



Rural-Urban Outlooks: Unlocking Synergies (ROBUST)
*ROBUST receives funding from the European Union's Horizon 2020
research and innovation programme under grant agreement No 727988.**



September 2018

Gloucestershire County Council

Carey Stevens, Simon Excell

carey.stevens@gloucestershire.gov.uk and simon.excell@gloucestershire.gov.uk

Rural-Urban Governance Arrangements and Planning Instruments

Section 106 Legal Agreements

Gloucestershire, UK

1. Overview

District councils in Gloucestershire deal with nearly all planning applications for development including new homes, offices, factories and shops. However, Gloucestershire County Council is responsible for much of the infrastructure and services needed to make the built environment function properly.

Section 106 (S106) Legal Agreements are agreements made between a planning authority (county and/or district council) and a developer/owner. These agreements contain obligations linked to a strategic development site which are required to mitigate the impact of the development. For example, if a development is likely to create more traffic, there may be obligations, either financial or non-financial, to carry out highways improvement works, or, to ensure that a proportion of houses within the development are available as 'affordable housing'. As Gloucestershire is a 'two-tier' authority these agreements can be between the strategic authority, Gloucestershire County Council (GCC) and the developer or, between GCC, the district authority and the developer.

Currently S106 contributions received in Gloucestershire are used to support highways, transportation, libraries and education infrastructure.

2. Main Challenges

There are two main challenges in Gloucestershire:

- > The delay between a Section 106 Legal agreement being drawn up, the development being commenced and the contributions being received from the developer. This process may take some time and is subject to planning permission and further consents such as reserved matters and approval of details, and potentially could be affected by the planning appeal process. For example, if planning permission is dismissed on appeal the development would not go ahead as intended and the contributions agreed would not be triggered.

- > The implementation of Community Infrastructure Levy (CIL) and the process to secure funding from this to support strategic infrastructure needs.

Currently within Gloucestershire a new mechanism for securing contributions called the Community Infrastructure Levy (CIL) is being introduced by district authorities. CIL will be imposed at a district council authority level and will particularly be applied to housing and retail developments, based on a variable charge per square metre, depending on viability.

The six districts within the County of Gloucestershire are listed and are at slightly different stages in the CIL process: Cheltenham Borough Council, Cotswold District Council, Forest of Dean District Council, Gloucester City Council, Stroud Borough Council and Tewkesbury Borough Council. (Please see the map at the end of the document.)

A proportion of the CIL will be available to the County Council for strategic infrastructure, but is collected and administered by the districts. It is assumed at this stage that the two processes for S106 agreements and CIL will operate in parallel.

3. Main Insights

3.1. Insights related to the broad area of “network governance”

The present S106 process is governed by legal agreements between the parties involved. This process operates successfully through initial close liaison (by an officer from GCC) with the developer involved, and, then close partnership working between the county council and where appropriate, the district council, which is signatory to the agreement. Gloucestershire has six district authorities with a mixture of rural and urban settlement patterns and this process operates across the county. Three of the district authorities - Cheltenham Borough, Gloucester City and Tewkesbury Borough - have developed a Joint Core Strategy (JCS)ⁱ which is designed to influence planning and development in the central and most populated part of the county.

3.2. Insights related to mechanisms of cross-sectoral coordination and cooperation

The CIL process as yet is relatively untested, whereas the S106 process is well established and operating effectively within the planning agenda. Gloucestershire County Council operates a database to record the Section 106 agreements, and monitors the progress of these agreements through the planning and development process, ensuring the relevant contributions are received in accordance with the terms of the agreement. This information is reported quarterly and is publically available on the County Council website.ⁱⁱ

3.3. Insights related to the role of (actual, potential) social, organizational, institutional innovations

It will be interesting to see how both processes operate in parallel during the next few years, and how the district council authorities spend the contributions accrued from CIL from developments within their boundaries to provide local infrastructure.

Gloucestershire County Council is not able to become a CIL Charging Authority, but is a statutory consultee. GCC may become a recipient of CIL funds as it is the responsible body for a large proportion of local infrastructure.

Both CIL and S106 agreements must follow the policy guidance laid down in the National Planning Policy Frameworkⁱⁱⁱ as well as with the local planning process including Local Infrastructure Delivery Plans. There will be a process in place to ensure that there is no 'double charging' on developers for infrastructure through both S106 and CIL.

4. Effectiveness Indicators

Section 106 Agreements provide a valuable source of financial contributions to support infrastructure across the county in both rural, peri-urban and urban areas, requiring close partnership working with district planning authorities, communities and developers. These contributions only become due to the County Council on implementation of the planning permission and respective trigger dates as detailed in individual agreements. For example in April 2018, there were four contributions payments valued over £100,000 received which totaled over £1.4million.

The CIL process has yet to commence fully across Gloucestershire. Stroud District Council has had an adopted process in place from April 2017, whilst four other districts including the three signed up to the Joint Core Strategy (Cheltenham Borough, Gloucester City and Tewkesbury Borough) are intending to adopt their charging schedules during 2018. The Forest of Dean District Council has yet to implement the CIL process.

