

**STOCKTON-ON-TEES BOROUGH COUNCIL**

**CABINET RECOMMENDATIONS**

**PROFORMA**

Cabinet Meeting .....30th September 2010

1. Title of Item/Report

Member Involvement in Section 106 Agreements for Major Applications

2. Record of the Decision

Members were reminded that the Council's Core Strategy required all new developments to contribute towards the cost of providing additional infrastructure and meeting social and environmental requirements. The Council had also adopted a Supplementary Planning Document that also covered planning obligations.

Cabinet noted that the use of planning obligations, or section 106 agreements as they were also known, had become an important part of the planning process and were appended to many major planning applications, covering such things as affordable homes, education contributions, local labour agreements, infrastructure provision and open space and play provision.

Heads of Terms describing what would be included in a section 106 agreement had to be open and transparent and be included within the planning report, and often the fine tuning and phasing of this was finalised after committee by officers. Recent government guidance was that local authorities should put in place appropriate mechanisms to ensure that elected members could take part in discussions on development proposals at relevant stages without prejudicing their decisions or compromising the integrity of the process.

Members were provided with a report that outlined how members could be more actively involved in the process whilst at the same time ensuring that applications were still determined within time.

A protocol for member involvement was set out in a flow chart at appendix 1 to the report. At the pre-application stage, officers would seek the initial views of consultees (internal and external) to establish what might be required through a planning obligation. Once those views had been obtained, contact would be made with the Ward Councillors in which the development was being proposed to obtain their initial views on what was being proposed and any local priorities that might arise in

addition to this. Discussions would then take place with the developer around the amount and levels of contribution, with the corporate priorities i.e. provision of highways and transport infrastructure, affordable housing, and open space, sport and leisure facilities. Where more than one Ward might be affected as a result of ward boundaries, other Ward Members would be notified as appropriate. Ward members would be kept informed by email of the progress being made and the draft section 106 contributions. This would subsequently form the basis for the submission of the planning application.

For section 106 agreements already signed and relating to an existing extant permission, should developers wish to renegotiate the terms of the section 106 agreement due to different economic circumstances in existence, then this would be treated in the same way as a pre-application enquiry and Members contacted and involved in the same manner.

Should no pre-application meetings take place and a major application be submitted without the benefit of that having taken place, then Ward Councillors would be contacted at the appropriate point as the application progressed in the same way as outlined above. Ward Councillors would be given 3 working days in which to respond in order to keep the application on track and in time. It was pointed out that there would be occasions where there was a difference between the local perspective and the borough wide corporate priorities e.g. with sport and leisure facilities. In those circumstances, if there was a difference of opinion, then that would be clearly outlined in the accompanying committee report, and planning committee would ultimately decide on the contents of the section 106 agreement. If the application was to remain delegated, then the Head of Planning and the Chair of Planning Committee would arbitrate, as determined by the corporate priorities. Core Strategy policy 11 was a material consideration in the resolution of any differences at that stage.

Should any alterations or phasing be required after an application had been to committee, then this would be reported to the Ward Councillors and Chair of Planning for their input. There would only be one re-consultation taking place at that stage, the response time to be determined at that point depending on the expiry date of the application in order to keep it within an effective timescale for determination. Any final arbitration at that stage would again be delegated to the Head of Planning and Chair of Planning Committee. Due to the time limiting nature of the process at that point, if contact could not be made with the Ward Councillors, then again this would be delegated to the Head of Planning and the Chair of Planning Committee to keep the application within time.

In cases where the Head of Planning was not available to carry out the arbitration at any stage of this protocol, the decision would be delegated to the Development Services Manager or Spatial Planning Manager, or the Vice Chair of Planning Committee in the absence of the Chairperson.

RESOLVED that the protocol for member involvement in the planning obligations process be endorsed.

3. Reasons for the Decision

It was important for Members to be involved in the process, and formalise how this would take place. Following on from the Killean Pretty review, guidance from DCLG on member involvement in major planning applications and the new localism agenda, Members needed to be able to put forward the priorities of their local area as perceived by themselves and local people. The latest advice was that Local authorities should put appropriate mechanisms in place to ensure that elected members could take part in discussions on development proposals at all relevant stages, including when options were being scoped and plans shaped, without prejudicing their decisions or compromising the integrity of the process. Elected members had to be positively encouraged to make use of those opportunities to maximise their role as local representatives and provide civic leadership.

4. Alternative Options Considered and Rejected

None

5. Declared (Cabinet Member) Conflicts of Interest

None

6. Details of any Dispensations

Not applicable

7. Date and Time by which Call In must be executed

By no later than midnight on Friday 8 October 2010.

Proper Officer  
04 May 2010