



**Economy and Environment Overview and
Scrutiny Committee**

**Report of the Developer Contributions Task and
Finish Group**

July 2024

Acknowledgments

The Members of the cross-party Developer Contributions Task and Finish Group have taken a focused approach to their work, ensuring that they have considered the impact of housing developments on social aspects such as education provision, local health provision and the related use of assets. They have listened to multiple expert witnesses, evaluated different viewpoints, and sought well-supported conclusions and recommendations. The group would like to express thanks to those who have assisted in this investigation - Shropshire Council's Planning Policy & Strategy Manager, Legal Team Leader, the Planning and Development Services Manager, the Education Place Planning and Sufficiency Manager and the One Public Estates & Partnerships Manager. As well as the following colleagues from partner organisations - the Director of Delivery & Transformation at NHS Shropshire and Telford & Wrekin, and the Integrated Care Board's Primary Care Lead for Estates.

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1. Context

New housing developments can increase demand on different services in local communities. Members of the Economy and Environment Overview and Scrutiny Committee specifically mentioned the social impacts of developments when they were scoping this topic, such as demand on GP Practices and schools.

Contributions from developers towards the costs of introducing or expanding services are a key part of ensuring that communities can be and do remain sustainable. Section 106 (S106) contributions are specific to the development that they relate to. Community Infrastructure Levy (CIL) relates to the cumulative impact of developments.

Overview and Scrutiny members recognise the importance of system partners setting out the forecast demand arising from new housing development on the different services that they provide, during the planning stages of developments. They are aware of examples of demand being placed on already heavily utilised services, where the arising need of additional developments might have been better identified to inform the required value and focus of developer contributions.

2. Scope of the work

The Developer Contribution Task and Finish Group focused on the social aspects and impacts of new housing developments that need to be covered by S106 and CIL to ensure that they can be mitigated or addressed. This work therefore looked at health and education, and the delivery of any additional capacity required.

3. Objectives

- To consider and understand the upcoming changes to developer contributions and how these should be confirmed and communicated.
- To consider how the council identifies expected future requirements and how it uses these insights with partners to plan to meet these situations.
- To understand how the social impacts of significant housing developments are being identified by stakeholders and whether this is being done consistently and robustly enough to inform the contribution requirements and allocations that are needed to meet future need as a result of the development.
- To review and evaluate learning from more recent developments e.g. Shrewsbury South and West Urban Extensions.
- To identify options and opportunities to raise the focus on and visibility of developer contributions by the Council e.g.
 - Greater working between Planning Policy and Development Management in setting the plans and guidance following the sign-off of the Local Plan
 - Publication of contributions e.g. on the Website, and encourage greater awareness, monitoring, and enforcement.
 - Identify opportunities for measures that can be used to demonstrate the collection and use of developer contributions (S106 and CIL as separate pots) e.g. total value, allocation and expenditure of those contributions, and the timescales for work to be carried out.
- Identify links to HOSC and their work by looking at the Primary Care Estates Strategy and the identification of changes to demand and need by GP Practices as a result of the development of new homes.

4. What the Task and Finish group have done?

The Developer Contributions Task and Finish Group met four times to explore and research this topic in detail. The group identified key areas of focus for each meeting to better understand how Community Infrastructure Levy (CIL) and Section 106 (S106) money was allocated and spent, these were Health, Education and One Public Estate, and relevant expert witnesses were invited to attend these sessions as detailed in the acknowledgements on page 2 of this report.

The Task and Finish Group were interested to understand how the need for, and value of, developer contributions are identified. They sought insight into how various stakeholders determine projected demand and need, and how this data and the estimated figures are employed in establishing developer contributions, as well as any negotiation that takes place to confirm the levels.

5. Key Findings

As with all Task and Finish groups meetings were made available to all Members to join and hear the discussions taking place. This was particularly popular when the group met with the Integrated Care Board (ICB). The level of interest and valuable input at this meeting from a wide range of Council Members was very much welcomed. In turn those Members fed back their appreciation at having the opportunity to engage in the work of the Task and Finish Group first hand.

