

Subject:	Developer Contributions Technical Guidance - update		
Date of Meeting:	16 June 2016		
Report of:	Executive Director for Economy, Environment & Culture		
Contact Officer:	Name:	Debra May, Principal Planning (s106) Officer	Tel: 29-2295
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report updates the Developer Contributions Technical Guidance which sets out when and how Section 106 Developer Contributions are sought in relation to new development proposals.
- 1.2 The Guidance, which was first approved by Cabinet on 17th February 2011, relates to policy areas where developer contributions are commonly sought and now needs to be updated and widened following adoption of the City Plan Part One.

2. RECOMMENDATIONS:

- 2.1 That Committee approves the updated revised Developer Contributions Technical Guidance (Attached as Appendix 1 – Supporting Document) for assessing Section 106 planning obligation contributions on new development.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 To meet planning policy requirements to enable the granting of planning permission for development it may be necessary for developers to mitigate potential negative impacts by providing or upgrading infrastructure. These requirements, commonly known as developer contributions, are secured through Section 106 Planning Obligations.
- 3.2 Developer contributions are sought, where necessary, in accordance with planning policy objectives, as set out in the City Plan Part One adopted 24th March 2016 and the remaining retained policies in the Brighton & Hove Local Plan 2005.

- 3.3 The contributions are secured as Planning Obligations under Section 106 of the Town and Country Planning Act 1990. Under the Community Infrastructure Levy (CIL) Regulation 122, a planning obligation may only constitute a reason for granting planning permission for development if the obligation is:
- Necessary to make the development acceptable in planning terms
 - Directly related to the development
 - Fairly and reasonably related in scale and kind to the development
- 3.4 Any necessary contributions, secured at the time of granting planning permission, mitigate site specific impacts or contribute towards the necessary physical, environmental or community infrastructure needs that the development create. In determining planning applications the type of contributions sought will relate to the scale and impact of development. The contributions secured will go towards improving infrastructure and service demands in accordance with planning policy objectives.
- 3.5 Updated Developer Contributions Technical Guidance has been produced, attached as Appendix 1, to provide up to date guidance for assessing developer contributions with details of what the contributions will provide and how the contributions will be calculated?.
- 3.6 Should the council progress a Community Infrastructure Levy (CIL) then Section 106 planning obligations will remain alongside CIL to mitigate direct impacts of development. As a consequence of transition to a CIL the Developer Contributions Technical Guidance would require a further update.
- 3.7 **Guidance on securing developer contributions**
- 3.8 Developer contributions secured as part of the planning process continue to provide a valuable means of securing site specific mitigation in order to make developments acceptable in planning terms.
- 3.9 The purpose of the Technical Guidance is to provide up to date guidance as to when and how different types of contributions will be calculated on the main areas where contributions are sought from new development. The aim is to provide clarity and consistency on developer contributions that will be sought.
- 3.10 The Technical Guidance has been reviewed and updated to accord with policy objectives following the adoption of the City Plan Part One. The revised Guidance provides a policy overview of the different infrastructure areas where contributions may be sought together with further detailed information on where changes have been made for assessing contributions on the main typical contributions, as detailed below. The full level of contributions required will be sought to be agreed by negotiation through the planning process.

3.11 Main developer contributions and changes and updates made in the revised Technical Guidance:-

Affordable Housing

For the provision of Affordable Housing the commuted sums formula has been modified with revised methodology underpinned by evidence produced by the District Valuer (see Appendix 2). The methodology for calculating contributions towards off site provision is included in the revised Technical Guidance. The purpose is to secure contributions in accordance with City Plan policy CP20 which requires payments for affordable housing on all sites of 5 to 9 dwellings (20 per cent) and 10 to 14 dwellings (30 per cent). A recent Court of Appeal decision has upheld Government guidance to not allow a requirement for affordable housing contributions on developments of 10 or less units. The city council will be making the case for an exception to national guidance on the basis of local circumstances in Brighton and Hove. Commuted sums will go towards funding delivery of affordable housing in other locations the city.

Local Employment and training

Local Employment and training opportunities are currently supported through targeted on site construction training requirements. The Technical Guidance has been updated to provide further clarification on the type and level of contributions that will be sought from major development and includes the introduction of a sliding scale of financial contributions that will be sought from all residential development including student accommodation.

