



Rushcliffe
Borough Council

Growth and Development Scrutiny Group

Wednesday, 4 October 2023

Development and Infrastructure

Report of the Director – Development and Economic Growth

1. Purpose of report

- 1.1. The report details how the Council works with infrastructure and service providers to identify and deliver infrastructure required to support housing and other growth.

2. Recommendation

It is RECOMMENDED that the Growth and Development Scrutiny Group considers the contents of the report and whether there are further related matters that the Group wishes to consider at a future meeting or meetings.

3. Reasons for Recommendation

- 3.1. To enable members to understand the current process in place for working with partners to plan for infrastructure to support growth and enable appropriate consideration and scrutiny of this to identify future areas of focus and further scrutiny.

4. Supporting Information

Background

- 4.1. There is significant planned housing, employment and other growth within Rushcliffe which needs to be supported by appropriate infrastructure; whether that be existing infrastructure or through new or improved infrastructure delivered alongside and potentially funded by new development. Consequently, a significant aspect of the planning process undertaken by the Council involves liaising with and working closely with infrastructure providers and others to identify what infrastructure is required to support growth and, where existing provision is not sufficient, to bring about new provision where and when required.

National planning policy and regulatory requirements

- 4.2. The National Planning Policy Framework (NPPF) emphasises the importance of new development being supported by appropriate infrastructure. In particular it sets out the following requirements:

- Local Plans should be shaped by early and ongoing, proportionate and effective engagement between plan-makers and infrastructure providers and operators.
 - Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, including to make sufficient provision for infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk, green infrastructure and community facilities (such as health, education and cultural infrastructure).
 - Strategic policies should look ahead over a minimum 15 year period, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure.
 - Building a strong, responsive and competitive economy requires identifying and coordinating the provision of infrastructure; and
 - Local plans should promote sustainable patterns of development, including by seeking to align growth and infrastructure.
- 4.3. National planning policy and relevant national regulations state, however, that infrastructure provision to support new development (known as a planning obligation or planning contributions) is only justified to mitigate the impact of unacceptable development in order to make it acceptable in planning terms. In those cases where new or improved infrastructure is sought to support new development, three statutory tests have to be met. The infrastructure (planning obligation) must be:
- necessary to make the development acceptable in planning terms.
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

Local Plan preparation and Infrastructure Delivery Plan

- 4.4. The preparation of an Infrastructure Delivery Plan (IDP) formed a significant piece of work in preparing the existing Local Plan, and it will do so again as part of the current preparation of the Greater Nottingham Strategic Plan (by Broxtowe Borough, Gedling Borough, Nottingham City and Rushcliffe Borough councils).
- 4.5. The IDP identified what infrastructure would be required across the Borough as a consequence of cumulative and individual development proposals included within the Local Plan, when the infrastructure would be required and how it would be delivered and funded.
- 4.6. The IDP was also intended to help to assist partner authorities in considering and planning for infrastructure investment across the plan area and to inform both public and private sector funding decisions. The IDP was intended to respond to and inform other decisions, policies, investment programmes and strategies including, for instance:
- S106 agreements and the Community Infrastructure Levy.
 - Local Transport Plans.
 - Local Authority Service Plans.
 - Waste Plans; and
 - Health and Education Investment Plans.

