

AGENDA ITEM 5

Report title: Essex Developers' Guide to Infrastructure Contributions	PSEG/04/20
Report to: Place Services and Economic Growth Policy and Scrutiny Committee	
Date: 23/04/20	For: Discussion
Enquiries to: joy.thomas@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The Essex Developers' Guide to Infrastructure Contributions ('the Guide') is currently being updated to address changes in legislation and consequent processes which have an impact on the collection of S106 contributions. This report provides the Place Services and Economic Growth Policy and Scrutiny Committee with an update on this work.

2. Background

- 3.1 The ECC Guide was first produced in 2003 as a guide for developer contributions primarily to be used for education purposes. This Guide has been updated several times since, in 2005, 2010 and 2016, and has expanded to include other important infrastructure requirements including highways, libraries, flooding, public health and now includes a section on Garden Communities.
- 1.2 The current update to the Guide has already be through a process of consultation with developers and the local authorities undertaken between 31st October to 12th December 2019. As a consequence, a number of comments have been received from both the development industry/house builders as well as the local authorities. In addition, a commitment was given to meet with all of the district councils who requested meetings to clarify a number of issues and requested changes that they raised. These meetings with the local authorities have since been undertaken in January and February this year.
- 1.3 In addition to meetings with the local authorities, ECC officers have held meetings with the Chief Planners through meeting with the Essex Planning Officers Association (EPOA). At EPOA a commitment was given to undertake a further round of consultation on the amended Guide which has taken on board some of the earlier points raised. This second round of consultation specifically with the local authorities was undertaken between 9 and 30 March.
- 1.4 Following on from this second round of consultation, the Essex Developers Contribution Guide has been the subject of a paper to PLT and is now being considered by Scrutiny Committee at their meeting on 23 April prior to finalising and adopting in May/June. This revised Guide will then replace the 2016 Guide which is currently being used at the moment.

3. Update of current issues

- 4.1 The Guide has been revised in 2019/20 due to it being dated and significant changes in legislation which came into effect on 1st September 2019 require this to be amended. Central Government have amended the CIL Regulations to remove the pooling restrictions (which restricted the collection of contributions from a maximum of 5 sites) which particularly was unhelpful in relation to the expansion and provision of schools. Governments changes to the regulations have been welcomed which means that there is scope for a fairer system of contribution collection, as well as increasing the scope for the collection of contributions from more development sites. As mentioned, this change particularly benefits the funding for schools, as well as providing opportunities for the County Council to collect funding for waste management projects, library improvements and the expansion of employment opportunities for 16+ following the Government requirements for school leavers.
- 4.2 The CIL legislation change also allows Councils requesting contributions to cover the monitoring cost of the legal agreements without legal challenge, both at local and county level. There will also be a requirement for LPAs' to report annually on their collection of S106 contributions and their use and proposals for the future use of such funding, with effect from December 2020. This new legislation came into effect on 1st September 2019.
- 4.3 There have been other changes in legislation which have impacted upon this Guide, including requirements concerning childcare and increased access to free childcare by doubling the number of hours to 30 per week. This has resulted in an increased need and greater pressure on the facilities available for Early Years and Childcare. In addition to this, the Raising of the Participation Policy in respect of the 16+ age group has meant that there is a greater need for the provision of opportunities resulting from new development and developers will be expected to provide apprenticeships, etc. In addition to this the Department for Education recently published guidance on 'Securing developer contributions for education' which is referred to in the Guide, and which provides support to councils in the collection of such contributions.
- 4.4 Garden Communities also now feature in the Guide. It is anticipated that many of the contributions relating to these sites will be bespoke, although the Garden Communities may require a much higher specification on build quality, which will require a better standard of infrastructure provision for example with regards to new schools. Equally the requirement to implement effective stewardship models will be critical to the success of maintaining the quality standards of these new settlements, to ensure these added quality requirements do not unduly burden the public purse.
- 4.5 Changes to the Guide
Below is a summary of the contributions expected and the main changes to the Guide.

Early Years and Childcare	Financial contribution from all sites of 20+ dwellings and land for new build where appropriate
Primary/Secondary	Financial contribution from all sites of 20+ dwellings and land for new build where appropriate
Special Needs	NEW section - financial contribution from sites of 2000+ dwellings
Post 16 provision	Financial contribution from sites of 20+ dwellings

Employment and Skills	NEW section – requiring developers to provide an Employment and Skills Strategy which will include Employments and Skills plans and financial contributions where necessary. Developments of 200+ dwellings and 2500sqm+ of employment floorspace
Highways	Changes to the commuted sums for maintenance.
Travel Planning	Travel plans now requested for sites of 80+ dwellings (rather than 250+)
Waste and Recycling	NEW section – contributions from Garden Communities
Libraries	UPDATED requirement for financial contributions in respect of developments of 20+ dwellings dependent on local requirements
Monitoring charges	NEW Monitoring charges will be applied where there is infrastructure provision needed for which ECC is the statutory authority including schools and transport

4.6 Impact of changes and processes

The changes being proposed will help to ensure there is a much fairer developer funded contribution approach which ultimately will help increase S106 income for much needed community infrastructure, provided this is appropriately applied by District Councils to support the correct level of infrastructure needed. The changes made will be applied to all new applications received once the Guide has been finalised and adopted.

4. **Next Steps**

- 5.1 Now that the second round of consultation has been completed, consideration is being given to further comments received from the 7 authorities whose officers responded and the Guide will be refined where required.
- 5.2 Following this session of the scrutiny committee, the guide will be adopted through the Cabinet Member Action process. The new Guide could be in place to replace the outdated Guide by May/June 2020.

5. **Session Aims**

- 6.2 Members are asked to discuss progress as outlined in the paper and attachments, and make recommendations where appropriate.

6. **List of appendices**

- **Appendix A** - Essex Developers' Guide to Infrastructure Contributions