

**CONSULTATION BY EAST CAMBRIDGESHIRE DISTRICT COUNCIL ON DRAFT  
SUPPLEMENTARY PLANNING DOCUMENT ON PLANNING OBLIGATIONS.**

*To:* Cabinet

*Date:* 14 December 2010

*From:* Service Director, Growth and Infrastructure

*Electoral division(s):* Ely South and West. Ely North and West, Littleport, Burwell, Haddenham, Soham and Fordham villages, Sutton, Woodditton

*Forward Plan ref:* N/A *Key decision:* No

*Purpose:* To approve the County Council's response to the consultation by East Cambridgeshire District Council on their draft Supplemental Planning Document on Planning Obligations

*Recommendation:* Cabinet are invited to:

- a) Consider and approve the draft consultation response set out in Appendix 1 of this report; and
- b) Delegate to the Cabinet Member for Growth, Infrastructure and Strategic Planning in consultation with the Acting Executive Director, Environment Services, to make any minor textual changes as appropriate prior to submission.

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## **1 INTRODUCTION**

- 1.1 A Supplementary Planning Document (SPD) is a Local Development Framework Document established as part of the Planning and Compulsory Purchase Act 2004, that may cover a range of issues, thematic or site specific, and provides further detail of policies and proposals set out in the main Development Plan Documents.
- 1.2 East Cambridgeshire District Council has produced a SPD on planning obligations and is consulting on this between Monday 22nd November and Monday 20th December 2010.
- 1.3 The County Council has been invited for its comments on this document. The consultation document can be viewed at the following link:

<http://www.eastcambs.gov.uk/consultations/current-consultations>

## **2 EAST CAMBS PLANNING OBLIGATIONS SPD**

- 2.1 The key purpose of the East Cambridgeshire Planning Obligations SPD is to set out the approach to seeking planning contributions from development schemes within the district.
- 2.2 New development can create a need for services and facilities, and the SPD sets out how the Council will secure financial and other contributions from developers towards necessary infrastructure improvements.
- 2.3 Section 106 of the Town and Country Planning Act 1990 (as amended) allows the drafting of planning obligations between developers and the District Council. Further guidance on seeking and negotiating obligations is provided in Government Circular 05/05 (as amended by the Planning Act 2008 and Community Infrastructure Levy (CIL) Regulations 2010). The revised Circular contains 3 statutory tests for the scope and appropriateness of seeking developer contributions. They must be:
  1. Necessary to make the proposed development acceptable in planning terms;
  2. Directly related to the proposed development; and
  3. Fairly and reasonably related in scale and kind to the development.
- 2.4 East Cambridgeshire District Council's position on planning contributions is set out in the East Cambridgeshire Core Strategy (2009). Policy CS7 states that the District Council will seek to secure adequate infrastructure and community services and facilities through developer contributions and planning obligations. Policy S4 provides further detail on the Council's approach to seeking developer contributions, and states that development proposals will be expected to:
  - *Provide or contribute towards the cost of providing infrastructure and community services/facilities made necessary by the [development] proposal;*

- *Where appropriate, contribute towards the on-going maintenance and management of services and facilities [will be] provided as part of (a);*
- *Offset the loss of any significant amenity or resource through compensatory provision elsewhere.*

2.5 The Government is seeking to implement changes to the current system of developer contributions through the introduction of a CIL, which will allow Council's to set standard charges for development schemes, set locally and tested by an independent examination. East Cambridgeshire District Council is working towards the introduction of a CIL charging mechanism, pending the publication of revised Government Regulations.

2.6 As part of this process, the District Council is producing a draft Infrastructure Investment Framework, which sets out infrastructure requirements across the district, including costs and potential funding sources/gaps. Therefore, in the interim period, the draft Infrastructure Investment Framework will provide an evidence base for seeking developer contributions through the SPD and will act as an interim document until the CIL scheme is implemented in the future. It is this that the District Council is consulting on.

### **3 KEY ISSUES**

3.1 Whilst the clarity brought by the draft SPD is to be welcomed, Officers have some serious reservations about a number of the proposals contained within the document. The three principle areas of concern are as follows.

#### **Reduced contributions based on development viability**

3.2 In particular, there are concerns about the proposal to discount developer contributions based on viability and the impact that this will have on service providers. In this respect, the SPD requires different contribution rates for development within different parts of the district. For example, developments within Soham, Littleport and the 'rest of district north' would be required to make a 50% education contribution in comparison to Ely and the 'rest of district south'. The reason for this approach is with regard to the viability of development as stated in paragraphs 3.3.1 and 3.3.2 of the SPD.

