

Report by: Head of Development Services

To: Environment Scrutiny Committee on 27/4/2004

Executive Councillor (Environment): Councillor Harrison

Wards: All

REVIEW OF PLANNING OBLIGATION STRATEGY

This report is being submitted to the Scrutiny Committee for prior consideration and comment before decision by the Executive Councillor.

1 DECISION TO BE MADE

- 1.1 To note the results of the consultation exercise in respect of the review of the Planning Obligation Strategy and approve the proposed changes.
- 1.2 To note the update report on the administration and management of planning obligations.

2. RECOMMENDATIONS

The Scrutiny Committee is asked to consider the recommendations below.
The Executive Councillor is asked to approve the recommendations below.

- 2.1 To approve the proposed changes to the Planning Obligation Strategy and adopt the revised Planning Obligation Strategy 2004 as supplementary planning guidance to be applied to planning applications registered from 28 April 2004 (including any further changes recommended in Appendix 2 arising from the consultation exercise).
- 2.2 To endorse the update report on the management and administration of planning obligations.

3. BACKGROUND

Update on national guidance

- 3.1 S.106 of the Town and Country Planning Act 1990 (as amended) provides for financial or other obligations required to enable a development to proceed, to be tied to the grant of planning permission for the development in the form of a legal obligation known as a S.106 Agreement or planning obligation. Circular 1/97 is the current key source of government guidance on the use of planning

obligations. Circular 1/97 states that planning obligations should be sought only when they are:

- (i) necessary;
- (ii) relevant to planning;
- (iii) directly related to the proposed development;
- (iv) fairly and reasonably related in scale and kind to the proposed development; and reasonable in all other aspects.

3.2 The Government identified the need to reform the planning obligation system in its Planning Green Paper produced in December 2001 (*Planning Obligations: Delivering a Fundamental Change*). One option for change proposed was the introduction of a simple tariff based system for dealing with the impact of new development on infrastructure. In summer 2002, the Government stated that it did not consider it appropriate to pursue a simple tariff based approach. In November 2003, a further consultation paper on improving the planning obligation system was circulated. This proposed, among other changes, the introduction of an optional planning charge system. In its response to the consultation paper, the City Council expressed concern about this proposal for the following reasons:

- it works against the principles of sustainable development;
- it is unclear what the benefits are to developers or local authorities of the optional planning charge described in the paper;
- it transfers the responsibility and risk of providing the necessary infrastructure to support new development to local authorities;
- it potentially contravenes the European Human Rights Act and environmental impact assessment legislation in relation to third parties;
- it will potentially disenfranchise the involvement of local communities in new developments proposed in their areas.

The City Council suggested that that reform should be based on the continued development of the current mixed system currently in operation (combination of using formulae and negotiated obligations as appropriate to address the specific requirements and impacts of new developments) to provide clarity and transparency in the interest of the applicant and community.

3.3 It is likely that further government consultation on the matter will take place later this year.

Cambridgeshire and Peterborough Structure Plan 2003

3.4 The new Cambridgeshire and Peterborough Structure Plan was adopted in autumn 2003. This Plan includes a number of policies specifically relating to the provision of appropriate infrastructure for new development. Research and development is currently taking place on various aspects of the delivery of sub-regional infrastructure by the local authorities involved. Work is focussed particularly in the areas of affordable housing, sustainable development, transport and the mechanisms for enabling new development to contribute to the provision of sub-regional infrastructure.

City Council guidance on planning obligations

3.5 The following documents have been adopted by the City Council as Supplementary Planning Guidance following public consultation. They

supplement policies and proposals in the Development Plan in relation to the use of planning obligations and provide a clearer framework for the negotiation of planning obligations for new developments in Cambridge. Note that the NCATP and WCATP have also been adopted as Supplementary Planning Guidance by South Cambridgeshire District Council.

Document	Date adopted as SPG
Planning Obligation Strategy	July 2002
Revised Southern Corridor Area Transport Plan	July 2002
Revised Eastern Corridor Area Transport Plan	July 2002
Provision of Public Art as part of new development schemes	July 2002
Northern Corridor Area Transport Plan	March 2003
Western Corridor Area Transport Plan	March 2003

- 3.6 It is planned to review the four Area Transport Plans later this year in Conjunction with the County Council and South Cambridgeshire District Council. The outcome of this review will be reported to the Environment Scrutiny Committee in due course.
- 3.7 This report is split into two sections. Section 1 sets out the results of the recent consultation on the proposed changes to the Planning Obligation Strategy, and in light of this makes recommendations on revisions to the Strategy for adoption as Supplementary Planning Guidance. Section 2 provides an update report on the administration and management of planning obligations by the City Council (this follows on from the previous report in July 2003).

