



**Proposed adoption of the refreshed Gloucestershire Local Development Guide 2021**

<b>Cabinet Date</b>	24th March 2021
<b>Cabinet Member</b>	Cllr Nigel Moor, Cabinet Member for Environment and Planning
<b>Key Decision</b>	Yes
<b>Purpose of Report</b>	To obtain authorisation to adopt the revised and refreshed Local Development Guide document for Gloucestershire
<b>Recommendations</b>	That Cabinet adopts the Local Development Guide as set out in Appendix A as Council Guidance
<b>Reasons for recommendations</b>	The current, adopted Local Developer Guide is almost four years old. The revised guide has been updated to reflect local and national policies and guidance and changes including the introduction of Community Infrastructure Levy (CIL) in various local authorities.
<b>Resource Implications</b>	<p>The purpose of this Local Development Guide is to provide information to local planning authorities, developers and all stakeholders on the types of infrastructure which Gloucestershire County Council is responsible for and may seek funding towards; and where S106 contributions and/or Community Infrastructure Levy payments may be necessary to mitigate the impacts of a development, and make it acceptable in planning terms.</p> <p>Not having an updated guide may impact the county council's ability to secure developer contributions for any necessary infrastructure or services required to mitigate the impacts of a development.</p>

<b>Background Documents</b>	<p>Refreshed Local Development Guide 2020 Appendix A</p> <p><a href="https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-local-developer-guide-infrastructure-and-services-with-new-development/">https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-local-developer-guide-infrastructure-and-services-with-new-development/</a></p> <p>Current GCC Local Developer Guide. <u>Adopted</u> 2016</p> <p><a href="https://www.gloucestershire.gov.uk/media/14820/gcc-local-developer-guide-update-dec-2016.pdf">https://www.gloucestershire.gov.uk/media/14820/gcc-local-developer-guide-update-dec-2016.pdf</a></p> <p>Community Infrastructure Levy Regulations 2010 (as amended)</p> <p><a href="https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents">https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents</a></p> <p>National Planning Policy Framework February 2019 (NPPF)</p> <p><a href="https://www.gov.uk/government/publications/national-planning-policy-framework--2">https://www.gov.uk/government/publications/national-planning-policy-framework--2</a></p> <p>National Planning Policy Guidance (NPPG)</p> <p><a href="https://www.gov.uk/government/collections/planning-practice-guidance">https://www.gov.uk/government/collections/planning-practice-guidance</a></p> <p>Officer executive decision 30.4.2020 - Decision to consult on the revised version of Gloucestershire's Local Development Guide 2020</p> <p><a href="https://glostext.gloucestershire.gov.uk/ieDecisionDetails.aspx?ID=1475">https://glostext.gloucestershire.gov.uk/ieDecisionDetails.aspx?ID=1475</a></p>
<b>Statutory Authority</b>	<p>Town &amp; Country Planning Act 1990</p> <p>The Town and Country Planning (Local Planning) (England) Regulations 2012</p> <p>NPPF February 2019</p> <p>NPPG</p>
<b>Divisional Councillor(s)</b>	<p>All</p>
<b>Officer</b>	<p>Name: Colin Chick - Executive Director of Economy, Environment &amp; Infrastructure</p> <p>Tel. no: 01452 328470</p> <p>Email: <a href="mailto:Colin.chick@gloucestershire.gov.uk">Colin.chick@gloucestershire.gov.uk</a></p>
<b>Timeline</b>	