At the first meeting of the Task and Finish Group, Members were interested to hear that the Community Infrastructure Levy (CIL) is a defined amount of money, set through a Charging Schedule, paid to the Council on new open market developments in the area, and understood how this can be an important mechanism for local authorities to help them deliver the infrastructure needed to support local development. Members understood that CIL funding applies to the cumulative impact of groups of developments whilst Section 106 (S106) agreements cover site specific issues that have a more direct impact. This is capital spend and not revenue and must be used to fund the impact of development only, and not wider issues.

Members agreed that greater clarity around the roles of CIL and of S106 and where they could be applied would help aid public and partner awareness and expectations. All felt that a 'rebrand' of CIL would be helpful to address any gaps in understanding around its remit. It was also felt that the phrase 'CIL Local' might be seen as misleading, in this case it applies to spend within Place Plan areas, whereas residents may be more likely to think of 'local' as applicable to their street or immediate vicinity.

Members learned that since 2012 when the CIL was introduced in Shropshire, around £68M of CIL funding have been collected. Members were reminded that from this 15% has been allocated and sent to Parish and Town Councils where the development occurred as the Neighbourhood Fund. The Neighbourhood Fund is the responsibility of Parish and Town Councils to spend.

Of the CIL which remains with Shropshire Council to use on infrastructure (the CIL Local and CIL Strategic) from a total of around £54m around £24.6m has either been spend or committed to infrastructure. Therefore around £30m of CIL Local and CIL Strategic has yet to be allocated to specific infrastructure.

The Annual Infrastructure Funding Statement report, agreed by Cabinet in December 2023 set out proposals for the unallocated CIL funds, and future CIL funding could be used. This report was circulated to the Task and Finish Group together with a list of what money has been spent previously or has already been allocated.

Members were therefore made aware that the Council has identified a number of areas where available CIL funds can be used where development is likely to have an impact, including new health related infrastructure, new and expanded school place provision and transport and highway improvements, including the North-West Relief Road. Members were also advised the Annual Infrastructure Funding Statement and the recently updated Place Plans are key evidence in determining where available and future CIL funding would be directed.

The Task and Finish group were keen to understand why Shropshire, as an early adopter of CIL, chose to apply it to housing developments but not commercial developments, and asked if this could be a future consideration and be included in any future review of developer contributions by the Council. Officers advised this was principally due to concerns over the viability of development, and reassured Members that S106 contributions could be used on commercial developments if needed to ensure appropriate infrastructure mitigation.

Members learned how the timeframe of the emerging Local Plan and engagement with infrastructure delivery partners such as the Integrated Care Board (ICB), are already considering what Shropshire might look like in the future. As well as recognising the links between this emerging picture and the impact of local transport networks and increased developments upon climate change and the environment. The Planning Policy & Strategy Manager explained that the Council are now starting to look beyond the 2038 Plan period as part of the 'Shropshire 2050' work which has started with looking at future projections, extrapolating how future population increases are likely to impact on several social infrastructure needs such as schools, doctor's surgeries, and highways infrastructure.

Members were informed of the work of the Strategic Infrastructure Network who are looking at where intervention is necessary to meet future need, based along a number of themes, including transport, social infrastructure (health and education) environment, and highways. This group is made up of partner organisations including the ICB and National Highways, all of whom are very engaged, and discussions are taking place around where development is likely to have short, medium and long term impacts, and thus influencing decisions on where developer contributions should be focussed to ensure the best outcome and most benefit.

This proactive approach allows the Council a chance to present a combined 'partnership' approach to long-term infrastructure funding, including supporting the effective use of wider capital funding opportunities as well as focussing developer contributions, including CIL, most appropriately.

Integrated Care Board (ICB) – Health Focus

The Task and Finish Group invited the Director of Delivery & Transformation at NHS Shropshire, Telford & Wrekin, and the Integrated Care Board's Primary Care Lead for Estates with a view to exploring the impact of new housing developments on local NHS services such as GP surgeries and health in general. The discussion also covered the opportunities that developer contributions could have and identified potential barriers to utilising funding opportunities.