4. SECTION 1 : REVIEW OF PLANNING OBLIGATION STRATEGY

- 4.1 The Planning Obligation Strategy was adopted as Supplementary Planning Guidance in July 2002. An undertaking was given to review the documents annually and a report was presented to Environment Scrutiny Committee in July 2003 outlining the conclusions of the first annual review of the Planning Obligation Strategy. It set out a framework for consultation on the proposed changes arising from that review.
- 4.2 The review concluded that the current Planning Obligation Strategy set out a coherent methodology for justifying and negotiating mitigation measures to address the impact of new development on the city's infrastructure. The review also concluded that the Strategy established a robust framework for the expenditure of contributions received through planning obligations. The review recognised that it is very likely that there will be significant changes in the future in terms of Government guidance on the use of planning obligations as well as the relevant local and regional planning framework (e.g. Cambridge Local Plan, approach to delivery of sub-regional infrastructure), which will influence future reviews of the Strategy. However, it was considered that little substantive change was required to the format or content of the Planning Obligation Strategy at this point in time.
- 4.3 Proposed changes to the Planning Obligation Strategy fell into the following three areas:
- (i) Update of references to the policy framework where appropriate;

- (ii) Update of the methodology for calculating contributions to take account of inflation increases in the cost of providing infrastructure where appropriate, and the application of contributions;
- (iii) Update of the framework for expenditure of contributions to take account of those projects on the list which are now underway or completed, evaluate whether the other projects listed are still relevant, and to identify, where appropriate, new projects for expenditure.

4.4 The table included in Appendix 1 sets out a summary of the main changes to specific elements of the Strategy in addition to the three general areas of revision identified above. With regard to the proposed selection of new projects for funding (particularly open space and community facilities), the following criteria were used:

- Provision of a range of projects of different types and sizes across the city so that funding arising from development sites can be used locally where possible;
- Projects must provide or improve open space and community facilities to cater for increased usage and needs arising from residents of new developments;
- Open space projects should be capable of delivery in next 12-18 months. Community facility projects should be capable of delivery in next 2-3 years (longer timescale due to need to work in partnership with community/voluntary groups to deliver most projects);
- Planning obligation funding for projects should not replace or substitute existing Council funding;

4.5 The following consultation has taken place on the proposed changes to the Planning Obligation Strategy:

- (i) Consultation with the four Area Committees in January/February 2004 on the potential list of open space and community development projects for future funding from planning obligations.
- (ii) Stakeholder consultation with residents associations, community groups, selection of planning agents and major developers operating in the city, housing associations, City and County Councillors whose wards include part of the city, and other interest groups. The consultation period ran from 18 March to 7 April 2004.

A list of groups and individuals consulted can be made available upon request.

4.6 The results of the consultation exercise along with officers comments and recommendation for change to the Planning Obligation Strategy are included in Appendix 2 of this report.

4.7 Common issues raised through the consultation exercise are set out below. Your officer's comments on these and other issues raised is set out in Appendix 2 of this report.

- Contributions should only be spent in wards from where they originate;
- Additional open space projects suggested for expenditure;
- Account should be taken of the financial cost and difficulties involved in bringing forward brownfield sites for development in applying the Strategy;
- Open space contributions should be used to create new open spaces as well as improving existing spaces and facilities;

- More information should be made available on planning obligations;
- Legitimacy of using planning obligation contributions to fund city-wide projects;
- Policy basis for proposed changes to public realm aspect of Strategy is weak & unsubstantiated;
- Non-profit making organisations should not have to provide planning obligation contributions (e.g. University, clinical development at Addenbrooke's);
- Planning obligation Strategy should not be applied to affordable housing schemes as it makes it difficult for RSLs to finance schemes & is inflationary upon house prices;
- Proposed change to criteria for contributions to open space requiring contributions from changes of use from one residential use to another may reduce the potential for this source of new housing to come forward.

4.8 Officers recommend that the revised Planning Obligation Strategy set out in Appendix 3 with proposed changes highlighted (including any further changes recommended in Appendix 2 arising from the consultation exercise) is adopted as Supplementary Planning Guidance and that revised Strategy is used in the consideration of planning applications registered from 28 April 2004.