3.3 This is of great concern to the County Council as education costs are uniform across the district and if such an approach were accepted, it would mean that the full cost of the infrastructure to be provided could not be met in the discounted areas unless other sources of funding were secured. In current circumstances, it can not be assumed that other sources of funding will be available.

3.4 To address this point, it is suggested that the County Council objects to reduced contributions being applied for services and infrastructure that it provides and that instead, a uniform rate across the district should apply for s106 contributions.

#### **Transport**

3.5 The draft SPD relies too heavily on external funding sources to provide

transport infrastructure and services to support growth.

## **Waste**

- 3.6 Contributions for waste are not included in the draft SPD but are needed to support waste infrastructure and services arising from growth.
- 3.7 The full draft response to the consultation document is attached as Appendix 1.

## **4 SIGNIFICANT IMPLICATIONS**

### **Resources and Performance**

- 4.1 This SPD is a critical document for both East Cambridgeshire District Council and the County Council as a means of securing appropriate levels of infrastructure alongside development. If insufficient financial provision is secured from developers, there may be a shortfall in funding for new infrastructure required as a result. In the case of key County Council facilities that we have a statutory duty to provide, this will present increasing unfunded pressures on the County Council. Consequently, it is important that the Council seeks changes to the draft SPD to ensure that adequate contributions are secured.

### **Statutory Requirements and Partnership Working**

- 4.2 The SPD provides interpretation of policies contained within the Local Development Framework, which is the statutory town planning document for East Cambridgeshire.

### **Climate Change**

- 4.3 Infrastructure costed for the SPD takes account of current policy on climate change policy.

### **Access and Inclusion**

- 4.4 Planning contributions secured using the SPD may increase social inclusion opportunities and access to a range of facilities and services.

### **Engagement and consultation**

- 4.5 County service providers have been consulted on the SPD. The SPD has been widely consulted by the district Council and is available on their website for comment.

<b>Source Documents</b>	<b>Locations</b>
<ul style="list-style-type: none"><li>Communities and Local Government, 'New homes bonus Consultation, November 2010</li></ul>	<ul style="list-style-type: none"><li>New Communities Service, Castle Court, A Wing, 2<sup>nd</sup> Floor</li></ul>

## **Appendix 1 – Draft Consultation Response**

The draft SPD gives rise to a number of issues that Cambridgeshire County Council wishes to comment on. These comments are in two parts. The first are matters of principle and where urgent attention is needed from colleagues at East Cambridgeshire District Council. The second part of this response concerns matters of detail.

During 2009, County Council Officers, from a range of services assisted ECDC with the Infrastructure Study they had commissioned through consultants Aecom. The consultation response below relies, in part, on the information that Officers provided at that time.

### **Matters of Principle**

#### **Discounted contributions**

Background: The draft SPD requires different contribution rates for development within different parts of the district. For example, developments within 'Soham', 'Littleport' and 'rest of district north' would be required to make a 50% education contribution in comparison to 'Ely' and 'rest of district south'. The reason for this approach is with regard to the viability of development as stated in paragraphs 3.3.1 and 3.3.2 of the SPD.

Education costs are uniform across the district and if such an approach were accepted by the County Council it would mean that 1) an inequitable approach would be applied, which is not consistent with the s106 test on being fair and reasonable and 2) the full cost of the infrastructure to be provided could not be met [in the discounted areas] unless other sources of funding were secured. In current circumstances, it can not be assumed that other sources of funding will be available.

**Suggested response:** The County Council objects to reduced contributions being applied for services and infrastructure that it provides. A 'uniform' rate across the district should apply for s106 contributions.

#### **Discounted education costs**

Background: The draft SPD includes costs for education contributions which have been used since 2007. This could result in a serious under provision of developer contributions that in consequence will not cover the full cost of education provision. Officers are concerned that these figures underestimate true costs.

To address this point, it is proposed that the County Council objects to the current draft provision contained within the SPD, for education, until an agreed position is reached. Discussion between County Officers and ECDC are planned to move this forward.

**Suggested response:** The County Council objects to the current draft provision contained within the SPD until an agreed position is reached that will fully provide for the education needs of new development. Discussion between County Officers and ECDC are planned to agree costs.

## Transport

Background – Transport improvements required to support growth have been costed in the ECDC draft Infrastructure Investment Framework at a total cost of about £1.4 billion. It is estimated that of that funding, £1.3 billion of the funding may be available from other sources. This leaves £100m to be funded directly by development.

However there is a risk that this figure of £100m may be higher leaving the County Council exposed to meeting any shortfall. Further, the contributions are stated to be discounted to reflect natural population increases – though these (natural population increases) are not defined in the SPD.

