



Open Report on behalf of Andy Gutherson, Executive Director - Place

Report to:	Overview and Scrutiny Management Board
Date:	15 December 2022
Subject:	Developer Contributions Scrutiny Review – Final Monitoring Update of Action Plan

Summary:

This report sets out the final monitoring update on the recommendations from Scrutiny Panel A's review on Developer Contributions. It demonstrates that the Scrutiny Panel's recommendations can be broken down into three headings:

- Involving local councillors more closely in formulating the Council's response to planning applications.
- Providing a "whole council" Developer Contribution response to planning applications, which outlines both the Council's statutory and non-statutory opinions on planning applications, notably to ask for developer contributions to strategic and local priorities.
- Demonstrating to the public that the Council has commented on planning applications.

The report shows that all recommendations that can be actioned have now been completed, and those that require on-going officer time are now in progress and will develop as per business as usual.

Officers have now been trialing the agreed Strategic Approach with affected Lincolnshire County Council (LCC) service areas. The trial is achieving the results expected therefore we plan to go live early in the new year. We are also working with the Communications Team to provide guidance to external organisations which will be affected by our new approach.

Actions Required:

It is recommended that the Overview and Scrutiny Management Board:

1. Reviews and comments on the progress made on implementing the recommendations from the Developer Contributions review.

2. Recognises that processes have been implemented which address each of the recommendations on Developer Contributions which were made by Scrutiny Panel A.
3. Tasks officers with moving to “Business as Usual” and starting to report on progress with Developer Contributions through the Council’s normal performance management protocols rather than through the Board.

1. Background

In September 2020, the Executive Councillor for Economy and Place, Councillor C J Davie, with the backing of Group Leaders, asked Scrutiny Panel A to carry out an urgent short review of Developer Contributions to see how the County Council can maximise the benefits for local communities from such contributions. The urgent review was chaired by Cllr L Wootten, and the Scrutiny Panel produced a report in Autumn 2020.

The report on Developer Contributions was approved by the Overview and Scrutiny Management Board at its meeting on 17 December 2020.

There were six recommendations contained in the report for the Executive's consideration. On 05 January 2021 the Executive was invited to consider the report and assign responsibility to the relevant Executive Councillor(s) for responding to the report.

The recommendations which were accepted (which included an action plan), are included at Appendix A. Also included against each of the recommendations is an update which has been provided by the assigned lead officer.

The recommendations and action plan indicate the practical steps that will be taken, but the Executive Councillors were keen to ensure that the Council performs the role that it has in planning in a leading, directive, and proactive way.

2. Conclusion

This report meets the obligation to scrutinise the progress on the Developer Contributions recommendations.

3. Consultation

a) Risks and Impact Analysis

See the body of the report.

4. Appendices

These are listed below and attached at the back of the report:	
Appendix A	Action Plan Arising from Recommendations
Appendix B	Leadership Statement
Appendix C	Escalation Process

5. Background Papers

Document title	Where the document can be viewed
Developer Contributions Scrutiny Review - Executive Response and Action Plan – Overview and Scrutiny Management Board 17 March 2021	https://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=553&MId=6067&Ver=4
Final Report from the Developer Contributions Scrutiny Review – Executive 5 January 2021	https://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=121&MId=5750&Ver=4

This report was written by Warren Peppard, Head of Development Management, who can be contacted on warren.peppard@lincolnshire.gov.uk or 01522 554637.

APPENDIX A - ACTION PLAN ARISING FROM RECOMMENDATIONS

Recommendation	Initial Response	Action	Timescale	Lead Officer
<p><u>Recommendation 1</u> That Lincolnshire County Council continues to oppose those aspects of the 'Planning for the future' White Paper which will limit the Council's ability to ensure that new developments have as little negative impact as possible on existing residents, communities, and businesses.</p>	<p>It is imperative that national planning frameworks do not contradict our ambitions for the future of Lincolnshire.</p> <p>Therefore, strong responses will be made to future consultations.</p>	<p>To produce a response to national planning consultations – all responses to be signed off by the Executive Councillors for Place and for the Environment.</p>	<p>To be determined by Government consultation timetables</p>	<p>Vanessa Strange – Head of Infrastructure Investment</p>

15/12/2022 Update - LEVELLING UP AND REGENERATION BILL - Updates on the Levelling Up and Regeneration Bill are now on the work programme for the Environment and Economy Scrutiny Committee. Any future responses to consultations will be agreed by the Environment and Economy Scrutiny Committee. Therefore, the Board's agreement is required that the objectives of Recommendation 1 have now been met and that this update will be the last presented to the Board.

