

Part 1 – Introduction and broad framework

This section explains the background to the SPG and its scope, status and purpose.

Aim and purpose of the guidance

Sustainable Development and Structure Plan

1.1 The “East Sussex and Brighton & Hove Structure Plan 1991-2011” was adopted by East Sussex County Council and Brighton & Hove City Council in December 1999. The Plan establishes the strategic planning and transport policy framework to guide the future development of land in the area¹. Its overall aim is:

“to seek a more environmentally sustainable future and to meet the needs for development and change that is more sustainable in the longer term”.

1.2 A fundamental aspect of good planning and the Structure Plan’s overall strategy for promoting sustainable development is that any necessary infrastructure and services should be in place at the right time to serve the development that requires them. Also central to the strategy is the requirement for development to minimise its impact on the environment and to compensate for the loss of environmental resources (where such loss is acceptable and unavoidable to meet other requirements of the plan).

1.3 In order to meet these requirements, it may therefore be necessary for developers to make suitable provision for:

- the infrastructure, facilities and services necessary to support new development
- any other measures that may be required to mitigate and offset any losses or damage to an existing community or environmental resource (where this is accepted as a satisfactory remedy for an unavoidable loss).

Aims

1.4 This guidance has been prepared to amplify such potential requirements for development contributions in so far as they relate to specific elements of infrastructure, services, facilities and environmental resources for which the County Council is responsible. It aims to provide a fair, consistent and transparent basis for negotiating contributions from the development industry by:

- setting out the broad requirements for development contributions to provide for the extra demands falling on infrastructure, facilities and services that are provided, procured or managed by the County Council
- explaining the general requirement for new development to offset any loss or damage it would cause to an environmental or community resource that is managed, operated or owned by the County Council
- alerting landowners, the development industry and the general public to these requirements, thereby enabling them to be factored into relevant land transactions and the formulation of development proposals at an early stage.

The guidance also aims to:

- assist the East Sussex District Councils in the subsequent preparation of their own SPG
- inform the preparation of local plans, development briefs and other relevant strategies by the district planning authorities and other agencies so that these also identify the infrastructure/service demands arising from new development and proposals for meeting such requirements.

¹ The Structure Plan provides for a net increase of 36,000 dwellings in the county administrative area between 1991 and 2011. This translates to an annualised figure of 1,800 dwellings per year. With more deaths than births, the county is dependent on net in-migration to maintain and increase its population. Population growth in East Sussex is projected to be around 5.7% in the decade to 2011.

Status of the guidance

Preparation

1.5 This Interim SPG was adopted by East Sussex County Council's Cabinet Committee on 29 July 2003, following formal consultation with a wide range and number of stakeholders, including the East Sussex District, Town and Parish Councils, the development industry, county-wide groups, infrastructure providers and public agencies (see section on public consultation and separately published documents).

Relationship to Structure Plan and other Plans

1.6 The document will serve as formal guidance that is supplementary to the "East Sussex and Brighton & Hove Structure Plan 1991-2011" and, in particular, Policies S2 and S3 (concerning the provision of infrastructure to service new development) and Policy S1 (concerning impacts on environmental resources). The guidance also complements the Minerals Local Plan adopted in 1999 and the emerging Waste Local Plan.

Interim status

1.7 The SPG is interim guidance in recognition of its important implications for planning in East Sussex and evolving arrangements for development contributions and the planning system being developed in the Planning and Compulsory Purchase Bill and allied Government planning reforms.

Application of guidance

1.8 This guidance only applies to relevant development which impacts on those services, facilities and resources in East Sussex County Council's administrative area set out in this SPG. It will inform all relevant decisions by the County Council and is commended to the East Sussex District Councils to adopt and to fully

apply those relevant parts. It also updates and replaces similar SPG published by the Council in November 1994 – "Supporting Infrastructure - Infrastructure Requirements for County Council Services to New Development in East Sussex". The intention is that the guidance be supported by the preparation of a protocol between the County and the East Sussex District Councils on the detailed administrative arrangements for its implementation. The need will also be considered for a protocol to codify procedures for dealing with proposals in neighbouring authorities' which adversely affect the services, facilities and resources covered by this SPG.

Material consideration

1.9 As formal guidance on the Structure Plan and which has been subject to public consultation, the guidance will be a material consideration in relevant planning decisions, in accordance with national policy guidance on the status of SPG². Development contributions will be sought on the basis of the SPG and failure to fully meet its detailed requirements may, therefore, justify the refusal of planning permission. However, this SPG does not detract from or override any other requirements of the development plan³ or other relevant supplementary, regional and national planning guidance or the requirements of the Highway Authority.