Members were interested to hear that there was a productive relationship between the ICB and Shropshire Council, and they learned that the progress of identifying need and demand arising from new housing developments and the opportunities afforded by CIL and Section 106 funding had improved over the last 18 months to two years. Historically, capital funding in the NHS has been sourced in different ways, through the Estates and Technology Transformation Fund (ETTF), University Deanery funding, and NHS England capital. However, all sources of historical funding

have come to an end and the only sources of capital funding now available for development of GP surgeries is via CIL or S106 contributions.

Members learned that further to the national spending review, which is underway across the NHS, and the current cost of living crisis (which has impacted on developers in terms of increases to the cost of materials), some primary care estates schemes have been put on hold, and this was the case for the previously proposed Shrewsbury Health and Well-being Hub. Therefore, there are no other current routes to access capital for primary care service developments other than through S106 and CIL funding. In light of this, self-investment is key but not an easy model for GP surgery settings, which are often run as a private business. As a result of this, Section 106 and CIL funding are increasingly being recognised as key opportunities for capital investment in primary care for the NHS.

Members were keen to discover what the effects of new housing developments are on local healthcare provision, considering the biggest impacts of increasing population numbers and more people directly accessing emergency care rather than primary care. It is expected that between 2016 and 2038 around 31,300 additional dwellings will be developed within Shropshire in accordance with the emerging Local Plan (between 2016-2023 11,760 dwellings have been delivered, with around 21,720 dwellings remaining to be delivered).

Members were informed that the ICB is sighted upon all expected housing developments up to 2038, as identified within the Local Plan, and when a S106 application is put in the ICB is consulted. In cases where these comprise of more than 50 houses a S106 request is made.

Over the last 2 years, around £2.5 million of S106 applications have been submitted by the ICB. This amount is held with developers to be drawn down only with regards to the specific impact of those particular developments identified in the applications and within a time limited, typically 5 year, window. CIL funding has also been applied for in some cases where there has been a cumulative impact of a number of developments. Shropshire Council gives high priority to primary health care facilities for CIL, and requests for CIL funding to support additional or expanded health provision have been approved by Shropshire for around £1.13m in total.

Members gained information on how the ICB calculate the impact and need based upon the numbers of houses being developed, the expected additional population, deprivation, levels of need within the area, and demographics of residents e.g. older people, or younger families. This utilisation calculation informs the numbers of GP rooms required, type of requirement, and amount of additional space needed within a GP practice.

Members asked whether a GP catchment area review was likely and learned that GPs negotiate their own area when they take on their contract. However, if they choose to change their boundary, they have to put a case for approval to the ICB. GPs are also able to take on patients outside of their catchment area if they wish to do so. It was recognised that GP boundaries do overlap county borders, and therefore a Shropshire based GP might include some patients living in Wales, Herefordshire, Worcestershire, Staffordshire, or Cheshire, and vice versa. Another

factor is that some people might move within county but prefer to stay with their previous GP practice rather than relocate to one that is more local to their new home. The ICB confirmed that it is working with neighbouring counties as well as cross border with the two Welsh Health Boards to identify any significant housing developments that may have an impact on Shropshire-based GP practices.

The Task and Finish Group also considered rural proofing and the cumulative effects of several villages having smaller numbers of developments of perhaps less than 50 houses, but each with potential to have a greater impact when combined. Members heard how work is undertaken to provide services to these areas in a different way, perhaps through working with the Community Trusts, or use of digital technology. Members added that using the rurality toolkit would be valuable moving forwards.

Keyworker housing was another consideration of the Task and Finish Group discussion. Members were keen to see that it was both affordable and located within proximity to need and drew the links to the report of the Economy and Environment Overview and Scrutiny Committee on Social Housing and the Housing Strategy. Whilst housing for key workers is not picked up under CIL/S106 it is a valid consideration in terms of the impact of housing developments, in conjunction with the NHS recruitment and retention programme. Attracting new staff could relieve pressure upon GP practices. There are over 50 GP practices across Shropshire and Telford & Wrekin combined, each dealing with an increasing number of patients with differing needs. The utilisation study helps identify best use of space and need within these surgeries. Members learned that, as a rule, the ratio of patients per GP room is approximately 1:1100, and whilst the move towards patients seeking advice from pharmacists instead of GP's may help lessen demand, the impact of this is not yet known.