- 4.7. The IDP considered a range of infrastructure categories and the extent to which each presented opportunities or constraints to the delivery of the Local Plan's development strategy. Where possible it identified the cost and delivery route for new infrastructure and where the infrastructure was critical to the delivery of the Local Plan's growth proposals.
- 4.8. The following categories of infrastructure were considered by the IDP:
- a) Strategic Transport
 - b) Utilities – Water
 - c) Utilities - Energy
 - d) Utilities - IT
 - e) Flooding and Flood Risk
 - f) Health and Local Services
 - g) Education
 - h) Emergency Services (police, fire and ambulance)
 - i) Waste Management (collection and disposal)
 - j) Green Infrastructure and biodiversity
 - k) Heritage Assets
- 4.9. The IDP was prepared following significant consultation and direct engagement (including conversations and meetings) with infrastructure and service providers, and with reference to wider evidence documents, in order to identify infrastructure requirements and capacity constraints. All conclusions drawn in the IDP were based on information provided directly by partner organisations and service providers. As a general guide, stakeholders and service providers were requested to respond to the following questions:
- Do the proposals within the Local Plan complement or conflict with forward plans/asset management plans?
 - Are there any perceived constraints/capacity limitations to servicing future developments?
 - If so, can these be overcome?
 - Are there expectations of additional costs being met by developers over and above normal site development costs?
 - If there are costs, how have they been calculated and can they be demonstrated to be reasonable?
 - Are there any lead in/forward planning periods required to build capacity for new services?
- 4.10. The infrastructure providers who directly engaged in this process included, for instance, the Highways Agency (now National Highways), Nottinghamshire County Council, Nottinghamshire Fire and Rescue Service, Nottinghamshire Police, East Midlands Ambulance Service, NHS Nottinghamshire, Environment Agency, National Grid, Severn Trent Water and local public transport operators.
- 4.11. Arising from the IDP process a schedule of strategic infrastructure required to support delivery of the Local Plan was identified, both for the plan as a whole and for specific allocated sites. Alongside which, the estimated costs of the infrastructure, the anticipated funding source (e.g., public or developer funded), the lead delivery partner and delivery timescales were all identified.

- 4.12. As part of an iterative process, the outcomes of the IDP informed the final policies and proposals of the Local Plan. The critical infrastructure required to deliver the Local Plan, and in particular its allocated sites, was taken from the IDP and directly included within the Local Plan. Moreover, the policy wording and supporting text for each of the Local Plan's site allocations was heavily shaped by the outcomes of the IDP. Site specific policies identified where, for example, major highway improvements and provision of new schools would be a requirement of new development schemes on those sites.
- 4.13. Importantly, as part of the Local Plan process, the Council had to be satisfied that the infrastructure requirements identified as critical to delivery of the plan meet the regulatory tests for planning obligations (as highlighted above at paragraph 4.3). A key aspect of working with infrastructure providers and others (including site promoters) in shaping Local Plan policies and proposals is therefore to reach agreement that new infrastructure sought to support new development is: necessary to make the development acceptable in planning terms; directly related; and fairly and reasonably related in scale and kind to the development.
- 4.14. Once the draft Local Plan was finalised, infrastructure providers and other stakeholders were engaged with once again. They were given the opportunity, as part of the statutory consultation undertaken at that stage, to comment on whether growth and supporting infrastructure requirement and delivery proposals were sufficiently aligned and robust. Following which, the bodies were invited to participate in the Local Plan's public examination and associated hearings. Certain infrastructure providers attended to support the Council in demonstrating to the Planning Inspector that infrastructure matters had been appropriately addressed. In other cases, where matters remained outstanding, the examination provided the opportunity for these issues to be discussed further and to be potentially resolved.
- 4.15. While not directly part of the Local Plan process but arising from it, one particularly significant example of how the Borough Council has worked directly with infrastructure partners in recent years, is the establishment of a developer contribution strategy to part fund highway improvements to the A52 and A606 associated with new development. The strategy was the outcome of extensive joint work between the Borough Council, National Highways and Nottinghamshire County Council. It involved working together to commission transport assessment evidence, to establish the costs of the highway improvement works, to identify what proportion of the costs should be developer funded and to create a mechanism for securing developer funding.

Planning applications and S106 planning agreements

- 4.16. The Council also engages extensively with infrastructure providers and other stakeholders in respect of more detailed development schemes, which are either in the process of coming forward as planning applications and/or once planning applications have been received and are being determined. The nature and extent of this engagement will depend on the specifics (primarily

scale) of the development proposed (i.e. whether it requires supporting infrastructure) and its location.

