

Select Committee on Economic Regeneration – 12 April 2006

Report of the Lead Officer

Feedback from Economic Regeneration Working Group on Planning Obligations

Purpose of the Report

1. To consider the recommendations from the Working Group; seek confirmation from the full Select Committee for these and identify the way forward to sustain the progress made.

Background

2. The last meeting of the Economic Regeneration Working Group considered an interim report from the Directorate of the Urban Environment on the progress towards a more coordinated and focused approach to Planning Obligations (Section 106) issues in the Borough.
3. This built on the initial report submitted in September 2005 and indicated that major progress had been made.
4. Three key areas were identified as a measure of success:
 1. Agreement to the creation of a new post of a Planning Obligations Officer to co-ordinate and tranche resources in relation to Section 106 agreements.
 2. A robust project plan (see appendices)
 3. A well developed corporate officer monitoring and development group focussed solely on Planning Obligation issues.
5. The members of the Working Group recognised and welcomed the progress and it was clear that whilst Dudley was not in the vanguard of authorities leading on S106 issues, the post referred to would be a substantial step forward.
6. The importance of the sub-regional and regional dimension was raised as there was concern that developers might be forced out of the borough if S106 obligations were seen as a development tax on their authorities locally.

7. Central to moving forward would be the production of a Local Supplementary Planning Document on Planning Obligations, a draft of which would be available during the summer and be submitted to the Working Group. This was felt to be extremely beneficial as it would set decisions within a more strategic framework and give greater transparency and clarity.
8. Despite the broad welcome to the approach and progress being made, the Working Group had a number of continuing concerns which in outline were as follows:
 1. The post proposed should be of sufficient seniority to act at a strategic level and this strategic vision should be paramount.
 2. Whilst recognising the capacity issues, there was still a concern that as yet no indication had been given to the Working Group despite its clear remit and requests from previous Working Groups what the scale of S106 resources available were; the number of sites attracted and the number of sites where those obligations still remained to be discharged. The Working Group appreciated that these figures could be flowing through in April or May 2006.
 3. Whilst strong support was given to the project plan approach and its clear, robust and targeted timescales, there was still a concern that at the heart of the plan was the underlying view that the later Section 106 Agreements ie. post 2004 were to be targeted first. Whilst hearing the case for this, it was felt that an alternative and arguably a more robust case could be made for a focus on the earlier Section 106 Agreements and this should be relayed on.

Finance

9. There are no direct financial implications from this report. Any subsequent implications as a result of any future developments will be reported in accordance with the appropriate Council procedures.

Law

10. The development of the Supplementary Planning Document (SPD) on 'Planning Obligations' is necessary to comply with the guidance on the use of planning obligations as set out in the Adopted Dudley Unitary Development Plan (2005) and in government Circular 05/2005 'Planning Obligations'. The appointment of a Planning Obligations Officer to assist in the negotiation and monitoring of planning obligations within the Borough will ensure that the implementation of planning obligations is an open and transparent process which will deliver benefits envisaged.

Equality Impact

- 11. The guidance highlighted in this report seeks to enable all sections of the community, within the Borough to gain from the effective implementation of planning obligations and the associated benefits envisaged.

Recommendations

- 12. It is recommended:
 - 1. That the Select Committee commend the work carried out by the Working Group and confirm its support for the work of officers and welcome the re-energised approval to Planning Obligations Section 106 work in the authority.
 - 2. That concern is relayed on that despite this exemplary progress the scale, specific site and outcome information of Section 106 Agreements is still not available to be submitted to the Select Committee.
 - 3. That the Select Committee formally includes and prioritises Section 106 Agreements in the Select Committee’s work programme for 2006/07.
 - 4. That given the importance of S106 Agreements to the Council, then whatever the form of Select Committees in the future, working group structures are in place to carry this issue forward to ensure full and proper scrutiny.
 - 5. That consideration be given to reviewing the outstanding agreements in date order rather than the present proposals.
 - 6. That this strong support for the progress made so far on S106 Agreements along with the above concerns be submitted to the next available Cabinet meeting.



Signed:
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Lead Officer Select Committee Economic Regeneration

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List of Background Papers

None

Project :

Planning Obligations programme for Dudley MBC based on two key elements:

1. Production of a Supplementary Planning Document (SPD) on 'Planning Obligations' to provide clarity to developers, development control officers, stakeholders and local residents regarding the basis on which planning obligations are required (programmed for adoption in October 2007).
2. Securing a Planning Obligations Officer post to aid the negotiation of future obligations required by the authority and to monitor Planning Obligations entered into (including tracking existing planning obligations and monitoring the progress of new agreements). The job is to be advertised in April 2006. This postholder will become the focus of activity for Planning Obligations and develop a programme for progressing this for Dudley MBC.

