

**19 July 2016**

**Planning and Licensing Committee**

**The Essex County Council Developers' Guide to Infrastructure Contributions – Revised Edition 2016**

**Report of:** *Phil Drane – Planning Policy Team Leader*

**Wards Affected:** *All Wards*

**This report is:** *Public*

**1. Executive Summary**

- 1.1 Essex County Council has recently published a new edition of the Developers' Guide to Infrastructure Contributions. The guide has been produced in consultation with key stakeholders.
- 1.2 The guide details the scope and range of contributions towards infrastructure which Essex County Council may seek from developers and land owners in order to make development acceptable in planning terms. Brentwood Borough Council will be able to refer to the guide when providing pre-application advice and determining planning applications.

**2. Recommendation**

- 2.1 To formally acknowledge the Essex County Council Developers' Guide to Infrastructure Contributions – Revised Edition 2016, as attached at Appendix A, as a material consideration for the purposes of determining planning applications.**

**3. Introduction and Background**

- 3.1 Essex County Council has recently published the third edition of its Developers' Guide to Infrastructure Contributions, this replaces the previous edition published in February 2010.
- 3.2 The document details the scope and range of contributions towards infrastructure which Essex County Council may seek from developers and land owners in order to make development acceptable in planning terms.

- 3.3 The guide covers the administrative area of Essex County Council and the infrastructure that they provide such as schools, roads and libraries. The guide does not cover services provided by second tier district authorities (City, District and Borough Councils), such as affordable housing or open space, nor contributions that may be sought by other infrastructure providers, such as the NHS or the Police.
- 3.4 The new edition of the Developers' Guide has been necessary due to the introduction of the Community Infrastructure Levy (CIL). There has also been changes in regulations which places limits on Section 106 contributions and specifically the number of contributions which can be 'pooled' to finance a single infrastructure project, or type of infrastructure.

#### **4. Issue, Options and Analysis of Options**

- 4.1 The Developers Guide to Infrastructure Contributions was formally adopted by Essex County Council in March 2016. The guide informs local planning authorities in Essex on matters relating to contributions required for infrastructure such as schools, roads and libraries
- 4.2 The 2016 edition of the developers' guide replaces the previous version which was published in 2010. There have been a number of changes in guidance between the 2010 and 2016 editions, which are set out below.

##### **Education**

- 4.3 Thresholds for education contributions have been increased to 20 or more dwellings and/or developments which generate a pupil product of at least six children. This will allow five contributions to result in the extension of at least one class base of 30 children. These changes have been implemented in response to Section 123 of the Community Infrastructure Levy Regulations 2010.
- 4.4 Details for early years and childcare provision which was previously in a separate document have now been incorporated into the Essex County Council Developer Contributions Guide.
- 4.5 Developers who are transferring land as part of any school infrastructure can refer to Appendix C of the document for further guidance. This checklist should reduce costs for Essex County Council and developers by speeding up the planning process.

## **Community Buildings**

- 4.6 New guidance has been produced to outline that it may be preferable for developers to provide community buildings from which public and voluntary services (e.g. youth, library or adult facilities, District and NHS services) could be provided.

## **Highways**

- 4.7 The emphasis for highways provision will move from seeking monetary contributions to developers carrying out the required works and on travel plans.

## **Legal Agreements**

- 4.8 Revised draft templates for Section 106 legal agreements made between Essex County Council and developers are provided in Appendix A of the guide.

## **Transfer of Land**

- 4.9 There is now a comprehensive list of commuted sums payable for the maintenance of any assets transferred to Essex County Council. This includes commuted sums for Sustainable Drainage Systems (SuDS).

## **Fees**

- 4.10 A 2% fee will be retained by Essex County Council for each contribution to pay for monitoring and manage compliance with Section 106 agreements.

## **5. Reasons for Recommendation**

- 5.1 Acknowledgement of the Essex County Council Developers' Guide to Infrastructure Contributions will assist our Planning Development Management Team in negotiating contributions required for necessary infrastructure to make proposed development acceptable in planning terms. This guide will also be relevant for major development proposals within the emerging Brentwood Local Development Plan once adopted.

## **6. Consultation**

- 6.1 The third edition of the Developers' Guide to Infrastructure Contributions was produced by Essex County Council alongside a number of partners with consultation taking place from January to March 2015. The guide has also been screened for its environmental impact and has undergone a sustainability appraisal. The Guide was formally adopted by Essex County Council in March 2016 as 'County Supplementary Guidance' and should

be considered a material consideration in the determination of planning applications.

## **7. References to Vision for Brentwood 2016-19**

- 7.1 The Developers' Guide to Infrastructure and Contributions will provide essential advice on the level of contributions that would be required by developers towards infrastructure to make development acceptable in planning terms. This will inform proposed development in the emerging Brentwood Local Development Plan, production of which is a key priority in the Council's corporate plan Vision for Brentwood 2016-19.

## **8. Implications**

### **Financial Implications**

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- 8.1 There are no direct financial implications to the Council in accepting this guidance as a material planning consideration. Having the guide as a material consideration will assist the Council in requesting monetary contributions from developers when determining planning applications. These financial contributions will ensure the infrastructure required to make development acceptable in planning terms is delivered.

### **Legal Implications**

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- 8.2 There are no direct legal implications to the Council in accepting this guidance as a material planning consideration. Where it is determined that a proposed development requires contributions to deliver required infrastructure this will be subject to Section 106 legal agreement. This does not alter the current process that is followed in these situations. The determination of the relevant planning application is by the Local Planning Authority, which may take a view on viability evidence and contributions requested. Publication of the guide enables developers to prepare applications with infrastructure supporting Heads of Terms at an early stage, and if there is a disagreement the Local Planning Authority will require the developer and the County Council to mediate the difference(s) having regard to relevant facts and judicial authority.

## **9. Background Papers**

- 9.1 None

## **10. Appendices to this report**

10.1 Appendix A: The Essex County Council Developers' Guide to Infrastructure Contributions – Revised Edition 2016 –

<http://www.essex.gov.uk/Environment%20Planning/Planning/Transport-planning/Information-for-developers/Documents/Developers-guide.pdf>

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