- 4.17. In respect of planning applications for sites already allocated in the Local Plan, engagement will be a continuation of what has gone before during the allocation process; working from the broad infrastructure requirements established by Local Plan policy and, from this, identifying and agreeing with infrastructure providers, other stakeholders and the developers the more specific requirements (including detailed costs, the mechanisms for delivery and timing of delivery).
- 4.18. For many of the allocated sites, particularly the major ones, significant engagement usually takes place in the period between allocation and planning applications being first submitted. In the case of development schemes that happen to come forward on non-allocated sites, where supporting infrastructure is or may be required, then the Council will similarly engage with the relevant infrastructure providers and other stakeholders at the pre-application and/or planning application stage.
- 4.19. Exactly which infrastructure providers and other stakeholders are engaged with at the pre-application and application stages, and how they are involved, will depend on the nature and location of the proposed development. In all cases, they will be consulted on whatever plans and other details have been submitted by the developer/site promoter, and given the chance to comment in order to express their views on what infrastructure is required, how it should be delivered and when. Such consultation often then necessitates follow up dialogue in order to further discuss and refine infrastructure requirements and timing/trigger points, with developers frequently involved as part of this process.
- 4.20. Particularly in respect of proposals for major housing, commercial or mixed-use development, engagement involving the Council, infrastructure providers and, where appropriate, developers can be extensive and involve multiple meetings between all parties, other direct discussions and ongoing consideration of draft plans and other preparatory work in order to determine what specific supporting infrastructure needs to be delivered, when and how.
- 4.21. For planning applications, the outcome of much of this engagement and dialogue will inform the preparation of Section 106 (S106) agreements. These are legal agreements between local authorities and developers or Unilateral Undertakings provided by developers which accompany planning permissions and establish the planning obligations (mainly infrastructure items) that have to be delivered as part of the development which has been approved.
- 4.22. In addition to the specific provisions of the S106 agreement being dictated by the outcome of the engagement undertaken between the Council, infrastructure providers, developers and other stakeholders, they are also shaped by the regulatory tests for planning obligations (as highlighted above). There can be occasions when infrastructure providers or others seek infrastructure that, in the Council's view, does not pass the three tests. When this is the case, the Council will typically engage in further discussions in order to attempt to remedy

the situation. If an agreed position cannot be reached, then it is the Council's responsibility to take a final decision as to how to proceed.

Community Infrastructure Levy

- 4.23. The Council adopted and began implementation of a Community Infrastructure Levy (CIL) in October 2019. CIL is a financial charge levied by the Council on certain developments in the Borough. Most new development which creates net additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy. The charge is then used to fund certain pre-defined infrastructure requirements – for example, off-site secondary education provision. The use of CIL sits alongside and operates together with the use of S106 agreements and also the use of S278 highway agreements for certain highway infrastructure related works.
- 4.24. The preparation of the CIL was heavily informed by the preparatory work for the Local Plan and the associated engagement activity undertaken at the time with infrastructure providers and others. The draft CIL was also subject to its own specific consultation stages and public examination stage, providing further opportunity for infrastructure providers and other stakeholders to comment on and engage further in the CIL preparation process.

5. Risks and Uncertainties

The risk that housing and other growth is not adequately supported by infrastructure are reduced by the Council working closely with infrastructure and service providers and by identifying infrastructure requirements early in the plan preparation process.

The Levelling Up and Regeneration Bill seeks to replace the current system of developer contributions with a mandatory and locally determined Infrastructure Levy. The Infrastructure Levy would be calculated on a final gross development value of a scheme or phase of a scheme, above a minimum levy threshold. It is intended to replace CIL, S106 and affordable housing developer contributions with a single flat-rate levy based on the final sale values of a development. Although primarily a financial contribution, the Levy could require the contribution of on-site infrastructure within a development. So as it stands, a levy (CIL), in-kind developer contributions (S106) and affordable housing would be replaced with a mandatory levy and in-kind developer contributions (which may or may not include affordable housing). The specific details and timings for introduction of the Levy remain uncertain ahead of finalisation of primary and secondary legislation and relevant national policy and guidance.

