, environmental projects, public health and young people's services.

It has also been published for external consultation. District Councils were notified of this consultation, and it was advertised on the County Council's 'Have Your Say' webpage, to allow a wider audience the opportunity to comment. The comments were invited over a 6 week period.

Responses were received from Wyre, South Ribble and Chorley Borough Councils. No responses were received that were critical of the approach presented in the proposed *Planning and Infrastructure* policy, nor of the prospect of it replacing the existing *Planning Obligations in Lancashire Policy*. The main issues are summarised below:

- A comment on the need for Lancashire County Council to develop a list of strategic infrastructure projects, which may include education or transport projects, to assist the District Council in appropriately allocating the Community Infrastructure Levy.
- A comment objecting to a statement in the document that, subject to the specific circumstances of the development, Lancashire County Council will object to developments where provision is not made for the necessary infrastructure to adequately mitigate impacts.
- Several comments suggested that an appropriate time limit should be placed between receiving a formal request for comments from the District Council and the County Council providing a full and detailed response to planning applications and local plan consultations.
- Some comments repeated comments submitted to an earlier separate consultation on the education methodology.

No changes have been made to the proposed *Planning and Infrastructure* policy as a result of the external consultation.

Implications:

This item has the following implications, as indicated:

Risk management

- Legal

As described above, the legislation around developer contributions has changed since the *Planning Obligations in Lancashire Policy* was adopted by the County Council. There is a risk that if the adopted policy is not updated to reflect the legislative changes then the County Council's representations on planning applications, which are in part informed by the policy could be called into question as out of date and not sufficiently robust.

Left unchanged, the County Council's representations could be challenged on the basis it does not meet the Community Infrastructure Levy Regulations tests. Further, it may lessen the weight afforded to these representations by District Councils and to any planning obligation based upon it, which would affect the ability of the County Council to secure necessary contributions from developers.

- Financial

These legal arguments may in turn affect the County Council's ability to access funding to deliver the additional, non-discretionary infrastructure necessary to address pressures on services brought about by new developments and increase the potential burden on other County Council budgets.

The process of adopting the Planning and Infrastructure Policy will not result in any additional costs.

List of Background Papers

Paper	Date	Contact/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A