

## **Report to the Cabinet**

**Report reference:** C-007-2018/19

**Date of meeting:** 11 July 2019



**Epping Forest  
District Council**

**Subject:** Delivering Infrastructure in the District:  
Developer Contributions Strategy

**Responsible Officer:** Alison Blom-Cooper (01992 564066).

**Democratic Services:** Adrian Hendry (01992 564246)

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### **Recommendations/Decisions Required:**

- (1) That the Delivering Infrastructure in the District: Developer Contributions Strategy attached as Appendix A be agreed; and**
- (2) That the mechanisms for Member involvement to support the delivery of infrastructure be noted and;**
- (3) The new regulations to lift the pooling restrictions for S106 contributions and a requirement to produce an annual infrastructure funding statement from December 2020 be noted.**

### **Executive Summary:**

The growth proposed in the Local Plan Submission Version (currently at examination) will result in requirements to provide additional infrastructure, services and facilities. The requirements have been identified in the Infrastructure Delivery Plan and supporting documents. The Council needs to put in place guidance to support the delivery of infrastructure and the processes for achieving the infrastructure. The guidance provides details on how, what and when planning obligations will be used and the approach to viability for proposed sites in the District to determine the appropriate level of developer contributions to be sought.

The Council and Land Promoters have a responsibility, through the planning process, to manage the impact of the growth and ensure that any harm caused, as the result of development, is mitigated and necessary infrastructure is provided. The Council therefore expects new development to contribute to site related and other infrastructure needs.

### **Reasons for Proposed Decision:**

The strategy puts in place appropriate guidance to ensure consistent delivery of infrastructure in the District and sets out the approach and the arrangements required to ensure the sustainability and long-term stewardship of the development. Once agreed this document will provide a framework for the consideration of proposals to ensure that the appropriate infrastructure is realised in accordance with the policies in the Local Plan.

## Other Options for Action:

### Report:

1. The purpose of the strategy is to set out the Council's approach, policies and procedures in respect of delivering infrastructure in the District to support the growth identified in the [Local Plan Submission Version \(LPSV 2017\)](#), [Epping Forest District Council's Infrastructure Delivery Plan \(IDP\)](#) and [Harlow and Gilston Infrastructure Delivery Plan](#).
2. The Council and Developers have a responsibility through the planning process to manage the impact of the growth and ensure that any harm caused by the development is mitigated and that the necessary infrastructure is provided. The strategy will ensure that a coordinated approach is taken, through the planning process using a combination of Planning Conditions (site/development related) and Planning Obligations to secure developer contributions or works in kind e.g. S106 agreements (site/development related).
3. The strategy identifies where Planning Obligations will be used when the impact of the proposed development cannot be dealt with by planning conditions and the infrastructure requirements relates specifically to the development. The purpose of a Planning Obligation is to make development 'acceptable' in planning terms which might otherwise be unacceptable development were only the use of planning conditions to be imposed. Used properly, Planning Obligations can significantly increase the quality of development. All planning contributions from new developments must be sought for a specific purpose and this purpose should be finalised before planning permission is issued.
4. Where there are competing priorities for the types of obligations that may be required the strategy sets out that engagement at the Local Plan Officer Working Group and Members must be undertaken to establish a way forward. The type of developer contributions that will be included in the S106 agreement will be identified in the Heads of Terms. The proposed infrastructure to be provided will be reviewed by Members during the Pre-Application, Masterplanning and Concept Framework stage through regular reports to the Local Plan Cabinet Committee or Cabinet.
5. The purpose of the IDP's is to set out the infrastructure that will be required to deliver the planned level of housing and employment growth in the district to 2033. The infrastructure types that might be expected to be delivered, given the types of development provided by the Local Plan, are included at Appendix A of the Strategy (see page 18). These reflect the Infrastructure requirements identified in the IDP.
6. The role of use of Planning Conditions is included at Appendix B of the strategy (see page 23) and when used properly, conditions can enhance the quality of development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development.

7. The Councils approach to viability for contributions in accordance with national policy is included at Appendix D of the strategy (See page 28). The need to deliver strategic infrastructure items across the District and Garden Town through co-ordinated contributions of land and/or infrastructure costs, mean that it is important to adopt a consistent and transparent approach to viability assessment.

