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| Committee(s): Planning Committee | Date: 14 March 2023 |
| Subject: Essex County Council Developers' Guide to Infrastructure Contributions proposed revisions 2023 | Wards Affected: All |
| Report of: Phil Drane, Director of Place | Public |
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Summary

Essex County Council are consulting with Local Planning Authorities on a new edition of the Developers' Guide to Infrastructure Contributions (Appendix B), which will replace the previous edition published in 2020. Planning Licensing Committee formally acknowledged the Developers' Guide to Infrastructure Contributions (revised edition 2016) as having material weight for planning applications (Item 104, 19 July 2016).

Revisions to the developers' guide include increased costs for education related facilities, sustainable transportation requirements (including active and sustainable travel), skills and employment and climate change ensuring the requirements outlined within the ECC Climate Action Plan (Appendix C) can be met.

An officer response will be submitted to the consultation by the 15 March deadline (Appendix A). As a planning document which has implications on infrastructure funding in the Borough, it is important that the Council respond and further consider issues through the Local Development Plan and Duty to Cooperate processes.

The majority of the comments provided in the Officers' response are a repeat of the concerns raised in the 2020 Developers' Guide Officers response which was approved at the December 2019 planning the Licensing Committee. In addition, the consultation undertaken by ECC on the new Developers' Guide was not publicly consulted on, but rather local planning authorities were invited by email to provide comments. Therefore, this report has been prepared for information only.

Recommendation

Members are asked to:

R1. Note the content of the response to the Essex County Council Developers' Guide to Infrastructure Contributions proposed revisions 2023 consultation as set out in Appendix A.

Main Report

Introduction and Background

1. Essex County Council is responsible for the development and maintenance of roads, educational facilities (such as early years and childcare, primary and secondary schools, and libraries), flood mitigations, and public health. Developer contributions are expected in order to ensure the necessary infrastructure can be built and maintained.
2. The Essex County Council (ECC) Developers' Guide to Infrastructure Contributions (appendix B) details the scope and range of contributions towards infrastructure which ECC may seek from developers and landowners to mitigate the impact and make development acceptable in planning terms. The guide aims to assist Local Planning Authorities in producing Local Plans and supporting evidence they require, and where applicable, the Community Infrastructure Levy (CIL). ECC's aim is to ensure that infrastructure is delivered in a timely manner and thereby ensuring that new development does not have an adverse impact on existing communities, by ensuring the new developments proposed properly and fairly address their own infrastructure needs and do not detract from the quality of life in Essex.
3. The ECC Developers' Guide was recently updated to take account of changes in the National Planning Policy Framework (NPPF), Community Infrastructure Levy (CIL) Regulations, and cost requirements to ensure appropriate infrastructure can be brought forward.
4. The developers' guide covers the administration area of ECC and details the scope and range of contributions towards infrastructure which ECC may seek from developers and landowners in order to make development acceptable in planning terms such as schools, roads, and libraries. It does not cover services provided by second tier local 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 and the Police.
5. The revised Developers' Guide to Infrastructure contributions can be viewed at Appendix B. Key changes to the fees required through this latest update can be found in the document at Table 2, Section 5 on Page 23.

Issue, Options and Analysis of Options

6. The Developers' Guide to Infrastructure Contributions was first consulted on in January 2016 (Item 104, 19 July 2016), and again in December 2019 (Item 289, 18 December 2019). The core changes to the latest update to the document include:
 - a) **Education:** Increased costs for education related facilities such as early years and childcare, primary school, and special education needs. The trigger for education contributions has not changed and remains at 20 dwellings and above.
 - b) **Libraries:** Increased fees for library developments and additional improvements, including fees for library extension, major capital projects at existing libraries, fit out (shelving, decorating) and provision of stock. This will be triggered for all developments with 20 or more dwellings.
 - c) **Highway:** New section on highways, such as sustainable transportation requirements, including active and sustainable travel
 - d) **Skills and employment:** Developments of 50 dwellings or more or 2500sqm of employment floorspace will now be required to prepare an Employment and Skills Plan.
 - e) **Climate Change:** Climate change embedded throughout the document ensuring the requirements outlined within the ECC Climate Action document (Appendix C) can be met, such as the requirements for net zero carbon developments of schools.

