

## APPENDIX 2: Summary of responses

Consultation closed 31<sup>st</sup> March 2023

Consultation:

[www.hants.gov.uk/aboutthecouncil/haveyoursay/consultations/draftguidance-planningobligations](http://www.hants.gov.uk/aboutthecouncil/haveyoursay/consultations/draftguidance-planningobligations)

Responses were received from local authorities:

- Havant Borough Council
- New Forest District Council
- East Hampshire District Council
- Eastleigh Borough Council
- South Downs National Park Authority
- Rushmoor Borough Council
- Test Valley Borough Council
- Basingstoke & Deane Borough Council
- Winchester City Council

Responses were received from Town and Parish Councils

- Warnford Parish SDNPA
- Fordingbridge Town Council
- Hordle parish Council
- Hook Parish Council
- Cllr Tuck
- Hound Parish Council

### 1. General comments in support

- A helpful articulation and amplification of the County Council's approach to ensuring that future development makes appropriate provision for infrastructure that the County Council is responsible for.
- A useful Guidance document with a helpful structure with regards to it setting out the County Council's planning obligations requirements under subject specific documents. This should make it easier for applicants to see their potential costs and for the Council as the local planning authority to provide any follow up advice. The document also provides a useful reference point for any other interested parties including the Council.
- Recognition that concerns about infrastructure provision remain one of the most cited comments in Local Plan consultations.
- Highways and countryside sections are clear of the need to demonstrate impact.
- Provides a good overview for developers in terms of what their expectation should be in terms of contributions secured, both financial and non-financial.

- As a statutory consultee in respect of planning proposals, it would be appropriate for it to triage, select and distribute internally details of consultations, and to provide a coordinated and combined response from the appropriate service areas.

## **2. Status of the document**

- Some concern expressed about the status of the document (as a material consideration) and the lawfulness (in context of CIL regulations and section 106).
- Lack of clarity about how the document is intended to be used in the determination of planning applications.
- Comments about how to keep the data and policy up to date (e.g. how would this work in terms of a formal consultation and adoption process? We would expect that such a process should be followed for the purposes of accountability and transparency.)
- A similar page providing links to all types of pre-application advice could be similarly beneficial
- A common theme throughout the document (with some exceptions) – it is just not clear what outcome is being sought
- Needs to be made stronger that the infrastructure is a statutory duty to deliver (to give the document more weight)

## **3. Infrastructure (general)**

- LPAs often produce their own Developer Contributions Guides
- Health infrastructure (in addition to public health)- SE Hants Clinical Commissioning Group, are more frequently asking for financial contributions on major housing developments.
- Further information is provided on the priority importance of each infrastructure topic and item which is covered ('critical versus desirable'). These could be relevant for all development or be considered critical if the development meets a minimum threshold (e.g. number of dwellings) or if it is located in a specific area.
- Should also make clear that infrastructure considered to be desirable rather than critical or important will be sought where possible on a case-by-case basis rather than required whether this be through on-site provision or a financial contribution.
- Recommended that the approach to identifying infrastructure priorities is consistent with the approach set out in Infrastructure Delivery Plans prepared by the districts which form part of the Local Plan evidence base.
- Need to signpost to all local plans policies and guidance on planning obligations (advise that the HCC guidance is read in conjunction with National Park and Local Planning Authority policy and guidance).
- Rushmoor BC fundamentally against asking for infrastructure contributions for items which have been planned for in local plans (statutory provider seeking to meet a funding challenge by demanding S.106 contributions) See statutory provider seeking

to meet a funding challenge by demanding S.106 contributions on duties- contributions must be made necessary by a specific development (not to fund statutory services).

- It would help to have worked examples that cover some of the development typologies across the prevailing geographies of Hampshire (esp libraries and countryside).
- There is an opportunity to set out how each of the topic areas are prioritised or fall into a hierarchy of needs.

#### **4. Evidence base**

- Local plans- potential infrastructure needs generated from new development should be taken into account at the plan making stage. All site-specific requirements sought must fully comply with the requirements of the Regulation 122 tests.
- Extra care housing need must be supported by robust evidence to ensure that the scheme meets the local need.
- Concerns about lack of engagement with developers- who are the ones from which funding is sought. Concerns that developers would raise objections to what is being 'required' in the guidance.
- There are several mentions throughout the draft document that HCC "will provide an appropriate justification for each obligation it seeks in line with the legal and regulatory tests" (Para. 19), but it is unclear what justification will support some requests for monies.
- Evidence on strategic infrastructure needs- an up-to-date Hampshire Strategic Infrastructure Statement should be published alongside an amended guidance.
- Figures should be updated to reflect the 2021 Census
- The Formulaic approach of your draft document does not draw any clear distinction between development that sits within the parameters of an adopted and up to date local plan, and additional unplanned or unexpected development (RBC)
- Given the scaling back of funding or closure of County Council services and facilities such as libraries, a clearer rationale is needed about why obligations for new types of infrastructure are required in the context of the County Council's overall approach to servicing costs of its statutory functions.

