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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICE COMMITTEE</b>	<b>AGENDA ITEM: 9</b>
<b>DATE OF MEETING:</b>	<b>5<sup>th</sup> MARCH 2020</b>	<b>CATEGORY:</b>
<b>REPORT FROM:</b>	<b>ALLISON THOMAS</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>KAREN BEAVIN, 01283 595749 karen.beavin@southderbyshire.gov.uk</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>CONSULTATION ON DERBYSHIRE COUNTY COUNCIL'S DEVELOPER CONTRIBUTIONS PROTOCOL</b>	
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: EDS 17</b>

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## **1.0 Recommendations**

- 1.1 That in responding to the consultation on the draft Derbyshire County Council Developer Contributions Protocol the Committee:
- welcomes the expansion of topics included within the Protocol
  - recognise the introduction of the planning obligations and travel plan monitoring fees
  - recognise the changes in formula for generating education contributions.

## **2.0 Purpose of the Report**

- 2.1 To provide an overview of the consultation version of the Derbyshire County Council Developer Contributions Protocol (the Protocol) and recommend a response from the Council to the consultation, including the opportunity for Members to add further comments. Once the Protocol has been finalised, the District Council's own Guide for Developers on Section 106 Contributions will, subject to the approval of this Committee, then be revised to take account of the new Protocol.

## **3.0 Executive Summary**

- 3.1 Derbyshire County Council is consulting on a revised Developer Contributions Protocol for the collection of planning obligations relating to County Council services. The revision follows recent changes to the Community Infrastructure Levy Regulations. Once finalised, the new Protocol would replace the current County Council Protocol (dated April 2019) and could be used in the determination of planning applications. The current County Council Protocol has been utilised by the District Council in order to satisfactorily mitigate the impacts of new development on the specified County Council services to make them acceptable in planning terms.

## 4.0 Detail

- 4.1 The Community Infrastructure Levy (CIL) Regulations were amended on 1 September 2019; these regulations affect the collection of Section 106 obligations, notably removing the restriction on pooling S106 contributions. Following these changes, Derbyshire County Council is revising its Developer Contributions Protocol in order to meet the needs arising from anticipated growth and development within the County. The areas now covered by the Protocol are as follows, with several new service areas added; topics **not new** to the Protocol are shown in brackets:
- Highways and Transport
  - (Education)
  - (Public Health and Adult Social Care)
  - Waste Services
  - Library Services
  - (Broadband)
  - Employment and Skills
- 4.2 The purpose of the Protocol is twofold: firstly, to set out the County Council's expectations as to how development will need to mitigate its impact with regard to the infrastructure and services delivered by the County Council, by detailing the type and level of contributions which may be sought by the County Council when consulted on planning applications; secondly, to support the Local Planning Authorities (LPAs) to incorporate contributions towards infrastructure requirements into their Local Plans in order to comply with Planning Practice Guidance.
- 4.3 The proposed new Protocol reduces the threshold for consulting the County Council on planning application to 10 or more dwellings (down from 11 or more) and refers now to site area rather than floorspace, which is more practicable for application stage.
- 4.4 The Protocol's S106 Legal Agreement Checklist remains largely unchanged from the previously agreed version, with the notable changes being the removal of reference to pooling restrictions and flexibility given to the recovery of legal fees from the developer.
- 4.5 The amended CIL Regulations introduce mandatory reporting on planning obligations through an annual Infrastructure Funding Statement, together with the provision to charge for the monitoring of S106 obligations through the S106 agreement itself. The Protocol proposes introducing this charge, referred to as the planning obligations management fee, which is based on the cumulative number of triggers the County Council will monitor within the agreement, multiplied by £70 (subject to annual increase on 1 April). This sum is calculated to meet the requirements for such fees as set out in the regulations.
- 4.6 The new Highways and Transport section includes obligations under Section 278, approvals under Section 38 (both under the Highways Act 1980), together with expectations for commuted sums and transport assessments. Where travel plans are required, the Protocol introduces a Travel Plan monitoring fee. The Protocol also recommends developers look to provide electric vehicle infrastructure integral to development schemes at the outset. New developments should safeguard existing Greenway/cycle networks and the County Council will seek to secure on-site provision within new developments where opportunities arise. Bus service

contributions will relate to the size of development, with details set out in Appendix A of the Protocol. Home to school travel costs will be sought where pedestrian facilities will not be adequate.

