

A NEW VISION FOR DEVELOPING WAKEFIELD DISTRICT



Local Development Framework

Supplementary Planning Document

Developer Contributions

Initial Consultations

wakefield
City of Wakefield Metropolitan District Council

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Information

This document is available to view and download on the Council's website at: www.wakefield.gov.uk/ldf. Copies can also be obtained free of charge from the address below or by ringing (01924) 306603. If you would like to talk to a planning officer about any part of this document please contact Joanne Neville on (01924) 306603.

If you would like an extract or summary of this document on cassette, in large type, in Braille or any other format, please call (01924) 306603.

دیکھو سنو

اگر آپ کو اس لیفلٹ کی کاپی آڈیو کیسٹ، بڑی
لکھائی، بریل یا کسی اور زبان میں اس کا ترجمہ
چاہیے تو ہمیں اس نمبر پر فون کریں:

(01924) 306603

1.0 Introduction

- 1.1 The Developer Contribution Supplementary Planning document is being produced by the Council as part of the Local Development Framework (LDF) for Wakefield District. The LDF will be a portfolio of documents which will replace the Council's current development plan, the Unitary Development Plan First Alteration from 2008. Further details of these documents can be viewed on the Council's website at www.wakefield.gov.uk/ldf
- 1.2 The LDF and the current Unitary Development Plan include policies necessary to guide land use and development, identify specific sites to provide new development and contain policies to protect and enhance the built and natural environment all aimed at making Wakefield district a more attractive and prosperous place to live.
- 1.3 The Developer Contribution Supplementary Planning Document will set out how benefits for the community which reasonably arise from development proposals in the district will be negotiated and delivered. It is proposed that the document will provide greater certainty and transparency for all those affected by significant development proposals.
- 1.4 It is important that everyone has the opportunity to comment on the preparation of the developer contribution document and the comments made at this stage will help to inform a draft document for further public consultation early in 2007. If you have any comments on the issues set out or the questions raised or you wish to suggest other issues which need to be looked at then you can make these known by:-
 - Fill in the enclosed form and return it.
 - Email your comments to jneville@wakefield.gov.uk
 - Use the comments form on the Council's website at www.wakefield.gov.uk/ldf

All comments should reach us by the 17 January 2007. Your interest in this matter at this stage is appreciated.

2.0 How and Why are Developer contributions required?

- 2.1 The Town and Country Planning Act 1990 Section 106 (as amended by the Planning Compensation Act 1991 Section 12) sets the legal basis for a Local Planning Authority and a developer to enter into a legal agreement to provide infrastructure and services on or off development sites where this could not normally be achieved by the use of planning conditions. This agreement is usually known as a Section 106 Agreement or a Planning Obligation. Guidance on how the Government expect Section 106 Agreements to be pursued is set out in a circular from the Office of the Deputy Prime Minister (Circular 05/2005) issued on the 18 July 2005 and entitled Planning Obligations. This circular sets out the broad principle that any planning application must consider its application on its own merits and reach a decision based on whether the application accords with the relevant development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements they should be refused. However in some instances it may be possible to make development proposals acceptable through the use of conditions or where this is not possible through planning obligations. Where there is a choice between imposing planning conditions or seeking a Planning Obligation then the imposition of a condition is preferable. It is envisaged that Planning Obligations will only be used in a small number of cases.
- 2.2 The test set out in the 2005 Circular is that a planning obligation must be:
- Relevant to planning.
 - Necessary to make the proposed development acceptable in planning terms.
 - Directly related to the proposed development.
 - Fairly and reasonably related in scale and kind to the proposed development and;
 - Reasonable in all other respects.
- 2.3 The use of Planning Obligations and developer contributions must be governed by the fundamental principal that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable developments to be allowed because of benefits offered by a developer which are not necessary to make the development acceptable in planning terms. Similarly Planning Obligations should never be used purely as a means of securing for the local community a share in the profits of a development.

3.0 The Policy Context

3.1 The Council's current Unitary Development Plan has the following policy (Policy R2) stating that:-

“depending on the circumstances of the application the Council will negotiate with an applicant to secure an agreement to provide/replace facilities, or to contribute to their provision/replacement, or to take action to mitigate or minimise the effects of the proposed development.”

The supporting text for the policy states that where appropriate the Council will seek Planning Obligations on the following broad matters:-

- Facilities to enhance the sustainability of public transport, improved measures for cyclists/pedestrians and more efficient use of transport networks.
- The acceptable balance of uses in a mixed use development.
- Measures to offset the loss of or impact on a resource present on his site or nearby eg the loss of a wetland habitat or a site offset by opening up a culverted stream or river.
- The protection of or reduction of harm to a protected species or site, acknowledged to be of importance.
- Social, education, recreation or sporting facilities
- Affordable housing (see the Housing Section particularly policy H4 for more detail)
- Matters other than those covered by a planning permission providing there is a direct relationship between the Planning Obligation and planning permission.

