
| | | |
|--------------------------------|--|-----------------------------------|
| REPORT TO: | Environmental & Development Services Committee | AGENDA ITEM: 7 |
| DATE OF MEETING: | 1 March 2012 | CATEGORY: DELEGATED |
| REPORT FROM: | Director of Operations | OPEN |
| MEMBERS' CONTACT POINT: | Karen Beavin 01283 595749 karen.beavin@south-derbys.gov.uk | DOC: |
| SUBJECT: | Derbyshire County Council consultation on Draft Derbyshire Infrastructure Plan and Draft Developer Contributions Protocol | REF: KB |
| WARD(S) AFFECTED: | All | TERMS OF REFERENCE: EDS 17 |

1.0 Recommendations

1.1 That in relation to the Draft Derbyshire Infrastructure Plan:

- Members note the contents of the Draft Infrastructure Plan;
- The Draft Plan be welcomed in principle as a helpful guide to the County Council's priorities for infrastructure, for the reasons set out in paragraph 7.1 of this report;
- Derbyshire County Council be informed that the District Council will have regard to the Draft Plan in preparing a Community Infrastructure Levy Charging Schedule and/or approach to s.106 planning obligations as part of the emerging Local Development Framework Core Strategy as appropriate, for the reasons set out in paragraph 7.2, subject to the points below;
- The District Council makes clear in its response that developer contributions via CIL and/or s.106 contributions for items set out in the Derbyshire Infrastructure Plan will only be sought having regard to the need to also fund other types of infrastructure, and overall development viability, in line with the comments in paragraphs 7.2 – 7.3. In particular, it is unrealistic to expect a new secondary school to be funded solely through a South Derbyshire CIL.

1.2 That in relation to the Draft Developer Contributions Protocol:

- Derbyshire County Council be similarly informed in relation to the Draft Developer Contributions Protocol that the District Council agrees to recognise the strategic service areas which will qualify for legitimate contributions (subject to viability limitations and demonstration of sufficient evidence provided by the County Council) and that best endeavours will be made to secure such contributions as the Head of Community and Planning Services and the Planning Committee deem appropriate at the time. However, the Council would draw attention to certain concerns outlined in 7.4 which should be addressed by the County Council.

2.0 Purpose of Report

- 2.1 To inform Members of, and formulate a response to, two documents produced by the County Council. These are the Draft Derbyshire Infrastructure Plan and Draft Developer Contributions Protocol.
- 2.2 Responses are required by 13 March 2012 and copies are available from www.derbyshire.gov.uk/environment/planning/planning_policy/infrastructure_planning/default.asp

3.0 Executive Summary

- 3.1 The County Council have produced a **Draft Infrastructure Plan** to support the delivery of infrastructure and services for which they are responsible. The County Council intends the Infrastructure Plan to be used by local authorities in the County as an evidence base for the LDF Core Strategy, to indicate the level of developer contributions likely to be required by the policies therein, and as a basis for considering the introduction of a Community Infrastructure Levy.
- 3.2 The County Council **Draft Developer Contributions Protocol** is a guidance tool proposed for use by developers and the local planning authorities in Derbyshire which sets out the County Council's expectations for contributions towards infrastructure and services required to support growth and development in the county. It is designed to help to ensure that the County Council's expectations and associated costs are taken into account at the earliest opportunity during the planning policy and application process.

4.0 Background

- 4.1 The County Council has published a **Draft Derbyshire Infrastructure Plan** (the Draft Plan) and a **Draft Developer Contributions Protocol** (the Draft Protocol) for consultation. The purpose of the Draft Plan is to identify the need for investment in strategic infrastructure and services across Derbyshire and to support its delivery in a timely and cost effective way. The Draft Protocol is a means of identifying strategic services and infrastructure which can be impacted by new development and the request is that Derbyshire Districts/Boroughs (who deal with the vast majority of planning applications in the County) recognise the legitimate need identified and therefore negotiate Section 106 agreements accordingly.
- 4.2 The **Draft Plan** focuses on strategic infrastructure relating to the County Council's own services; it reflects existing infrastructure deficits as well as those likely to arise from economic and housing growth anticipated in emerging Local Development Framework (LDF) Core Strategies. To avoid duplication, local infrastructure such as open space and leisure centres are not covered by the Draft Plan. It does, however, refer to other types of non County Council infrastructure, such as trunk road improvements being promoted by the Highways Agency and deficiencies in broadband provision.
- 4.3 As well as determining the County Council's spending priorities, it is therefore also intended to assist district planning authorities in preparing LDFs, Community Infrastructure Levy (CIL) charging schedules and/or other approaches to funding infrastructure projects. It is assumed therefore that with respect to some of the

infrastructure requirements highlighted in the Draft Plan, the County Council will seek a contribution from this Authority, either via CIL or s.106 contributions. In this regard, Members will be aware that CIL is primarily intended to 'plug' gaps to address the additional burden of new development after other forms of funding have been exhausted. South Derbyshire District Council is yet to resolve whether to pursue introducing a CIL. It is assumed that the County Council will use their Draft Plan as the basis to make detailed and costed representations to us during production of the Authority's CIL schedule.