Members asked how the ICB prioritise where to spend the money to achieve best value and heard about the use of project matrix scores which are set against various criteria in order to create a priority list, which can be flexible if additional intelligence comes to light.

Members understood that the ICB has worked for the last few years with the Council's lead on the One Public Estate work programme to support the use of Council buildings for ICB office space. As well as working with the Council's Assistant Director for Commercial Services around co-location of practices, agreed at Paul's Moss in Whitchurch and completed at the Riverside in Shrewsbury.

It was acknowledged that strong partnership working between the Council, the ICB and other partners through the Strategic Infrastructure Network meetings are key to future success. There is a keen mutual awareness of the need for exchange of information between partner organisations, and the Strategic Infrastructure Network can identify need at the most appropriate point and feed this into the process.

Members heard how there was a risk of Section 106 and CIL funding getting absorbed in the wider healthcare acutes and not being specifically allocated to GP practices. The Task and Finish Group agreed that it was essential that this money go to the places where it is needed most, it was identified that descriptions in funding reports are often generalised and could in future be more specific to aid this clarity of purpose. All agreed that this would be a very important outcome moving forwards.

Education Focus

Members heard from the Council's Education Place Planning and Sufficiency Manager about how the two main issues relating to education place planning are a lack of school spaces and consideration of active travel, through building this into CIL bids at their outset this issue might be alleviated. Currently secondary schools in Shrewsbury run at 99% plus capacity, which is above the Department for Education advice of 93% - 96%. Resulting from this Members discussed the matter of catchment areas within Shrewsbury town centre, as well as issues arising from schools on the proximity of the County border whose intake may be cross County but will be funded by Shropshire Council, and heard how admissions in these cases are given priority to those students within the County the school is located in.

Members recognised that although specific development land could be allocated and set aside for education need, CIL would not be payable until houses are built, and therefore there is a balance to be struck between addressing immediate school capacity required from the development of new housing and creating more school places to meet the forecasted need. In the interim existing schools could be expanded but this may create issues later on where they have unused capacity as their pupil numbers reduce once the new school is fully open.

The Education Place Planning and Sufficiency Manager explained that Shropshire Council currently requests developer contributions for primary and secondary school places but not for Early Years, Post-16 and SEND, active travel, school transport (schools age, SEND or Post-16), however these are all specified by neighbouring local authorities such as Cheshire West and Chester, Cheshire East, and Staffordshire. They confirmed that a new policy is being written which will seek to address this and also consider the amount of CIL that the Council could ask of developers to bring it more in line with that of other local authorities.

The Task and Finish Group agreed that a piece of work is required to review the relationship between CIL and Section 106, including consideration of when money is needed to be made available by developers. They also confirmed that the two key issues for consideration are the amount we charge developers, and how we prioritise need.

One Public Estate

Members heard about the work of the One Public Estate network of partners, including all local health trusts; the health trusts form part of the Integrated Care Board (ICB); each Trust has an estate's strategy, which is being drawn together to create an overarching strategic estates approach. This enables the ICB partners to apply for gap funding from developer contributions.

Members were updated about the Strategic Infrastructure Network which encompasses various sub-groups. Amongst these, the Social Infrastructure group offers the health sector direct access to strategic infrastructure planning information, including future housing development. The sub-groups of the Strategic Infrastructure Network encourage partners to bring their evidence-based estate plans forward to

enable a holistic plan of future housing delivery supported by the prioritisation of key service infrastructure i.e. health, education, and transport facilities.

Members heard about some of the work with partners completed and taking place at Riverside Medical Practice at Tannery Shrewsbury and Pauls Moss in Whitchurch, both of which are joint health and housing infrastructure projects with a commercial approach. In Whitchurch the Council is acting as investor in the health centre, which enables the GP services to be delivered with a rental paid to the Council, who act as landlord. This new practice is on schedule to open late Summer 2024.