It is emphasised that this is not an exhaustive list and the circumstances of each application will be taken into account.

3.2 Supplementary Planning Documents need to be in conformity with the Local Development Framework.

3.3 The Council issued its preferred options reports for the Local Development Framework Core Strategy and Development Control Policies in January 2006. Several of these draft policies included reference to the potential requirement for planning obligations which could include developer contributions if appropriate. These include:

Core Strategy

Policy CS3	-	Development criteria
Policy CS12	-	Affordable Housing
Policy CS13	-	Affordable Housing on exception sites
Policy CS21	-	Transport and development
Policy CS22	-	Walking and Cycling
Policy CS23	-	Public Transport
Policy CS30	-	Community Facilities and Services
Policy CS31	-	Leisure, Recreation and Open Space
Policy CS37	-	Waste Management
Policy CS39	-	Provision of minerals other than coal

Development control policies

Policy NAT 1	-	Protected sites
Policy NAT 4	-	Wildlife Habitat network
Policy NAT 6	-	Development affecting trees
Policy EIC 3	-	Development in functional flood plains
Policy EIC 7	-	Air Quality
Policy EIC 2	-	Noise Pollution
Policy REN 2	-	Renewable Energy Generation Technology
Policy MIN 1	-	Mineral extraction

These policies identify where developers may, if appropriate, be required to enter into a planning obligation. Planning obligations do not always require a payment of money they may specify how something is done or an undertaking not to do something that could otherwise occur.

4.0 The current use of Developer Contributions

There is no definitive list of the types of benefits that can be achieved through Developer Contributions and planning agreements. In recent years planning agreements negotiated by the Council have been used to achieve the following:-

4.1 Affordable housing

The basis for this is set out in the Council's current Supplementary Planning Guidance Note 6 which forms part of the Unitary Development Plan. This was adopted by the Council on 17 March 2004 and sets out the size, sites and location where affordable housing will be sought is as follows:

- (a) Sites which are identified in the UDP where the Council considers that an element of affordable housing should be provided. The number of new affordable houses is not specified but will be the subject of the negotiation with developers at the time a planning application is made, taking into account the latest housing needs statement and the total number of houses proposed for the whole development. The presumption is that the affordable housing will be provided on the site although in exceptional circumstances a commuted sum could be considered for use on an alternative site in the locality.

Where planning applications are submitted on sites not specifically allocated for affordable housing the starting point is that affordable housing will be required on sites that meet one of the following criteria:-

- 1) housing developments of 25 or more dwellings or residential sites of 1 hectare or more irrespective of the number of dwellings.
- 2) in settlements of fewer than 3,000 people where the proposed development is on the site of 0.5 hectares or more or for 15 or more dwellings.
- 3) smaller sites which form part of a larger area of developable land where there may be an identified need for affordable housing.

The target for affordable housing is set out in the UDP which states that the Council will negotiate to achieve between 15% and 25% of the total number of proposed dwellings in a development as affordable unless need could be met by a smaller proportion. The current housing needs survey forms an important baseline in negotiations with developers.

The mechanism used to deliver the affordable housing is calculated as a sum arising from the difference between an affordable house and a market value house on a site multiplied by the appropriate percentage level which is being sought. This value is then recycled into the site preferably with a registered social landlord to secure the units on the ground.

Housing Officers are key to the negotiation at the planning stage. Planning Obligations have also been used to secure special needs housing eg wheelchair accessible housing and housing for the over 55's.

4.2 Public Open Space

On developments of over 29 units the Council have sought to secure areas of public open space on the site or to secure a commuted payment for off site provision where this is considered preferable by the Parks and Public Realm Manager. When public open space is provided on site then arrangements are expected to be secured regarding the long term maintenance of that open space. This can be achieved either by the Council receiving a commuted sum and adopting the area or by a third party such as a management company or a residents association taking responsibility for the upkeep of the space.

The Council's Residential Design Guide adopted in 1996 sets out the open space requirements and this includes space which is capable of use for children's play and other recreational activities on smaller schemes but in larger schemes also considers the possibility of provision for passive open space and kick about areas.