Reasons for Project :

To ensure the effective delivery and management of the Planning Obligation Process. It is anticipated that the effective delivery of this process will benefit the Community as a whole and will contribute towards the delivery of the Community Strategy (Dudley Borough Challenge).

Options :

No option. Production of an SPD to provide clarity to developers, development control officers, stakeholders and local residents regarding the basis on which planning obligations are required.

Benefits Expected :

Better use and management of Council resources will assist in the delivery of the Council Plan, the Community Strategy (Dudley Borough Challenge) the Unitary Development Plan and associated strategies (e.g. the green space strategy) and the Local Development Framework. This in turn will benefit the local community and improve the quality of life for all.

Risks :

Non recruitment of a Planning Obligations Officer and increasing pressure on existing staff resources resulting in a failure to deliver the defined project. In addition failure to meet development control targets will lead to Government intervention and loss of planning delivery grant.

Non delivery of the project would result in loss of money which the Council is entitled to through planning obligations entered into. This in turn could hinder delivery of the Council Plan, Community Plan, the Unitary Development Plan and the Local Development Framework.

Cost :

Existing officer resources and new resources in the form of the self funded Planning Obligations Officer post.

Timescales :

For the Supplementary Planning Document:

- Stage 1: Evidence gathering/ Preparation of draft SPD (March 2006 – December 2006)
- Stage 2: Public participation (January 2007 – March 2007)
- Stage 3: Respond to representations and finalise SPD (April 2007 – September 2007)
- Stage 4: Adoption of SPD (October 2007 – December 2007)

Planning Obligations Officer Post to be advertised in April 2006

Investment appraisal :

Quality service improvement.

Project :

Planning Obligations programme for Dudley MBC based on two key elements:

1. Production of a Supplementary Planning Document (SPD) on 'Planning Obligations' to provide clarity to developers, development control officers, stakeholders and local residents regarding the basis on which planning obligations are required (programmed for adoption in October 2007).
2. Securing a Planning Obligations Officer post to aid the negotiation of future obligations required by the authority and to monitor Planning Obligations entered into (including tracking existing planning obligations and monitoring the progress of new agreements). The job is to be advertised in April 2006. This postholder will become the focus of activity for Planning Obligations and develop a programme for progressing this for Dudley MBC.

Interested Parties:

Corporate Officers 'Planning Obligations Working Group' (POWG), council officers and members, developers, key stakeholders and members of the public.

Information Required :

SPD to be inline with new government regulations issued in the Planning Obligations Circular 05/2005.

Information Provider : John Pattinson (General Manager, Planning and Development), Annette Roberts (Planning Policy Manager) and Helen Brookes-Martin (Planning Regulation and On Line Services Manager).

Frequency of Communication :

Regular briefings to the Cabinet Member for Economic Regeneration and to the Select Committee on Economic Regeneration Working Group, on a structured basis twice per annum.

The SPD will be monitored as part of the Annual Monitoring Report (AMR) and its effectiveness evaluated. The AMR will inform any review options which may be required during the life of the document.

Method of Communication :

Full public consultation on SPD inline with the Statement of Community Involvement. Regular briefings and presentations to the Cabinet Member for Economic Regeneration and to the Select Committee on Economic Regeneration Working Group to report on key milestones that have been achieved in the project plan.

N.B. The above sections should be repeated to address the different requirements of different "Interested Parties"

Project :

Planning Obligations programme for Dudley MBC based on two key elements:

3. Production of a Supplementary Planning Document (SPD) on 'Planning Obligations' to provide clarity to developers, development control officers, stakeholders and local residents regarding the basis on which planning obligations are required (programmed for adoption in October 2007).
4. Securing a Planning Obligations Officer post to aid the negotiation of future obligations required by the authority and to monitor Planning Obligations entered into (including tracking existing planning obligations and monitoring the progress of new agreements). The job is to be advertised in April 2006. This postholder will become the focus of activity for Planning Obligations and develop a programme for progressing this for Dudley MBC.

Background :

The Dudley Unitary Development Plan (October 2005) and associated Strategies, e.g. the greenspace strategy, The 2004 Planning and Compulsory Purchase Act and Government Circular 05/2005 'Planning Obligations.

Definition :

The development of a programme for Dudley MBC which seeks to ensure that planning gain can be realised in respect of planning applications for the benefit of the Borough and in particular the delivery of the Community Strategy (Dudley Borough Challenge) and the Council Plan.

