

**Body:** Planning Committee

**Date:** 26 March 2013

**Subject:** Local Employment and Training Technical Guidance Note

**Report Of:** The Development Control Manager

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**Ward(s)** All

**Purpose** To explain and justify the production of a Local Employment Technical Guidance Note to support the requirements in Policy D2 'Economy' of the Eastbourne Core Strategy Local Plan

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**Recommendation:** To endorse the Local Employment Technical Guidance Note and its approach to link local people and businesses to large commercial and residential developments

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## **1.0 Introduction**

- 1.1 Every development creates jobs whether solely through the construction phase or additionally through the end use. The Council is to work in partnership with developers and if relevant the end users to help link physical regeneration to employment opportunities for local people and procurement opportunities for local businesses. This will be achieved through planning obligations secured by Section 106 Agreements.
- 1.2 A Local Employment and Training Technical Guidance Note has been prepared to formalise the Council's approach to:
- Indicate the Council's labour market and financial contribution expectations in advance and to outline the delivery process
  - Provide a starting point for negotiations on site specific obligations
  - Provide a mechanism to ensure essential early discussions occur as may otherwise be too late to implement
  - Highlight the range of free labour market support available to help the developer, construction supply chain and operator with their recruitment and training needs which adds value to inward investment services provided locally
- 1.3 The Technical Guidance Note is directly linked to the requirements in Policy D2 'Economy' of the Eastbourne Core Strategy Local Plan.
- 1.4 The Council's approach has been informed by:

- Desktop and verbal research undertaken on other local authority approaches
- Dialogue with CITB-ConstructionSkills, the Construction Training Industry Board, who provided key guidance
- A successful pilot on the new Morrisons supermarket. On average 67% of employees on the construction site and 23% of businesses contracted were local; and of the starting workforce 83% were local of which 45% were previously not in employment
- External lawyers to the Council providing legal advice on the Section 106 Agreement for the Arndale Centre Extension
- 3 week targeted consultation of professional and technical organisations and partners that have show interested in Planning Policy. See Appendix A for consultation responses.

## **2.0 The Approach**

- 2.1 To make the approach manageable and feasible, the Technical Guidance Note will only apply to larger commercial and residential developments. Prescribed thresholds have been set; commercial developments of 1,000 sq m. (gross) or greater, that create 50 jobs or more and those deemed of strategic importance, and residential development that involve ten or more gross units.
- 2.2 Where proposed developments reaches the thresholds set out, the Council will negotiate and seek:
- Commitment to employment and training measures
  - An Employment and Training Plan (ETP) that sets out how relevant employment and training measures will be delivered
  - A financial contribution

### Employment and Training Measures

- 2.3 The Technical Guidance Note sets out the types of measures and activities that the developer and operator could deliver.
- 2.4 Measures will be negotiated and will be appropriate to the nature and scale of each development.
- 2.5 To comply with European Union Law the Council will use best endeavours to process Section 106 negotiations and agreements and has drawn up standard minimum clauses in the Technical Guidance Note to be used in any draft Section 106 Agreements to assist the processing of applications. The clauses do not discriminate against nationality and businesses from other member states as seeking preferential treatment for local people and local businesses contravenes European Union Law.
- 2.6 As a minimum, the Council will expect the following types of obligations:
- Target Small and Medium Sized Enterprises (SMEs) in the construction phase
  - Work with the Council in the development and implementation of an ETP to deliver a recruitment and training campaign linked directly to the construction and operational jobs targeted at those unemployed
  - Provide apprenticeships and work experience placements for those in

- education and those unemployed
- Provide NVQ training for subcontractors associated with the construction of the development only
- The developer to ensure contractors and sub-contractors, and end user/s if relevant and if different to developer to be given clear written details of the labour market obligations in the sites Section 106 Agreement that need to be honoured
- A financial contribution

#### Employment and Training Plan

- 2.7 In the early stage of a development (i.e. pre-planning application stage) the Council will work with the developer and providers to agree an ETP and if applicable, with the end user if different and when known for the starting workforce.
- 2.8 The ETP will outline the deliverability of the measures secured and will comprise of a tailored recruitment and training package including resources levered in from Council partners - Eastbourne Jobcentre Plus and sub-contractors, local colleges, training providers and local organisations who help people back into work.
- 2.9 The developer and end user will complete a Pro-forma outlining their training and recruitment needs in advance. In response, the Council and its partners will draw up an ETP to then be agreed by all parties for delivery.

