

PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT

PORTFOLIO RESPONSIBILITY: ENVIRONMENT AND STRATEGIC HOUSING

CABINET

24 JANUARY 2008

Wards Affected

Countywide.

Purpose

To receive and adopt a Supplementary Planning Document (SPD) setting out the Council's policy on the use of planning obligations, following statutory public consultation.

Key Decision

This is not a key decision.

Recommendations

- 1. THAT the Planning Obligations Supplementary Planning Document and associated Sustainability Appraisal be agreed and adopted;**
- 2. That appropriate amendments are made to the Planning Committee Scheme of Delegation to Officers and that a Section 106 Monitoring Officer be recruited, following which the Supplementary Planning Document be brought into effect.**

Reasons

The SPD forms part of the Council's emerging Local Development Framework. The statutory preparation process has incorporated two periods of consultation and final approval is now required. Amendments are required to delegation arrangements prior to the SPD being brought into effect.

Considerations

1. Within the Local Development Framework, Supplementary Planning Documents (SPD) are produced to expand on and provide additional information and guidance in support of Development Plan Documents. The Herefordshire Unitary Development Plan (UDP) has the status of a Development Plan Document and its policies have been "saved" as part of the Council's new Local Development Framework for a minimum three-year period. Policies S1 and DR5 of the UDP refer to planning obligations.
2. The aims of the SPD are to:
 - Provide as much certainty as possible to landowners, prospective developers and other interested parties;

Further information on the subject of this report is available from
David Nicholson, Forward Planning Manager on 01432 261952

- 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.
3. The SPD has been drawn up taking into account an initial consultation and information gathering exercise, including selected Parish Councils and a number of interested organisations and stakeholders. Formal consultation on the draft document was undertaken in March/April.
4. The comments received in relation to the specific questions raised in the formal consultation are summarised in general terms in the table below, with an explanation as to how they have been addressed in the final SPD. 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 (Executive)) will be published with the adopted SPD and accompanying Sustainability Appraisal.

Council's 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.

Council's Consultation Question	General response	How addressed in SPD
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 a 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?	<p>Varying response that threshold levels could detrimentally affect viability of smaller scale housing and employment proposals and detrimentally affect the economy.</p> <p>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 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>	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 – see relevant sections. 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 further contributions have been waived. However, most new market housing will impact on the community in some way and should therefore contribute towards making that development sustainable.
6. Are the formulae for determining contributions appropriate, fair and reasonable? (General – for specific areas, see below)	Varying response – some concern raised that formulae too rigid. A number of objections to the 2% monitoring fee were received.	No change to fees but ceiling introduced. It is relevant and appropriate to 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.
Transport	Objections that methodology used does not reflect rural nature of shire county.	Transport section revised significantly to take on board rural-urban differences.

Council's Consultation Question	General response	How addressed in SPD
Affordable Housing	Various specific objections to wording.	Addressed in Affordable Housing Section of the SPD.
Community Services	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.	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.
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.

Council's Consultation Question	General response	How addressed in SPD
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. A separate developer/householder friendly leaflet is to be produced for distribution to applicants.

5. Copies of the final SPD and Sustainability Appraisal are appended as Appendix 1 and 2 respectively. The SPD has been drafted in three parts and includes an executive summary.
 - Part 1: Context – covering obligation types, priorities, policy context and community involvement.
 - Part 2: Code of Practice – defining the Council's approach and procedure for negotiating, preparing and completing obligations, including monitoring and management.
 - Part 3: Community Infrastructure – sets out the obligation areas, thresholds and tariffs where appropriate and justified.

6. All statutory procedures set out in the relevant regulations regarding the preparation and consultation arrangements for an SPD have been complied with. The comments received from both the initial consultation and the draft version have been fully considered in making the SPD a more informed and inclusive document.

7. 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. The document will need to be kept under review and is expected to need future change to reflect new and emerging planning documents arising from the Local Development Framework. 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.

8. 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.

9. 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.
10. 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.
11. 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.

Financial implications

Adoption of the SPD is expected to enhance the ability of the Council to secure appropriate benefits through planning obligations by setting a clear framework for the circumstances in which such benefits will be sought and thereby offer a clear and consistent approach to maximise the benefits of planning obligations for local communities. 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.

Risk Management

It is important that the relevant statutory procedures are followed in preparing the SPD. The Council's intention to prepare and adopt the SPD is set out in the Local Development Scheme, with earlier stages having been completed. There is a reputational risk if the SPD is not adopted to fulfil the Scheme programme.

Alternative Options

Not to prepare the SPD.

Consultees

Pre-draft consultation as detailed in the Consultation Statement.

Member Seminar November 2006

Planning Committee January 2007 and January 2008.

The six-week formal consultation process on the draft SPD took place between 1 March 2007 and 12 April 2007.