## Background

- 1 Gloucestershire County Council's (GCC's) Local Developer Guide (LDG) was originally adopted by Cabinet in February 2014 and updated in December 2016. Since then, it has successfully been used to guide Local Planning Authorities (LPAs) in planning policy development and to provide guidance on the negotiation of infrastructure requirements arising from new developments.
- 2 It should be noted that the LDG is not a Development Plan Document, Supplementary Planning Document nor any other kind of Local Development Document. The LDG has been consulted on, reflects national guidance and local circumstances and is intended to be material to:
  - (i) discussions with LPAs over CIL (and new infrastructure funding statements);
  - (ii) discussions with LPAs over any new Local Development Documents on developer contributions (whether joint or otherwise); and
  - (iii) negotiations over the appropriate developer contributions for planning applications.
- 3 Gloucestershire is set to experience notable levels of development over the coming years, mostly in and around the county's built-up areas. The quantum and location of future growth is a matter for the LPAs to determine. The creation of new places, neighbourhoods and expanded local communities increases the demand on local infrastructure such as roads, buses, schools and community infrastructure.
- 4 GCC is a key infrastructure provider. Most of the new or re-modelled infrastructure for the county is likely to remain the responsibility of and/or be commissioned by GCC. Infrastructure Delivery Plans (IDPs) identify that 70 to 80% of the future costed infrastructure required in the county is GCC infrastructure.
- 5 The LDG advises on the use of planning conditions and Section 106 obligations. CIL is an alternative means of securing developer contributions. CIL is now operational in 5 of the 6 LPAs (Cotswold District, Stroud District, Gloucester City, Tewkesbury Borough and Cheltenham Borough). Forest of Dean DC has given consideration to the introduction of CIL but is yet to take it forward. The precise governance arrangements around CIL expenditure need to be given consideration as GCC cannot become a CIL Charging Authority – again this is the role of the LPAs.
- 6 CIL allows a locally-set (i.e. by the LPAs), tariff-based fund to be generated, financed by new development. The key purpose of CIL is to help fund infrastructure that may benefit local communities more widely and not just those immediately affected by development.
- 7 In recent years, GCC has successfully secured an average of £17m per year in S106 obligations towards highways and transport, education, libraries and other infrastructure contributions.

- 8 In addition to the infrastructure requirements and financial contributions, the LDG covers infrastructure which reduces demand for GCC services, or can help in the future. Encouraging Lifetime Homes (i.e. adaptable homes), broadband provision and smart technology and digital infrastructure sections in the LDG have all been updated.
- 9 Because GCC is not the LPA for the vast majority of development, it is unable to act unilaterally in influencing new development proposals. Under the statutory duty to cooperate, GCC must work collaboratively with the LPAs to resource infrastructure with new developments. The LDG provides a clear and consistent strategy for how GCC aims to handle infrastructure matters relating to new development. This will articulate the nature and scale of different types of GCC infrastructure likely to be considered necessary to support such development. The LDG has been updated to reflect legislative changes and clarify certain aspects.
- 10 As GCC cannot become a charging authority for CIL purposes, it is therefore essential for GCC to positively engage in the CIL charge setting process and attempt to achieve satisfactory arrangements for governing the CIL process. The updated LDG sets out how GCC expects to be involved in CIL charge setting, priorities, and expenditure, working with the LPAs.
- 11 The revised LDG covers the following County Council functions, with updates summarised below. For each subject area, the LDG sets out the approach expected when using S106 obligations, or if contributions will be funded through CIL.
- 12 **Education** (pre-school, primary, secondary and special): A number of additional changes proposed are to be reflected in the updated LDG. Principally, it refers to new evidence on pupil yields which demonstrates that the number of children requiring school places as a result of new development is higher than had previously been assumed. This is based on recent survey work from actual housing developments in the county. A detailed study has resulted in the recommendation to use the yields set out in the LDG. These yields have been in operation since November 2019 and need to be reflected in this revised LDG.  
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

This additional survey work allows further confidence in the new yields. These have been amended to ensure that the yields reflect the best and most up-to-date available evidence, by allowing regular changes of pupil yield assumptions where new evidence is found, or presented to the Council.

Further changes have been made to ensure that new schools provided within developments are capable of future expansion to the required standards.

The approach to pre-school/nursery provision has also been updated. The introduction of up to 30 hours per week funded (term time) childcare has resulted in an increase in 'need' in this sector and is reflected in the updated LDG.

**Adult Social Care:** This section has been updated to include greater reference to designed-in solutions (Lifetime Homes, Built for Life) and adaptable buildings.

**Health and Public Health:** Health and Public Health requirements both in terms of infrastructure such as new GP surgeries but also awareness of providing high quality homes of good design and supporting the natural environment and climate control have been included in the updated LDG. It recognises the various agencies involved, and supports the Clinical Commissioning Group in their role to ensure provision of health infrastructure.

**Broadband:** The updated LDG places greater emphasis on the role of developers and providers in broadband provision within new developments, and sets out what is expected in new developments and links to the approved (December 2019) revised Fastershire Broadband Strategy.

