

DUDLEY METROPOLITAN BOROUGH COUNCIL

DEVELOPMENT CONTROL COMMITTEE –19th MARCH 2007

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT

Changes to Delegation involving planning applications subject to a legal agreement

Purpose of Report

1. The purpose of this report is to seek agreement to allow planning applications requiring a legal agreement primarily under Section 106 of the Town and Country Planning Act 1990, as amended, to be determined by the Director of the Urban Environment as appropriate.

Background

2. The Council's Constitution currently states that all planning applications requiring a S106 legal agreement are to be determined by the Development Control Committee. This requirement for applications (subject to a S106 legal agreement) to be determined by Committee is historical in nature and does not allow for any flexibility in approach. There are an increasing number of applications requiring legal agreements, and our existing procedures including elements of delegation are under review to ensure the Council adopts best practice and is in a position to meet stringent Government targets.

As part of our ongoing improvement programme for planning and to assist the Council in meeting Best Value Performance Indicators and maximise efficiencies, it has become apparent that the existing scheme of delegation in this regard is no longer assisting delivery in a timely way and does not provide the Council with a flexible and appropriate response to determination of less complex major planning applications. In the 1990s there were few planning applications requiring S106 agreements and inevitably they related to large complex developments.

3. The Government attaches considerable importance on the speed and quality of determining planning applications. A review of procedures has been undertaken, looking at ways of improving the Council's performance and assisting in meeting crucial Corporate Performance Assessment ("CPA") targets.

In particular performance indicator BVPI 109a (determination of 'major' applications in 13 weeks) which not only has national importance but also has special weighting in the CPA Council-wide performance assessment. Currently the Council is failing to meet the target of 60% of Major applications being determined in 13 weeks. This may result in the Authority becoming a Standard Authority for Major applications for 07/08.

4. More planning applications are now subject to legal agreements, including S106. The range of developments classed as 'major' is wide and ranges from 10 houses to multi million pound regeneration schemes and requires a flexible approach in delegation terms to enable the Council to maximise efficiencies and deliver a timely service to customers and meet Government targets. Such agreements are commonplace and are typically used by Councils, including Dudley MBC, to deliver community benefits and public infrastructure. Examples include monies for off-site public open space, monies for education infrastructure and affordable dwellings. With the adoption of the Unitary Development Plan in October 2005 more planning applications are approved subject to a S106 agreement. Most of the S106 planning applications are relatively small, often involving both minor and major applications, as few as 5 houses or apartments (minor applications) simply require monies for improvement to off-site public open space and children's play areas.
5. As part of the on-going process of continual improvement and to assist in meeting the national targets for determining planning applications, support is sought for planning applications subject to a legal agreement to be determined by the Director of the Urban Environment as appropriate.

It must be noted however that this amendment in no way affects existing checks and balances within the Constitution for example.

6. If a planning application (which may be subject to a S106 agreement) falls within one of the following categories, it would continue to be referred to the Development Control Committee in accordance with the Council's Constitution;
 - (a) the planning application is a departure from the Development Plan or approved Supplementary Planning Guidance and the officer recommendation is to approve or;
 - (b) the planning application would have a significant impact outside its immediate locality or;

- (c) the planning application has given rise to a substantial weight of public concern, or
- (d) any member of the Council has requested any planning application, whether or not it is subject to a S106 legal agreement, to be referred to the Development Control Committee for determination.

Finance

- 7. There are no direct financial consequences arising from this report though there are financial implications to the Council arising from failure to meet the relevant BVPI performance targets with regard to speed of determination and a reduction in Planning Delivery Grant.

Law

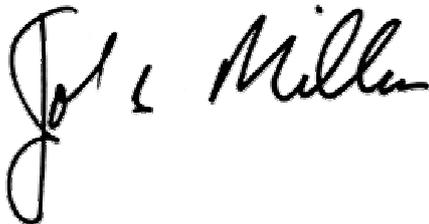
- 8. The relevant law is:
 - S106 of the Town and Country Planning Act 1990 (as amended)

Equality Impact

- 9. The proposals take into account the Council's Equal Opportunities Policy.

Recommendation

- 10. That the Development Control Committee recommend to the Leader of the Council that the Council's Constitution be amended with Function 2(d) under Development Control Committee Functions should be delegated to the Director of the Urban Environment.



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DIRECTOR OF THE URBAN ENVIRONMENT

Contact Officer: Helen Brookes Martin

Telephone Ext: 01384 8104077

E. Mail address: helen.brookes-martin@dudley.gov.uk

List of Background Papers

The relevant law is as stated in Section 8 above.
Best Value Performance Indicators, BVPI 109a,b,c.
Dudley MBC Constitution