



CABINET

11 JUNE 2013

**DIRECTOR FOR ENVIRONMENT, DEVELOPMENT AND TRANSPORT:
TONY CIABURRO**

**CABINET MEMBER FOR ECONOMIC GROWTH AND PUBLIC PROTECTION:
ANDRE GONZALEZ DE SAVAGE**

Subject:	Section 106 Income – Challenges, Performance and the Way Forward
Recommendations:	<p>Cabinet are asked to:</p> <ol style="list-style-type: none"> 1. Note and welcome the County Council’s success in securing much needed infrastructure and financial contributions from new development in challenging economic times 2. Note the work undertaken to date on the Community Infrastructure Levy 3. Endorse the approach outlined in Section 5 for the coming year

1. Purpose of Report

1.1 Northamptonshire faces an infrastructure deficit of almost £1bn for transport and highways only. This report provides a review of progress made by the County Council in securing funding through planning obligations for local infrastructure from new developments during a difficult economic period. The County Council is approaching a transitional period with the adoption of a Community Infrastructure Levy by the local planning authorities, which is likely to be by April 2014. This will fundamentally alter the way in which planning obligations are secured. This report outlines a number of key actions which will help to ensure that the County Council safeguards future income for essential infrastructure needed as a result of growth.

2. Relevant Priority Outcomes

The content of this report supports the delivery of the following corporate outcomes:

Perspective	Outcome
Customers & Community - to achieve our vision, what will our customers see?	<ul style="list-style-type: none"> ● A cleaner, greener and more prosperous county ● Active, safe and sustainable communities
Process - to satisfy our customers, what processes must we excel at?	<ul style="list-style-type: none"> ● Shaping our growing county ● Facilitating inward investment
Learning and Growth - to achieve our vision what must we learn, develop and improve?	<ul style="list-style-type: none"> ● Target Operating Model

Finance – to finance our vision, what must we do efficiently, effectively and economically?	<ul style="list-style-type: none">• Maximised income and new funding mechanisms
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3. Background

- 3.1 In the past there was a perception that Northamptonshire was poor at securing developer contributions in Section 106 agreements (the legal agreements put in place to capture funds from developers towards infrastructure). This included concerns that insufficient funds were being negotiated, some funds were being returned, and there was a lack of co-ordination and clarity. It should be noted that the County Council is not the planning authority for most developments in Northamptonshire; this is the responsibility of the borough and district council. The County Council is, however, a statutory consultee on all developments. This is because future development, particularly new housing and commercial development, have a major impact on the infrastructure and services for which it is responsible. These include highways and transport, school provision, waste, fire & rescue and libraries.
- 3.2 The County Council commissioned a Scrutiny Review in 2008 in order to establish the issues surrounding the securing, monitoring and spending of planning obligations. One of the main outcomes of this exercise was the creation of two dedicated posts in a new team to respond on all non-transport and highways matters affecting the County Council. The team would ensure that there was a robust, consistent and timely response to consultations on planning applications and liaise with transport and highways to ensure a co-ordinated County Council approach. To support this approach the team developed the 'Creating Sustainable Communities: Planning Obligations Framework and Guidance' document, which was adopted by Cabinet in March 2011. This document includes the evidence and tariffs associated with each service area, and enables developers and local planning authorities to be aware of what the County Council will be requesting against new development, and the justification for doing so. Robust monitoring systems were also created and an annual report produced.

4. Progress, challenges and achievements

- 4.1 As a direct result of the changes made and establishing the new team, the County Council has been able to respond to more planning consultations that impact on school provision, fire & rescue and library services. This means it is able to comment on smaller applications, which when combined have a big impact on infrastructure and services, as well as major development. It also responds on a consistent basis, which backed-up by evidence and robust systems. This has meant that the County Council has become much more effective.
- 4.2 However, at the same time the challenging economic climate, which has impacted on housing building and the wider development industry, has meant that negotiations on developer contributions have got even tougher. This is because developers are challenging the viability of schemes, and requesting lower levels of contributions than which were achieved in the past. They are also looking to revisit Section 106 agreements which have been signed to renegotiate the terms and delay, or lower levels of, contributions. The County Council is mindful of the need to support

development and stimulate growth in the economy, but it also has an important responsibility to ensure that there is sufficient infrastructure capacity to support demand and development is sustainable. This involves a delicate and careful balancing act.