#### Financial Contribution

- 2.10 The Technical Guidance Note outlines two formulas to determine the financial contribution; one for a construction development only and another for a construction and a commercial end use development.
- 2.11 The Council will negotiate and seek a financial contribution to fund a salaried post to monitor the labour market obligations in the Section 106 Agreement as well the economic impacts during the construction phase, and coordinate the deliverability of the ETP's. Furthermore, the funding will provide small sum of money to cover costs that are outside of the financial scope of local providers funding arrangements to deliver the employment and training for those unemployed i.e. room hire for recruitment days.
- 2.12 The Council may seek to negotiate additional contributions if the employment and training requirements identified in the Pro-forma's are out of the financial scope of local providers funding arrangements and are greater than the nominal contribution.

### **3.0 Consultation**

- 3.1 The policies within the Core Strategy have been subject to wide consultation with stakeholders and the local community throughout its preparation. The Technical Guidance Note does not provide new policy, but does present a detailed interpretation to demonstrate how Policy D2 'Economy' of the Core Strategy will be implemented by the Council.

- 3.2 The Local Plan Steering Group and the Corporate Management Team have endorsed the Technical Guidance Note.
- 3.3 The Local Plan Steering Group on 19 February approved the undertaking of a targeted consultation for a 3 week period from 20 February – 13 March. The Technical Guidance Note has been revised to take into account any relevant comments as outlined in Appendix A.

#### **4.0 Resource Implications**

- 4.1 **Financial** – The Council will use the Section 106 process and its financial mechanism for collecting a contribution to fund a post at the Council and cover costs outside of providers funding remits as outlined in paragraph 2.11. These monies will be ring fenced.
- 4.2 **Staffing** – The change in policy will result in an increase in the number of Section 106 Agreements negotiated for local employment and training measures by the Council. This will have an impact on the existing resourcing of the Specialist Advisory Team and Legal Team within the Council. The Specialist Advisory Team will also be responsible for the employment of a post to monitor each development funded by the developer.

#### **5.0 Other Implications**

- 5.1 No other implications.

#### **6.0 Conclusion**

- 6.1 The development of a Technical Guidance Note was required to discuss how this policy would operate, and the process by which planning applications will be determined, and contributions negotiated and agreed.
- 6.2 Planning Committee are requested to endorse the approach taken and approve the Local Employment and Training Technical Guidance Note in order to ensure local people and local businesses benefit from large developments.

**Kerry Band**  
**Economic Development Officer**

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#### **Background Papers:**

The Background Papers used in compiling this report were as follows:

*Local Employment and Training Technical Guidance Note*

*Eastbourne Core Strategy Local Plan (2006-2027)*

To inspect or obtain copies of background papers please refer to the contact officer listed above.



**Appendix A**  
**Local Employment and Training Technical Guidance Note – Consultation Responses**  
**March 2013**

ID	Consultee	Representation	Officer Response	Modifications Required
<b>1</b>	<b>Since the drafting of the Note, EBC has received legal advice that affects the note in relation to its EU Legislation.</b>			
		<ul style="list-style-type: none"> <li>It's unlawful to discriminate on the basis of nationality between workers of the member states as regards employment, remuneration and other conditions of work and employment (restricts free movement).</li> <li>It's unlawful to discriminate against businesses of other member states by favouring local businesses (restricts nationals in one member state supplying services in another).</li> <li>Obligation to employ local people discriminates against a contractor in another member state who wishes to use their own employees (adversely affects trade between member states).</li> <li>Requiring vacancies to be notified locally is not unlawful however naming sources is not allowed.</li> </ul>	<ul style="list-style-type: none"> <li>EBC must follow the legal advice they have been given.</li> <li>Should retain the monitoring of the use of local people and local businesses, justification being that they are key indicators to gauge the local success of the Note.</li> </ul>	<ul style="list-style-type: none"> <li>Removal of all definitions 'Local', 'Local People' and 'Local Businesses' and relevant obligations.</li> <li>Replace target for 'Local Businesses' to 'Small and Medium Enterprises'.</li> <li>Retain obligation for priority target group - unemployed.</li> <li>Remove named sources of where to advertise vacancies.</li> <li>Make reference of additional monitoring requirements.</li> </ul>
<b>2</b>	<b>Performance Retail Limited Partnership</b>			
		The working and cooperation with local Council partners in terms of communication and promotion of vacancies for positions related to the construction and or operation of major schemes within Eastbourne is to be encouraged and welcomed.	Welcomed.	No change.
		Recommends a lesser target percentage of employment opportunities generated in the	Subsequent legal advice requires removal of term 'Local	Removal of term 'Local People' and target.