The Policy states that in respect of small sites (developments of less than 30 dwellings) no public open space will be required. With respect to medium sites (between 30 and 60 dwellings) in line with the aim of requiring only functional areas of public open space to be provided no on site public open space will be required if there is an existing and usable public open space adjacent or within 400m of safe walking distance of the development site or where other local circumstances dictate an area of open space in the wider community area. With respect to larger sites (60 to 120 dwellings) 15 square metres of public open space will be required which will include 5 square metres of equipped play space per dwelling where the development includes dwellings of 2 or more bedrooms. On developments of more than 120 dwellings upto 10% of the site area will be required for open space.

In recent years it has been the practice to seek a sum of £730 per dwelling where the facility is to be provided off site through a Section 106 Agreement.

The requirement for a contribution to open space is considered appropriate where a new residential unit has 2 or more bedrooms.

4.3 Education

Education contributions are sought only where new housing will generate a need for places which cannot be met by existing schools. The decision as to whether new school places will be required is based on public information issued from the Council's Family Services Directorate. Contributions are required both for statutory aged education and additional places in non statutory aged education where local provision exists but where additional demand generated by new housing cannot be met. (Non statutory relates to pre 5 and post 16 education). Developments of 25 houses or more are assessed for the need for a developer contribution. The number of school pupils resulting from a housing development is based on 3 children per age group per 100 houses. The basis of calculating a contribution is the DFES cost multiplier the current figures for which are primary £8,160 per place, secondary (11-16) £12,815 per place and post 16 £13,709.

4.4 Off site highways and transportation works

These works vary depending on the location and the requirements to ensure a safe development in highway terms. Developer contributions have been used to deliver the following:-

- Off site highway works
- New bus shelters
- Car parking controls and pricing in town centres
- Park and ride sites with associated footbridge over railway (Waystone at Glasshoughton)
- New bridleways or footways
- Diverting and upgrading of existing footways or bridleways
- Contribution to public transport provision and use eg metro cards

4.5 Off Site drainage works

This has been achieved for example from a scheme in South Elmsall towards Frickley Colliery drainage scheme.

4.6 Environmental Works

These measures include:-

- Future watercourse maintenance (Ackton Pastures, Castleford)
- Environmental village improvements, all local community benefits (arising from an opencast scheme)
- Works to an adjoining factory to limit noise and dust

4.7 Public Realm

These improvements have included:-

- a contribution towards tree planting on the Emerald Ring in Wakefield.
- contribution to environmental initiatives in College Grove, Wakefield.
- off site landscape works contribution.

4.8 Other benefits secured are:-

- Upgrade of village sports facilities
- Village community centre facilities
- Promoting local employment (Tesco, Hemsworth)
- CCTV

4.9 Non Monetary contributions

Section 106 Obligations can also be used to secure non monetary benefits as well as contributions outlined above. For example these would include:-

- Lorry routing associated with a major opencast scheme
- Details of phasing and timing of large scale developments
- The revocation of existing permissions without a right to compensation
- Control over demolition of properties eg White House, Sandal
- Closure of existing facilities on opening of new one eg Mosque at St Catherines Street, Wakefield

It is a usual requirement that where monies are allocated for specific purposes that these are spent within a 5 year period of the money becoming available.

5.0 The Future basis for securing Developer Contributions

The Council consider that many of the types of benefit secured in the past will continue and in future contributions will be sought for the following facilities where they meet the test set out in Government Circular 2005 and are necessary to ensure that development which is acceptable in principle is delivered in a way that brings positive benefits to the local environment and community.

a) **Affordable Housing**

The Council will need to consider:-

- the thresholds at which affordable housing should be required. These have been set out in the LDF core strategy consultations already carried out. Policy CS12 set out the thresholds as:
 - a. in settlements of fewer than 3,000 population the proposed development is on a site of 0.2 hectares or more or is for 6 or more dwellings
 - b. in settlements of 3,000 population or more the proposed development is on a site of 0.5 hectares or more or is for 15 or more dwellings.

The proportion of the dwellings on each site which are affordable should be sufficient to meet identified need up to a maximum of 30% of the total.

