

Matter 16: Infrastructure and Developer Contributions (Policy CS6)

Is there a need to prioritise developer contributions?

- 1) RPS broadly supports the contents of the policy subject to the inclusion of a caveat relating to viability considerations.

- 2) Notwithstanding the above, it is a concern that paragraph 6.13 reads as a check list of infrastructure requirements where the Local Planning Authority may seek contributions to each and every bullet point wherever possible. This is not appropriate for the following reasons:
 - (i) The Core Strategy is a long-term strategic plan that will guide development within the District for the next 15 years. It is inevitable that during this period the infrastructure requirements in the District will change and therefore the listing and prioritising of infrastructure for the purposes of the indentifying developer contributions is likely to jeopardise the effective implementation of the Core Strategy.

 - (ii) Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) sets out legislative tests for seeking developer obligations. There is little point in listing and prioritising infrastructure (with the exception of strategic infrastructure) within the Core Strategy as it may not conform to the three criteria outlined in the aforementioned regulation.

 - (iii) Paragraph 6.14 states that the list of infrastructure outlined in the preceding paragraph is 'not exhaustive'. This defeats the purpose of listing the types of infrastructure as there is still a prospect of the Council seeking contributions towards other forms of infrastructure whilst there is no guarantee that contributions towards the infrastructure in the list will be justified.

 - (iv) The process of seeking contributions will alter dramatically when the Council adopts a Community Infrastructure Levy. The list of infrastructure listed in the supporting text will become redundant, save for the provision of affordable housing, after the 6th April 2014 when CIL will replace S106 Agreements as a mechanism for securing developer contributions towards most of the infrastructure listed in paragraph 6.13 of the Core Strategy.

- 3) Having regard to the above, it is contended that rather than prioritising developer contributions in respect of the infrastructure headings listed at paragraph 6.13 that the paragraph should be omitted in its entirety. It is suggested that guidance on types of infrastructure to which developer contributions maybe sought should be limited to

the Infrastructure Delivery Plan, a Developer Contributions SPD and/or a CIL Charging Schedule.

- 4) If the Inspector and/or the Council is minded to retain the list of infrastructure within the Core Strategy, it is requested that it is emphasised that the onus will be on individual infrastructure providers and the Council to provide sufficient justification for seeking S106 contributions towards items of infrastructure in accordance with CIL Regulation 122.

Should the policy identify that viability is a factor to be taken into account when identifying infrastructure requirements?

- 5) RPS agrees with the Inspector's concern regarding the absence of any reference to viability as a consideration in seeking contributions.
- 6) The National Planning Policy Framework (NPPF) emphasises the importance in considering viability and deliverability in plan-making and decision-taking:

“To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”¹

- 7) Having regard to the above, Core Strategy Policy CS6 needs to be amended to refer to viability as a key determinant in the level of contributions that will be sought from development proposals, thereby ensuring that the Core Strategy is compliant with the NPPF.
- 8) It is also suggested that the Policy should acknowledge the importance of all developer contributions according with the provisions of Regulation 122 of the CIL Regulations 2010 (as amended) in relation to S106 Planning Obligations and the Regulations as a whole when the Council has adopted a CIL.

¹ NPPF, March 2012, Paragraph 173