#### **5. Pre-application advice and section 106 agreement**

- Need to check up to date references to the NPPF.
- Pre-application advice should be joined up with district LPAs to ensure consistent advice.
- Para 79 Contributions payable in relation to the County Council's clauses will be paid directly to the County Council (SDNPA expect payments directly)

- Would not likely support the inclusion of clauses that may result in an open-ended timeframe for delivery of infrastructure (para 83 and 84) (esp SDNPA)
- District Council has experienced significant delays in the completion of Legal Agreements when Hampshire County Council are joint signatories and would welcome streamlining of this process (EHDC)
- Suggest provision of a clear and detailed list of the Heads of Terms that are required for the legal agreement
- Repayment – Paragraph 84 The clause for any changes of project to be agreed between the parties should include words that would ensure that the replacement project meets the CIL Regulation 122 tests.
- Paragraph 84: It is noted that where possible, all s106 agreements should include a clause for any changes of project to be agreed between the parties. We consider this to be a sensible and flexible approach.
- Para 29: CIL does not have to be for major development – this is setting the bar too high. Small projects can be funded by CIL too.
- Para 31 (p.13) confusion over wording about preferences to use CIL rather than s106 (CIL and s106- various refs throughout guidance)

## **6. Viability**

- HCC needs to acknowledge the other ‘asks’ that developers have e.g. health (NHS) contributions.
- Paragraph 63 (review mechanism is included in a section 106 to require periodic viability assessments throughout the life of a development where viability is demonstrated to be an issue)- need clarity on the need for such a review mechanism
- TVBC welcomes the approach set out in paragraph 60 to work with local authorities to ensure the County Council’s infrastructure requirements are factored into local plan viability assessments and looks forward to further liaison on these matters.

## **7. Expenditure**

- Agree that every effort should be made to ensure that contributions secured from developers are spent on the relevant projects/infrastructure within the time limit identified.
- HCC should develop a clear programme for delivery for specific identified projects, perhaps through an annually updated Infrastructure Business Plan to ensure compliance with Regulation 122.
- Explain how the County Council will hold themselves to account and report back on this spending. This can be achieved through a reference to how the Infrastructure Funding Statement will report back on this spending.

- Guidance should provide further information on the measures HCC will take to ensure that contributions secured do not go unspent and end up having to be returned to the developer.
- Ultimately a matter for the CIL charging authority to collect CIL and to decide how CIL should be allocated and spent.
- Para 89- are project design and implementation in addition to and not also part of the capital works? Would also be helpful if it could be made clearer where the project design and implementation works wouldn't be part of the general contribution but that it may be necessary to add this on. Providing an example of this would be helpful.
- A strategy or plan for each topic area of the guidance would assist in identifying how contributions will be spent or managed.

#### **8. Specific guidance sections (amendments sought include):**

- Extra Care, Supported Housing and Accessible Housing (a number of comments received, and clarity sought on eligibility, planning policy for accessibility and clarity around scheme threshold requiring extra care provision).
- Extra Care, Supported Housing and Accessible Housing- clarity sought around tenure and affordable housing terminology used, and mechanisms used to secure land and funding.
- Extra Care, Supported Housing and Accessible Housing- clarity sought around the County Council's strategy and evidence of need for extra care provision, and recognising that Local Planning Authorities are constantly commissioning and publishing localised, up to date evidence on housing needs.
- Highways and transport (minor changes- e.g. suggest reference the need for developer contributions which are secured by districts for on-site Traffic Regulation Orders (TROs).
- Education/ Childrens Services facilities: explanation of SEND provision requirements needs more detail. Clarity sought over the use of the CIL/ s106 mechanism. Further guidance on early years provision sought.
- Education/ Childrens Services facilities: queries about the guidance on Post 16 education and how much influence the County Council has in terms of infrastructure provision.
- Education/ Childrens Services facilities: Suggested inclusion of more detail about the cost of low and zero carbon design of schools and impact on scheme viability. Also

clarification on how the requirement for an Employment and Skills Plan through planning conditions and s106 is secured and enforced.

- Countryside, Public Rights of Way & Green Infrastructure : Some minor changes e.g. costs on page 67 - what is an explanation of these costs (the difference between replacement and resurfacing). Include a hyperlink to the Countryside Action Plan (CAP) and list the priorities rather than just referring to them.
- Waste Infrastructure: Suggest it is worth mentioning that significant further work would be required to evidence and justify contributions towards HWRC improvements in line with the general guidance. Clarification sought on the threshold for consulting the waste management team on large schemes.
- Public Health: Clarification is sought on whether the County Council is requiring contributions for Health Impact Assessments. Health services are provided by the NHS and ICB, so HCC cannot collect money for this- clarification needed.
- Flood & Water Management: Clarification is sought on whether HCC is seeking contributions for the provision of flood and water management infrastructure such as SuDS. Useful to set out a minimum threshold (e.g. number of dwellings) for when they would expect the Council to engage with them on flood and water management related issues.
- Library & archive provision: concerns reported about the validity of the formula and methodology outlined for calculating per dwelling costs. Requires further information about how evidence of increased pressure of services would be demonstrated to seek contributions. Libraries contribution requires justification given the recent closure of libraries in Basingstoke and Deane.