

Appendix 2 – National and strategic planning policy context

This appendix outlines the legislative and national policy context for securing development contributions. It also, reproduces, in full, those policies in the adopted “East Sussex and Brighton & Hove Structure Plan 1991 – 2011” that this guidance is supplementary to.

National policy framework

Town and Country Planning Act 1990

A ‘planning obligation’ is a local land charge, provision for the use of which is set out in S.106 of the Town and Country Planning Act 1990.

This allows for development contributions in support of a planning application to be secured by a planning obligation. This may be offered unilaterally by anyone with an interest in the land or be secured by a planning agreement between those with an interest in the land and the local planning authority (which is the relevant District Council or the County Council or both).

Planning obligations run with the land and bind successors in title. Any party to the agreement may enforce it against both the original covenantors and anyone acquiring an interest from them. This may involve court action (use of injunctions) and/or entering the land to undertake any necessary measures and recovering the costs incurred.

A planning obligation may be modified at any time if all the parties agree. The developer can also request that the local planning authority modify or discharge an agreement but this cannot be done until at least five years from the date of its completion.

Circular 1/97: Planning Obligations

This circular outlines government policy on the use of planning obligations. It sets out and amplifies the five tests planning obligations must meet that are highlighted in Part 1.

The circular indicates that unilateral planning obligations are intended be used where agreement between the local planning authority and the applicant cannot be reached. They will be used principally, but not solely, at appeals.

It also stresses that the process of negotiating planning obligations should be conducted as fairly and reasonably as possible. All those with relevant interests in the land should be parties to the obligation.

Extracts of relevant policies from the East Sussex and Brighton & Hove Structure Plan 1991 – 2011

Policy S1 (part)

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
- m protecting and enhancing conservation areas, other areas of acknowledged townscape importance, listed buildings and other buildings of acknowledged importance and their settings.

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 land-owners or developers towards the cost, in whole or part, of works to be provided by others.

Policy S4 (part)

The broad pattern and timing of change and development in the plan area will be guided by the following:

- k ensuring development is well related, both in scale and timing, to existing, programmed or other new infrastructure and services which are identified as being necessary for the development to proceed.

Policy E9

Where appropriate and particularly in Brighton & Hove, the local authorities will seek from developers of new greenfield sites appropriate contributions towards achieving the re-use or redevelopment of unused or underused urban land for uses to benefit the local economy or to meet identified local housing or other needs. Local plans may specify the sites or kinds of sites to which this policy will apply and the kinds of contributions to be sought.

Policy E13

A close relationship between the location of housing and employment will be sought to provide sufficient local job opportunities and reduce the need for out-commuting. In particular, land will be provided and encouragement given to further employment growth in the smaller towns, and especially in association with additional residential development in the Low Weald towns during the 2006-2011 period.

Policy E18

Where new business development or regeneration is to take place, local plans will be expected to include policies to facilitate the provision of day care facilities for children, particularly those of pre-school age. The provision of such facilities, either in their own right, or in association with employment development will be encouraged and supported in principle.

Policy TR1 (part)

The priorities of the integrated transport and environment strategy are:

- i major development proposals to be supported by a travel impact assessment which explains how the development contributes to the objectives of both minimising the need to travel by private car and encouraging access by more environmentally friendly forms of transport, including public passenger transport, cycling and walking.

Policy TR3

Development proposals should provide for the demand for access that they create. This demand shall be met, wherever possible, by a balanced provision for access by public transport, cycling and walking, with car parking providing for any acceptable residual requirements. Major developments must be accompanied by a comprehensive travel impact assessment. Furthermore, as relevant, all developments will be expected to meet the following criteria:

- a appropriate provision must be made for cycling and pedestrians in terms of access and parking
- b appropriate provision must be made for public transport
- c road safety must not in any way be significantly worsened
- d appropriate highway infrastructure, traffic management and speed reduction measures should be incorporated within the development and where necessary in the surrounding areas
- e traffic congestion and parking problems of the surrounding area must not be significantly worsened
- f appropriate provision should be made for access for people with disabilities.

Policy TR17

Commuted payments will be required to ensure that those access demands generated by development that are not met by permitted on-site parking are satisfied in full. As appropriate, payments should cover the cost of those measures required to:

- a secure satisfactory access to the development by public transport, walking or by bicycle

- b manage demand for access by private motor vehicles
- c provide off-site parking elsewhere or regulate on-site parking, where acceptable
- d make satisfactory alternative arrangements for servicing, parking for the mobility impaired and/or cycle parking.