6. Implications

6.1. Financial Implications

The workload required in working with infrastructure and service providers to identify and deliver infrastructure required to support housing and other growth is undertaken utilising existing Planning Policy and Development Management resources. Where work is associated with specific planning applications, this is

supported financially by the planning application fees for the planning application. Where additional resources are required this is considered as part of the Council's budget review processes.

6.2. Legal Implications

The Council, as local planning authority, is legally responsible for preparation of the Local Plan and determining planning applications (apart from matters including minerals and waste development over which the County Council has responsibility). The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development, with the identification and coordination of the provision of infrastructure to support growth identified a key aspect of achieving this.

The CIL Regulations 2010 (as amended) sets the legal tests for planning obligations, including for infrastructure provision to support new development. The regulations state that planning obligations are only appropriate to make development acceptable in planning terms.

6.3. Equalities Implications

An Equalities Impact Assessment is prepared as part of the plan making process and due regard is given to the implications identified in it.

6.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no crime and disorder implications associated with this report.

6.5. Biodiversity Net Gain

There are no biodiversity implications associated with this report.

7. Link to Corporate Priorities

The Environment	The provision of infrastructure alongside and in close proximity to housing and other growth supports environmental objects. New development that is supported by sustainable transport facilities and services (walking, cycling and public transport) lowers impact on the environment. Green infrastructure is capable of delivering a wide range of environmental benefits.
Quality of Life	Ensuring that new development is sufficiently supported by new infrastructure is essential for maintaining the quality of life for both existing and new Rushcliffe residents.
Efficient Services	The provision of efficient services includes ongoing appraisal and alignment of resources to growth aspirations.
Sustainable Growth	A fundamental principle of sustainable growth is that new housing and other growth is supported by adequate and timely infrastructure.

8. Recommendation

It is RECOMMENDED that the Growth and Development Scrutiny Group considers the contents of the report and whether there are further related matters that the Group wishes to consider at a future meeting or meetings.

For more information contact:	Richard Mapletoft Planning Policy Manager 0115 914 8457 rmapletoft@rushcliffe.gov.uk
Background papers available for Inspection:	Nil
List of appendices:	Appendix 1: Scrutiny Matrix

Rushcliffe Borough Council – Scrutiny Matrix

Councillor Request for Scrutiny		
Councillor Clarke		
Proposed topic of scrutiny ...	How the Borough works with partners to plan for the infrastructure required to support growth	
I would like to understand ... (key lines of enquiry)	<p>There is a significant amount of housing growth across the Borough and therefore a requirement for infrastructure to be in place to support this. Councillors would like to understand how the Borough works with partners to:</p> <ul style="list-style-type: none"> • determine the infrastructure required • Identify the wider strategy for infrastructure and how this is planned to ensure a coherent and coordinated response that takes account of the cumulative impact – now and in the future • How stakeholders are engaged in the development of S106 agreements <p>Infrastructure covers a wide range of agencies and areas of work therefore the initial request is for a scrutiny item that seeks to understand the current process from RBC perspective. Future items could then come forward focussed on specific areas of infrastructure with the relevant partner agency engaged.</p>	
I think this topic should be scrutinised because ... (please tick)	<input type="checkbox"/>	Poor Performance Identified
	<input type="checkbox"/>	Change in Legislation or Local Policy
	<input checked="" type="checkbox"/>	Resident Concern or Interest
	<input type="checkbox"/>	Cabinet Recommendation
	<input type="checkbox"/>	Links to the Corporate Strategy
	<input type="checkbox"/>	Other (please state reason)

Officer Consideration of Councillor Request for Scrutiny

Officer Feedback (please tick)		Officer Comment
- Issue already being addressed	x	
- Issue has already been considered in the last 2 years?	x	
- Issue is a legal matter	x	
- Issue of a complaint investigation	x	
- Issue is a staffing matter	x	
- There is an alternative way of dealing with the issue	x	
Is there sufficient capacity ...		
- Scrutiny Work Programme?	✓	
- Officer Resources?	✓	
Recommendation	Growth and Development Scrutiny Group	
Lead Officer	Helen Knott / Richard Mapletoft	
Proposed Timescale for Scrutiny and Scrutiny Group	September 2023	