4.4 With regard to the **Draft Protocol**, over the years, previous reports to this committee regarding Section 106 agreements have dealt with issues such as type of contribution and thresholds of implementation which has then gone on to inform the planning application negotiation process. As it stands, until the Council makes a decision about CIL charging schedules and the formulation of its LDF etc., the Local Planning Authority continues to negotiate with developers in accordance with the document previously agreed (the page one summary of which is attached at appendix A). The effect of the County Council's Draft Protocol is to raise for the first time a more comprehensive list of possible areas of contribution for strategic infrastructure and services that are the responsibility of the County to provide. In the same way as we have previously identified for other service areas, these services can be affected by increases in population as generated by developments and are therefore legitimate areas for attracting contributions.

4.5 Members will recall that the use of Section 106 planning obligations is restricted by Circular 5/05 and the Community Infrastructure Levy regulations which will equally apply here. Obligations must be:

- necessary to make the development acceptable;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development

The Community Infrastructure Levy (CIL) Regulations restrict the use of Section 106 planning obligations. When local planning authorities introduce CIL or from 2014 (whichever comes first), no more than five Section 106 obligations can be pooled and used to provide an individual project or type of infrastructure. This Protocol will therefore apply until local planning authorities have introduced a CIL or until 2014 (whichever comes first). Circular 5/05 requires that the general expectation for developer contributions be set out in local planning authorities' Local Development Frameworks (Local Plans). The Circular also requires detailed policies on specific localities and likely quantum of contributions to be set out in Supplementary Planning Documents.

5.0 Summary of the Draft Derbyshire Infrastructure Plan

5.1 The Draft Plan sets out a spatial portrait and spatial vision of the County before taking four infrastructure categories in turn: transport infrastructure, physical infrastructure, green infrastructure and social infrastructure. For each, the Draft Plan considers what is currently being delivered, if there are any gaps, and what investment is required in that infrastructure in the future. The spatial vision refers, somewhat unhelpfully, to the Regional Spatial Strategy's growth figures and distribution.

5.2 The Draft Plan includes two delivery schedules setting out the priorities for investment in strategic infrastructure and services over the next 15 years. The

delivery schedules identify where and when a project will be delivered, estimated costs, potential sources of funding, constraints, and key delivery partners. It should be noted that not all of this information is yet available for every project. The first schedule comprises priorities that are current or committed and will be delivered in the 2011/12 financial year or immediate short term future; funding for these is secured. The second schedule sets out planned priority projects that the County Council consider are to be delivered in the medium to long term. These projects may not have a secured source of funding or may have other constraints.

5.3 The table below is a simplified version of the schedules, highlighting committed and proposed projects of most obvious relevance to South Derbyshire, together with the addition of a project that the Draft Plan considers to be of low priority due to being undesirable or undeliverable. It should be noted that not all of the projects listed in the schedules are repeated here; others in the Draft Plan may also be of relevance.

| <u>Committed</u> Projects – to be delivered in the immediate short term | | | | |
|--|-----------------------------------|--|-------------|----------------------------------|
| Project | Location | Funding Source | Cost | Partners |
| Hilton Primary basic needs – new temporary double classroom | South Derbyshire | Department for Education; Developer Contributions | £240K | County Council |
| New school to replace existing Church Gresley Infant and Nursery School | South Derbyshire | PCP; sale of existing site; developer contributions | £6.6m | County Council |
| <u>Planned</u> Priority Projects - within South Derbyshire | | | | |
| Project | Location | Funding Source | Cost | Partners |
| Swarkestone causeway alternative river crossing route and bypass | South Derbyshire | None identified. Potentially DfT; potentially developer contributions. | £12m - £20m | County Council |
| A514 Woodville – Swadlincote Regeneration route | South Derbyshire | None identified. Potentially DfT; potentially developer contributions. | £5m | County Council; Highways Agency |
| Potential requirement for expansion to Bretby (Park Road, Newhall) Household Waste Recycling Centre, depending on scale and location of growth proposed. | South Derbyshire | None identified | Unknown | County Council |
| Major repairs, conversions and garden restoration works to secure future use and management of Elvaston Castle. | Elvaston Castle, South Derbyshire | None identified | Unknown | County Council, English Heritage |
| Potential requirement for a new 1-form entry primary school, to be | South Derbyshire | None identified | £6m | County Council |