Policy EN2 (part)

Conserving and enhancing landscape quality and character will be the primary objective in the Sussex Downs and High Weald Areas of Outstanding Natural Beauty. This will be sought through measures including:

- f minimising the impact of any development within AONBs, or close to them and affecting their setting, by measures to carefully integrate the development into the AONB landscape and, where appropriate, providing compensating environmental resource for any necessary loss that is accepted.

Policy EN5

As exceptions to policies EN3 and EN4, if justified by proven national interest and a lack of alternative sites, major industrial or commercial development, minerals, waste or new transport development may be acceptable within AONBs. Any such development will only be allowed where it is demonstrated that the loss of environmental resource has been kept to a minimum and that it meets the criteria in EN2(f).

Policy EN17

The existing natural resource of species, habitats and geological features, including statutory sites of national and international importance and their settings, ancient woodland, and other sites of demonstrable geological, landscape or wildlife importance (including the active residence of specially protected species) will be protected from damage. Particular regard will be paid to the protection of river corridors and the special habitats of downland, wetland, open heathland, ancient woodland, meadows, salt marsh and shingle.

Policy EN20

Where major development, for which there is an established need, would result in significant loss of important habitat, measures to provide compensating and equivalent habitat will be required.

Policy EN22

Provision should be made for the identification, recording, safeguarding, investigation and preservation, preferably “in situ” or, where not feasible, by record, of all archaeological sites (including those of maritime interest) and monuments and historic and listed buildings

Policy EN23

Sites and features of demonstrable historical or archaeological importance and their settings, including ancient monuments, listed buildings, conservation areas, historic parks and gardens, battlefields and other historic features will be protected from inappropriate change and development.

Policy EN24

Development proposals affecting known archaeological sites or areas of potential archaeological interest should be accompanied by an assessment, based on a field evaluation, of their archaeological implications before decisions on applications for planning permission can be made.

Policy EN25

Programmes for the maintenance and enhancement of archaeological and historic features, whether sites, areas, buildings or building groups, historic parks or historic towns and their settings, will be developed and implemented.

Policy LT15

The provision of new recreational routes, which improve access to the coast and countryside for cyclists, walkers and horseriders will be encouraged and supported, particularly close to towns and villages.

¹ East Sussex Access to the Countryside and Rights of Way Strategy, ESCC, January 1995.

² Cycling Strategy, ESCC, June 1994.

Policy LT16

The maintenance and improvement of the network of rights of way, open access land and accessible water will be encouraged and supported, including the implementation of the County Council 's Rights of Way and Access to the Countryside Strategy.¹

Policy LT17

The use of public transport and journeys by bicycle and on foot to gain access to the countryside will be encouraged and supported, including implementation of the County Council's Cycling Strategy².

Policy W9

Waste management proposals will be judged against strategic planning considerations as follows:

- a recycling facilities, transfer stations, and plants for the treatment of waste should be located within or adjoining built-up areas of the plan area and on sites where industrial or semi-industrial forms of development would be generally acceptable
- b disposal of waste to land will be acceptable only where a need has been demonstrated and the restoration of mineral workings or derelict land, or the enhancement of the environment, can be achieved. Where an overriding need can be demonstrated, proposals may be acceptable at other sites provided that there is no unacceptable environmental impact
- c development within Areas of Outstanding Natural Beauty should comply with policies EN3-EN5
- d development must accord with the objectives of, and not damage, Sites of Special Scientific Interest, Scheduled Ancient Monuments, Ancient Woodland, National and Local Nature Reserves, Heritage Coast and other sites of demonstrable geological, archaeological, architectural, historical, landscape or wildlife importance

- e the best and most versatile agricultural land (grades 1, 2 and 3a) will be protected from inappropriate development; where development of agricultural land is permitted, restoration to a high standard for agriculture and as near as possible to the original grade will be required
- f development will not be permitted which is likely to have an unacceptable impact on watercourses, groundwaters and aquifers, or would raise floodlevels or have a detrimental effect on sea or river defences
- g development will not be permitted which is likely to have an unacceptable impact on settlements and other sensitive land-uses
- h development will not be permitted which has inadequate arrangements for access or will have an unacceptable traffic impact.

Policy MIN3

The councils recognise the importance of minerals in contributing to the national, regional and local economy. They will support, in principle, mineral working and processing in suitable locations where the following conditions can be met:

- a where appropriate, the need for the development is clearly established
- b evidence shows that workable reserves of commercial value exist
- c the proposals will not cause demonstrable and unacceptable harm to local amenity and to other interests of acknowledged importance
- d arrangements for restoration and aftercare, related to an acceptable afteruse, form part of the proposal
- e the proposals do not conflict with other Structure Plan policies.