

<b>COMMITTEE:</b>	<b>CABINET</b>
<b>DATE:</b>	<b>6 MARCH 2002</b>
<b>SUBJECT:</b>	<b>PLANNING CONSULTATION PAPER – PLANNING OBLIGATIONS</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF PLANNING, REGENERATION AND AMENITIES</b>
<b>Ward(s):</b>	All
<b>Purpose:</b>	To inform Members of the content of the Consultation Paper on Planning Obligations and to consider the response given and comments made in the questionnaire attached at Appendix 2.
<b>Contact:</b>	Lisa Rawlinson, Senior Planning Officer, Telephone 01323 415255 or internally on extension 5255.
<b>Recommendations:</b>	<ol style="list-style-type: none"> <li>1. That Members support the proposals for the reform and improvements of the planning obligation system as detailed in the report.</li> <li>2. That the responses to the ten questions posed in the Consultation Paper, attached at Appendix 2, shall form the Council's official response to the Department for Transport, Local Government and the Regions.</li> </ol>

<b>1.0</b>	<b><u>Introduction</u></b>
<b>1.1</b>	The Department for Transport, Local Government and the Regions (DTLR) has recently published a 27 page Consultation Paper on Planning Obligations (December 2001) (copy in the Members Room).
<b>1.2</b>	The Consultation Paper complements the wider review of planning currently being undertaken and seeks to promote the objective of delivering sustainable development.

1.3	Planning obligations, also known as Section 106 Agreements (S.106) are typically agreements between local planning authorities and developers, negotiated in the context of granting planning permission.
1.4	The Government believes a new approach to planning obligations is required. The Consultation Paper sets out our present planning obligation system and highlights the drawbacks associated with the system, for example it is considered to be inconsistent, unfair, lacking in transparency, time consuming and expensive.
2.0	<b><u>Proposed New System</u></b>
2.1	The Government has considered a number of options for reform and improvements to the planning obligation system and having regard to their associated strengths and weaknesses, has developed the proposal that local planning authorities should set standardised tariffs for different types of development, through the plan making process. These could be supplemented by negotiated agreements.
2.2	<p>There are options of how a tariff might be set for example:</p> <ul style="list-style-type: none"> <li>· on a cost per gross floorspace for both commercial and residential development;</li> <li>· on a cost per dwelling basis for residential development and gross floorspace for commercial;</li> <li>· as a proportion of development value.</li> </ul> <p>It is understood that this tariff could be increased or decreased depending on local circumstances by negotiated agreements.</p>
2.3	<p>Local authorities would be required to set clear policies in their Development Plans (or Local Development Framework as proposed by the Planning Green Paper – see related item on the agenda) on the following:</p> <ul style="list-style-type: none"> <li>· their use of planning obligations</li> <li>· their approach to setting tariff schedules and how they would apply</li> </ul>

2.4	<p>As part of the proposed system, the local authority would have the discretion to determine the types, sizes and location of development on which a tariff would be charged and it is envisaged that a wider range of proposed developments would be subject to a tariff, than is currently subject to planning obligations. Local Authorities would be able to prioritise spending within the local area having regard to the authority's strategies for housing, transport, regeneration, education, health etc.</p>
2.5	<p>Under the proposal, negotiated agreements, should only supplement or amend a tariff where these are clearly justified and necessary to address the particular circumstances of a development. For certain development schemes, a tariff would not be pursued, for example when local facilities, creche or health centre are proposed, as these would contribute to sustainable development in their own right. Furthermore, local authorities would have the discretion to reduce a tariff where it would make a development unviable, for example when a scheme is proposed for a heavily constrained brownfield site. One option would be to exempt developments below 200 square metres of gross commercial floorspace or 150 square metres of residential floorspace. The Government would provide additional guidance on the setting of tariffs if the proposed planning obligations system was to be implemented.</p>
2.6	<p><b>As part of the proposals, developers would have to justify why site specific circumstances warrant a reduction in the standard tariff and in order to speed up the development control process, the Paper recommends that a mechanism should be put in place to resolve any disputes between the local authority and a developer over valuation issues.</b></p>