		construction phase as impacts the viability of the scheme, choice and competitiveness. Furthermore policy needs to be flexibly written for all different types of construction procurement.	People' and target.	
		It would be ultra vires for any S106 legal agreement to require 50% of contracts to be for local businesses as impacts the viability of the scheme, choice and competitiveness. Recommends more flexible wording: <i>"Reasonable endeavours to ensure opportunities are given for businesses contracted and sub-contracted in the construction phase of the development will be 'Local Businesses'."</i>	Subsequent legal advice requires removal of term 'Local Businesses' and target and will be encouraging the promotion of works locally.	Removal of term 'Local Businesses' and target.
		A legal agreement requiring occupiers or tenants to comply with certain targeted employment opportunities can have the effect of precluding future tenants, impacting on scheme viability and long term economic growth. It is not fairly and reasonably related in scale and kind to the development to prescribe such an onerous obligation on the developer and future occupiers	Subsequent legal advice requires removal of term 'Local People' and target.	Removal of term 'Local People' target.
		Recommends more flexible wording to outline the requirement of Employment and Training Plans (ETP's). Otherwise too onerous on any developer especially those which will have to deal with multiple tenant occupancy. The consultee suggests the following changes to the clause in the Note: <i>"Use reasonable endeavours to <u>assist</u> <del>work with</del> the Council in the development and implementation of an Employment and Training Plan to deliver a targeted employment and training campaign linked <del>directly</del> to the construction and operational jobs within the Development to prepare the local labour market and match suitable candidates to job specifications."</i>	Potentially misunderstands the wealth of bespoke support that can be provided to each tenant. Each tenant will be looking to train and recruit. EBC would work with each to put together an Employment Training Plan. It's a flexible approach to meet the needs of the employer. EBC will be assisting them with their employment and training needs.	No change.
		Removal of target for guaranteed job interviews for local unemployed residents who have undertaken specific pre-employment training. Otherwise too onerous on any developer	Subsequent legal advice requires removal of term 'Local' but can retain a target group. Unemployment is a local	<ul style="list-style-type: none"> <li>▪ Removal of term 'Local' but to retain obligation for target group.</li> <li>▪ Make sure the Note is clear</li> </ul>

		especially those which will have to deal with multiple tenant occupancy.	priority and obligation should be retained. It is a target that will be negotiated on a case by case basis with each tenant, including in a multiple tenant occupancy scheme's as outlined in the Note. It's unlikely to occur in the construction phase as workforce in place.	that each tenant in a multi-occupancy scheme will have their own targets and Employment Training Plan for the starting workforce, and target unlikely for construction phase.
		Removal of target of NVQ training for sub-contractors. Otherwise too onerous on any developer.	Target taken from CITB Client-Based Approach, industry approved. Should be retained.	No change.
		Additional "use reasonable endeavours" recommended to add clarity in sub-sections of Appendix 1.		Agreed. Add for clarity
<b>3</b>	<b>Eastbourne Chamber of Commerce Ltd</b>			
		General comments received on consultation:		
		The burden of the paperwork will favour the larger contractors that have the resources to process bureaucracy. It will further deter local indigenous contractors from tendering even if they are afforded the opportunity.	The Council does not want to add extra burdens on contractors. A monitoring role at EBC will assist with paperwork required for monitoring purposes.	No change.
		The initiative seems to indicate there will be a levy for training but where will those trainees work when the project is finished?	Apprentices will remain with employer during the term of their apprenticeship. The Note does not dictate which firms will employ apprentices so could potentially be local firms. The Training and Apprenticeships in Construction (TrAC) initiative is an option which will involve local people. The work experience placements are also aimed at local people. The construction phase is potentially only one side of the process. The Note also impacts on the end use of a development by assisting the operator with the	Make sure the Note is clear that TrAC is one option that is under constant review.