- 4.7 Regarding the Education section, the formula for the number of pupils that a development is expected to generate has altered. Now in line with the 2011 census, for every 100 dwellings there will be 24 primary, 20 secondary and eight post-16 pupils. This has increased from 20, 15 and six respectively, with these previous figures based on birth rate and housing occupancy in Derbyshire. It should be noted that a contribution to school-based sixth form education will only be sought if the normal area secondary school for the development runs a sixth form. A contribution towards Special Educational Needs and Disability (SEND) infrastructure will be requested for developments of 100 dwellings or more, and this requirement is now included in the Level of Contributions table within the Protocol at page 39. Costs **per pupil place** within the Table for primary and secondary school places have not changed. Where the County Council's assessment concludes that the relevant normal area primary and secondary schools have sufficient capacity, then no mitigation will be required, notwithstanding SEND contributions as detailed above. In exceptional circumstances, the County Council may request a contribution towards places at an alternative to the normal area school.
- 4.8 Regarding Health, the Protocol states that the County Council wishes to support LPAs to seek developer contributions for infrastructure to address the wider determinants of health and to support healthy lifestyles where public health may be adversely affected by development. When seeking contributions, consideration should be given to the delivery of the priorities set out in the Strategic Statement for Planning and Health for Derbyshire and Derby City (2016).
- 4.9 Regarding Waste Services, where it is expected that new housing development will generate a need for additional provision, funding through developer contributions will be expected to provide additional capacity. Where proposed housing will place pressure on the Household Waste Recycling Centre, contributions will be sought from developments of 10 or more dwellings. Contributions may be sought from smaller developments where they form part of an overall development in an area or where sites would have a cumulative impact on services and infrastructure.
- 4.10 Regarding Libraries, contributions from developments which place demand on library services will be required in order to maintain this statutory responsibility.
- 4.11 Contributions are not sought for Broadband services however the Protocol includes guidance on how such services should be facilitated through planning permissions.
- 4.12 The Protocol references the County Council's Employment and Skills Strategy, and states that the County Council will work collaboratively with LPAs to identify where activities or contributions are required to support employment and skills development where they are supported by policies in the LPAs' respective local plans.

## **5.0 Financial Implications**

- 5.1 The Derbyshire County Council Developer Contributions Protocol is, where relevant, a determinant for the monies sought and raised through the granting of planning permissions in seeking to mitigate the affects of development through timely infrastructure provision.

## **6.0 Corporate Implications**

### **Employment Implications**

- 6.1 The Protocol supports work with partner agencies and the D2N2 Local Economic Partnership, together with implementation of the Local Industrial Strategy.

### **Legal Implications**

- 6.2 None directly arising from this report however the Protocol will be used in the production of legal agreements.

### **Corporate Plan Implications**

- 6.3 The Protocol aims to help deliver the key aims of supporting economic growth and infrastructure, improving the environment of the District and supporting and safeguarding the most vulnerable.

### **Risk Impact**

- 6.4 None identified directly arising from this report.

## **7.0 Community Impact**

### **Consultation**

- 7.1 Derbyshire County Council has made the draft Developer Contributions Protocol available for public consultation.

### **Equality and Diversity Impact**

- 7.2 The delivery of infrastructure will assist in meeting the diverse needs of all established and future residents and non-residents across the District.

### **Social Value Impact**

- 7.3 Infrastructure provided through the Protocol will be to meet the needs of communities that have directly arisen from new developments within the District.

### **Environmental Sustainability**

- 7.4 Mitigation of the impacts of development are integral to the environmental sustainability of a scheme.

## **8.0 Conclusions**

- 8.1 The Protocol can be broadly welcomed as a timely response to the change in CIL Regulations to facilitate the best use of planning obligations, including the new provision to charge for the monitoring of S106 obligations.

## **9.0 Background Papers**

Appendix 1 – Derbyshire County Council Developer Contributions Protocol – consultation  
draft December 2019