

Environment Development and Transport Committee

Report title:	Norfolk County Council's Planning Obligations Standards (April 2019) - Update
Date of meeting:	8 March 2019
Responsible Chief Officer:	Tom McCabe – Executive Director, Community and Environmental Services
Strategic impact Norfolk County Council is a statutory consultee on housing and other commercial planning applications determined by District Councils and therefore has the opportunity to comment and influence the final decision. In particular the County Council as a consultee can seek to secure necessary infrastructure and services needed to mitigate the impact of any proposed new development. The Planning Obligations Standards provide a clear and effective mechanism for securing developer funding towards County Council infrastructure and services impacted by new development.	

Executive summary

The purpose of this report is to consider the proposed amendments/updates to the County Council's Planning Obligations Standards (2019). The Standards were first introduced in 2000 and have been updated annually thereafter. The key amendments proposed to the 2019 Standards, include:

1. Reference to the October 2018 Budget Statement and the Government's proposals for reforming Planning Obligations (December 2018);
2. Updated Demographic multipliers relating to pupil yields arising from new housing based on local evidence;
3. Updated education cost multipliers - based on Department for Education figures;
4. Reference to health care matters and the agreed Countywide Health Protocol;
5. Updated contributions for fire hydrant provision – awaiting final figures.

In addition, minor amendments have been made to the supporting text of the Standards for clarification purposes including reference to the County Council's Travel Plan Guidance.

Recommendations:

1. **It is recommended that the amended Standards set out in the Appendix are adopted from 1 April 2019 (including updated Fire hydrant figures) and that officers write to the respective District Councils to inform them of the new Standards**

1. Proposed amendments to Standards

- 1.1. Planning obligations provide a means of securing developer funding towards infrastructure needed to support and mitigate the impact of proposed new development. The purpose of this report is to consider proposed amendments to the County Council's Planning Obligations Standards, which were first introduced in 2000 and have been subsequently updated on an annual basis thereafter. The Standards primarily cover developer funding towards education, library and fire service provision required as a consequence of new residential

development. Highway and transport infrastructure while referred to in the Standards are not directly covered by any standard costs as they are negotiated on a site by site basis and generally use different legislation to secure developer funding towards transport infrastructure (Section 278 of Highways Act 1980).

1.2. The proposed changes to the Standards include:

a. **Planning Obligations – National Reforms**

1.3. Following the announcement in the Budget (29 October 2018) the Government has confirmed that it will introduce a simpler system of developer contributions. In December 2018 the Government published a technical consultation on Reforming Developer Contributions, with the key reforms being “proposed” covering:

- Lifting the pooling restrictions on Section 106 i.e. allowing more than five such S106 agreements to contribute towards a single piece or type of infrastructure. In particular the Government accepts the argument that lifting the pooling restriction in all areas would remove barriers to development and could in some circumstances give local planning authorities the ability to secure more funding through s106 to deliver the infrastructure needed to support development;
- Allowing Local Planning Authorities to use both S106 agreements and the Community Infrastructure Ley (CIL) to fund the same infrastructure;
- to clarify how S106 planning obligations can be used for monitoring specifically permitting Local Authorities to charge for monitoring obligations; and
- Introducing Infrastructure Funding Statements, whereby Local Authorities set out their infrastructure priorities and delivery as well as showing how monies received have been spent.

It should be noted that there are no proposals to amend the current legal tests (Reg 122) surrounding the use of planning obligations and which continue to be cited in the County Council’s Standards (see paragraph 2.1 below).

1.4. Until the new final Regulations are published, Local Authorities will need to continue to assess very carefully any contributions they seek with a view to minimising the need to pool contributions. Where pooling is deemed necessary, the County Council will ensure that this is compliant with the current CIL Regulations by identifying a specific project and/or type of infrastructure the obligation will be pooled towards and limiting the number of contributions.

1.5. The County Council will amend these Standards to reflect the above proposals once the new CIL Regulations have been formally introduced by Government.