After initial appraisal of the situation certain key tasks have been identified which need to be progressed in order to deliver this programme. In particular;

- Retrospective work in tracking Planning Obligations (S.106s);
- Mapping out new processes to be followed by the new Planning Obligations Officer in;
 - negotiating applications (from pre-application stage to signing)'
 - How the role relates to the external world of developers and internally to the Council Officers and Members;
 - How they will conclude the Planning Obligation (S.106) package for the Development Control Committee; and
 - Monitoring (tracking the implementation of planning obligations).
- Working in tandem with Planning Policy to prepare a Supplementary Planning Document;
- Relating to other authorities and learning from best practice; and
- Communication, both internally with members and externally with developer forums etc.

The two urgent priorities are:

1. Recruitment of a self funded planning obligations officer who can be the focus of delivering this programme to the benefit of Dudley MBC.
2. Production of an SPD on Planning Obligations which will set out a clear

policy direction for Dudley MBC for dealing with this issue.

Organisation :

Executive Lead Member; Councillor Les Jones

Project Board; Sue Holmyard, John Woodall, John Pattinson, Rupert Dugdale and Annette Roberts

Project Management Group; The Corporate Officers Planning Obligations Working Group (POWG), chaired by John Pattinson, with representatives from Planning Policy, Development Control, Legal, Finance, Education, Housing, Environmental Protection, Transport, Design and Regeneration.

Project Teams; POWG and supporting teams

Project Control : Monthly meeting of POWG

Project Quality Plan :

Customers Quality Expectations :

-

Acceptance Criteria :

-

Quality Responsibilities :

-

Standards :

-

Quality Control & Audit Processes :

Being prepared

-

Change Management Processes :

-

Configuration Management Plan :

-

Quality assurance Tools :

-

Communication Plan: Dissemination of corporate strategy for planning obligations through the Council via the corporate officers Planning Obligations Working Group (POWG) and through frequent presentations and briefing of Members of Cabinet and Select Committees. Also full public participation on the Planning Obligations SPD will take place in line with the Statement of Community Involvement. Finally it should be noted that when preparing the SPD for the Local Development Framework, officers will have regard to the views and aspirations that have informed the vision for the Dudley Borough Challenge.

Business Case: There is strong agreement across the Council that there should be a corporate strategy on how planning obligations should be

secured in the future (to be outlined in the SPD). A multidisciplinary Planning Obligations Officer would aid the implementation of this process and would aid the negotiation, monitoring and implementation of planning obligations. Monitoring of planning obligations would include the tracking of existing agreements entered into and charting the process of new ones.

Project Plan : The Planning Obligation SPD has an individual Project Plan.

Risk Log : Reports produced and actions taken will be approved by Cabinet, the Select Committee on Economic Regeneration Working Group and other relevant stakeholders to ensure effective delivery of the project. Risk of non-delivery would result in loss of money which the Council is entitled to through planning obligations entered into.

Project:

Planning Obligations programme for Dudley MBC based on two key elements:

5. Production of a Supplementary Planning Document (SPD) on 'Planning Obligations' to provide clarity to developers, development control officers, stakeholders and local residents regarding the basis on which planning obligations are required (programmed for adoption in October 2007).

Securing a Planning Obligations Officer post to aid the negotiation of future obligations required by the authority and to monitor Planning Obligations entered into (including tracking existing planning obligations and monitoring the progress of new agreements). The job is to be advertised in April 2006. This postholder will become the focus of activity for Planning Obligations and develop a programme for progressing this for Dudley MBC.

Authority Responsible:

Government guidance contained within Circular 05/2005 encourages the effective use of planning obligations by all local authorities. The local authority (Dudley MBC) has a duty to ensure that planning obligations are secured in the public interest.

Background:

The Dudley Unitary Development Plan (October 2005), the Local Development Framework, the 2004 Planning and Compulsory Purchase Act and Government Circular 05/2005 on 'Planning Obligations'.

Scope:

To ensure the effective delivery and management of the Planning Obligation Process.

Constraints:

Staff resources capacity and recruitment of a Planning Obligations Officer.

Quality Expectations:

SPD will be required to meet regulations and be approved by Cabinet. Local authority is required at all times to undertake duties in the public interest.

Outline Business Case (Reasons):

SPD is required to provide clarity to developers, development control officers, council service providers, stakeholders and local residents regarding the basis on which planning obligations are required. The Planning Obligations Officer is required to negotiate and monitor future obligations entered into by the authority, this will help to ensure the effective delivery of the Council Plan, the Community Strategy (Borough Challenge), the Unitary Development Plan and the Local Development Framework.

Interfaces: The starting point for the guidance is the Dudley Unitary Development Plan and associated strategies (including the greenspace strategy), the Local Development Framework and national, regional and sub-regional guidance. The UDP vision has regard to the Council Plan and the Community Strategy objectives.

References: References include all national, regional, sub-regional and local planning related guidance.

Proposed Project Executive / Project Manager :

John Pattinson (General Manager, Planning and Development)

Customer / User / Interested Parties :

All regional, sub-regional and local partners, developers, key stakeholders, local residents and corporate groups.

PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)

OVERALL RESPONSIBILITY	John Pattinson (General Manager, Planning)
PROJECT LEAD OFFICER(S)	Helen Brookes Martin (Planning and On-line services Manager), Annette Roberts (Planning Policy Manager), Jessica Nash (Planning Officer, Policy).

CONTEXT FOR PROJECT

A Planning Obligation (S.106 Agreement) Working Group was initiated in July 2005 with the aim of making certain that all services across the Council are involved in and had an effective way of negotiating S.106 agreements and to ensure that the effective monitoring and review of S.106 agreements was taking place across the Council.

A number of objectives have been devised by the Working Group including the progression of a Supplementary Planning Document on Planning Obligations and to get a self funded negotiations and monitoring officer post. This project plan sets out what has been achieved so far and what still needs to be done.

PROJECT SCOPE

The objective of the SPD is to provide clarity to developers, development control officer, stakeholders and local residents regarding the basis on which planning obligations will be sought. When appointed a multidisciplinary negotiation and monitoring officer will assist all services within the Council to achieve the successful implementation of S.106 agreements.

LDS TIMETABLE – KEY MILESTONES

For the Supplementary Planning Document.

- Stage 1: Evidence gathering/ Preparation of draft SPD (March 2006 – December 2006)
- Stage 2: Public participation (January 2007 – March 2007)
- Stage 3: Respond to representations and finalise SPD (April 2007 – September 2007)
- Stage 4: Adoption of SPD (October 2007 – December 2007)

PROJECT TIMETABLE

PROJECT STAGES	OFFICER RESPONSIBLE	DEADLINE	DATE ACHIEVED
Preparation of draft SPD	ALL	End of August 2006	
Finalise list of key stakeholders for front loaded consultation	ALL	End of August 2006	
Identify key stakeholders to attend informal meeting	ALL	End of August 2006	

Draft a copy of letter to go out with first draft of SPD (4 wk consultation)	JN	End of August 2006	
Draft a list of questions/ options to go out with the first draft of the SPD (4 wk consultation)	ALL	End of August 2006	
Draft an a précis of the guidance to go out with letters	ALL	End of August 2006	
Front loaded consultation period (4 weeks)	ALL	1 st – 28 th September 2006	
Amendments to first draft of SPD (following front loaded public consultation)	ALL	29 th September – 9 th November 2006	
Finalise draft SCI and SA	JW/ BR	29 th September – 9 th November 2006	
Draft SPD for consultation finalised and Cabinet Report written	ALL	End of November 2006	
Draft SPD approved for consultation by Cabinet	ALL	December 2006 (date tbc)	
Preparation for public consultation; <ul style="list-style-type: none"> - Make SPD documents and SPD matters available on the website and principle offices etc - Send specific consultation bodies and appropriate general consultation bodies a copy of; the SPD, the SA, the consultation statement, 	ALL	1 st – 14 th January 2007	

<p>supporting documents relevant to specific bodies, notice of SPD matters, and statement of fact that SPD documents are available at Council Offices, libraries and the website etc.</p> <ul style="list-style-type: none"> - Give notice by advertisement of SPD matters/ where documents are available. - Request for regional conformity 			
<p>Formal public consultation (15th January -19th February 2007)</p>	ALL	January/ February 2007	
<p>Respond to objections and finalise SPD;</p> <ul style="list-style-type: none"> - Prepare statement setting out the names of any people consulted, how they were consulted, a summary of the main issues raised in the consultation and how they have been addressed in the SPD. 	ALL	20 th February – 31 st August 2007	
<p>Prepare for adoption of SPD;</p> <ul style="list-style-type: none"> - Prepare Cabinet report to seek approval for adoption of the SPD 	ALL	September 2007	

Adopt SPD; - Approval of draft SPD by Cabinet - Make available (during normal office hours) the issues statement, adoption statement, and the SPD - Publish the above on the website. - Send adoption statement to any person who has been asked to be notified of the adoption of the SPD	ALL	October 2007	
PROJECT TEAM – Who Needs To Be Involved			
All attendees of the Planning Obligations (S.106) Working Group. However, SPD to be planning led by Planning Policy and Development Control.			
QUESTIONS, AREA'S OF RISK & UNCERTAINTY ETC.			
<p>Availability of the officers from all of the services to draft relevant sections of the SPD within the specified timescales.</p> <p>Availability of the officers from all of the services involved to respond to representations received following public consultation.</p> <p>Who will be responsible (budget wise) for printing up the SPDs.</p>			
PROJECT LEADER'S NOTES			
PROJECT PLAN AGREED:			
PRINCIPAL LEAD	PROJECT LEAD	EXTERNAL LEAD	DATE