Education

Contributions continue to be sought towards education provision and the guidance provides clarification on contributions for local schools towards additional classroom provision (in relation to key major schemes) or upgrade to resources, such as classroom equipment or on site play facilities. An electronic calculator link will now be provided in the Guidance.

Sport, Recreation and Play space

Contributions will continue to be sought on major development towards improvements to parks and other amenity space for sports, play provision or other community facilities with health, leisure and social benefits in accordance with approved space standards as detailed in the Technical Guidance. An electronic calculator link will now be provided in the Guidance.

Transport and Travel

The Technical Guidance has been revised to accord with updated local and national policy objectives. It also clarifies how payments towards mitigating the impact of increased travel will be calculated.

New Guidance

Nature Conservation and Development

Requirements and contributions for ensuring development provides appropriate nature conservation and ecology measures were suspended as a consequence of recession measures that were withdrawn in 2015. They will now be sought in accordance with City Plan policies CP7: Infrastructure and Developer Contributions and CP10: Biodiversity and the Nature Conservation and Nature Conservation and Development Supplementary Planning Document (SPD) 011.

[Click here to view the adopted Nature Conservation and Development SPD 011](#)

Public Realm improvements

Contributions may be sought on major schemes to be provided by the developer either on site as part of the proposed scheme or in the immediate vicinity of development in accordance with City Plan policies CP5 and CP7. These may include an artistic component.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The Technical Guidance must reflect current policies; therefore the only alternative to updating the Guidance would be for it to be withdrawn. Should the Guidance not be available this could lead to inconsistent and unclear decisions on developer contributions being made which could be to the detriment of the city council, applicants and developers.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The Developer Contributions Technical Guidance provides detail on implementation of policy and priorities in the City Plan Part One adopted 24th March 2016 following the outcome of Inspector's Examination into the Plan. The City Plan was the subject of extensive consultation over a number of years. Further internal consultation has been undertaken on this update and comments are included in this report.

6. CONCLUSION

- 6.1 The recommendation allows for consistency and clarity when seeking developer contributions to mitigate the impact of new development during the planning application process applications.
- 6.2 The Technical Guidance has been revised taking into account the need for updated advice following adoption of the City Plan and current practice on seeking future developer contributions.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs associated to updating the revised Developer Contributions Technical Guidance have been met from existing revenue budget within the Planning service.

Developer contributions under Section 106 Planning Obligations are considered to be an important source of income in providing or upgrading infrastructure. It is anticipated that revised technical guidance will ensure that expenditure funded from contributions is compatible with the aims and objectives of the council.

Legal Implications:

- 7.2 As noted in the body of the report, developer contributions are secured by way of planning obligations under s106 of the Town and Country Planning Act and are sought to assist in mitigating the impact of unacceptable development in order to make development acceptable in planning terms (Paragraph 001 “Planning Obligations” Planning Practice Guidance).

To be capable of constituting a reason for granting planning permission any contribution sought must be (1) necessary to make the development acceptable in planning terms, (2) directly related to the development and (3) fairly and reasonably related in scale and kind to the development (Regulation 122 of the Community Infrastructure Levy Regulations 2010). Use of the Technical Guidance in assessing developer contributions will assist the Council, as local planning authority, in demonstrating compliance with these statutory requirements.

It is not considered that any adverse human rights implications arise from the report’s recommendations.

Lawyer Consulted:

Name Hilary Woodward

Date: 16/5/16

Equalities Implications:

- 7.2 Developer contributions can provide wide community benefits and secured as part of the planning process contribute by providing, for example - local employment, affordable housing, recreation space, improved access and education facilities.

Sustainability Implications:

- 7.3 The aim of developer contributions is to mitigate impacts of development and assist in enabling development to contribute towards the establishment of sustainable communities. The continuation of seeking contributions will ensure appropriate measures are secured to the wider infrastructure to help provide long-term sustainable development for the city.

Any Other Significant Implications:

- 7.4 None

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1: Developer Contributions Technical Guidance – update June 2016

Appendix 2: District Valuers Report on Commuted Sums for Affordable Housing

Documents in Members' Rooms

None

Background Documents

Brighton & Hove City Plan Part One (Adopted 24th March 2016)

Brighton & Hove Local Plan 2005