



**OXFORDSHIRE  
COUNTY COUNCIL**

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Environment & Economy Scrutiny Committee

**ITEM CA21**

# Planning Obligations

July 2007

Review Panel Members:

Cllr. Bolster

Cllr. Joslin

Cllr. Greene

Cllr. Purse







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## ENVIRONMENT & ECONOMY SCRUTINY COMMITTEE 18 JULY 2007

### PLANNING OBLIGATIONS

## 1. SUMMARY

- 1.1. Councils expect developers and landowners to provide the basic infrastructure and services made necessary by their development. In addition to temporary disruption during construction, new housing exerts considerable pressures on existing and future local services and infrastructure. Planning obligation agreements are legal agreements (under Section 106 of the Town & Country Planning Act 1990) between developers and the local planning authority that are used to ensure that the adverse effects a development may have on the local community would be mitigated. The planning obligation might involve the provision of improvements by the developer or a payment to the local authority to provide facilities itself.
- 1.2. Following the publication of governmental advice<sup>1</sup>, concern had been raised by Councillors about the possibility that the council was failing to levy the full potential of contributions from developers. They were worried about the lack of transparency, which led to a feeling that there may be insufficient ownership of the process and possibly poor levels of control and communication. A further key issue for Councillors was ensuring current practices regarding planning obligations were being used to deliver real benefits to residents and others who visit or work in Oxfordshire.
- 1.3. To develop the analysis attention was focussed on the following issues:
- ❖ *The process by which needs that require contributions through s106 are identified and justified*
  - ❖ *The process of negotiation with developers*
  - ❖ *How the council ensures that it raises the optimum level of funding from s106*
  - ❖ *The impact on timescale targets for determining applications from negotiating s106*
  - ❖ *The preparation of agreements, length of time in preparation and liaison with legal services*
  - ❖ *The methods by which payments are collected and recorded*
  - ❖ *The methods of recording and monitoring the expenditure of receipts from s106*
  - ❖ *How the council knows that the most appropriate facilities are provided*
  - ❖ *How the council communicates with the public and elected Councillors about the benefits of s106*
- 1.4. The Committee found that considerable improvements in the process for monitoring planning obligations have been made in recent years and that officers in the Developer Funding team (DFt) are extremely committed, often exceeding their contracted hours. Their knowledge and expertise was widely acknowledged by several witnesses and they are respected by developers. The DFt has established successful area-wide and formulaic contribution assessment methodologies in the transport, education and library service areas. Through these developments, combined with improved financial management and information systems, a greater consistency of approach is being achieved. Officers are to be congratulated for frequently securing contributions at or near an optimum level.

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<sup>1</sup> Improving Performance on Section 106 Agreements: Securing community benefits through the planning process, Audit Commission, August 2006