- the number of units that will require affordable contributions.
- the type of affordable housing to be achieved.
- the formula and mechanism for delivering affordable housing.

b) **Public Open Space and play facilities**

The need for public open space associated with new developments will continue and may be required for leisure, commercial or other uses and not only residential. Open space is taken to mean all open space of public value as described in Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation as refined in the Council's Greenspace Strategy. The calculation on which the open space requirement is based will need to be reviewed along with the mechanisms for ensuring future maintenance. The review will include the requirement for facilities in the immediate vicinity and the wider community area. The application of the calculation will be reviewed in terms of type and area of development, the number of properties and their density, size and number of bedrooms including flats/apartments. The timing of the provision of on site facilities and/ or payments will also be considered. Where new open space is not adopted by the Council adequate maintenance arrangements for the future will be sought through a planning obligation.

c) **Education Contributions**

These will be an important part of future developer contributions where existing facilities cannot meet the demands arising from new development. Such contributions will usually be directed at providing additional capacity but where it can be shown that the existing facilities are significantly substandard then an upgrade of existing facilities could be considered. What threshold should apply for contributions to apply? Should contributions apply also to pre 5 and post 16 education?

d) **Off site Highways and Transportation works**

These will continue to feature strongly in order to ensure sustainable forms of development and transportation. These will often be site specific but consideration will also need to be given to "pooling" funds to secure benefits which are development alone may not be economically able to fund.

e) **Drainage**

Where significant off-site drainage works are necessary, then these could be secured by a planning obligation if other legislation cannot secure within an appropriate timescale.

f) **Public Realm**

Public Realm works will become more important as the Council seeks to improve the quality of residential, commercial, leisure and other environments within the city. The Council will seek to work with developers to bring added benefit to both the development and the public realm through the provision of high quality spaces as well as buildings negotiations will be based on the Council's recently approved Streetstyle Design Guide. When should such provision be made and on what basis?

g) **Community and Health facilities**

Where significant developments place pressure on local community or health facilities then a contribution to improve/expand such facilities may be sought. What criteria need to be applied and when?

h) **Economic Regeneration**

Providing skills training for current employer needs within the District would be one way of underpinning the economic regeneration which is taking place in many parts of the District. Where new industrial/commercial developments are proposed then a contribution to secure training opportunities to fill local skills gaps may be appropriate.

i) **Refuse and Waste disposal**

Recycling of waste is a significant challenge for all homes and businesses. As the Council develops its Waste Strategy the provision of local/neighbourhood recycling facilities could justify contributions from local developments at suitable locations and of a suitable form.

j) **Air Quality**

The LDF Core Strategy recognises that areas of poor air quality arise and where this is a particular problem Air Quality Management Areas will be identified. Where development is close to or could have a significantly detrimental impact then mitigation measures may be appropriately secured through a planning obligation.

k) **Other matters**

Other issues are raised as potential basis for planning obligations and may be developer contributions in the draft policies set out in Section 3. Often these will arise from site specific issues and the setting of thresholds and payment rates will not be appropriate.

6.0 The drafting of Section 106 Obligations

- 6.1 Planning Obligations can be considered in the form of a unilateral undertaking from a developer prepared by his own advisors with the developer carrying the costs of the documentation. Where this occurs the Council will expect to be consulted and involved in the drafting and finalisation of such unilateral obligations.
- 6.2 Where the Council prepares an Obligation then the Council's legal costs of the preparation of that agreement will be expected to be born by the Developer. The Council will consider an appropriate rate for this to be included in its Draft Supplementary Planning Document.

The Council will also seek to prepare model agreements and standard clauses to minimise the preparation work in agreements.

In agreeing contributions the Council will wish to see these inflation linked from the date of the obligation.

7.0 Comments on the content and scope proposed

This is the first stage of the preparation of a Supplementary Planning Document on Developer Contributions and the purpose of preparing this is to get views on its scope and content. A draft of the document setting out the Council's proposals will be available for public comment in early 2007 and more detailed observations can be made at that time.

Your comments are sought at this stage on the following:

- 1) Are there any matters not covered in this document which you feel should be included?
- 2) What is the appropriate minimum threshold of development at which the contributions should start?
- 3) In some cases prioritisation of requirements for a planning obligation will be necessary what do you think are the most important issues that should be given priority, recognising that any specific case may raise very specific issues?
- 4) In some cases contributions will be specific to the immediate area but in others such as affordable housing would it be appropriate to make provision in adjoining settlements or a specific part of the district eg south east or Five Towns. Do you have comments on what such catchments should be?
- 5) Many of the contributions are based on residential development. New commercial development will increase the number of people travelling into and around the City and Town Centres. This could have implications for congestion, pressure on public transport, car and cycle parking, air quality and public safety. Should contributions also be sought from other types of development eg leisure or commercial and if so on what basis?
- 6) Any other comments or issues?

The next steps

All comments received in response to this initial consultation will be considered and taken into account in preparing the draft developer contribution document. It is anticipated this will be prepared in early 2007 and a full consultation will take place when you can comment further on the details proposed.

A summary of all responses received to this initial consultation and the actions proposed will be prepared for public information. Responses are required by the 17 January 2007.

Any queries contact: **Joanne Neville** (01924) 306603.