Education

1.6. The County Council’s demographic multipliers, used to calculate the number of children arising from new housing development, have been updated several times since 2000 when the Standards were first introduced. The current multipliers were last updated in 2013. The table below shows the proposed new multipliers (using 2018 data), which are based on an assessment of the number of children arising from over 11,500 new dwellings in Norfolk, using:

- School Census data – providing child date of birth by postcode and supplemented by data covering Academy and Free Schools; and
- Health Authority data covering the registration of children at Doctor’s surgeries.

Age Range (year cohorts)	Existing Multiplier (2012 base)	New Multipliers (2019) (%) Difference
	Number of children per 100 new houses	
Early Education 2 – 4 (2)	9.6	9.7 (1.04)
Primary 4-11 (7)	26.1	28.1 (7.67)
High 11 – 16 (5)	17.3	14.5 (-16.18)
Sixth Form 16 – 18 (2)	1.7	1.5 (-11.76)
Total	54.7	53.8 (-1.64)

- 1.7. The above figures show a slight overall decrease (1.64%) in the likely number of children arising from new housing development with an increase in the Primary sector (7.67%) and a more significant decrease in the high school level (16%). These figures are kept under review and will be updated where there are significant changes.
- 1.8. In addition to the above demographic multipliers, the costs multipliers per pupil place have been updated to reflect more up-to-date figures from the Department for Education (DfE). Previous cost figures were originally introduced in 2009. The Table below shows the new cost multipliers per pupil place along with the cost per house, which takes into account the new demographic multipliers:

Age Range (year cohorts)	Cost multiplier per pupil	Cost per dwelling	Cost multiplier per pupil	Cost per dwelling	% Difference per dwelling
	2018		2019		
Early Education 2 – 4 (2)	£11,644	£1,118	£14,022	£1,360	17.79
Primary 4-11 (7)	£11,644	£3,039	£14,022	£3,940	29.64
High 11 – 16 (5)	£17,546	£3,035	£15,664	£2,271	-25.17
Sixth Form 16 – 18 (2)	£19,029	£323	£15,664	£235	-27.24
Total		£7,515		£7,806	3.87

- 1.9. Taking into account the changes in both the demographic multipliers and the cost multipliers this equates to an overall increase in the cost per dwelling of just under 4%.

c Health Care

- 1.10. The proposed updated Standards now refer to the County Council's public health role, and while it is unlikely that contributions will be sought in this regard it gives the County Council an opportunity to influence the design and make-up of any proposal. It should be noted that under the agreed Norfolk Strategic Planning Framework sit a series of agreements including a County-wide Health Protocol

(Agreement 20), which commits Local Planning Authorities (LPAs) to engage with all the relevant health care and social care partners; commissioning bodies; as well as the County Council on relevant planning applications.

It will be up to the individual LPAs, as determining authorities, to decide whether or not to seek S106 contributions for specific health care projects such as doctors' surgeries / medical facilities providing they meet the test legal tests set out in the CIL Regulations (2010 as amended) (See Paragraph 2.1 below). Clearly there is a limited "developer pot" available and the wider the contributions net is spread, the more of a squeeze this could have on other infrastructure, including for schools and transport infrastructure.

d Fire Service Provision

- 1.11. Change in the costs of fire hydrants - At the time of drafting this report the exact figure has not been published. It is recommended that providing any increase is not significant that officers be delegated to incorporate the revised figure into the finalised updated Standards.

e Other amendments

- 1.12. In addition, minor amendments / updates to the supporting text have been made for clarification purposes including, for example, references to the 2018 National Planning Policy Framework (NPPF) and in particular the use of viability assessments. The updated Standards also now refer to the County Council's Travel Plan Guidance.
- 1.13. The amended Standards are attached to this report (see Appendix).

2. Evidence

- 2.1. The Standards must satisfy the legal tests set out in the CIL Regulations (2010) as amended (Reg 122), which state that any developer funding sought must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and be
- Fairly and reasonably related in scale and kind to the development.

NB there are no proposals to amend these "tests" in the Government's latest consultation on Planning Obligations.