			employment and training of their starting workforce.	
		Financial contribution another tax.	Financial contribution to be paid by the developer/owner only. The cost is nominal and covers the salary of a monitoring position for one day a week for the during of the construction phase and an additional 4 weeks if there is an end use of the site. The sum is multiplied by 50% to cover costs out of the funding scope of providers of employment and training support. For a 52 week development with an end use this equates to £6,300 which is low in comparison to other similar approaches made by other local authorities.	No change.
		This is an intervention to try to re-address the skills issue which has arisen because indigenous main contractor SME's have been side-lined by policies that favour the use of national contractors through huge frameworks.	EBC cannot influence the way national companies enter into framework agreements. However this Note seeks to influence national companies when they develop in Eastbourne so capturing the opportunity for local employment.	No change.
		This will only continue to paper over cracks of a policy which already favours multi-national and national contractors in the misguided belief that this will represent best value. This is a bureaucratic approach to address a fundamental failure in a core policy whereas if the root of the problem was addressed there would be no need for this kind of intervention.	Part of this problem is compliance with EU Law and competitiveness. The Note is designed to help 'Local People' and 'Local Business' benefit from large private developments, within constraints of EU Law.	No change.
		There are presently no local facilities or courses available within a 50 mile radius that provides the classroom training or support for any construction	Broader training needs are outside of scope of Note. However the Note will start to	No change.

		management course.	influence the need for such training while also seeking construction firms to support that training on site. It is accepted there is an issue and EBC would support the Chamber directly raising with local training providers and construction training board.	
		Local main contractor companies are often precluded from public sector works as a direct result of local government procurement policies that favour very large organisations.	The Note is aimed at the private sector and is not a local government procurement policy. However in larger schemes, private or public, local sub contractors often account for a large percentage of the work.	No change.
		"Decent homes" works has been given to businesses outside of East Sussex that close up their portacabins or rented offices as soon as a project is finished.	Happy to discuss separately but this is outside of scope of Note.	No change.
		No real roots are put down and the profit is not recycled back into the local community and the skills not developed at the right level for true sustainability.	Purpose is to help 'Local People' and 'Local Business' benefit from large private developments, within constraints of EU Law. Jobs for operational phase are sustainable. Note is wider than the construction phase. EBC and Eastbourne Homes are to forecast forthcoming construction work and to discuss with Sussex Downs College the linkages between employment and training and the Note. Chamber is welcome to participate in discussions.	No change.
<b>4</b>	<b>Teal Planning on behalf of Sovereign Harbour Ltd</b>			
		<u>Financial Contribution</u>		
		No reference in Eastbourne Core Strategy Local Plan (CSLP) Policy of financial contribution or administration purpose	Note proceeded CSLP and reference to CSLP in the Note's introduction.	No change.

		Concern that seeks to impose additional financial cost on development to support Council's administrative costs of managing the processes in the Note that has not been substantiated and is not supported by the evidence set out within the Note.	Nominal contribution as a development partner. Not only for the monitoring of the S106 Agreement but also the coordination of personalised Employment Training Plan's for developers and operators who will have access to local employment and training support of which most will be free. EBC will have additional hidden costs to absorb.	No change.
		<u>Multi-phase Developments</u>		
		Does not acknowledge for more complex multi-site or multi-phase developments and the cost and administrative implications of the proposals on such schemes.	<ul style="list-style-type: none"> <li>▪ Should be acknowledged as has been done for multi-operator developments.</li> <li>▪ Each site or multi-site will be negotiated on a case by case basis with flexibility.</li> <li>▪ The fee can be applied for each phase.</li> <li>▪ The only administration burden on the construction supply chain is the monitoring form. If the development has an end use, the tenant only needs to complete once for the starting workforce.</li> </ul>	Acknowledge multi-site and multi-phase developments in the Note and that flexibility will be applied.
		<u>Administrative Burden</u>		
		Will be overly bureaucratic, placing unnecessary administrative burdens on developers, contractors and operators such that it will add further to their financial burden and could act as a potential disincentive to investment or locate in the town.	Should be an incentive to investors as EBC and partners want to help developers, contractors and operators with their employment and training needs. The monitoring role is for one day per week during the course of the development and is not intended to be invasive	No change.

