

PLANNING OBLIGATIONS CONSULTATION PAPER (DTS)3. Report

- 3.1 The Consultation Paper suggests that Local Authorities might be required to set out what contributions they are likely to seek in the Development Plan. This would set out how they would use negotiated planning obligations to secure developer contributions.
- 3.2 In certain areas it is suggested that contributions are predictable and could be set out on the basis of formulae to explain the scale of contributions expected.
- 3.3 It is suggested that Planning Authorities could use planning obligations to secure on-going contributions and that contributions might be voluntarily pooled to help meet the needs of new development in the local community.
- 3.4 It is suggested that standard heads of terms and clauses for negotiated planning obligations could be used and if there is inadequate staff resources then additional staff resources might be brought in to be paid for by developers. It is further suggested that mediators might be brought in to help resolve any disputes.

Comment

- 3.5 ***It is considered that the Local Development Framework might be used to set out those aspects which the Council is seeking contributions for and this would make the process more transparent. However, local needs do change over time and such policies need to be flexible enough to embrace new challenges locally. The idea of pooling such contributions is welcomed and this has already been used in Runnymede for funding of the Yellow Bus initiative.***
- 3.6 ***Standard heads and terms again would simplify the process to a degree, but it is not necessarily thought that bringing in external resources would speed the process as internal staff would still have to be involved in briefing such staff. Locally, whilst some obligations have taken time to negotiate, it is not considered that use of mediators would have improved this situation, although it is appreciated that elsewhere this may have facilitated earlier agreement. There are a variety of reasons why such agreements take longer than six months to complete, the majority of which relate to third party or multi-party delays in reaching agreement regarding the detailed wording of the respective obligations.***
- 3.7 The Consultation Paper indicates the Government has decided to introduce a new optional planning charge that would be an alternative to traditional negotiated planning obligations. This would mean that a developer would have the option of paying a charge rather than entering into negotiations with the Planning Authority.
- 3.8 The planning charge would be used to secure the same range of contributions as negotiated planning obligations, but a willingness to pay the charge would not guarantee the grant of planning permission.
- 3.9 One potential way forward is for Planning Authorities to set a charge in the Local Plan for development on sites identified in the Development Plan. The charge could be set at different levels for different types of development such as brownfield and greenfield sites, for residential and commercial development. The charge should be set at a level which would be sufficient to mitigate the likely impacts of new development.

Comment

- 3.10 ***It is considered that it would be very difficult in many cases to set a detailed tariff in relation to specific sites identified in the Local Development Plan. Often these are "in principle" allocations of land which have not been subjected to detailed scrutiny. It is only when a planning application is being considered that some detailed elements would be***

**likely to arise. These could include the need for highways infrastructure, dealing with potentially contaminated land, and contributions to health or education facilities which may not be known in advance. These aspects would normally be negotiated as part of a planning application and therefore would be on the basis of known information. If a tariff was set in advance of this detailed examination it would be likely to under-estimate the cost of provision of such facilities. If a charge was set at a sufficiently high rate to be able to cater for the possibility for such infrastructure improvements, it would be claimed by developers to be too high, unless a mechanism for a refund, once the final costs are known, can be included.**

- 3.11 The Consultation Paper seeks views on whether affordable housing contributions could be treated in this way, including the potential for financial contribution.

**Comment**

- 3.12 ***This Authority's experience and those of other Authorities in Surrey is that financial contributions in lieu of on-site provision for affordable housing does not result in affordable housing actually being provided. This is due to the very high costs of land acquisition for housing in the area. It is strongly recommended that the onus should be on on-site provision for affordable housing provided by the developer.***

- 3.13 The Consultation Paper suggests that a charge scheme should vary according to the use of the development, perhaps being based on either charge per unit for residential and by floorspace for commercial. It also asks whether the charge should only apply to sites identified in the Development Plan.

**Comment**

- 3.14 ***A charging regime based on individual residential units or commercial floorspace would seem the most transparent means of calculating a charge. There are a great number of sites that come forward through "windfall" rather than being previously identified within the Local Plan. It is considered to be essential that any regime is capable of ensuring that there are contributions from developers for such schemes. Also many small schemes have an impact on the local area but do not give rise to an infrastructure contribution. As it is likely that such developments will form a significant part of future provision some recognition in the form of a per unit contribution, may be appropriate on schemes of site size less than 0.4ha.***

- 3.15 The Consultation Paper asks whether Planning Authorities should be able to pool planning charge contributions, and also queries whether they should be able to spend receipts from a planning charge only on those elements specified in the Local Plan. Lastly, it indicates that if a developer has chosen to pay the charge, they should not be asked to make additional financial contributions through a Section 106 Agreement.

**Comment**

- 3.16 ***As already indicated, pooling resources does seem sensible, particularly where there are major long-term infrastructure improvements, or potentially, revenue consequences of initiatives that need to be supported.***

- 3.17 ***It would seem reasonable that contributions are spent on items identified in the Local Development Plan, but again there needs to be an element of flexibility to cope with new local issues.***

- 3.18 ***It might be reasonable to ask a developer to contribute to an element which is directly related to his development, even though he has already provided a financial contribution. This would be the case where it can be clearly identified that the proposed development raised environmental issues that need to be addressed before development could proceed and not adequately covered by the financial contributions.***