

**Committee:** Uttlesford Planning Policy Working Group

**Agenda Item**

**Date:** 23<sup>rd</sup> February 2015

**6**

**Title:** Essex County Council Developers' Guide to Infrastructure Contributions: 2015 revision consultation draft

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## Summary

1. This report summarises ECC's draft 2015 guidance on infrastructure contributions, and compares it with the approved 2010 guidance. The report then recommends how the Council ought to respond to the consultation, based on the nine consultation questions asked by ECC.

## Recommendations

2. That the Working Group endorses the replies to the consultation questions set out in Appendix 2, and advises officers of any other points that it thinks ought to be included.

## Financial Implications

3. None

## Background Papers

4. None

## Impact

- 5.

Communication/Consultation	ECC is consulting on this draft guidance from 20 <sup>th</sup> January – 3 <sup>rd</sup> March 2015
Community Safety	Assessed by ECC
Equalities	Assessed by ECC
Health and Safety	Assessed by ECC
Human Rights/Legal Implications	Assessed by ECC
Sustainability	Assessed by ECC

Ward-specific impacts	Districtwide
Workforce/Workplace	None

## Situation

6. In 2010, ECC published its Developers' Guide to Infrastructure Contributions. This guide sets out the scope and range of financial and other contributions towards infrastructure that ECC might seek, through Section 106 obligations, in order to make development acceptable in planning terms. In 2010, ECC published its Education Contribution Guidelines Supplement as a companion document.
7. For any obligation contained in an agreement to be lawful, it must meet the following legal tests which are set out in the Community Infrastructure Levy Regulations 2010:
  - i) it must be necessary to make the development acceptable in planning terms,*
  - ii) it must be directly related to the proposed development, and*
  - iii) it must be fairly and reasonably related in scale and kind to the proposed development.*
8. As with the 2010 guidance, the draft guidance contains a lot of detail and specifications. This is necessary both in order to justify the need for contributions to developers, and to provide evidence for planning appeals should that be necessary.
9. Under the 2010 Regulations, from April of this year a local planning authority will only be able to "pool" a maximum of five contributions to fund a single piece of infrastructure, including contributions received since 2010. ECC has said that the imminence of this provision coming into force and the implications that it may have for providing infrastructure for ECC services is one main factor for updating the guidance at this time.
10. The ECC guidance does not cover contributions required by the District Council (which has its own adopted guidance), nor contributions that may be sought by others such as the NHS.

### Main changes

11. ECC issued a press release about the new draft guidance on 21<sup>st</sup> January, and included a list of detailed changes from the approved 2010 guidance. These are:
  - i) the threshold at which education contributions are sought is increased from 10 to 25 dwellings,*

*ii) the separate education supplement is discontinued, and is merged with the main guidance into one document,*

*iii) a proposal that it may be better to seek the provision of a community building from the developer from which ECC, District Council and other services could be delivered (such as library, youth, health and voluntary services),*

*iv) where transfer of land to ECC is required, particularly for education purposes, developers are asked to complete a site suitability checklist for submission alongside planning applications,*

*v) all Section 106 agreement templates are included in an appendix,*

*vi) a greater emphasis is to be placed on travel planning measures as the “smartest choice” (followed by schemes to enhance walking and cycling, public transport enhancement and highway works in that order),*

*vii) a comprehensive list of commuted sums for maintenance of assets that are to be transferred to ECC, and a formula for inflation proofing those sums. Commuted sums for maintaining sustainable drainage systems (SuDS) are also proposed, and*

*viii) a number of other areas are examined which could potentially involve ECC working with developers, including waste management, public art and social care.*

12. The reason for increasing the qualifying threshold for education contributions to 25 dwellings is the new pooling limit. The pooling limit will inevitably reduce the overall level of education funding that ECC receives from developers. ECC’s reasoning is that if it can only ask for 5 contributions towards each piece of infrastructure, it would receive more funding from seeking 5 larger contributions (from 25 dwelling schemes or above) than from 5 smaller ones (schemes of less than 25 dwellings). ECC will need to decide whether the 25 dwelling threshold is, in fact, the right one – any threshold will be matter of judgement in the circumstances where a pooling limit applies.

13. The draft guidance is accompanied by an environmental report (sustainability appraisal and strategic environmental assessment), including a non-technical summary. In the environmental report, ECC identifies ten sustainability objectives:

- 1. To maintain and enhance the character of townscapes, cultural heritage and heritage assets within Essex,*
- 2. To ensure the protection and where possible enhancement of landscapes, biodiversity and water resources,*
- 3. To improve air quality, and minimise noise and vibration,*
- 4. To reduce greenhouse gas emissions in Essex,*
- 5. To ensure infrastructure minimises flooding and adapts to the impacts of climate change,*

- 6. *To minimise the number and severity of road traffic accidents and maximise health, safety and security,*
- 7. *To promote more sustainable transport choices,*
- 8. *To ensure appropriate access to services and facilities delivered by ECC and to reduce social exclusion,*
- 9. *To ensure sustainable levels of prosperity and economic growth, and*
- 10. *To minimise waste and consumption of resources including land.*

14. The environmental report assesses each service area option against alternatives using the sustainability objectives set out above. Alternatives are not suggested where ECC considers that there would be legal barriers to any other way of provision.

Analysis

15. Officers have looked at the draft guidance, and compared it to the approved 2010 guidance. A summary table has been prepared, and this is attached as Appendix 1. Much of the 2010 guidance has been reworded and rolled forward. Most agreements that require contributions to ECC concern education, highways and transportation, sustainable travel planning and passenger transport.

16. ECC has set out nine consultation questions that it would particularly like answered. These are set out in Appendix 2 with the suggested response.

**Risk Analysis**

17.

Risk	Likelihood	Impact	Mitigating actions
None	None	None	None

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.