
REPORT TO:	Environmental & Development Services Committee	AGENDA ITEM: 9
DATE OF MEETING:	9th January 2007	CATEGORY: DELEGATED
REPORT FROM:	Deputy Chief Executive	OPEN
MEMBERS' CONTACT POINT:	Gill Hague 595742	DOC:
SUBJECT:	Section 106 Agreements - Members' Protocol	REF:
WARD(S) AFFECTED:	All	TERMS OF REFERENCE:EDS G

1.0 Recommendations

That Members:-

- 1.1 adopt the Members' Protocol as set out in the appendix to this report; and
- 1.2 agree to retain the Section 106 Planning Agreements Working Panel for the purposes of preparing a response to the Government's consultation paper on Changes to Planning Obligations.

2.0 Purpose of Report

- 2.1 To seek Members' approval of a formal protocol that will enable local Members to feed issues of local significance into the planning system.
- 2.2 To seek approval of the retention of the Section 106 Planning Agreements Working Panel to enable a response to be drafted on behalf of the Council to the Government's latest consultation document on Changes to Planning Obligations.

3.0 Detail

- 3.1 It is acknowledged that whilst mechanisms have been established for meeting the needs of development at a strategic level such as those resulting from education, health, open space etc, a mechanism is necessary to ensure that other issues in an area that are of local significance are fed into the system.
- 3.2 Following two meetings of the Working Panel, a Members' Protocol has been drawn up and is set out in the appendix to this report. It was agreed

that such Member involvement would be without prejudice to the determination of planning applications, but merely a mechanism for identifying potential impacts. The triggers for the protocol are planning applications for 5 dwellings or more or new commercial floorspace of 1,000 sq m or more.

- 3.3 Section 106 Agreements should only be sought if they meet 5 tests set out by the Secretary of State in Circular 05/2005. A training session will be provided for Members on use of the protocol. Any meetings under the protocol will be required to take place as early as possible in order that sufficient time is available for negotiations with the developer and for the process not to unduly delay the determination of planning applications.
- 3.4 In February 2006, Members considered a report on consultation from the Government to replace Section 106 contributions with a Planning Gain Supplement (Minute No. EDS/55). The Government has now published a further consultation document that builds on the proposed changes contained in the earlier document. It would be expedient to retain the Section 106 Planning Agreements Working Panel to prepare a draft response to the current consultation document, which must be submitted to the Government by 28th February 2007.

4.0 Financial Implications

- 4.1 Contributions in the form of financial payments for works to be undertaken are often paid to the Council and they must be spent in a transparent way, sometimes requiring repayment to the developer if circumstances change or subject to a time limit.

5.0 Corporate Implications

- 5.1 The purposes for which Section 106 contributions can be used are dependent upon whether they meet the five tests set down in Circular 05/2005.

6.0 Community Implications

- 6.1 Section 106 contributions can be used to secure community benefits but exactly what can be achieved will depend on the local development context and infrastructure needs generated by the proposed development.

7.0 Conclusions

- 7.1 The protocol will provide a transparent mechanism for ensuring that local issues are fully taken into account by the planning process. Use of the Working Panel to consider the Government's latest consultation document will ensure that a response is provided in time.

8.0 Background Papers

- 8.1 None other than those referred to in the report.

**MEMBERS' PROTOCOL FOR DETERMINING
APPLICATIONS WITH SECTION 106 AGREEMENTS**

1. Head of Planning Services to highlight relevant applications (five dwellings or more or new commercial floorspace of 1,000 square metres or more) on the initial notification letter to Members advising of planning applications received. Local Members are asked to contact the case officer within a period of 21 days (same as consultation period) to discuss any possible impacts caused by the potential development.
2. Case officer conducts negotiations with the applicant following discussion with the local Members and provides feedback to the Members concerned. Members either consider the outcome to be satisfactory or, alternatively, request the application to be submitted to the Development Control Committee for determination.
3. If planning permission is granted, all Members are notified quarterly of progress on the requirements of ongoing Section 106 Agreements by e-mail and through the Members' Bulletin.