7. An Officers' response will be submitted by the 15 March 2023 deadline (Appendix A). A summary of the response includes:
 - a) The new and updated requirements in the revised developers' guide were not discussed with Brentwood Borough Council officers prior to the six-week consultation period. The Council's response to the 2019 version of the Developers' Guide raised that the Council would like to collaborate more with Essex County Council moving forward, to make the Developers' Guide a more effective instrument in the planning process. The Council would welcome the opportunity to discuss the development of future iterations of the Developers' Guide through the council's regular update meetings.
 - b) The Council has recently adopted its Local Plan and concluded its Community Infrastructure Levy (CIL) Regulation 16 consultation with the

intensions of submitting for examination within the coming weeks. The Council's CIL Draft Charging schedule is based on its most recent Infrastructure Delivery Plan (IDP) and viability work. The Council is concerned that the new and updated Developers' Guide could have a negative impact on the viability of sites allocated within the Plan and draft CIL.

- c) The revised developers' guide does not address a gap in the process whereby it is not flexible enough and so local authorities often have limited control over the management of developer contributions to address its specific local infrastructure challenges. As is noted from the guide, the revised guidance only concerns obligations involving ECC; issues such as affordable housing, open space, certain strategic transport infrastructure are not covered. Local planning authorities face different local infrastructure challenges and have different priorities from that of ECC and other parts of Essex. This point was raised by Brentwood Borough Council during the 2019 consultation as well, and it is disappointing that this approach has remained unchanged.
 - d) It is unclear from the developers' guide what the rationale is behind ECC's proposed changes to the thresholds and trigger points for developer contributions. BBC request that this is explained and made explicit. For example, the Child Yield method appears challengeable. It was not explained whether the child yield from housing and employment development relates to any benchmarking surveys; it is also unclear how elements of double counting would be avoided on large-scale mixed-use developments.
8. The Developers' Guide is not a statutory planning document. It provides up to date prices, requirements and expectations to enable both developers and local authority officers and planning committee members to understand the infrastructure cost and requirements to mitigate development and provide infrastructure needs. The Local Planning Authority is responsible for weighing up the identified planning obligations when considering planning applications to achieve policy compliant decisions. Brentwood Borough Council has an obligation to ensure that the appropriate developers' contribution is collected to make development acceptable in planning terms.

Reasons for Recommendation

9. Members are asked to note the officer response because the majority of comments repeat concerns raised in response to the 2020 Developers' Guide, which has already been approved by the Planning and Licensing Committee (December 2019). In addition, the consultation was not publicly available for

comment, but rather local planning authorities only were invited to provide comments given the technical nature of content and the local government audience.

Consultation

10. ECC did not run a formal consultation on the Developers' Guide, but rather offered local planning authorities within Essex and Statutory consultees an opportunity to provide comments and feedback on the guide. Consultees were given six weeks to respond between 1 February and 15 March 2023.

References to Corporate Plan

11. The Developers' Guide to Infrastructure and Contributions will provide 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 Brentwood Local Plan.

Implications

Financial Implications

Name/Title: Tim Willis, Interim Director – Resources (Section 151 Officer)

Tel/Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk

12. There are no direct implications for the council's finances.

Legal Implications

Name & Title: Andrew Hunkin, Interim Director – People & Governance (Monitoring Officer)

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13. The revised Developers' Guide to Infrastructure Contributions would have significant implications on infrastructure funding in the borough and so it is important that the council responds and further considers issues through the Local Development Plan and Duty to Cooperate processes. Engagement in this way is consistent with the Duty to Cooperate and the council's adopted Statement of Community Involvement.

Economic Implications

Name/Title: Phil Drane, Director – Place

Tel/Email: 01277 312500/phil.drane@brentwood.rochford.gov.uk

14. Financial contributions from development can be critical to enabling infrastructure provision and investment. An effective developers' guide,

collaboratively prepared with the council, can assist to secure necessary funding for infrastructure that enables and supports economic growth in the borough

Equality and Diversity Implications

Name/Title: Kim Anderson, Corporate Manager (Communities, Leisure & Health)

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15. The report raises no specific implications in respect of equality.

Health & Wellbeing Implications

Name/Title: Jo Cory, Corporate Health & Wellbeing Officer

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16. The report raises no specific implications in respect of Health & Wellbeing

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

17. None

Background Papers

- Item 289, Planning and Licensing Committee, 18 December 2019, Essex County Council Revised Developer Contributions Consultation Response
- Item 104, Planning and Licensing Committee, 19 July 2016, Essex County Council Developers' Guide to Infrastructure Contributions Revised Edition 2016

Appendices to this report

- Appendix A: Brentwood Borough Council, officer comments on the Developers' Guide
- Appendix B: Essex County Council Developers' Guide to Infrastructure Contributions proposed revisions 2023
- Appendix C: Essex Climate Action Commission, Interim Report (Essex County Council)