- 1.5. It is widely recognised that more remains to be done, not least as a result of emerging government advice. To negotiate to best effect, it is important to have the right infrastructure policies in the Development Plan documents – which itself involves a considerable process for each suite of documents. Most importantly, a written policy document which clearly sets out for both internal and external audiences what obligations are expected and how they are calculated, is long overdue. The Committee would also like to see a greater reliance on tariffs and formulae, which need to be clearly set out, so that the council is not so heavily reliant upon the ‘heroic approach’ of a few key officers. The more developers can be informed about what is expected in advance the easier it should be to reach agreement without tying up valuable time and resources in protracted negotiations. The development of good working relations between the DfT and its partners provides a good base to build on.
- 1.6. Human resources are stretched and the council has very properly concentrated its focus on those developments that will have the greatest impact on their communities. The Committee would not wish to jeopardise this policy. However, they feel there is also a need to ensure the cumulative impact of smaller developments is not overlooked. Introducing more explicit formulae will help in this regard but the Committee also believe employing an additional officer would be a cost-effective way of giving much needed additional capacity to the team. The report argues that extra contributions would probably be raised as a result of this investment.
- 1.7. In addition to the policies, it is critical that we know what infrastructure is required to successfully accommodate planned growth. The rest of the council needs to assist the DfT to identify future infrastructure needs. The Committee visited two authorities where this message has been embedded very successfully throughout their organisation. Work could also be undertaken to ensure that the yet-to-be-produced planning obligations policy is effectively tied in with the forthcoming Sustainable Community Strategy, the council’s own capital programme and the emerging raft of Parish Plans.
- 1.8. Councillors possess a great deal of local knowledge that is not always being exploited to its fullest potential and the Committee would like to see greater consistency of effort to ensure that all the relevant elected Members for a locality understand the contribution they can make to the identification of infrastructure necessary for their area. This means ensuring that they know when development is taking place but also that they understand the tight timescales involved.
- 1.9. Unitary authorities have a much easier time when it comes to planning obligations, whereas in two-tier counties additional complexities arise since the local planning authority that ultimately grants planning permission isn’t responsible for the provision of transport and education infrastructure. Working relationships in Oxfordshire are good and the Committee hope to see these reinforced through better communication and tighter synergy in planning obligation policy and guidance.
- 1.10. Monitoring the contributions secured, the payments collected and the resources available to be spent on identified projects, has been highlighted as a particular core capability for top performing authorities. Great advancements have been made in Oxfordshire over the last few years especially through the use of Excel software. An even greater degree of automation is needed, to further extended improvements in the availability of essential financial management information.
- 1.11. It is hoped that the council can find the capacity to maintain improved levels of communication about the planning obligation process and celebrate the provision it enables. The Committee look forward to revisiting this topic in a years time and finding an even more efficient, transparent and flexible system that above all else is improving in terms of its accountability and effectiveness.

## RECOMMENDATIONS

The Committee RECOMMEND the Cabinet to:

- R1) make the production of a planning obligations policy guidance document an immediate priority.
- R2) introduce clearly defined and formulae-based tariff systems as a starting point for determining the level of contributions for residential and commercial developments.
- R3) replace the 10-dwelling threshold with a much lower threshold based on bedrooms rather than dwellings and address incremental impact of commercial developments.
- R4) add money into the budget for 2008/09 for one additional Developer Funding team post.
- R5) annually review the administration and monitoring fee that developers are charged and benchmark against top quartile authorities to ensure it remains at appropriate levels.
- R6) ensure that by Oct 2007 every Directorate has a named contact to form the basis of a 'virtual team' for Developer Funding Team liaison.
- R7) ensure councillors are better able to input into the 'needs identification' stage by:
  - (a) establishing a process to check councillors are informed of planning applications in a timely and useful way,
  - (b) producing a short guidance note/ presentation for inclusion in Councillors' induction and training that explains the most constructive way for Councillors to give voice to their communities interests, and
  - (c) offering meetings for councillors of relevant divisions to discuss any planning obligation requirements with officers prior to all applications for a major development being submitted.
- R8) encourage a stronger sense of district and county partnership and work together with each Oxfordshire district council to ensure district and county planning obligation policy guidance are well integrated, preferably in a single joint document.
- R9) ensure the council has sufficient legal capacity to avoid the need for outsourcing work since work undertaken in-house results in additional resources which can be used to enhance the capacity and expertise of the in-house team.
- R10) improve payment compliance by developing the financial monitoring software to produce automatic alerts to officers, as a high priority.



**R11) improve linkages between planning obligations and the council's capital programme so that the monitoring and reporting of them are better aligned.**

**R12) produce a guidance note to be sent to all parish and town councils that:**

- (a) explains the concept of planning obligations,**
- (b) encourages them to produce Town/ Parish Plans that consider planning issues and include details of their local infrastructure requirements, and**
- (c) advises them to give their contact details to the district planning team and request they be consulted on all applications likely to affect their own parish.**

**R13) find new and improved ways to actively inform a range of local stakeholders of the facilities provided to their communities through planning obligation contributions, beyond merely publishing the annual report to Cabinet on the council's website.**

**R14) produce an Action Plan in response to the Scrutiny recommendations rather than a Cabinet meeting minute.**