5. Illustration and further information

Rural example – Cotswold District Council

Land off Broad Marston Road, Mickleton (Cotswold District) - 14/02365/OUT - £146,070.54 received April 2018 to be used towards Mickleton Primary School and Chipping Campden School (secondary)

Joint Core Strategy area – Tewkesbury Borough Council

Land at Farm Lane, Leckhampton (Tewkesbury District) - 14/00838/FUL - £844,501.53 received April 2018 to be used towards:

- > In the Shurdington Area to serve the Development for pre-school facilities, towards capital works to extend, remodel, upgrade and improve capacity and suitability of Shurdington C of E Primary School, or to construct a new primary school in the locality of the Development to allow for an additional 82.5 places to be provided
- > towards capital works to extend, remodel, upgrade and improve capacity and suitability of Bournside Secondary School, Balcarras Secondary School or Chosen Hill Secondary School to allow for an additional 49.5 places to be provided
- > towards a local library for capital works for extending opening hours increasing stock, computer resources, new furniture, etc.

6. References

Gloucestershire County Council has produced a local developer guide which explains the planning policy for the county and details how the Section 106 agreements and the new Community Infrastructure Levy process will work. It is regularly updated and publically available.

<https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-local-developer-guide-infrastructure-and-services-with-new-development/>

As mentioned above, Gloucestershire has a county council and six district councils. Domestic planning and local planning policy including the introduction of their individual CIL charging schedule is the responsibility of the district councils.

Cheltenham Borough Council

<https://www.cheltenham.gov.uk/planning>

Cotswold District Council

<https://www.cotswold.gov.uk/residents/planning-building/planning-policy/>

Forest of Dean District Council

<http://www.fdean.gov.uk/residents/planning-building/>

Gloucester City Council

<http://www.gloucester.gov.uk/resident/planning-and-building-control/planning-policy/Pages/default.aspx>

Stroud District Council

<https://www.stroud.gov.uk/planning>

Tewkesbury Borough Council

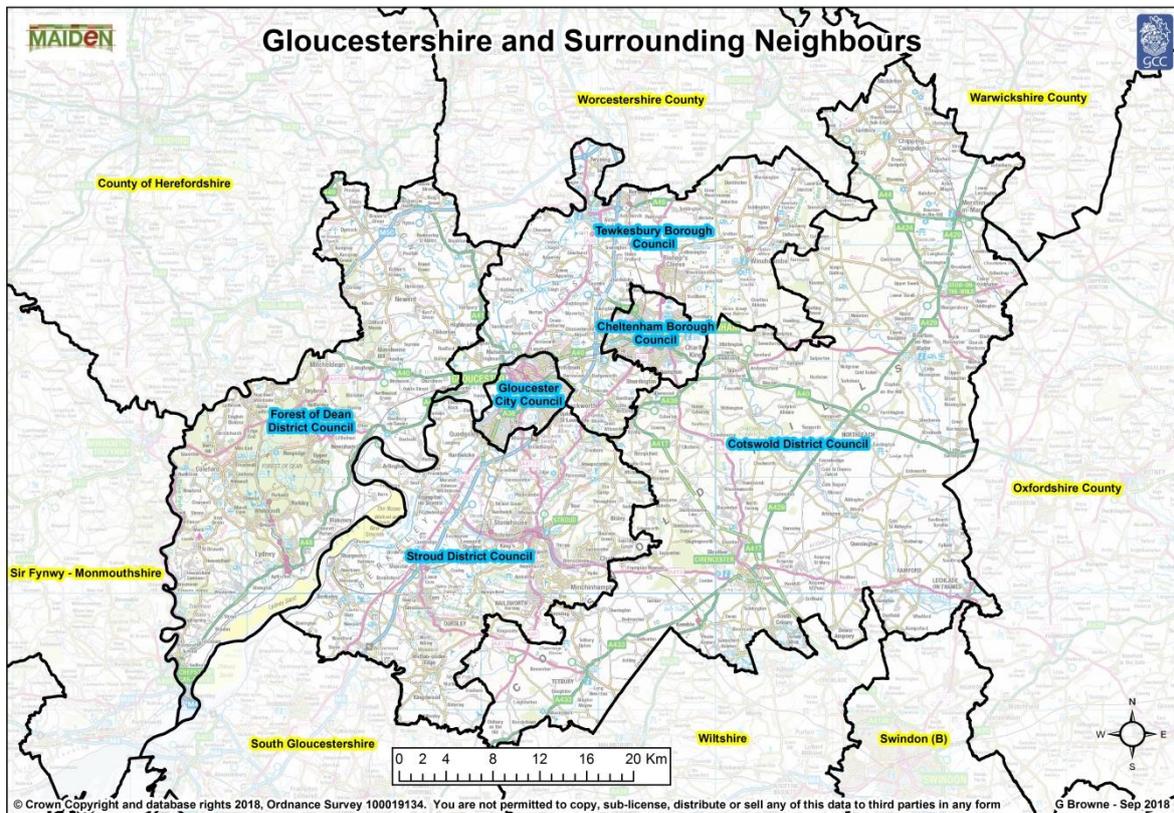
<https://www.tewkesbury.gov.uk/planning>

Joint Core Strategy – involves Cheltenham Borough Council, Gloucester City Council, Tewkesbury Borough Council

<http://www.gct-jcs.org/>

JCS CIL information

<https://jointcorestrategy.org/community-infrastructure-levy>



ⁱ Joint Core Strategy <https://jointcorestrategy.org/>

ⁱⁱ Section 106 Planning Quarterly contributions are available as an annex to the regular Commissioning Directors Report presented to the Environment and Communities Scrutiny Committee.
<http://glostext.gloucestershire.gov.uk/mgCommitteeDetails.aspx?ID=673>

ⁱⁱⁱ National Planning Policy Framework
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

**The content of this publication does not reflect the official opinion of the European Union. Responsibility for the information and views expressed therein lies entirely with the author(s).*