| | | | | |
|---|---|-----------------------|------------------------------------|---|
| expanded to 2-form entry over time, if additional development is proposed at Drakelow Park | | | | |
| Potential requirement for a new secondary school (depending on scale and location of growth proposed on the edge of Derby | South Derbyshire | None identified | £20m | County Council |
| Planned Priority Projects - across South Derbyshire and other districts | | | | |
| Project | Location | Funding Source | Cost | Partners |
| A38 Derby junctions | Amber Valley, Derby City, South Derbyshire | DfT | Unknown but no local contributions | Highways Agency |
| Wetland habitat work in Dove, Derwent and Trent catchments | Relevant Derbyshire authorities including South Derbyshire | None identified | £600,000 | Landowners, DWT, EA, local authorities` |
| Creation of an ark site for white-clawed crayfish | Derbyshire Dales, Erewash and South Derbyshire | None identified | Unknown | Landowners, Environment Agency |
| Projects Judged to be of Low Priority | | | | |
| Project | Location | Funding Source | Cost | Partners |
| Re-introduction of passenger services on the National Forest Railway Line between Burton-upon-Trent and Leicester. | East Staffordshire, South Derbyshire, North West Leicestershire, Hinckley and Bosworth, Blaby, Leicester City | None identified | Unknown | N/A |

6.0 Summary of the Draft Developer Contributions Protocol

- 6.1 This Protocol is intended to be used specifically in relation to negotiating and securing developer contributions through Section 106 Agreements and other similar types of contributions that are negotiated and secured on a case-by-case basis.
- 6.2 The following table provides an indication of the level of contributions that may be required. This table is not a set tariff - requirements will be determined on a site-by-site basis and may differ from the indicative list below.

| Service | Threshold | Level |
|--|---|--|
| Municipal Waste Disposal | 1 dwelling or more | From £10.49 to £65.52 per dwelling depending on capacity of affected HWRC |
| Flood and Water Management | Site-by-site assessment of potential risk and impact of flooding from housing and commercial development | Site-by-site assessment of appropriate relief, mitigation, or resilience measures |
| ICT and Communications | 10 dwellings or more 1000 sqm + commercial floorspace | Conditions to secure on-site provision of fibre optic cabling at a cost of £1000 - £1500 per dwelling |
| Landscape Character | Site-by-site assessment of impact from housing and commercial development | Site-by-site assessment of appropriate mitigation measures |
| Biodiversity | Site-by-site assessment of impact from housing and commercial development | Site by site assessment but indicative cost of £40 – £3000 per hectare depending on habitat type, impact and mitigation required |
| Archaeology and the Historic Environment | Site-by-site assessment of impact from housing and commercial development | Site by site assessment of appropriate mitigation measures |
| Countryside including Greenways | Site-by-site assessment of impact on Greenway network and potential for enhanced or new provision from housing and commercial development | Site-by-site assessment but indicative cost of £60,000 per kilometre for new Greenway |
| Libraries | 10 dwellings or more | Libraries - £245.70 per dwelling |
| Education | 10 dwellings or more | Primary school - £2,279.80 per dwelling Secondary school - £2,576.42 per dwelling Post-16 education - £1,117.67 per dwelling |
| Adult Care | 50 dwellings or more and residential development likely to house older or disabled people | Conditions to secure high quality design; and on-site provision of accessible open space, changing places and toilets Site-by-site assessment of need for a financial contribution towards enhancement of existing or provision of new facilities |
| Travel Planning | 80 dwellings or more Plus other thresholds for commercial uses (see table below) | Monitoring costs are yet to be agreed but current approximations are upwards of £2,500 per year for 5 years. |
| Highways | Site-by-site assessment of housing and commercial development | Site-by-site assessment |

6.3 The County Council expects local planning authorities to set out information on their requirements for developer contributions in their local plans (Core Strategies) and relevant supporting documents. In the absence of an up to date adopted Core Strategy or if it is impractical to review an adopted Core Strategy, the County Council would like to see this Protocol adopted by local planning authorities as policy. This is especially important if local planning authorities are not planning to introduce a Community Infrastructure Levy in the short term.

