

# **REGENERATION SERVICES COMMITTEE AGENDA**



**Monday 22 October 2018**

**at 4.00 pm**

**in Committee Room B  
at the Civic Centre, Hartlepool.**

**MEMBERS:** REGENERATION SERVICES COMMITTEE

Councillors Brown, Cook, Cranney, Lindridge, Moore, Smith and Young

**1. APOLOGIES FOR ABSENCE**

**2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

**3. MINUTES**

- 3.1 Minutes of the meeting held on 24 September 2018 (*previously circulated and published*).

**4. BUDGET AND POLICY FRAMEWORK**

- 4.1 Negotiating Planning Obligations – *Assistant Director (Economic Growth and Regeneration)*

**5. KEY DECISIONS**

No items.

**6. OTHER ITEMS REQUIRING DECISION**

No items.

**7. ITEMS FOR INFORMATION**

No items.



## ITEMS FOR INFORMATION

Date of next meeting – Monday 17 December 2018 at 2.00 pm in the Civic Centre, Hartlepool.



# **REGENERATION SERVICE COMMITTEE**

**22<sup>nd</sup> October 2018**



**Report of:** Assistant Director (Economic Growth and Regeneration)

**Subject:** NEGOTIATING PLANNING OBLIGATIONS

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## **1. TYPE OF DECISION/APPLICABLE CATEGORY**

1.1 Part of the Budget and Policy Framework.

## **2. PURPOSE OF REPORT**

2.1 To seek members support to allow the Planning & Development Manager the discretion to refer cases, where discussions on planning obligations required in connection with development have reached an impasse, to the District Valuer for advice.

## **3. BACKGROUND**

3.1 This matter was reported to the Planning Committee on 20th June 2018 when the matter was deferred for the further consideration of the Regeneration Services Committee.

3.2 Planning obligations are legally enforceable obligations entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal. They might for example secure a proportion of Affordable Housing on a site or a contribution towards expanding educational provision in an area affected by a development.

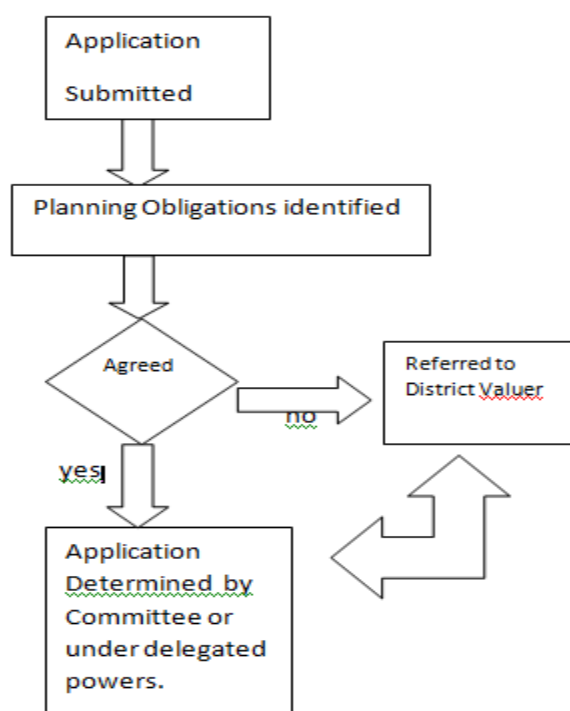
3.3 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework 2012. They ensure that

where possible the costs of providing public infrastructure are met by developers. However, they also result in additional costs for the developer and can therefore affect the viability of a development

- 3.4 The Planning Obligations SPD was adopted on 12<sup>th</sup> November 2015 and sets out guidance on the Council's approach towards securing planning obligations associated with development in the Borough. The guidance indicates that the obligations which will be sought will be dependent upon the type of development proposed. These can include for example obligations relating to affordable housing, play facilities, playing pitches, built sports facilities, highway infrastructure, education provision, community facilities, green infrastructure, ecological mitigation and training and employment. There may also be site specific obligations that need to be secured. (For example an obligation to maintain on site infrastructure). The obligations might be delivered through on site provision, or management obligations, or might include payments for off-site provision dependent on the circumstances.
- 3.5 In terms of the current practice when a planning application is received the Council's Planning Policy team are consulted and will identify the Planning Obligations required in accordance with the guidance set out within the Planning Obligations SPD. (The need for other obligations might also be identified by internal and external consultees and the planning officer dealing with the case.). The applicant will be informed of the obligations which need to be secured. The applicant may agree to the obligations in which case the application can proceed to determination and the obligations will normally be secured through conditions or the completion of an appropriate legal agreement. The applicant may raise concerns at the obligations and in such cases discussions will take place. If the concern is based on the viability of the scheme then the applicant will be asked to provide an economic viability assessment. This will detail the development costs and value. The economic viability assessment will be assessed by officers. If it is accepted then the scheme will proceed to determination. If it is not accepted then further negotiations may take place until either an agreed position, or impasse is reached and again the application proceed to determination. It is usually the case that an agreement can be reached. In the event that an impasse is reached however it is likely that the application would be recommended for refusal on the grounds that the application cannot support the delivery of the required infrastructure and is therefore unsustainable.