**Legal framework – new provisions to remove pooling restrictions and introduce a requirement to publish infrastructure funding statements**

8. The legislative context for the use of Planning Obligations and section 106 Agreements is included at Appendix C (see page 25). New CIL Regulations have been laid before parliament and will come into force on 1 September 2019.
9. The restrictions on the ‘pooling’ of section 106 planning obligations to fund infrastructure will be removed. Local authorities are currently allowed to pool no more than five developer contributions to fund a single infrastructure project. The regulations remove any upper limit on the number of developer contributions that can be pooled.
10. The regulations also introduce a requirement for councils to publish "infrastructure funding statements". These statements will replace existing Regulation 123 lists and should include details of how much money has been raised through developer contributions and how it has been spent. Statements must be published on local authority websites at least once a year with the first statement to be published by 31 December 2020.
11. In addition, the Council will be allowed to charge a fee through section 106 agreements to contribute towards the cost of monitoring and reporting on developer contributions. The regulations state that this fee should be "fair" and "reasonable" and reflect the authority’s estimate of the cost of monitoring.

**Resource Implications:**

The successful delivery of Infrastructure in the District and Harlow and Gilston Garden Town will require a significant commitment of Officer time. It has been agreed that the use of PPA’s to enable cost recovery for this resource commitment. The Strategy also includes payment of a contribution towards the cost of monitoring the compliance for s106 Agreements.

**Legal and Governance Implications:**

The Strategy has been developed in accordance with Government Policy (NPPF) and Planning Law, Local Plan policies, the Epping Forest District Infrastructure Delivery Plan (2017), Topic Papers and associated addendum and Harlow and Gilston Garden Town IDP and Viability Assessment.

When adopted this document will provide appropriate guidance to ensure consistent delivery of infrastructure in the District, set out the approach and the arrangements

required for the consideration of masterplans, concept frameworks and other proposals for development in the District along with the sustainability and long-term stewardship of development. The Strategy will be subject to monitoring and review and updated as necessary to ensure it remains consistent with relevant Legislation, National Guidance, Local Plan policy and reflect the Epping Forest District IDP.

### **Safer, Cleaner, and Greener Implications:**

The Local Plan contains a policy designed to promote the notion of making good places to live, work and visit. This will include safer by design principles, sustainable development, the provision of alternatives to the car, energy efficiency and environmental considerations as well as sustainable drainage systems and quality green infrastructure. Strategic Masterplans and Concept Frameworks and the delivery of other sites will be the mechanism for these place-making measures.

### **Consultation Undertaken:**

The strategy has been developed with the engagement of officers through the Local Plan Officer Working Group and members at a workshop on 28 March 2019.

### **Background Papers:**

- [EB114 - Local Plan Submission Version December 2017](#)
- [EB1101A – Epping Forest District Council Infrastructure Delivery Plan Part A Report](#)
- [EB1101B – Epping Forest District Council Infrastructure Delivery Plan Part B Report](#)
- [EB1101C Infrastructure-Delivery-Topic-Paper\\_FINAL\\_OCT2018-1.pdf](#)
- [EB1101E-EFDC-Topic-Paper-Addendum-Education-and-Highways-Appportionment-EFDC-April-2019.pdf](#)
- [EB1101Ei-IDP-Topic-Paper-Apportionment-Appendix-A-Highways-EFDC-April-2019.xlsx](#)
- [EB1101Eii-IDP-Topic-Paper-Apportionment-Appendix-B-Education-EFDC-April-2019.xlsx](#)
- [EB1107-ECCs-Developers-Guide-to-Infrastructure-Contributions-2016.pdf](#)
- [EB1418-Harlow-and-Gilston-Garden-Town-Infrastructure-Delivery-Plan-HDH-Planning-Development-and-Arup-April-2019.pdf](#)
- [EB1418A-Harlow-and-Gilston-Garden-Town-Infrastructure-Delivery-Plan-Appendix-A-HDH-Planning-Development-Ltd-and-Arup-April-2019.pdf](#)
- [EB1417-Harlow-and-Gilston-Garden-Town-Strategic-Viability-Assessment-HDH-Planning-Development-Ltd-and-Arup-2019.pdf](#)
- [EB1417A-Harlow-and-Gilston-Garden-Town-Strategic-Viability-Assessment-Appendices-HDH-Planning-Development-Ltd-and-Arup-2019.pdf](#)

**Risk Management:**

If the Council were not to take a pro-active stance on the delivery of Masterplans and major applications arising from the Local Plan, there is a real risk of not meeting the Housing Delivery Test and/or development occurring of a type that does not extract maximum value for the provision of social infrastructure and poor quality development may occur.