

PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT

Report By: Forward Planning Manager

1 Wards Affected

All

2 Purpose

- 2.1 To inform members of the comments received to the Draft Planning Obligations Supplementary Planning Document (SPD) published for consultation purposes in March 2007 and to consider appropriate changes. This document is included within the Council's Local Development Scheme and is being produced as part of Herefordshire's Local Development Framework. It will set out the Council's policy and approach to dealing with planning obligations and securing developer contributions.

3 Financial Implications

- 3.1 The costs of preparing this document is being met from the Planning Delivery Grant. Once adopted, the SPD will result in financial contributions being received by the Council, towards infrastructure costs and other community needs resulting from development. Appointment of a monitoring officer with a corporate role will help to ensure that planning obligation agreements are implemented effectively and that the resources generated are allocated in accordance with corporate priorities, thereby improving value for money. It is anticipated that the 2% monitoring fee will generate enough income to pay for this post.

4 Background

- 4.1 This Supplementary Planning Document is being produced to expand upon and provide additional information and guidance in support of policies and proposals in the Herefordshire Unitary Development Plan. In particular Plan policies S1 and DR5 of the UDP refer to Planning Obligations. It follows Government guidance on planning obligations provided in Circular 05/05.
- 4.2 The purpose of an SPD on Planning Obligations is to make clear to all interested parties the Council's policy stance on the subject. Once adopted, it will become a material consideration in the determination of planning applications where contributions are sought.
- 4.3 Initial consultation on the SPD took place during summer 2006 when views on developing a Code of Practice, the possible options to be followed, thresholds, topic areas for contributions and the scope of the SPD were sought. Comments received helped inform the draft document which was presented to Planning Committee (19th January 2007) and agreed for consultation by Cabinet (22nd February 2007) following previous debate at an all Members

workshop in November 2006. The draft SPD was accompanied by a Sustainability Appraisal and Consultation Statement. Consultation on the draft took place over a six week period 1st March to 12th April 2007 and was undertaken in accordance with the Council's Statement of Community Involvement.

5 Aims of the SPD

5.1 The aims of the SPD are to:

- Provide as much certainty as possible to landowners, prospective developers and other interested parties;
- Ensure a uniform application of policy;
- Ensure the process is fair and transparent;
- Enable developers to have a 'one stop shop' approach to establishing likely contributions expected; and
- Facilitate a speedier response from the authority to development proposals.

5.2 The SPD will therefore assist in pre-application discussions and will provide a transparent and accountable procedure by which planning obligations are negotiated and secured for development within the Council.

6 SPD Outline

6.1 The SPD has been drafted to address the following areas:

- Part 1: Introduction and purpose of SPD; Definitions, types and purpose of Planning Obligations; Policy Context.
- Part 2: A Code of Practice; Council Priorities; Topic areas and thresholds for when planning obligations will be sought.
- Part 3: Procedure for Negotiating, Preparing and Completing Planning Obligations; Standard Agreements; Monitoring and Review

7 Comments Received and Suggested Amendments

7.1 The comments received in relation to the specific questions raised in the consultation draft SPD are summarised in general terms in the table below, with an explanation as to how they have been addressed in the final SPD (Appendix 1). All written comments have been summarised, recorded and responded to in a full Consultation Statement. The Consultation Statement (copy available on request from the Committee Manager) will be published with the adopted SPD and accompanying Sustainability Appraisal.