Recommendation	Initial Response	Action	Timescale	Lead Officer
<p><u>Recommendation 2</u> That officers continue to work with developers, building a strong relationship so that developers continue to see Lincolnshire County Council as a partner with whom to engage and whose priorities should be adhered to, whatever the recommendations that are made through new legislation next year.</p>	<p>The Council's relationship with developers is critical so that they understand the type of communities that we expect Lincolnshire to have in the future.</p> <p>Providing clear guidance to developers, but being proactive and accessible to them, is essential.</p>	<p>A leadership statement will be produced, setting out the Council's ambitions for the county's future.</p> <p>Regular meetings will be held of a developers forum to provide clarity to developers of the Council's expectations.</p>	Continual	Warren Peppard – Head of Development Management

15/12/2022 Update – The Leadership statement has now been produced and can be found at Appendix B. Following the Board’s meeting we will publish the Leadership Statement on the Council’s website, and on the regular newsletters that the Development Management Team produce for developers. Notable improvements have been made and will continue to be made regarding developer relationships, as presented in previous updates. In addition to previous updates, regular meetings (every 12 weeks) are taking place between Development Management officers and Chestnut Homes, Allison Homes, Larkfleet Homes, Lindum’s, Gleeson’s, Persimmon’s, Ashwood’s, Ashley King, Barratts, Bellways, Vistry, Bovis, Linden and Countryside Developments. The Board’s agreement is required that the objectives of Recommendation 2 have now been met and that this update will be the last presented to the Board.

Recommendation	Initial Response	Action	Timescale	Lead Officer
<p><u>Recommendation 3</u> That the Council establishes a strategic approach to requesting, co-ordinating, and monitoring Developer Contributions. The Executive Councillor for Commercial and Environmental Management and the Executive Councillor for Economy and Place should work with the Head of Development Management in its establishment.</p>	<p>Alternative version: The Council's relationship with local planning authorities is as critical as its relationship with developers. Local planning authorities need to understand in advance the impact of developments on the community and on the services that the County Council provides to those communities. During the next electoral term we will be much clearer in the way that we articulate these.</p>	<p>Alternative version. A leadership statement will be produced and communicated to all local planning authorities. Services within the Council will be supported in analysing the impact of proposed developments, and they – and input from ward members - will be used to advise Executive Councillors of the contribution that is to be sought from developers. The Council's comments on planning applications will be posted in full on the Council's website.</p>	Mar 2022	Warren Peppard – Head of Development Management

15/12/2022 Update – The highway and lead local flood authority statutory responses to major planning applications have been posted on the County Council’s website since March 2021. The proposed Strategic Approach was presented to the Board in May 2022. Highways, Lead Local Flood Authority, Education, Public Health and Fire and Rescue have been trialling the Strategic Approach for the last month, and the new co-ordinated Strategic Approach will go live in January 2023. The Local Planning Authorities will be notified of the new process by the Communications Strategy referred to in Recommendation 6 – Objective 4.

Recommendation	Initial Response	Action	Timescale	Lead Officer
<p><u>Recommendation 4</u> On those occasions where a scheme cannot viably fulfil all requests for Developer Contributions, the Executive should decide which schemes should be prioritised using a published escalation process. The Executive Councillor for Commercial and Environmental Management and the Executive Councillor for Economy and Place should work with the Head of Development Management in its establishment.</p>	<p>Executive Councillors and senior officers to agree a corporate strategic vision of what LCC want from major developments (as above).</p> <p>Strategic scheme prioritisation is also to be established, to facilitate future decision making.</p>	<p>A Developer Contributions Escalation Process to be established.</p>	<p>Mar 2022</p>	<p>Warren Peppard – Head of Development Management</p>

15/12/2022 Update - A draft Developer Contributions Escalation Process has been produced (refer to Appendix C). The draft process has been agreed with Legal Services to ensure that the delegated powers within the Council's Constitution are reflected correctly in the process.

Recommendation	Initial Response	Action	Timescale	Lead Officer
<p><u>Recommendation 5</u> An Infrastructure Funding Statement (IFS) should be produced annually by the Executive in line with the requirements in the Community Infrastructure Levy Regulations 2019.</p>	<p>The IFS is a procedural requirement. However, if it is only seen as a procedural requirement then its purpose is missed.</p> <p>LCC has a leading role in the planning process and in supporting communities for the future. Therefore, it is essential that the audience for the IFS is the wider public – it should be readily available and written in plain English to show the public how LCC has sought to represent their interests in seeking developer contributions from planning applications.</p>	<p>The IFS to be produced for the approval by the Executive.</p>	<p>Annually</p>	<p>Vanessa Strange – Head of Infrastructure Investment</p>

15/12/2022 Update - The annual Infrastructure Funding Statement is now presented to the Board, separate to the Developer Contribution updates, for consultation and feedback to the Executive prior to decision. The Board's agreement is required that the objectives of Recommendation 5 have now been met and that this update will be the last presented to the Board.