- 4.3 Despite this challenging environment the County Council secured 78% (monetary total) of what was requested through the planning process from approved developments for schools, fire & rescue and libraries in 2012/13. This involved 34 developments equating to £3.9m. The County Council also secured £4.4m for highways and transport-related improvements in 2012/13. An overview of the position of 2012/13 activity is shown in Table 1.

Table 1: Section 106 Tracker 2012/13

Service	Secured by the County Council in a signed S106 agreement (£)	Section 106 funds spent (£)	Section 106 funds returned (£)	Section 106 funds currently held (£)
Education	3,718,417	1,763,917	0	4,275,902
Fire	39,784	0	0	10,912
Libraries	129,364	0	0	35,837
Transport	4,400,000	770,480	0	4,231,620
TOTAL	8,287,565	2,534,397	0	8,554,271

- 4.4 Also in 2012/13, the County Council has been involved in discussions with local planning authorities and developers involving major Sustainable Urban Extensions, such as Towcester South (2,750 dwellings), the renegotiation of Kettering East (5,500 dwellings) and Weldon Park in Corby (1,000 dwellings). Each of these sites comes with significant infrastructure burdens in order for the final developments to be sustainable. In each case there have been major viability issues quoted by the developers, and all parties have had to consider a compromise in order for the developments to be able to progress.
- 4.5 The County Council recently undertook additional scrutiny and audit of its approach to developer contributions in order to establish how it was working, and what the risks associated with the future include. The result of this audit was a green light; it concluded that the service was working effectively and contributions were being maximised thanks to well run and efficient practices.
- 4.6 However, in spite of these improvements in the way the County Council operates and various successes, the funding secured through the planning process and developer contributions is rarely enough to fully fund a specific scheme. This is because the capital secured is only a contribution towards the scheme, as opposed to full funding. The County Council has therefore needed to secure funding through other means, including its Capital Programme. This challenge is particularly acute for major infrastructure schemes where the impact is often much wider than a single development. This is a key driver behind the County Council's proposals for a Northamptonshire Revolving Infrastructure Fund, which involves the County Council providing upfront funding to enable infrastructure provision to release development. The costs, including any interest on borrowing, are then repaid over time from a

variety of sources. The payback period and funding recipe varies from scheme to scheme.

- 4.7 The County Council's wider activities managed to secure a total of £48,789,673 external funding towards infrastructure investment in 2012/13. This is comprised from a number of sources and includes investment and economic development, transport, broadband, safety schemes, the environment, and flood resilience.

5. The Future

- 5.1 As outlined above, the County Council is still operating in a very difficult economic climate. This is likely to continue, in the short-term at least. Developers continue to cite viability issues which make the delivery of new housing more challenging. Pressures to renegotiate previously agreed Section 106 agreements are likely to continue, especially as the 2013 Growth & Infrastructure Act opens the door for more challenges and the need for more evidence to be provided by local authorities to justify their position. Whilst the principle challenge from developers is often to renegotiate lower levels of affordable housing, it is likely that the County Council will need to defend the case for contributions to highways and transport, schools and other infrastructure provision. This will require it to maintain a robust evidence base to demonstrate need for funding and ensure a consistent and co-ordinate approach. It will also include the County Council pressing for housing development to be more future-proofed to reduce the demand on public funds and existing infrastructure. This includes encouraging building to Lifetime Homes standards and pushing for superfast broadband fibre connections to new developments. The County Council will also be implementing its innovative funding approach to delivering infrastructure through the Revolving Infrastructure Fund. This complements continuing activities to secure funding through a variety of other routes.
- 5.2 Next year is also due to see local planning authorities introducing the Community Infrastructure Levy (CIL). CIL is intended to be the principal method for seeking contributions from developments for wider infrastructure needs. This will be delivered as a standard charge per square metres of new development. This means that from April 2014 the ability to use Section 106 agreements to secure funds from development will be reduced to take account of the CIL Regulations – Section 106 will remain for site specific mitigation only, whilst general strategic infrastructure will be part funded through CIL receipts.
- 5.3 The County Council will continue to work closely with the two Joint Planning Units, which are leading the work on CIL, and the local planning authorities to ensure that the new arrangements for CIL recognise the need to secure receipts for additional investment in highways, transport, schools and other infrastructure without placing further burdens on public funding, are effective and transparent, and able to ensure the timely provision of additional infrastructure.