- 2.2. In addition to the above legal requirements further restrictions are currently placed on the use of S106 agreements (Town and Country Planning Act 1990) as set out in the CIL Regulations (Reg123 (3)), which only allows up to five obligations to be "pooled" towards a single infrastructure project or type of infrastructure. As indicated above the Government has signalled its intention to lift the pooling restrictions set out in the existing CIL Regulations and the Standards will be amended when the new Regulations are implemented. However, for the time being the Standards must comply with existing CIL Regulations and have regard to the pooling restriction.

3. Financial Implications

- 3.1. **Finance** : The proposed amendments will ensure that S106 contributions continue to be sought effectively in order to address the impacts on County Council services arising from new development. Members will be aware that there is a limited developer "pot" and that contributions sought by the County Council must relate to those areas where the Authority has a statutory role e.g. education, transport and libraries.
- 3.2. **Staff** : There are no immediate staff implications.

4. Issues, risks and innovation

- 4.1. **Legal Implications** : Contributions sought in S106 agreements must be compliant with the legal tests set in Reg 122 of the CIL Regulations (2010). The County Council's Planning Obligations Standards are considered to be compliant with these tests and specific reference to them is made in the Standards.
- 4.2. **Human Rights** : None at this stage
- 4.3. **Equality Impact Assessment (EqIA)** : The Council's Planning functions are subject to equality impact assessments. No EqIA issues have been identified.
- 4.4. **Any other implications** : Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.
- 4.5. **Section 17 – Crime and Disorder Act** - There are no immediate implications.
- 4.6. **Other areas of the County Council likely to be impacted by the proposal**

The amendments proposed provide greater certainty for securing developer funding particularly towards education provision. These Standards have been prepared with other service departments.

5. Background

- 5.1. Since the Planning Obligations Standards were introduced in 2000 the County Council has entered into some 449 (January 2019) Section 106 agreements covering education, library and fire hydrant provision and these are worth just under £152 million. To date contributions of over £54 million have been paid to the County Council by housing developers towards the above County infrastructure. It is also worth noting that in this period developer contributions secured through either S106 or S278 agreements towards highway and transport schemes has exceeded £77 million (June 2018). In addition, around £5 million has been secured since 2015 towards travel planning. Therefore, in total since 2000 the County Council has secured developer funding towards its own infrastructure and services worth over £234 million (January 2019). The County Council produces an annual Planning Obligations Monitoring Statement setting out the above figures and where money has been spent in more detail (see link <https://www.norfolk.gov.uk/rubbish-recycling-and-planning/planning-applications/planning-obligations>). This Monitoring Statement is consistent with the Government's proposals for Local Authorities to prepare an Infrastructure Funding Statement.
- 5.2. Planning obligations remain an important mechanism for the County Council to secure funding towards its infrastructure and services impacted by new housing and other commercial development. While CIL has replaced planning obligations in the Greater Norwich Area (Norwich, Broadland and South Norfolk) and parts of West Norfolk, in the remaining Local Planning Authorities areas planning obligations remain the only effective means of securing developer funding to mitigate the impact of new development.
- 5.3. In those areas where CIL is already in place or is likely to be introduced, there will remain a need for planning obligations, either in order to deal with land transfers (such as for new schools) or for securing funding for infrastructure on major sites where CIL may have been deemed unviable. Moreover, under the Government's planned reforms there are proposals for allowing planning obligations to be used alongside CIL and as such these Standards continue to be relevant and necessary.

Background Papers

Community Infrastructure Levy Regulations (2010):

(<https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>)

Town and Country Planning Act (1990):

(<https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>);

Highways Act 1980:

(<http://www.legislation.gov.uk/ukpga/1980/66>)

Planning Obligations Monitoring statement (July 2018)

(<https://www.norfolk.gov.uk/rubbish-recycling-and-planning/planning-applications/planning-obligations>)

National Planning Policy Framework (2018):

(<https://www.gov.uk/government/collections/revised-national-planning-policy-framework>)

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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