Objective	Evidence	Action	Completion	Lead Officer
<p><u>Recommendation 6 - Objective 1</u> Ensure all councillors are aware of the Developer Contributions process and their role in the process.</p>	<p>A date is being identified for an induction session after the May local elections.</p>	<p>Democratic Services will arrange training for councillors as part of their induction after the May elections and on-going Councillor Development sessions to be arranged by Local Plan areas. Training to include:</p> <ul style="list-style-type: none"> • Overview of the planning process; • What are Developer Contributions? • The Developer Contributions process; • LCC role vs District Council role; • The role of the local member in the Developer Contributions process. <p>Short guide for councillors including a flow chart of the planning process.</p>	<p>To be agreed by Democratic Services</p>	<p>Nigel West – Head of Democratic Services David Hair – Member Services Manager Warren Peppard – Head of Development Management</p>

15/12/2022 Update - A training session on Development Contributions was presented by the Development Management Team to members on 24 September 2021. The presentation and the recording have also been uploaded to the Councillors Hub, for viewing by those members who were unable to attend, and to allow future reference for all members.

Additional training sessions centred around local plan areas have now been arranged with members. Twenty six members accepted our offer and meetings have now been scheduled during September 2022 - January 2023. During the meetings officers gave/will give an overview of the planning process, talk through the proposed allocated growth, explain LCC vs District role, and discuss the role of the local member in the Developer Contribution process. The Board's agreement is required that the objectives of Recommendation 6 – Objective 1 have now been met and that this update will be the last presented to the Board.

Objective	Evidence	Action	Completion	Lead Officer
<u>Recommendation 6 - Objective 2</u> Improve the process for councillor notification of planning applications in their divisions and their engagement in identifying potential uses for Developer Contributions.		<p>Councillors will receive emails with notification of any planning applications in their divisions. Emails will outline a process that is accessible to all councillors, explain what is expected of councillors in their response and cover all areas of the council.</p> <p>Councillors will input into the development of a list of potential local schemes in their area to fund through Developer Contributions, via the on-going councillor development sessions to be arranged by Local Plan areas.</p>	To follow objective 1	Warren Peppard – Head of Development Management

15/12/2022 Update – The councillor notification emails have now been amended. In addition to the amendments to the notification emails, councillors have received awareness raising sessions with Development Officers as per Recommendation 6 – Objective 1, during which any potential schemes identified by local members, will be placed on a list of potential schemes for consideration. The Board’s agreement is required that the objectives of Recommendation 6 – Objective 2 have now been met and that this update will be the last presented to the Board.

Objective	Evidence	Action	Completion	Lead Officer
<u>Recommendation 6 - Objective 3</u> Training for officers in the relevant service areas to raise awareness of the role of the councillors and provide them with the knowledge and skills to answer queries from their constituents, parish councillors and general public concerning Developer Contributions.		The Development Management Team will develop a training package for relevant officers to raise awareness of the role of county councillors and provide them with the knowledge and skills to answer queries from parish councillors and the general public regarding Developer Contributions.	To follow objective 1	Warren Peppard – Head of Development Management

15/12/2022 Update - Training has taken place at which officers have been provided with the necessary knowledge and skills to answer queries regarding Developer Contributions. Regular knowledge and skills sharing will also be introduced into the Service Impact of Growth Group (quarterly meeting of officers). The Board's agreement is required that the objectives of Recommendation 6 – Objective 3 have now been met and that this update will be the last presented to the Board.

Objective	Evidence	Action	Completion	Lead Officer
<u>Recommendation 6 - Objective 4</u> To improve awareness of the County Council's role in the Development Contributions process to the public, and parish/district councils.		The Communications Team will develop a Communications Strategy to provide podcasts and guidance to parish/town councils and district councils, and to place on the County Council's website and in libraries to provide clarity of the County Council's role in the Developer Contributions process.	To follow objective 1	Communications Team

15/12/2022 Update - The Communications Team is in the process of providing guidance to parish/town councils and district councils, and to place on the County Council's website and in libraries to provide clarity of the County Council's role in the Developer Contributions process.

Development management leadership statement

Supporting growth and development in Lincolnshire

October 2022



About us

The county council's development management team make sure that as Lincolnshire grows, it does so in a clean, green, sustainable way that makes life better not worse, for our residents.

Reviewing planning applications, approving technical designs, advising on improvements that could be made and making sure flood risk is considered properly, are all key to influencing how developments, including housing, go forward.