Councils Consultation Question	General response	How addressed in SPD
1. Is our policy of publicising the types of contributions that will be sought and quantifying them as far as possible the right approach?	Support	No change
2. Does the SPD provide sufficiently clear guidance on what developer contributions we will seek?	Agreement. Some concern that summary table was confusing. "Scheme of Works" referred to needs explaining	Summary Table 2 revised. "Scheme of Works" explained further in Para 1.7.4. "Developer Guide" to be prepared once SPD adopted.
3. Are all the areas for which we are seeking developer contributions appropriate?	Appropriate, although concern expressed that contributions for education, waste and community services do not relate to policy DR5 of the UDP and therefore contrary to PPS12 Para 2.43.	Provision of community services, education, recycling etc. constitute "community benefits" referred to in Policy DR5. No changes to these. However changes made to delete contributions to Training and Employment.
4. Are there other areas for which we should seek contributions?	Other topics raised such as renewable energy, sewerage/water disposal and cemeteries/allotments.	No change to SPD regarding the issue of renewable energy. It was considered but determined that this issue would be best covered by new overarching policy in the forthcoming Core Strategy rather than in an SPD based on the existing UDP. Further text has been added regarding the issues of water/sewerage disposal, cemeteries and allotments.
5. Are the thresholds for contributions set at the right level?	Varying response that threshold levels could detrimentally affect viability of smaller scale housing and employment proposals and detrimentally affect the economy. Objections received that new provision of affordable housing either solely or as part of larger schemes (as opposed to rural exception sites) should not have to	Contributions towards training and development for business removed. Contributions from employment generating uses scaled down with more use specific thresholds introduced. Housing thresholds for contributions remain unchanged, but amendments made to calculations for transport, open space and education

Further information on the subject of this report is available from Chris Botwright on 01432 260133

	<p>contribute to other community facilities i.e. open space, education, community services etc</p> <p>Threshold for housing is too low – too onerous and will lead to delay in determining planning applications and significant impact on Council resources.</p>	<p>– see relevant sections.</p> <p>With regard to requiring further contributions from affordable housing, given commitment to providing additional affordable housing in the County and fact that those in local need occupy affordable housing, requirement for contributions have been</p>
		<p>waived in the SPD.</p> <p>However, most new market housing will impact on the community in some way and should therefore contribute towards making that development sustainable.</p>
<p>6. Are the formulae for determining contributions appropriate, fair and reasonable? (General – for specific areas, see below)</p>	<p>Varying response – some concern raised that formulae too rigid. A number of objections to 2% monitoring fee were received.</p>	<p>No change to fees but ceiling introduced. It is relevant and appropriate charge in relation to complying with the requirements of Circular 5/05 for accurate monitoring and review of the processing, spending and reporting of planning obligations in Herefordshire, for which a new member of staff will need to be appointed.</p>
<p>Transport</p>	<p>Objections that methodology used does not reflect rural nature of shire county</p>	<p>Transport section revised significantly to take on board rural-urban differences.</p>
<p>Affordable Housing</p>	<p>Various specific objections to wording</p>	<p>Addressed in Affordable Housing Section of the SPD</p>
<p>Community Services</p>	<p>Objections that requirements for contributions towards community services e.g. libraries is not specifically referred to in UDP policy and therefore does not comply with PPS12.</p>	<p>Provision of library services, community halls, health and emergency services etc are considered to constitute community benefits, which directly relate to Policy DR5 of the UDP. No change.</p>

Education	Objections that education section not transparent in assessing need for contributions. Should be reference in SPD to school capacity as basis for assessing need.	Education contributions reviewed to take on board Herefordshire-specific research. Reference to capacity of existing schools now made.
Employment and Training	Objections that asking for contributions from new proposals for employment generating uses will deter economic development in the County	Employment -generating use contributions scaled down to reduce any possible detrimental impact on economic performance and to encourage urban/rural regeneration.
Open Space	Objections to methodology in using land acquisition and provision costs in off-site open space contributions calculations where enhancement only of existing open space is proposed. Objections to 20-year cost of maintenance.	Methodology for calculation revised to refer to contributions per dwelling size using average persons per dwelling statistics. Maintenance costs reduced to 15 years in line with other local authorities.
Town Centres	Objections to 1% for Art. Need to recognise that some major ESG developments will already be providing significant infrastructure. Objections to commercial developments making contributions to community/recreational facilities. Objections to all housing making contributions to public realm improvements in town centre	No change to SPD in respect of contributions to Art as this is an example of policy DR5 requirement. Agree clarification of requirements to major ESG proposals. Amendments to make clear that only certain commercial developments are to make contributions to open space. Contributions from housing to public realm will need to satisfy tests of reasonableness.
Waste Reduction	Objections that requirements for contributions towards recycling and waste are not specifically referred to in UDP policy and therefore do not comply with PPS12.	Provision of recycling and waste facilities is considered to constitute community benefit, which directly relate to Policy DR5 of the UDP. No change.
7. Can we simplify and improve the presentation of this SPD, to make it more accessible to people not directly involved in the planning system?	Some concern that SPD too complicated and difficult for members of the public to interpret.	Executive summary redrafted. Separate developer/householder friendly leaflet to be produced for distribution to applicants.