6. Alternative Options Considered

- 6.1 Had the County Council not introduced the improvements outlined in this report there was a major danger of a disjointed and ad-hoc approach developing. This risk has been removed. Instead service levels have improved dramatically, with high levels of customer satisfaction, and backed-up by robust systems and monitoring. The increased confidence and service provided has helped to ensure that the County

Council has secured a significant proportion of the funds which it has requested over the past twelve months. This is despite a very challenging economic climate.

7. Financial Implications

7.1 The small team which is responsible for securing contributions from new developments is funded through existing budgets. During the past twelve months it has helped to secure contributions totalling £3.9m. More details are provided in Table 1. The County Council also receives funding via New Homes Bonus for new housing which has been completed. In 2012/13, the County Council received £1.43m through this route.

What benefits will the proposal deliver?	<p>The benefits arising from the work that will be undertaken in the coming months includes:</p> <ul style="list-style-type: none"> • Maximisation of capital funding for infrastructure projects • Minimising the impact on the County Council's capital programme of delivering infrastructure needed to support growth • Possibility of generating new revenue streams
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8. Risk and Business Continuity Management

a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
The Local Planning Authorities do not take our views on board during planning consultation	Adopt a formal approach where disagreements occur	Amber
Important pieces of infrastructure are not included on the CIL 123 list	Regular meetings with key partners to ensure that all required projects are considered and included	Amber

b) Risk(s) associated with not undertaking the proposal

Risk	Risk Rating
New revenue streams are not maximised	Red
Development does not mitigate its impact	Red
County council services are not represented in the planning process	Red

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Background Papers:	National Planning Policy Framework 2012: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf (PDF format 869KB)

	<p>Planning Obligations Framework and Guidance 2011: http://www.northamptonshire.gov.uk/en/councilservices/Environ/economic/arc/Pages/Managing-Growth.aspx</p>
Does the report propose a key decision is taken?	NO
If yes, is the decision in the Forward Plan?	
Will further decisions be required? If so, please outline the timetable here	NO
Is this report proposing an amendment to the budget and/or policy framework?	NO
Have the financial implications been cleared by the Strategic Finance Manager (SFM)?	YES Name of SFM: Rosemary Pallot
Have any capital spend implications been cleared by the Capital Investment Board (CIB)	NO
Has the report been cleared by the relevant Director?	YES Name of Director: Tony Ciaburro
Has the relevant Cabinet Member been consulted?	YES Cabinet Member: Andre Gonzalez De Savage
Has the relevant scrutiny committee been consulted?	NO
Has the report been cleared by Legal Services?	YES Name of solicitor: Debbie Carter-Hughes
	Solicitor's comments: Happy with the document
Have any communications issues been cleared by Communications and Marketing?	Yes – Liam Beasley
Have any property issues been cleared by Property and Asset Management?	Yes – Matt Bowmer
Has an Equalities Impact Assessment been carried out in relation to this report?	N/A – for information only
Are there any community safety implications?	NO
Are there any environmental implications:	NO
Are there any Health & Safety Implications:	NO
Are there any Human Resources Implications:	NO
Are there any human rights implications:	NO
Constituency Interest:	ALL