Continuous improvement

Lincolnshire County Council continues to support growth and development in our county.

Despite difficult local and national circumstances affecting all of us, we continue to adapt and improve services and facilities.

Showing the value of good local services which support both Lincolnshire residents and local businesses, we are planning for the future and maintaining our ambitions.

Lincolnshire County Council is committed to facilitating the right growth in the right area. We are committed to achieve for our local residents and communities working with public and private organisations to bring greater and lasting benefits to our county.

Challenging times

Along with our communities, we are seeing increasing costs for both our day-to-day spending and larger projects.

With increasing demand for services and restricted government funding, we are very aware of the balance we must strike between helping those who need it most, and staying afloat ourselves.

Our officers are dedicated to building strong relationships with local planning authorities, developers and other relevant organisations. This ensures the county council is integral to developments, providing trusted advice in the best interests of our county.



Our ambitions

Lincolnshire County Councils Corporate Plan sets out what we want to achieve for residents and communities across Lincolnshire.

The full plan can be read at www.lincolnshire.gov.uk/corporate-plan and includes the following ambitions relevant to our development management approach.

Support high aspirations:

- Help neighbourhoods flourish
- Support businesses to succeed
- Protect the environment for the future

Create thriving environments:

- Look after our places in a sustainable way
- Develop our county for a prosperous future

Provide good value council services:

- Support community spaces and travel
- Encourage innovation and are innovative ourselves

The council also has a constitution explaining how the council operates and makes decisions, ensuring that the council is efficient, transparent and accountable. This can be viewed at www.lincolnshire.gov.uk/council-business

To help everyone understand how we work, what we need and what our priorities are, we have produced a number of guidance documents.

These documents are continually being reviewed to react to any national and local changes. They also form the basis of technical discussions and advice we give.

These can be found at www.lincolnshire.gov.uk/highways-planning



Our commitment to our partners

- To work proactively with you to ensure the right developments are in the right places
- To provide clear guidance in line with local and national policy
- To be accessible in offering key advice and support

Contact us

Email: developmentmanagement@lincolnshire.gov.uk

Visit: www.lincolnshire.gov.uk/highways-planning



Escalation Process – Developer Contributions

V0.2

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Foreword

In September 2020, the Executive Councillor for Economy and Place, Councillor C J Davie, with the backing of Group Leaders, asked Scrutiny Panel A to carry out an urgent short review of Developer Contributions to see how the County Council can maximise the benefits for local communities from such contributions.

The report on Developer Contributions was approved by the Overview and Scrutiny Management Board at its meeting on 17 December 2020.

There were six recommendations contained in the report for the Executive's consideration. On 05 January 2021 the Executive was invited to consider the report and assign responsibility to the relevant Executive Councillor(s) for responding to the report. The recommendations were accepted by the Executive.

The purpose of the document

To establish a Developer Contributions Escalation Process.

Recommendation 4 of the Scrutiny Review states 'On those occasions where a scheme cannot viably fulfil all requests for Developer Contributions, the Executive should decide which schemes should be prioritised using a published escalation process. The Executive Councillor for Commercial and Environmental Management and the Executive Councillor for Economy and Place should work with the Head of Development Management in its establishment'.

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Process

In line with the National Planning Policy Framework, local planning authorities are responsible for weighing up the infrastructure requirements arising from a development against viability issues when determining a planning application. They are also the responsible authority for the determination of a planning application.

Where the County Council has submitted what the local planning authority consider to be a compliant request for a developer contribution, but the issue of viability is raised and upon considering the viability appraisal, the conclusion is reached that the developer contribution cannot be supported, the County Council may consider taking a number of actions, should the County Council be informed of the viability concerns by the local planning authority. The decision to consider one or more of the following actions will be taken by the Executive Director for Place as that post is responsible for the negotiation of section 106 agreements in connection with planning applications relating to applications dealt with by district councils concerning infrastructure which the County Council would be responsible for providing (refer to constitution). The decision taken will be reported to the appropriate Executive members:

1. Engagement with the local planning authority and developer to work toward securing the prioritisation of County Council planning obligations whilst recognising any financial constraints upon the development. This could be through approaches such as flexible trigger points for payment of or phased payment of contributions;
2. For large sites where phasing may be required, the County Council will work with the local planning authority to agree deferred planning obligations to enable the possibility of achieving necessary developer contributions should market conditions improve over the period of the development;
3. Possible objection to the planning application if nil or reduced developer contributions would mean that the development is considered unacceptable in planning terms. If failure to provide for developer contributions are considered a reason for refusal, the County Council would provide all necessary evidence and supporting statements to assist at any subsequent planning appeal or legal process.

Flowchart