Updating and review

1.10 This interim guidance will be revised regularly to incorporate up-to-date information on the costs of providing infrastructure and services and on current levels of capacity. It will also be necessary to review and, as appropriate, revise and update the document, to reflect the government's planning reforms, any new national guidance, the experience and impact of implementing the guidance locally and important legal decisions. The most up-to-date version of the SPG will also be published on the County Council's web site (see Appendix 1).

² See PPG12: Development Plans, paragraph 3.16 and PPG1: General Policy and Principles, paragraph 42.

³ The overall development plan in East Sussex is the Structure Plan together with any adopted local plans covering the same area.

Scope of the guidance

County Council services, infrastructure, facilities and resources

1.11 The guidance covers a range of services, infrastructure, facilities and resources which are provided, procured or managed wholly or in part by East Sussex County Council regarding:

- Transport
- Education
- Libraries
- Social Services
- Waste Management and Recycling
- Environment, Countryside Management and Rights of Way
- Economic Development
- Archaeology

It should be noted that the range and number of such County Council stakeholder interests varies across the districts.

1.12 Details of the approach used to determine potential development contributions in relation to each of these service areas are set out in Part 3. The general requirement for new development to offset any potential loss or damage to any County Council owned or managed environmental or community resource is also reiterated.

Other organisations' infrastructure requirements

1.13 It is important to emphasise that this guidance focuses solely on infrastructure requirements etc. relating to the County Council's major service responsibilities, though, in some cases, the responsibilities outlined may be shared between the County Council and other agencies. Notably, these include the East Sussex District Councils (e.g. economic development, environmental protection/country parks etc). Developers should therefore approach other agencies (such as the District Councils, utility companies and the fire service) that may have their own infrastructure requirements for new development. To assist with this, an indication of the range of other agencies' potential requirements for infrastructure/service provision to support new development is provided in a comprehensive

index (Appendix 1), together with associated contact details. This includes reference to the East Sussex District Councils' likely requirements in respect of affordable housing and open space/recreation provision.

The legal and planning policy framework

National policy

1.14 Sections 106 and 72 of the Town and Country Planning Act 1990 provide for those measures required to satisfactorily service the development and to offset any harmful impacts to be secured by a 'planning obligation' (a binding legal agreement) or by 'conditions' attached to a planning permission. Section 278 of the Highways Act 1980 also provides for necessary transport measures to be secured by a legal agreement.

1.15 The Government's principal policy statements on the use of planning obligations and conditions are set out in Circular 1/97 on "Planning Obligations" and Circular 11/95 on "The Use of Conditions in Planning Permission". This guidance indicates that such measures should be used where they are necessary to overcome an obstacle to an otherwise acceptable development proceeding. However, to be acceptable, the Circulars establish certain tests that planning obligations and conditions must meet. These are summarised in Table 1.

Table 1: summary of Government tests for use of planning obligations and conditions

Circular 1/97 (paragraph 7) Planning obligations should be:

- necessary
- relevant to planning
- directly related to the proposed development
- fairly and reasonably related in scale and kind
- reasonable in all other aspects.

Circular 11/95 (paragraph 14) Planning conditions should be:

- necessary
- relevant to planning
- relevant to the development permitted
- enforceable
- precise
- reasonable in all other respects.

Table 2: Structure Plan requirements in relation to provision of supporting infrastructure and services and to offset the harmful impacts of development – general requirements

Policy S1 (extract)	In order to meet the needs for development and change in the plan area in a way that is more environmentally sustainable in the longer term, all planning activities and development decisions should take account of the following criteria. Where appropriate, local planning authorities may require proposals for development to demonstrate how far they contribute to the achievement of these criteria. The criteria are:-(b) minimising impact on the environment, including residential areas, and compensating for the loss of environmental resources where their loss is acceptable and unavoidable in order to achieve other policies in the plan.
Policy S2	Infrastructure providers are expected to plan their investment programmes to meet the provisions set out in this plan. In allocating land for development, local plans and development briefs should identify the necessary additional infrastructure and facilities required as a consequence of the development and the means of providing them.
Policy S3	In all cases development will not be permitted before the relevant planning authorities are satisfied that the infrastructure and facilities required to service the development are available or will be provided. This policy may involve the direct provision of capital works by developers, or commuted payments by landowners or developers towards the cost, in whole or part, of works to be provided by others.
Policy S1	Sets out the general requirements for achieving sustainable development.
Policy S4(k)	Requires the scale and timing of development to be well related to the provision of necessary infrastructure and services.
Policy E9	Establishes ability to seek compensation for the loss of greenfield sites to new development by requiring contributions in support of the re-use etc. of existing urban land to meet local needs.