7.0 Officer's comments

- 7.1 The **Draft Plan** is helpful because it sets out the aspirations of the County Council, bringing together information about County Council related capital projects requiring investment. Furthermore, the consultation itself can be welcomed because it enables the Council to comment on the prioritised projects. Somewhat unhelpfully, however, the Draft Plan's 'vision' refers to a growth strategy for South Derbyshire defined by the East Midlands Regional Plan. Given the Government's stated intention to abolish all Regional Strategies, the vision as drafted is misleading and any text therein reflecting the Regional Plan should be removed.
- 7.2 The finalised Plan will serve to assist in this Council's infrastructure planning, including the preparation of a CIL charging schedule and LDF Core Strategy. The relevant aspects of the County's Infrastructure Plan can be incorporated into South Derbyshire's Infrastructure Plan as appropriate. However, this District's Infrastructure Plan will also need to have regard to other infrastructure requirements, for example leisure centres and open space. Similarly, consideration will need to be given to the balance between contributions towards infrastructure and the effect on the viability of new development. In this regard, it is highly likely that many desirable schemes will not be able to be funded and local elected Members will need to make carefully considered choices in prioritising infrastructure.
- 7.3 The delivery schedules set out in the Draft Plan appear to broadly reflect priorities previously identified by South Derbyshire District Council and can be welcomed. However, there are two issues to note in particular. The first concerns the proposed expansion of the existing Household Waste Recycling Centre (HWRC) at Park Road, Newhall. The Draft Plan does not reflect this Authority's previous representations to the County Council for an additional HWRC in the District. The second issue to note is that of secondary school places in South Derbyshire. The Draft Plan appears to identify the need for a new school, costing in the order of £20m, to be funded entirely through CIL. However, it firstly needs to be demonstrated that a new school is needed directly as a result of new population growth in the District being promoted in the LDF, as CIL can only be used to support infrastructure requirements resulting from new growth. Secondly, it must be recognised that the County Council have a duty to provide school places and it would appear unrealistic to expect CIL to generate enough capital to entirely fund the provision of such a facility.
- 7.4 In terms of the **Draft Protocol**, at first, the process of negotiating for these contributions appears as a logical extension of the principle which underlies the Council's current practice. However, there are some potential drawbacks which should also be considered.
- It should be noted from the table that many contributions stand to be judged on a site-by-site basis. This makes developments unpredictable for prospective developers and likewise difficult for officers to give advice.
 - At least one service contribution will be triggered with the development of just one dwelling and could be as low as £10.49. This could give rise to issues of sustainability of charging and the inevitable delays that might occur given that this would be dependent upon a Section 106 agreement or unilateral undertaking being drafted.
 - An extra catalogue of contributions would do nothing to help the viability of more marginal development projects (common in the current economic climate) and could even lead to vacant or underused sites lying idle or developments stagnating.

- There could be tensions between the County Council and the City Council where, in particular, large sites in the district are on or close to the border. In such cases it may be demonstrated that future occupiers would more likely utilise City services than those provided by the County thus throwing into doubt the evidence for the contribution.

7.5 These potential issues aside, currently, largely because of the depressed land market and credit difficulties, any additional 'requirements' sought by the Council will be academic. Major development sites currently being negotiated are tending to show a lack of ability to generate sufficient surplus funds to meet demands set out in the current policy document (Appendix A). Nevertheless, should market conditions improve the Draft Protocol will be a useful tool to form the basis of negotiations along with an extra staff resource at the County Council to coordinate efforts.

8.0 Financial Implications

8.1 The drafting of a Derbyshire Infrastructure Plan raises questions around the future funding of County Council capital projects. Introducing a CIL in this District would have significant financial implications.

9.0 Corporate Implications

9.1 The Draft Plan and Draft Protocol have implications for the first theme in the Corporate Plan, Sustainable Growth and Opportunity.

10.0 Community Implications

10.1 The Draft Plan and Draft Protocol have implications for the Sustainable Development vision as set out in the Sustainable Community Strategy.

11.0 Background Papers

11.1 None



**SECTION 106
CONTRIBUTION MATRIX
A GUIDE FOR DEVELOPERS**

VERSION 8

**Developer contributions generated by new residential
development in South Derbyshire exceeding 4 dwellings**

| TYPE OF CONTRIBUTION | |
|---|---|
| 1. RECREATION - OPEN SPACE | £372 PER PERSON (see notes below) |
| 2. RECREATION - OUTDOOR FACILITIES | £220 PER PERSON (see notes below) |
| 3. RECREATION - BUILT FACILITIES | £122 PER PERSON (see notes below) |
| HEALTH (PCT) | £551 PER DWELLING IN DERBYSHIRE PCT AREA (see Appendix 4 below) |
| AFFORDABLE HOUSING | % OF TOTAL OVER 14 UNITS (seek advice of Housing Strategy Manager) - (to include contribution for affordable housing administration fee – see Appendix 5 below) |
| EDUCATION (LEA) | SUBJECT TO DERBYSHIRE LEA ADVICE (see Appendix 3 below) |
| NATIONAL FOREST PLANTING | REQUIRED WHERE SITE IS OVER 0.5HA (in National Forest area) (see Appendix 6 below) |