**Fire & Rescue:** The updated LDG ensures that provision of hydrants is agreed at the time that infrastructure is planned to serve new developments, with the involvement of the relevant Water Company as the infrastructure provider. The LDG also ensures that Gloucestershire Fire & Rescue Service agrees the location and number of hydrants. Further updates provide an opportunity, where it can be justified, to seek contributions from S106 obligations and/or CIL towards Fire & Rescue infrastructure.

**Waste and Recycling:** A new section has been inserted to ensure that growth in the county assists with mitigating the additional waste and recycling harm which may be caused – for example, by contributing towards new or expanded recycling facilities.

**Sustainable drainage:** Site-specific and flood alleviation measures are secured through the County Council's role as Lead Local Flood Authority (LLFA), through the planning application process. Where flood alleviation is required to support growth more generally, or flood alleviation measures are required for existing flood risk from ordinary watercourses, pluvial and groundwater sources, the LDG clarifies that these can be funded through CIL.

**Transport:** Updated to reflect legislative changes, and GCC policy changes such as the most up-to-date evidence in the emerging review of the Local Transport Plan (LTP).

**Libraries and Archive Services:** The updated LDG confirms that contributions will be sought where a need arises from a development. The previous approach (an automatic tariff) had been challenged repeatedly at appeals and therefore clarification is provided within the revised LDG.

- 13 Other technical changes include further information on the approach to the following:

**Bonding or other forms of security:** The LDG clarifies that GCC will work with developers to secure the **most appropriate** method by which GCC's risk is minimised such that any delay does not unnecessarily burden the public purse.

Where a bond or other form of security is required it will be proportionate to the risk exposure at that point in time. An internal audit on the bonding process has guided this process.

**Viability:** The updated LDG is supportive of growth in Gloucestershire. It needs to, and does, recognise both the importance of infrastructure provision, and the benefits from economic growth which comes from development. Through the introduction of CIL, the developer contribution landscape has changed. All S106 contributions, where sought, need to be evidenced to the extent that the Council is certain that requirements meet strict legal tests in the NPPF, NPPG and Regulation 122 of the CIL Regulations. LPAs have provided feedback that, where a development's viability is jeopardised by developer contributions, it will be the LPA as the decision maker that will balance the benefits of the scheme, against the mitigation measures required to make the development acceptable in planning terms.

There is clearly a balance to be struck in each case. This is reflected in the revised LDG. LPAs, for example, have particular concerns that their commitment to delivering affordable housing can be undermined by GCC, or other requirements from proposed developments. The LDG recognises the importance of LPA requirements, and the role that viability analyses will need to play in decisions and negotiations.

Where contributions are sought through S106 planning obligations, GCC will consider the impact on the viability of development. Evidence submitted by the applicant will be considered, and can influence decisions around timing of payments, triggers and the use of deferred contributions.

The level of consultation and scrutiny undertaken in formulating the LDG means that weight can be attributed to it in District planning decisions.

**Monitoring, Cost Recovery, Pooling:** The updated LDG has again been amended so that monitoring charges are sought where justified. Future legislation changes are likely to also clarify this.

The issue of 'pooling' S106 contributions has been rectified through national legislation. This previously meant that contributions through S106 agreements were limited, with no more than five separate planning obligations being sought and 'pooled' towards a specific project or piece of infrastructure. That restriction has now been removed. The revised LDG is updated to reflect this useful change which GCC had previously supported through responding to a national public consultation.

The requirement on CIL Charging Authorities to publish and maintain a Regulation 123 list of projects or types of infrastructure they intend to fund or may fund through CIL has also been abolished. This has been replaced with a requirement to publish annual infrastructure funding statements (IFs) setting out how much money has been raised through both CIL and S106 obligations. Even though GCC is not a CIL Charging Authority is also has a duty to publish annual infrastructure funding statements.

**Community Infrastructure Levy:** Many changes have been made to reflect the CIL regime which itself changes regularly. In particular, GCC needs to be assured that infrastructure will continue to be funded either through S106 obligations, or through CIL.