In light of the witness evidence and discussions held Members agreed that there needed to be a mechanism in place that offered greater clarity for more critical project identification for CIL funding, which is generally prioritised between education, health, highways and leisure. A review of the phasing policy as to how and when payments are received would also be important.

It was felt that greater visibility of developer contributions would lead to more monitoring and enforcement and to more informed stakeholders who make developer contribution requirements that are more in line with future needs and demand. At the same time as having a clear view of the timescales, expectations, impact and benefits of decisions through to the completion of work being funded by developer contributions.

Members recognised that funds derived from developer contributions (CIL and S106) need to achieve best results for the Council, its stakeholders, and the people of Shropshire. It was acknowledged that there were several areas for examination that could achieve a very positive impact. Whilst the Local Plan review is taking place officer time would be stretched but after this has been completed, officers would be likely to have better opportunity to undertake a full review of the CIL, taking into account any changes to national regulations and guidance, encompassing the recommendations that have come to light as a result of this work.

6. Conclusions and Recommendations

The Task and Finish Group for Developer Contributions worked with a clear focus to better understand the relationship between the Council and its stakeholders in relation to the Community Infrastructure Levy (CIL) and Section 106 (S106). They learned over the course of the investigation how strong partnership working is already taking place through the work of the Strategic Infrastructure Network.

All Members agreed that given Shropshire was an early adopter of CIL in 2012, that a comprehensive review of CIL would be necessary moving forwards but recognised that this is something that would not be viable until after the Local Plan is completed due to current demands upon officer time. This review would also need to take account of any changes to CIL regulations which the Government has consulted on but not yet implemented.

As a result of the work undertaken and discussions with expert witnesses the Task and Finish Group has identified a number of recommendations as detailed below.

Reviewing developer contributions required by the Council:

Recommendation 1: In recognition that the current CIL Charging Schedule was adopted in 2012, the Council should undertake a comprehensive review of the CIL following the adoption of the Local Plan in 2025.

This review should address both the charging schedule (what kinds of development are subject to CIL, and how much will be charged) and further clarify the types of infrastructure where CIL funds are best utilised within the locality in which they were derived, to ensure the highest priority infrastructure is funded.

Recommendation 2: That the review of developer contributions should include looking at the relationship between CIL and Section 106 to help identify the best approach to address the needs and challenges arising from a development.

This should include a review of the phasing arrangements to shape how and when money is needed to be made available by developers to implement different interventions e.g. developing classroom capacity or a new school to meet forecasted increases in pupil numbers.

Raising understanding and awareness:

Recommendation 3: That the difference between CIL and S106, including their application, should be more clearly defined, and communicated to increase awareness and understanding, and help to manage expectations whilst improving public understanding.

That opportunities are identified through closer working between Planning Policy and Development Management as we progress towards the adoption of the Local Plan to raise the focus on and visibility of developer contributions.

Increased coverage on the Shropshire Council website should include publication of contributions, promotion of the work that has been undertaken as a result of the use of CIL and raise awareness of any work that is underway, including the planned benefits that have been realised or are expected, highlighting the value of developer contributions.

Specifying the use of allocated funding:

Recommendation 4: That the allocation of CIL or S106 funding for local health provision should clearly specify that funds should be focussed on primary care provision as this has the most direct impact from new development.

Maximising the impact and benefit of the Strategic Infrastructure Network:

Recommendation 5: That there should be greater awareness of the role and purpose of the Strategic Infrastructure Network and the constituent groups by Council officers and Members, as well as externally with partners.

Ensuring developer contributions match development related need:

Recommendation 6: That Members are encouraged to give positive consideration to proposed new guidance which will be taken to Cabinet in 2024 regarding using developer contributions for school-based infrastructure (including new school places). This will contain detail around what Shropshire Council requests in terms of developer contributions for primary and secondary school places to include SEND, active travel, and school transport.

Rurality:

Recommendation 7: That the Rurality Toolkit should be used to guide the design, planning, and delivery of services in rural areas to explore various alternatives such as collaborating with Community Trusts using digital technology, or making use of and sharing physical assets, and identifying opportunities to leverage developer contributions to facilitate this process.