## **4. PROPOSALS**

- 4.1 It is proposed that in cases where an impasse is reached in respect to negotiations on planning obligations the Planning & Development Manager have the discretion to refer the case to the District Valuer for advice on whether the obligations can be met. A process flowchart is shown below. The costs for this service to be met by the applicant.



- 4.2 Other authorities notably Stockton Borough Council take this approach. The advantages are that it will provide a further route where an impasse is reached and in the event that an applicant appeals against a decision evidence to defend the council position on appeal.

## 5. RISK IMPLICATIONS

- 5.1 The failure to progress planning applications in a fair and timely manner could impact on the economic growth of the Borough. It is essential that appropriate planning obligations are delivered to ensure that developments are sustainable.

## 6. FINANCIAL CONSIDERATIONS

- 6.1 It is proposed that the costs of the referral to the District Valuer are met by the applicant.

## 7 LEGAL CONSIDERATIONS

- 7.1 The NPPF 2018 and its guidance re-affirm the possibility for an applicant to submit a Viability Assessment (“VA”) with a view to reducing the overall level of contributions required in order to make a development sustainable. The

opportunity for the submission of a VA has been reduced and the method of calculating land values has been prescribed.

- 7.2 The major issue in most VAs is the valuation of the land which, in most cases, requires the input of a qualified surveyor; The RICS have established a methodology for arriving at the correct valuation for the purposes of the NPPF. In the event that a LPA does not have appropriate professional staff to assess submitted VAs it is common practice to ask the District Valuer (“DV”) to assess them and provide a confidential valuation report; often accompanied by a non-confidential ‘Executive Summary’ which can be used in preparation of the Committee report. Alternatively some LPAs refer the VAs to independent surveyors for a similar report.
- 7.3 The proposal here is that, in cases where Council Officers (having evaluated a submitted VA) are unable to agree the appropriate level of contributions to be sought, the matter may be referred to the DV for an opinion rather than refuse the application outright, in effect a form of independent arbitration.
- 7.4 As this optional ‘arbitration’ is an additional service, not included in the LPA’s normal functions when considering an application it is therefore a discretionary service for the purposes of the General Power of Competence contained in the Localism Act 2011 and, accordingly, the Council is legally able to recover from the developer the cost of obtaining the opinion.

## **8. CHILD AND FAMILY POVERTY**

- 8.1 There are no child and family poverty implications relating to this report.

## **9. EQUALITY AND DIVERSITY CONSIDERATIONS**

- 9.1 There are no equality and diversity considerations relating to this report

## **10. SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS**

- 10.1 There are no Section 17 considerations relating to this report.

## **11. STAFF CONSIDERATIONS**

- 11.1 There are no staff considerations relating to this report.

## **12. ASSET MANAGEMENT CONSIDERATIONS**

- 13.1 There are no asset management considerations relating to this report.

### 13. RECOMMENDATIONS

#### 13.1 The recommendation is that

- i) Members **support** the proposal that in cases where an impasse is reached in respect to negotiations on planning obligations the Planning & Development Manager have the discretion to refer the case to the District Valuer. The payment for this service to be met by the applicant.
- ii) That the matter be referred to the Planning Committee for its endorsement.

### 14. REASONS FOR RECOMMENDATIONS

- 14.1 To provide a further route where an impasse is reached in negotiations on planning obligations and in the event that an applicant appeals against a decision evidence to defend the council position on appeal.

### 15. BACKGROUND PAPERS

- 15.1 The Planning Obligations SPD can be viewed online at [https://www.hartlepool.gov.uk/downloads/file/907/planning\\_obligations\\_spd\\_nov\\_2015](https://www.hartlepool.gov.uk/downloads/file/907/planning_obligations_spd_nov_2015)

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