8 Monitoring and review

- 8.1 Where formulae have been used to determine standard charges, the costs applied will need regular review to ensure that the cost price index is maintained. The document is also expected to need future change to reflect new and emerging documents from the Local Development Framework.
- 8.2 Reference is made in the table to the requirement arising for a Section 106 Monitoring Officer not only to ensure transparency of documentation and to help audit the Council's arrangements for planning obligations, but also to ensure demonstrable tracking of obligations so that they are secured with monies and benefits accrued, spent and delivered. A further role for the Officer will be to co-ordinate the Programme of Works - programmes and schemes over a five year rolling period for which developer contributions will be sought. It is envisaged that the Officer will most appropriately be based in Planning Services, reflecting the role of that Service in negotiating and co-ordinating service requirements in respect of individual development proposals. The post will need to work effectively across the Council and to that end should report direct to the Head of Service and have the ability to link in to corporate asset management and capital monitoring groups.
- 8.3 The Council will need to review its current procedures for agreeing obligations through the planning application process. The Planning Committee scheme of delegation to officers restricts the extent to which planning applications with an associated obligation are delegated. The numbers of applications subject to an obligation is expected to increase as a result of the thresholds in the SPD. Under the current scheme, this would lead to relatively modest proposals being brought to Committee which would otherwise be determined by officers. To avoid adverse impacts on application handling times, it is suggested that the scheme of delegation be amended to incorporate reference to the SPD. Planning applications with an obligation which in the opinion of the relevant officer accorded with the provisions of the SPD could then be determined under delegated powers in the ordinary way. There would be no other change to the provisions under which applications are reported to Committee. The SPD would not be brought into effect until these amendments had been made, being applied to planning applications received from that point.
- 8.4 Where applications subject to Section 106 agreements are dealt with under delegated powers it may be appropriate to include periodic reports for information to the Planning Committee or Area Sub-Committees in much the same way as is done with planning appeals.

9 Conclusion

- 9.1 All statutory procedures set out in Part 5 of the Town and Country Planning (Local Development) Regulations 2004, regarding the preparation and consultation arrangements for an SPD, have been complied with. The comments received on the initial consultation document and draft SPD have been considered in making the SPD on Planning Obligations a more informed and inclusive document.

- 9.2 The main changes, summarised in the table above, reflect the Council's commitment to the provision of affordable housing; urban and rural regeneration proposals, particularly employment generating proposals from B1 (Business), B2 (General industrial) and B8 (Storage or distribution) uses; and recognition of the commitment to sustainable development. Once adopted, the document will make clear the subject areas for planning obligations required from current UDP policies and in particular policy DR5 Development Requirements.
- 9.3 The SPD will assist in pre-application discussions and will provide a transparent and accountable procedure by which planning obligations are negotiated and secured for development within the Council. When introduced, it will be a material consideration in the determination of planning applications where contributions are sought.

RECOMMENDATIONS

1. **THAT** the Committee agree changes to the draft SPD on Planning Obligations and recommends to Cabinet that the amended document be adopted as part of the Council's Local Development Framework.
2. **THAT** appropriate amendments are made to the Planning Committee Scheme of Delegation to Officers, following which the Supplementary Planning Document be brought into effect.

Background papers

Local Development Scheme (January 2007)
Statement of Community Involvement (Adopted March 2007)
Herefordshire Unitary Development Plan (Adopted March 2007)