

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

12 APRIL 2007

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION/COUNCIL DECISION

Regeneration and Transport – Lead Cabinet Member – Councillor Cook

Planning Obligations Supplementary Planning Document (SPD)

Summary

1. This report informs Cabinet on the content of the draft Planning Obligations Supplementary Planning Document (SPD), which forms part of the Local Development Framework. The SPD (attached as Appendix A) aims to provide developers, Council officers, and the general public information and guidance concerning the Council's approach towards securing planning obligations (also known as section 106 agreements) associated with development within the Borough. The SPD is the first planning obligations policy document produced by the Council, and as such draws on existing best practice and recent Government guidance. As new policies and strategies emerge through higher-level plans, such as the Core Strategy and the Regeneration Development Plan Documents (DPD), the SPD will be reviewed and amended as necessary.

Recommendations

1. Members are recommended to:
 1. Note the contents of this report.
 2. Agree the draft Planning Obligations SPD for public consultation, subject to any amendments from internal consultees.
 3. Delegate to Officers minor amendments to the contents of the document prior to the public consultation period.
3. Reasons for the Recommendations/Decision(s)

Government Guidance in the form of Circular 05/2005 'Planning Obligations' and recent guidance from the Department for Communities and Local Government 'Planning Obligations: Practice Guidance' (2006) updated the advice available to local planning authorities, to help improve the development, negotiation and delivery of planning obligations. The recent peer review also identified planning obligations as an area where the Council could improve its performance in securing improvements through the planning system.

The Council's Local Development Scheme (LDS) requires the adoption of the Planning Obligations SPD by September 2007, which means that public consultation is required to take place from the middle of June until the start of August, to allow the consideration of representations to be fed into the final document.

4. Members Interests

Members (including co-opted members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (paragraph 8) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (paragraph 10 of the code of conduct).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting is being held, whilst the matter is being considered; not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (paragraph 12 of the Code).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc.; whether or not they are a member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting, and if their interest is prejudicial, they must also leave the meeting room during consideration of the relevant item.

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RECOMMENDATIONS

Members are recommended to: -

1. Note the contents of this report.
2. Agree the draft Planning Obligations SPD for public consultation, subject to any amendments from internal consultees.
3. Delegate to Officers minor amendments to the contents of the document prior to the public consultation period.

DETAIL

1. The purpose of the Supplementary Planning Document (SPD) is to set out the Council's approach to Planning Obligations (also known as S 106 agreements) within the Borough. Government guidance (Circular 05/2005 'Planning Obligations') states that planning obligations are *'intended to make acceptable development which would otherwise be unacceptable in planning terms.'*
2. A planning obligation may:
 - Be prescriptive i.e. require the developer to provide a certain proportion of affordable housing;
 - Secure a financial contribution from a developer to compensate for loss or damage as a result of the proposal i.e. the loss of open space; or
 - Ensure the developments impacts are mitigated, i.e. through a travel plan, increased public transport, etc.
3. Government guidance (Circular 05/2005) sets out five tests for a planning obligation to satisfy. They must be:

- Relevant to planning;
 - Necessary to make the proposed development acceptable in planning terms;
 - Directly related to the proposed development;
 - Fairly and reasonably related in scale and kind to the proposed development; and
 - Reasonable in all other respects.
4. The guidance also describes how it is not *'legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.'*
 5. Typically, planning obligations are secured through negotiation between the developer and the Council; however, developers may wish to submit a 'Unilateral Undertaking' alongside a planning application. This is an obligation offered by the applicant in support of an application (or appeal), as opposed to agreeing an obligation following negotiation with the Council.
 6. The Council has prepared a draft Planning Obligations Supplementary Planning Document (SPD). This will ensure that development makes a positive contribution towards sustainable development. SPDs are documents intended to expand on existing higher-level policies, such as those in the Adopted Local Plan, Alteration Number 1, and be consistent with national and regional policies. SPDs do not form part of the statutory development plan, but they are a material consideration in determining planning applications.
 7. The SPD aims to provide clarity to developers, development control officers, stakeholders and local residents as to the Council's expectations concerning developer contributions in appropriate circumstances. Areas where it is intended to seek obligations are affordable housing, education, employment and skills, open space and recreation, landscape, biodiversity, highways and transport, social and community infrastructure. However, it must be noted the list is not exhaustive, and there may be circumstances where other provisions are sought.
 8. The SPD uses any relevant existing local and national standards to base the requirement for planning obligations, and where possible include a set of thresholds and formulas to give those involved a clear idea as to the likely contribution. Meetings were held with various departments to build up an evidence base and draft formulas for contributions towards the various topic areas.
 9. Presently, there are areas where the current evidence base does not allow the drafting of formulas, although as new evidence becomes available to feed into emerging strategies and policies, the guidance within the SPD will be reviewed and amended as necessary. Therefore, the SPD is very much an interim document to be reviewed as and when up to date information becomes available.
 10. Stockton, along with the other authorities within the Tees Valley are currently reviewing examples of best practice concerning the application of planning obligations, with the aim of applying a consistent approach across the region. Locally, and regionally, the authority must ensure that there is a level playing field for developers, to avoid potential development being located elsewhere.
 11. The SPD will also contain information concerning the actual application of planning obligations, in order that the Council can provide a clear audit trail of implemented agreements.
 12. A Sustainability Appraisal is also being prepared, which will appraise the likely economic, social and environmental impacts of the guidance contained within the document, and this will be submitted for review by the Planning Committee and Cabinet in May. The

Sustainability Appraisal will also be subject to public consultation at the same time as the draft SPD.

13. An internal consultation on the SPD was held over the last two weeks of February, and the attached version has been amended to incorporate the comments received where applicable. To remain in line with the Local Development Scheme, public consultation on the SPD and Sustainability Appraisal is required to take place from the middle of June until the start of August, to allow adoption of the SPD in September.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

14. The production of the document can be made within existing budgetary provisions.

Legal

15. Section 106 of the Town and Country Planning Act as substituted by the Planning and Compensation Act 1991 provides the legal basis for planning obligations. Circular 05/2005 provides revised guidance to local authorities on the use of planning obligations under these Acts.

RISK ASSESSMENT

16. "This (subject matter of report) is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk."

COMMUNITY STRATEGY IMPLICATIONS

Environment

17. The guidance contained within the SPD is aimed at ensuring development makes a positive contribution to sustainable development within the Borough of Stockton-on-Tees. The guidance also seeks to enhance the quality of the Borough's natural and built environment.

Community Safety and Well-Being

18. The guidance within the SPD also aims to ensure development can make a positive impact to the safety and well being of the Borough's residents.

Health

19. No direct implications.

Economic Regeneration

20. The guidance is intended to support higher-level policies in the emerging Core Strategy that support the economic regeneration of the Borough.

Education and Lifelong Learning

21. Within the SPD there are specific sections on Education obligations and Employment and Training obligations. Through providing opportunities for people to learn new skills (especially in construction), their long-term employment prospects are improved.

Arts and Culture

22. The guidance encourages developers to provide contributions to public art schemes where their delivery is realistic and practicable.

CONSULTATION INCLUDING WARD/COUNCILLORS

23. As this is a Borough wide document, it is not possible to identify specific wards or ward councillors for consultation. The document will be subject to a full public consultation over a period of six weeks.

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Background Papers:

Circular 05/2005 'Planning Obligations'
Planning Obligations: Practice Guidance
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 12: Local Development Frameworks

Ward(s) and Ward Councillors: **N/A**

Property: **N/A**