3.0	<b><u>Affordable Housing</u></b>
3.1	Affordable housing can currently only be sought from residential development and on sites above prescribed thresholds. However, the Consultation Paper states that as part of the proposed planning obligations system, local authorities would define the proportion of tariff to be used to deliver affordable housing, which would depend in part on the assessment of local need.
3.2	The tariff supporting affordable housing would be paid by both residential and commercial development. The contribution could be taken in cash or in kind, or a mixture of both, however, local authorities will be encouraged to seek on site provision as the preferred option.
3.3	Local authorities will also be given the opportunity to allocate sites solely for affordable housing where there is demonstrable need. In addition, it is proposed that tariffs could be used to convert existing buildings and to bring empty properties back into affordable residential use.
4.0	<b><u>Transparency and Openness</u></b>
4.1	In order to deliver transparency and openness in the planning obligations system, and therefore improve public confidence in the planning process, the Town and Country Planning (Development Procedures) Amendment Order 2001, will require all planning obligations to be placed on the Planning Register and new national guidance will set out new procedures for monitoring planning obligations and accounting for all the income and expenditure arising from their use.
5.0	<b><u>Alternative Options for Reform</u></b>
5.1	Whilst the proposed planning obligations system detailed above is the Government's preferred option, comments are invited on alternative options for reform. These options and their associated strengths and weaknesses are attached at Appendix 1.

5.2	Finally, a completed questionnaire on reforming the planning obligations system is attached at Appendix 2 and it is recommended that this shall form the Council's official response to the Department for Transport, Local Government and the Regions.
6.0	<b><u>Human Resource Implications</u></b>
6.1	It is envisaged that a wider range of proposed developments would be subject to a tariff than is currently subject to planning obligations and that this could have staffing implications. However, there could be positive human resource implications associated with the proposals. Clear local policy statements about standardised tariffs will help to simplify the development control process and will provide developers with an increased level of certainty as to what to expect on any given site. Furthermore, the proposed tariff approach will reduce the amount of time spent negotiating with developers.
7.0	<b><u>Environmental Implications</u></b>
7.1	The Planning Consultation Paper recognises that an effective planning obligation system should enhance the quality of development and the wider environment and ensure it makes a positive contribution to sustainable development.
8.0	<b><u>Other Implications</u></b>
8.1	There are no youth, community safety or human rights implications as a result of this report.
8.2	There may be financial implications as a result of the proposal. However, until the DTLR provide detailed guidance, it is difficult to assess the full magnitude of these implications
8.3	There would be positive anti-poverty implications associated with the proposals. It is anticipated that the new tariff-based approach would improve the arrangements for delivering affordable housing and community facilities.

<b>9.0</b>	<u><b>Conclusion</b></u>
<b>9.1</b>	This report informs Members of the content of the Consultation Paper on Planning Obligations and recommends that the attached completed questionnaire should form the Council's official response to DTLR.
<b>Lisa Rawlinson</b>  <b>Senior Planning Officer</b>	
<b>Background Papers:</b>  The Background Papers used in compiling this report were as follows:  Department for Transport, Local Government and the Regions – Planning Consultation Paper – Planning Obligations : Delivering a fundamental change (Dec. 2001)  To inspect or obtain copies of background papers please refer to the contact officer listed above.	
Lr/reports/Cabinet 6 March 2002	

Appendix 1

DLTR Planning Consultation Paper

Planning Obligations

Alternative Options for Reform

- (i) Enforcing more rigorously a strict necessity test.

This option would involve having a legal requirement to ensure that an obligation is necessary and directly related to a proposed development. This would provide increased certainty for developers. However, it would severely restrict and reduce the range of impacts or costs for which contributions are already made by excluding those that are difficult to relate directly to the development site.

- (ii) Full flexibility for local authority to negotiate planning obligations within the law

This option would give local authorities the freedom to negotiate for a wide range of facilities and services. However, it would increase the extent to which the practice relating to planning obligations varies between local authorities, which could be confusing for developers and could result in delayed planning agreements and increased costs to developers. If this option was viewed as the preferred way forward, then it would be necessary to ensure a strong framework was in place to satisfy concerns above propriety.