Table 3: summary of more detailed policy requirements

(See Appendix 2 for actual policies)

Policy E13	Seeks to ensure balanced provision of new housing with local employment.
Policies TR1(i) & TR3	Require all developments to provide for the access demands they generate and for major development proposals to be supported by an appropriate transport impact assessment.
Policy TR17	Allows commuted payments towards appropriate access improvements to be sought where access requirements are not met by on-site parking.
Policies S1(b), EN2(f), EN5, EN17, & EN20	Protect natural resources from damage by development and require satisfactory compensatory provision to be made for any necessary loss of environmental resource/important habitat where development is otherwise acceptable.
Policies EN10 & LT15-LT17	Promote the management and enhancement of the countryside, improved access to it and the maintenance and enhancement of the rights of way network.
Policies EN22-EN25	Provide for the protection, recording and enhancement of archaeological resources.
Policies W9 & MIN3	Require waste and minerals proposals to be sustainable.

1.16 Further guidance on the use of planning obligations and conditions to secure necessary facilities or to offset harm is contained in a number of government Planning Policy Guidance Notes and parliamentary reports⁴. Such official guidance has been closely followed in preparing this SPG.

⁴ These include, in particular: “PPG1: General Policy and Principles”; “PPG6: Town Centres and Retail Development”; “PPG7: The Countryside – Environmental Quality and Economic and Social Development”; “PPG12: Development Plans” and “PPG13: Transport”. The Parliamentary Committee on Standards in Public Life (1997), chaired by Lord Nolan and other government policy statements, including Modernising Planning (1998), have also emphasised the importance of transparency in the process of securing planning obligations.

Structure Plan policy

1.17 The “East Sussex and Brighton & Hove Structure Plan 1991-2011” provides the strategic planning policy framework for the county. In particular, it provides the guiding framework for the preparation of more detailed district-wide local plans and for county-wide minerals and waste local plans. The overall development plan for any area is made up of the structure plan together with relevant local plan(s), and an important purpose of these development plans is to co-ordinate new development with the provision of infrastructure and services etc.

1.18 The adopted Structure Plan’s general requirements for development to be supported by necessary infrastructure and services and for development to offset any harmful environment impacts are set out in Policies S1(b), S2 and S3, supplemented by a number of other more specific policies. These main, general policies are reproduced opposite in Table 2, whilst Table 3 provides a brief summary of the more detailed requirements established in other complementary policies (full versions of which are reproduced in Appendix 2).

Public consultation

1.19 A Statement of Public Consultation, as required by national guidance “PPG12: Development Plans” is published separately and is posted on the County Council’s web site. This:

- details the relevant County Council resolutions and key actions
- describes the consultation exercise undertaken
- summarises the overall response
- schedules the detailed replies received and the County Council’s considered response to these representations.

Consultation exercise

1.20 Preparation of the draft SPG was informed by the views of a dedicated joint County and East Sussex District Council officer working group and established county and district liaison groups.

1.21 The formal consultation on the draft SPG began on or around 16th August 2002 and lasted till the end of October 2002, though late responses received in November were accepted. This exercise involved:

- the distribution of copies of the document together with a covering letter and detailed questionnaire to 193 external organisations, including the development industry, East Sussex district and neighbouring councils, housing associations, social infrastructure providers, transport and environmental organisations, the business community and its representatives, Government Office for the South East (GOSE) and Government agencies, MPs and MEPs, parish and town council representative groups and the voluntary sector
- notifying the 103 Town and Parish Councils in the county by letter of the availability of the document and questionnaire and the offer of despatch on request
- distributing sufficient quantities of the document and questionnaires to the (16) principal libraries in the county, East Sussex District Council planning department offices and County Hall for public display and reference
- posting the document and questionnaire on the County Council web site with the facility for making comments by e-mail
- the issue of a press release on the SPG and the above consultation exercise.

Discussion with the East Sussex District Councils on the administrative arrangements for the implementation of the SPG remains ongoing.

Consultation replies and County Council response

1.22 Responses to the overall consultation were received from 36 external organisations. In general, there was support for the aims and approach of the SPG. Criticisms were centred around the administrative difficulties the SPG might place on the system of development control and its potential impact on the viability of development. Greater clarity over the identification and calculation of contributions was also sought.

1.23 The SPG has been revised (or it is proposed for revision in subsequent revisions) to address these and a number of relevant points, where appropriate. Principally, these changes involve raising the development thresholds that trigger the SPG, preparing a complementary protocol with the districts on the administration of the SPG and clarifying the process of identifying stresses and calculating contributions, wherever practical. A section on archaeology has also been introduced to reflect County Council responsibilities in this area. To allow the SPG to evolve and to facilitate its implementation, it is introduced as interim guidance.