

## **Report to Cabinet**

**Subject:** Protocol for Addressing Cross Boundary Impacts of New Development

**Date:** 19<sup>th</sup> June 2014

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### **Wards Affected**

Borough Wide

### **Purpose**

To seek approval of the attached Gedling Borough Protocol which sets out the principles guiding how Gedling Borough will work with its neighbouring authorities and the County Council when dealing with section 106 planning obligations relating to development which would have an impact on the services and facilities in a neighbouring authority. The Gedling Borough Protocol is attached as Appendix A.

### **Key Decision**

No

### **Background**

- 1 Members will be aware that local planning authorities may require developers to provide infrastructure and services on or off development sites, where these are necessary to make the development acceptable in planning terms. Development can sometimes have an impact on the services and facilities in an adjoining District for example; a major development either on its own or in combination with others could give rise to the need for off-site highway works.
  - 2 Gedling Borough, Broxtowe Borough and Nottingham City Councils have prepared an aligned and consistent planning strategy for their part of Greater Nottingham which has been subject to examination and the Inspector's Report is expected during June 2014 with adoption anticipated by the summer. Policy 19 of the Gedling Borough Aligned Core Strategy Submission Documents requires development to contribute to the cost of infrastructure necessary to support that development in order to make it acceptable in planning terms.
  - 3 The Gedling Borough Aligned Core Strategy identifies land for development close to the boundary with Ashfield District Council and it is acknowledged that the situation will arise where impacts will arise from this planned development that affect residents outside of Gedling Borough Council. In order to address cross boundary impacts a draft protocol was prepared and sets out the basis for close working with neighbouring Councils. This draft
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protocol was drawn up in response to concerns raised at the Publication Stage of the Aligned Core Strategy about the potential impacts of development in Gedling on neighbouring authorities and submitted alongside the Aligned Core Strategy Submission documents as part of the supporting evidence base which had to be submitted by the deadline of 6<sup>th</sup> June 2013. However, since then the draft protocol has been subject to discussions with adjoining Councils and subsequently revised. The comments of neighbouring Councils are summarised at Appendix B to this report together with an officer response.

- 4 The Gedling Borough Protocol notes Gedling Borough Councils support in principle for the use of Community Infrastructure Levy (CIL) monies to help fund necessary infrastructure in an adjoining district made necessary by major development in Gedling Borough and which impacts on an adjoining council's services and facilities.
- 5 Nottinghamshire County Council as a key service provider within Gedling Borough is also in the process of producing a Protocol dealing specifically with County Council services and there is clearly a need for strong collaboration between the County and Borough/District Councils in order to secure relevant contributions to County Council services where these are necessary to support the development.

### **Proposal**

- 6 The Gedling Protocol sets out a working protocol between Gedling Borough and neighbouring authorities/County Council for dealing with section 106 planning obligations relating to development which would have an impact on the services and facilities in a neighbouring authority. The protocol considers the following matters:-
  - Types of development covered by the protocol;
  - Consultation with neighbouring councils (which reflects the content of the Council's Statement of Community Involvement);
  - Requests for contributions from neighbouring Councils;
  - Responsibility for negotiations with developers.
- 7 Adjoining authorities were consulted on the draft version of the Gedling Borough Protocol during the autumn of 2013 and the response was generally positive. Given the significance of the protocol to Ashfield District Council they made a number of significant comments. Detailed responses to the points raised are set out in Appendix B. In summary the key issues raised include:
  - The process for requesting contributions and responsibility for the provision of evidence (raised by two Councils);

- The sharing of draft Heads of Terms for S106 Agreements was suggested by Nottingham City Council;
- Ashfield District comments relating to the protocol, the Infrastructure Delivery Plan (IDP) which sets out the broad infrastructure requirements for the Aligned Core Strategy and on CIL are in essence seeking assurances and clarification on the delivery of necessary services and facilities in Ashfield;
- Rushcliffe Borough queried whether all adjoining authorities are being asked to adopt the Gedling Borough Protocol.

- 8 In relation to comments on the process set out in the draft Gedling Borough Protocol changes have been made to make it clear that service providers should provide the evidence and justification for contributions sought. However, adjoining authorities should clearly stipulate what contributions they consider should be sought so that these points can be taken into account in discussions with the service provider and applicant at an early stage (preferably pre-application). If the adjoining Council is requesting contributions to its own services it seems reasonable that they should provide information and evidence of need. Comments were also made that providing requests within 21 days was rather strict and it is agreed to change the document to provide more flexibility.
- 9 The suggestion that “Draft Heads of Terms” be shared where possible with adjoining authorities is something that can be included subject to the agreement of all parties to the Section 106 Agreement.
- 10 In relation to the comments by Ashfield, it is not possible to give all the assurances sought. However, changes to the protocol have been made where appropriate and it is stressed that a prime purpose of the protocol is to acknowledge explicitly that development in Gedling Borough can impact on the services and facilities in adjoining authorities particularly in Ashfield. In this context, the Gedling Protocol seeks to involve neighbouring authorities early on in the process preferably at pre-application stage.
- 11 Cabinet is asked to approve the protocol which commits Gedling Borough to work closely with neighbouring authorities and the County Council to ensure that development is sustainable and contributes to services and necessary facilities regardless of the local authority area the service is provided within. On the basis that the Gedling Protocol has been positively received by the adjoining Councils and having taken into account their comments it is proposed to invite adjoining authorities and the County Council to agree to follow the protocol at least in principle and for them to treat Gedling Borough on a reciprocal basis.
- 12 It is also opportune that Nottinghamshire County Council is in the process of producing their own Nottinghamshire Protocol dealing with contributions to County Council services and that this document could be combined with the Gedling Protocol at some future date to form a single document. In many respects this initiative by the County formalises much of current practice but

also includes a more standardised and consistent approach across Nottinghamshire to the consideration of County requests for contributions to its services. The County Council has consulted with Gedling at officer level and are in the process of finalising the Nottinghamshire Protocol and will be inviting Gedling Borough to agree to use the Protocol.

### **Alternative Options**

The alternative would be not to approve the Gedling Borough Protocol in which case Gedling Borough would not be seen to be proactive in responding to concerns over contributions to necessary infrastructure to be provided a neighbouring Council.

### **Financial Implications**

The Protocol seeks to provide clarification and reflect the requirements of the Council's Statement of Community Involvement, such that there should be no financial implications.

### **Appendices**

Appendix A – The Gedling Borough Protocol

Appendix B – Consultee Responses to draft Gedling Borough Protocol

### **Background Papers**

None

### **Recommendation**

That Cabinet:

- a) Approve the Gedling Borough Protocol for dealing with section 106 agreements set out in Appendix A; and
- b) Agree that the Service Manager for Planning and Economic Development writes to adjoining authorities and invites them to sign up to the Gedling Borough Protocol.

### **Reasons for Recommendations**

To agree to the Protocol for addressing cross boundary impacts from new development.