- (iii) Impact Fees replacing planning obligations

Impact fees provide certainty. They ensure developers face a defined range of wider costs which their proposals impose, rather than just site-specific items. They can be used to support broader policy objectives and can be levied on small developments. However, it is difficult to set fee scales and local planning authorities would not have the flexibility to address site-specific issues. This, therefore, may result in applications being refused which may have been approved if they were able to negotiate site-specific agreements. Therefore, negotiated agreements would need to be sought in addition to the fee.

The Government offers little support for replacing the existing planning obligation system with a pure impact fee system.

Level of Central Prescription that is desirable in any new Planning Obligations System

### OPTIONS

(i) Levels of values of planning obligations to be set by Central Government

- Levels could be prescribed by development type on a national or regional basis. This would provide certainty for developers and promote transparency. However, it would be difficult to take account of local conditions.

(ii) Levels or values of planning obligations to be set by local planning authorities

- Levels would reflect local circumstances. However, it would place a burden on local planning authorities to set fees at the right level.

(iii) Levels or values of planning obligations to be set by local authorities with Central Government guidance

- This is considered by the Government to be the best way forward. It

would provide a consistent approach and yet allows for local variations.

### Consideration of the System's Design

Finally, the Consultation Paper considers whether an alternative approach to the use of planning obligations would be to widen the use of planning conditions. However, whilst this may be quicker than negotiating an obligation, it could lead to local authorities imposing conditions without developers knowledge, which in turn could result in an increase in the number of appeals and failure to comply with any conditions would lead to increased enforcement action.

Therefore, the Government concludes that the present planning obligations system would not be better delivered by planning conditions.

## Reforming Planning Obligations

Questions on which we should like your views

Name: MR. J. COLLARD, DEVELOPMENT PLANNING MANAGER\_\_\_\_\_

Organisation EASTBOURNE BOROUGH COUNCIL\_\_\_\_\_

Address: \_\_\_\_\_DEVELOPMENT PLANNING\_\_\_\_\_

E-mail address: \_\_\_Jeff.Collard@eastbourne.gov.uk\_\_\_\_\_

Telephone No \_\_\_(01323) 415252\_\_\_\_\_

1.

4

Do you support refocusing of the planning obligation system

around the objective of sustainable development?

support      not support

Comments:

2.

44

4



Do you agree that we should:

a) introduce a standardised tariff-based approach for planning obligations?      agree      disagree

b) incorporate the provision for affordable housing within the standard tariff?

agree      disagree

Comments:

4

4

3. Do you believe that any of the other options listed in annex A

provide a better solution than our preferred option?      yes      no

Comments:

4

3. 4. How do you think the tariff should be set (see para 4.12)

4.

a) on a gross floorspace basis

b) on a per dwelling basis

c) as a proportion of development value

d) other (specify)

Comments:

Would relate to both commercial and residential development and could generate additional small residential units.

5.

4 444

Do you agree that sites should be identified within the planning

System specifically for affordable housing?

agree

disagree

Comments: Express support in principle for proposal and acknowledge

that this could particularly assist rural authorities in

securing affordable housing on rural exception sites.

However, we do not envisage that this approach would

be applicable to an urban authority like Eastbourne as it

could create large concentrations of social housing

rather than mixed communities.

6.

4

Do you support the provision of central guidance about how the  
Tariff-based should work, while retaining local flexibility on the

Details of implementation?

support

not support

Comments:

4

7. Do you agree we should retain negotiated agreements where

they are needed to address, principally, site-specific issues?

agree

disagree

Comments:

4

8. Should we enable local authorities to pool contributions should

they wish to?

yes

no

Comments:

4

9. Are you in favour of the use of a dispute resolution mechanism?

If so how might it work?

in favour      not in favour

Comments:

4

10. Would you welcome new good practice guidance about

monitoring accounting and the use of model clauses for

planning obligations?

welcome      not welcome

Comments: It would promote transparency

You can make your response by e-mail to [Paul.Martin@dtlr.gov.uk](mailto:Paul.Martin@dtlr.gov.uk)