- 14 To maximise GCC's influence in decisions on delivery of infrastructure, the LDG has been updated. A period of pre-consultation with the six District Councils took place for a period of three weeks from 25<sup>th</sup> February 2020 to 23<sup>rd</sup> March 2020 ahead of a further targeted consultation with stakeholders from 1<sup>st</sup> May 2020 to 29<sup>th</sup> May 2020. The targeted consultation was then extended to 19<sup>th</sup> June 2020, due to the impacts of the COVID-19 pandemic. The proposed adoption of this updated LDG should enhance the importance given to GCC-responsible infrastructure, and the role of GCC in CIL.
- 15 The degree of weight given to these matters during the consideration of planning proposals by the LPAs will be further increased.

### **Consultation arrangements/feedback**

- 16 A draft version of the updated LDG underwent a period of pre consultation with the six District Councils for a period of three weeks ahead of a further targeted consultation with stakeholders from 1<sup>st</sup> May 2020 to 19<sup>th</sup> June 2020.
- 17 Over 350 potentially interested stakeholders were specifically targeted for their input. These included: District, Town & Parish Councils within and adjoining Gloucestershire; Government Departments and devolved agencies with responsibility for public infrastructure; utility providers; infrastructure-related community and interest action groups; the development industry; representatives from the local business community and planning agents. This followed the same consultation arrangements as the currently adopted LDG.
- 18 Representations on the content of the draft updated LDG are set out in a summary report of consultation responses, and Council response to these is in Appendix B.

### **Options**

- 19 The options for Cabinet are as follows:  
  
Option A: To adopt the updated GCC LDG as set out in Appendix A;  
  
Option B: Not to adopt the updated GCC LDG.

### **Risks**

- 20 A decision not to adopt the updated LDG will result in the Council operating in an un-coordinated, *ad hoc*, and reactionary manner with regards to future partnership working on the provision of infrastructure with new development. This will result in inefficiencies in delivering infrastructure requirements across

Gloucestershire, which will in turn adversely impact upon all others involved in development – developers, District Councils and local communities. It will also severely hamper the ability of the Council to influence local priority setting and weaken its position in negotiating future provision with development proposals.

### **Financial implications**

- 21 No specific resources other than officer time to collate and draft the responses.

### **Climate change implications**

- 22 Carbon Emissions Implications are positive and this decision is not vulnerable to climate change.
- 23 The LDG will promote infrastructure provision for partner organisations and partnerships, e.g. health, ecology, fire, etc.
- 24 The LDG engages with the planning system which concerns the built environment. It will influence planning decisions and planning policies, the outcomes of which will be beneficial to the new places being created.

### **Equality implications**

- 25 Has an Equalities Impact Assessment (EIA) been completed? **Yes**
- 26 Cabinet Members should read and consider the EIA in order to satisfy themselves as decision makers that due regard has been given.

### **Data Protection Impact Assessment (DPIA) implications**

- 27 None

### **Social value implications**

- 28 The LDG has social value by promoting essential community infrastructure such as nursery/pre-school provision, and library space which are of benefit to communities and by promoting caring for people by providing for relevant infrastructure in appropriate circumstances.

### **Consultation feedback**

- 29 Over 350 potentially interested stakeholders were specifically targeted for their input. These included: District, Town & Parish Councils within and adjoining Gloucestershire; Government Departments and devolved agencies with responsibility for public infrastructure; utility providers; infrastructure-related community and interest action groups; the development industry; representatives from the local business community and planning agents. This followed the same consultation arrangements as the currently adopted LDG.

- 30 Representations on the content of the draft updated LDG are set out in a summary report of consultation responses, and the responses to these are provided in Appendix B.
- 31 Acting upon the consultation feedback, the LDG has been significantly amended taking account of feedback from consultees and accompanies this Cabinet report (as Appendix A) for recommendation for adoption. If Cabinet agrees to adopt the revised and refreshed LDG it will be adopted and published on the GCC website.

### **Officer recommendations**

- 32 Officer recommendation is that Cabinet should accept Option A and adopt the updated GCC LDG, as set out in Appendix A.

### **Performance Management/Follow-up**

- 33 Once adopted, the LDG will be periodically reviewed to ensure any changes in policy or process used to secure infrastructure resources remains inline with latest guidance. Any changes to the LDG will be initially discussed with district officers at the monthly County Planning Officers Group. Where substantive changes to the LDG may be required any proposed changes would be subject to stakeholder consultation before formally seeking Cabinet approval for any formal changes to the LDG.