			but of assistance. EBC's approach has purposefully been developed to be flexible and unique to Eastbourne's economy during the recession. The Note is reflective of this.	
		Suggests the return of quarterly monitoring reports rather than monthly.	Data has to be collated regardless of regularity imposed. If the development has an end use, the tenant only needs to complete once for the starting workforce.	No change.
		Apprenticeships and work experience targets too prescriptive.	Targets taken from CITB Client-Based Approach, industry approved. Targets for operational phase to be negotiated to be flexible to unique needs.	No change.
		No guarantee that appropriate candidates will be identified and retained. We suggest the numbers sought within each category are expressed as bands or targets and that categories can be merged if candidates in certain categories cannot be found, enabling more in another group to be appointed.	Targets and categories taken from CITB Client Based-Approach. Monitoring role will broker with providers to aid identification and retention. If unsuccessful flexibility can be applied.	No change.
		<p>The requirement to report where contractors have been staying and for how long will be an additional and unnecessary imposition on contractors. We understand the reason for wanting to collate this information in terms of monitoring linked benefits for the local economy but suggest this is 'nice to know' information rather than critical to the project itself. We suggest such information can be gained more accurately through accommodation based surveys and the Council's tracking of occupancy rates within the town's hotel and guest house accommodation.</p> <p>The requirement to provide regular reports on how contractors and sub-contractors have <i>'been</i></p>	It's an ideal and the approach adopted can be determined on a case by case basis but it's an opportunity to demonstrate the wider economic benefits of each development on the town which in turn promotes the developer, construction supply-chain and operator positively.	No change.

		<i>spending their leisure?'. This again is potentially interesting to the Council in terms of understanding linked economic benefits but we suggest verges into private information and time that employers and lead contractors cannot be required or expected to ask.</i>		
		<u>Construction and Operation Phase</u>		
		Often larger established firms operate their own employment and internal training programmes and systems, potentially linked with the NVQ or other national training programmes. Where such existing processes exist, firms should be exempted from being required to consider additional training measures.	The Pro-forma is the opportunity for developers and operators to outline their own procedures and how they meet relevant targets. The Pro-forma will be discussed between the developer, operator/s and EBC to create an appropriate and bespoke Employment Training Plan.	No change.
		<u>Other</u>		
		We note that the templates annexed to the Guidance Note include suggested clauses with % levels to be negotiated and completed on a scheme by scheme basis, but also that some numbers are in fact included, e.g. Appendix 1... [50%] of employment opportunities generated during the construction phases should be local people. The [ %] should all be left blank in all cases to make clear that each is to be agreed.	Reference to 'Local People' and 'Local Businesses' to be removed due to legal advice.	Removal of 'Local People' and 'Local Businesses' and any targets in Appendix 1 but retained as starting points for negotiation in the core document.
<b>5</b>	<b>Eastbourne Homes</b>			
		Change name to Local Employment and Training Technical Guidance Note.	The Note references 'employment and training'. Makes sense to insert 'and employment'.	Make modification to the name of the Note.
		A need to make the connection between education and sustainable jobs in construction. TrAC should not be the only option for short term developments.	Eastbourne Homes and EBC to map types and value of future construction work in town. EBC to organise a meeting between EBC, Eastbourne Homes and Sussex Downs College to discuss provision of construction training and a model to link training to local employment.	No change.

		Targets for Construction Skills Certificate Scheme (CSCS) cards should be included - evidence of occupational competence. Suggested target of 80% and methodology to periodically obtain list of those working on site and who have CSCS cards and make random checks on site.	EBC purposefully wants a simple and flexible approach but recognise the importance of CSCS cards.	Add as an additional requirement and to be discussed on a case by case basis as part of individual package.
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**Further additions required on adoption of the Technical Guidance Note.**

*Add additional paragraph to the introduction as follows:*

The Technical Guidance Note has been subject to targeted consultation with key stakeholders including planning agents, developers, consultants and those with an interest in development matters, from 20 February to 13 March 2013. Consultation responses and any necessary amendments were presented to Planning Committee on 26 March 2013. Planning Committee resolved to adopt the Technical Note on 1 April 2013.

*Removal of paragraph 8.17 as duplicating information in paragraph 7.2.*

*Removal of paragraph 8.23 as duplicating information in paragraph 7.2.*