**Suggested Response** – Cambridgeshire County Council objects to the assumption about transport funding generally and particularly the assumption that £1.3 billion will be secured from sources other than development. We request that more robust assumptions be used as a basis for the calculation of this contribution. There must be significant risk of little or none of the £1.3 billion be secured from other sources.

## Waste Service

Background – The SPD makes no specific reference to seeking contributions for waste infrastructure, although paragraph 3.1.3 notes that ECDC may seek other types of on-off site infrastructure depending on need.

For development elsewhere in Cambridgeshire, the approach that has been agreed with the other district councils is to apportion the cost of new waste facilities to reflect the share of the capital costs that should be borne by new development. This has been done on an assumed geographical catchment of the waste facility. The assumed catchment reflects driving time (10 minutes) to the facility and equates to 32,000 houses. This approach has been used at Cambourne and for the development on the fringes of Cambridge.

**Suggested response:** The County Council requests the inclusion of contributions to waste services in the SPD. The County Council object to the SPD until this inclusion is made. Officers will work with ECDC to formulate the alternative approach noted above.

## Matters of Detail

### Education

Background: The terms pre-school and early years appear to be used interchangeably in the document but are in fact different. Early years refers to provision for 0-5 aged children, whilst pre-school refers more specifically to ages 3-4. The County Council has a statutory duty to ensure each pre-school child (ages 3 and 4) can participate in 15 hours a week of pre-school provision. Clarity in the document is therefore needed.

**Suggested response:** There is a lack of clarity in the use of the terms Pre-School and Early Years. The County Council requests that these terms refer to specific age groups of children and that this is clarified in the SPD.

### Exceptions to education contributions

Background: For certain types of development, the SPD suggests that contributions will not be required for education. These are:-

1. specialist older persons housing schemes (all education contributions);and
2. 1 bed dwellings (secondary school contributions only).

**Suggested response:** The County Council agrees with the suggested approach to exceptions to education contributions noted above.

### Education Contributions from Affordable Housing

Background: The draft SPD makes no reference to 100% affordable housing schemes which tend to generate higher child yields leading to higher education provision requirements.

**Suggested response:** The County Council recommends that the SPD be clarified to ensure that all affordable housing schemes contribute towards meeting their education need regardless of whether it forms part of a mixed-tenure housing scheme or 100% affordable housing.

### Pupil Yield Multipliers

Background: General and detailed housing multipliers are used to determine child yield from new housing. This in turn is used to calculate education contributions. Where the housing mix is unknown the following multipliers are used:-

- |                             |                                    |
|-----------------------------|------------------------------------|
| - Pre-school children       | 18 – 25 children per 100 dwellings |
| - Primary school children   | 25 – 35 per 100 dwellings          |
| - Secondary school children | 18 – 25 children per 100 dwellings |

Where the housing mix of the development is known, a more detailed multiplier is used which will refine the number of places required

**Suggested response:** The County Council agrees with the proposed multipliers in the SPD to calculate child yield.

### Triggers

Background: The proposed SPD states, in section 4.3, that ECDC will seek education contributions where designated area schools have 5% or less surplus places. School rolls may change during the academic year as a result of children moving into and out of the area and it is good practice to allow for some surplus capacity to be able to accommodate this need. Discretion is needed to apply this flexibility to specific circumstances.

**Suggested response:** The County Council supports the principle of applying triggers in seeking education contributions. However, in some circumstance a 5% trigger may be too low (where there is a small school) and therefore a 10% surplus may be more appropriate. The County Council objects to this trigger and requires that this trigger be amended to 10%.

### Library & Life Long learning

Background: The SPD sets out library requirements in section 4.4. It specifies a level of contribution (£162 - £418 per dwelling (depending on number of bedrooms) based on a standard provided by the County Council (45 m<sup>2</sup> of provision per 100 population).

**Suggested response:** The County Council accepts the proposed level of contributions towards library and lifelong learning provision as this would enable the upgrading or expansion of existing provision - subject to the implementation of review mechanism described in paragraph 3.4.5 of the SPD (to review at least annually).

### Monitoring, management and review

Background – The SPD proposes that the district council will seek a cost for collecting, allocating and spending contributions and also for the drafting and monitoring of legal agreements. The County Council currently expects the legal costs to be met by the developer but seeks no other costs for Officer time spent on these processes.

**Suggested response:** County Council objects on this point until discussions with ECDC can be held to discuss the possible opportunities of including a County premium or agreeing a share of this funding to be received by Cambridgeshire County Council.