

Planning Obligations

DEVELOPMENT CONTROL PROTOCOL FOR IDENTIFYING AND PRIORITISING PLANNING CONTRIBUTIONS

Purpose

The proposed protocol to apply only to major applications as defined by the Government (above 10 houses). The Protocol is primarily for the use of the Development Control Officer with Developers benefiting from a more defined process that gives more certainty and confidence.

There may be occasions when officers other than the Case officer are charged with the responsibility for negotiating but these officers will still be bound by the protocol

Process

1. Pre-application discussions between the Local Planning Authority and applicants in accordance with relevant protocols, when relevant, (eg. Affordable Housing Protocol).
2. Receipt of application by Local Planning Authority.
3. Compare against Local Plan (or Local Development Document/LDD in future) and Somerset Strategic Planning Conference Protocol to establish scope for planning obligations. Changes in circumstance since the preparation of the Local Plan or LDD and their implications for the scope for planning obligations will be taken on board.
4. Consult with interested parties through the normal consultation process on prospective planning obligations (including Town and Parish Councils, all SSDC Service Groups and SCC and other relevant public bodies). Consultees will be asked to justify their requests for obligations. Inform and engage with District Solicitor's group over prospective heads of terms negotiations (and subsequent detailed agreement).
5. Determine if the application is acceptable in principle in general planning terms. If not, planning obligations negotiations should not be pursued. (If an application is refused and then appealed, then the protocol again becomes a valid process to undertake). If application is acceptable in terms of planning principles, then assess obligations against Circular 5/2005, relevant Case Law and other material considerations, to establish in detail what is sought. Decision on form and nature of obligations to be sought will be the responsibility of the Planning Gain Sub Group of the Council's Senior Managers Forum as advised by the Development and Building Control and Planning Policy Heads of Service on the appropriateness of obligations in planning terms. In determining priorities the Planning Gain Sub Group will be mindful of the approved Corporate Plan.
6. Present to applicants – if agreed proceed with Heads of Terms discussions and working up of legal agreement - if not:

7. Request Land Budget

Land budget to consist of Land Valuation exercise starting with value of land for uses proposed against which normal on-site development costs (servicing, access, construction, open space requirements, fees and developers profit) and abnormal development costs (e.g. contamination clearance, off site highway work etc) are set. Planning obligation costs are identified separately and put into the equation.

Planning requirements and associated costs are also separately identified. Once costs are set against value then:

- i) Where costs exceed value of site as proposed to be developed, then scheme not viable and costs must be negotiated down without compromising essential planning requirements.
- ii) Where costs do not exceed value of site as proposed to be developed, but result in a residual site value that does not exceed existing use value of the site (e.g. agricultural value or industrial value), then costs must be negotiated down without compromising essential planning requirements.
- iii) Where costs do not exceed value of site as proposed to be developed, and do not exceed existing use value of the site, then planning obligations should be achieved through negotiation. There will be an expectation of land value uplift for the landowner that will vary from case to case, but must be taken into account in negotiations. The negotiation must maximise planning obligations achieved whilst ensuring development proceeds.

There will be independent verification of the land budget that is presented to the LPA by an appropriate valuation expert. Ransom costs associated with the development must be taken into account in establishing the net value of the site proposed to be developed after all costs have been taken into account. (This ensures that the ransom bears some of the impact of the necessary costs associated with development. This is appropriate ensuring that maximum value to the landowner and therefore the greater likelihood of planning obligations is achieved).

8. Where costs exceed value of site as proposed to be developed, a Panel of Key Members and officers should be convened in order to establish how much planning obligation (in financial terms) can be discounted. They will need to establish priorities within the original list of planning obligations identified. Given that locational and site characteristics differ so much and are so relevant to the obligations sought, it is inappropriate to give the Panel an established protocol for priorities beyond anything established in a relevant Local Plan (LDD), and Corporate Plan.

Panel to consist of a nominated SCC Member, SCC Division Member, relevant SSDC portfolio holders responsible for services for which planning obligations are sought, and relevant members of other public bodies. Officers to consist of Case Officer and relevant Heads of Service whose role is to inform and advise Panel of the impact of decisions made. A specific and detailed note of the meeting to be kept (detailing decisions made and justifications for them) for reporting and endorsement at subsequent planning committee considering the application in question. Members involved in the Panel would be obliged to declare an interest

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and not take part in the consideration of the application at Committee. Responsibility for establishing the meeting will be the Case Officer's.

9. Case Officer (usually but on occasions a nominated District Council Officer in association with the Case Officer) to negotiate on basis of Panel's decision.

Negotiations to be co-ordinated by the Head of Development and Building Control, (with assistance from the Major Applications Co-ordinator and relevant Development Control Team Leader).

10. Negotiations concluded (successfully or otherwise) and a report submitted on that basis to Planning Committee (with an explanation by the Case Officer where negotiations were unsuccessful). Report to include the "Panel Note".

April 2006