5. SECTION 2 : ANNUAL REPORT ON PLANNING OBLIGATIONS 2003/2004

Planning obligations authorised/negotiated 2003/2004

5.1 The following table sets out the number of planning obligations authorised and completed year on year.

Year (April – March)	No. obligations authorised	No. obligations completed
2000/2001	33	19
2001/2002	63	49
2002/2003	58	59
2003/2004	74	78

5.2 The data shows a continuing increase in the number of planning obligations dealt with by the City Council year on year. Of the 74 planning obligations authorised in 2003/2004, 24 were in connection with 'major' applications, 43 were in connection with 'minor' applications and 11 were in connection with 'other' applications. (Note that 'major' applications are defined as those applications comprising 10 or more dwellings, or a site area of 0.5 ha. or more where the number of dwellings is not shown, or other developments where the proposed floor space exceeds 1000 sq.m. (gross) or where the site area is 0.5 ha. or more. 'Minor' applications are those that fall below the criteria for 'major' development. 'Other' applications include applications for changes of use, householder developments, advertisements, listed building and conservation area works and certificates of lawfulness).

5.3 With regard to the 78 obligations completed in 2003/2004, the average length of time taken to complete obligations for major applications was 49 weeks and for minor applications 23 weeks. New procedures were introduced in

March 2004 to improve performance in terms of completing planning obligations. These procedures included setting stringent deadlines for completing S106 Agreements and encouraging the use of Unilateral Undertakings for simple obligations dealing with contributions to open space and community development (usually in connection with 'minor' applications). The main agents and developers involved in submitted planning applications to the City Council were advised about the changes in procedures, and information on the procedures including draft Undertakings are included in planning application packs and can also be downloaded from the City Council's web site.

- 5.4 It is too early to determine to what extent the revised procedures have improved the turnaround time for dealing with planning obligations. However, since introducing the new procedures at the beginning of March, 10 Unilateral Undertakings have been offered, some with new applications and others with longer-standing applications. Of the 6 new minor applications which have attracted unilateral undertakings, decisions should be made upon them within the statutory 8 week period.
- 5.5 At the end of March 2004 there were a total of 227 records on the planning obligation database. Of these, 142 involve obligations where a financial contribution has been made. There are currently 67 draft Agreements awaiting completion.

Value of planning obligation contributions

- 5.6 The value of the cost centres into which commuted payments received from planning obligations are paid as at the end of March 2004 is shown in the table below. Please note that contributions are paid where the facilities or infrastructure are not provided directly by developers, and therefore do not reflect the total value of infrastructure or facilities or affordable housing provided through new development.

Category	Current balance (end March 2004)	Planning obligations completed but development has not yet started*
Affordable housing (commuted sums in lieu of provision on site only)	£2,242,950	0
Transportation (breakdown below)	£4,032,219	£3,211,202
<i>SCATP</i>	£1,008,474	£1,821,448
<i>ECATP</i>	£533,329	£574,658
<i>NCATP</i>	0	£23,940
<i>WCATP</i>	0	0
<i>Commuted parking</i>	£251,150	£417,750
<i>Specific infrastructure</i>	£2,239,266	£373,406
Recreation & Open Space (breakdown below)	£1,609,856	£901,016
<i>Formal</i>	£507,159	£184,468
<i>Informal</i>	£416,595	£131,556
<i>Play areas</i>	£94,800	£105,275

<i>Mixed categories, specific projects & maintenance</i>	£591,302	£479,717
Community development	£477,194	£558,100
Education & lifelong learning	0	£332,748
Public Realm	£246,730	£93,968
Public Art (commuted sums in lieu of provision on site only)	0	0
Nature conservation	£3639	0
Miscellaneous	£53,311	£15,500
TOTAL	£8,665,899	£5,112,534

* Please bear the following in mind when considering information in this column:

- (i) Many of the contributions required by the planning obligations included in this category will not be confirmed until reserved matters applications are submitted, therefore these figures do not represent the full total of contributions that would be received if all relevant applications were implemented;
- (ii) Many of the applications included in this category may not be implemented in which case the contributions required under the related planning obligations would not be submitted to the City Council.

Expenditure of contributions 2002/2003

- 5.7 A detailed breakdown of expenditure against projects identified for potential funding is provided in Appendix 4.

Monitoring and management of planning obligations

- 5.8 The monitoring of planning obligations is the responsibility of the Special Projects and Implementation Manager. As the number of planning obligations increase, an increased amount of time and resource has been required to ensure that they are monitored and managed effectively.
- 5.9 During 2003/2004, a number of improvements were undertaken in relation to the administration and management of planning obligations. The report to Environment Scrutiny Committee in July 2003 identified areas of improvement that would be instigated over the following year. These are set out below along with an update on progress.

Areas of improvement identified July 2003	Progress at end of March 2004
Facilitate an internal audit of the planning obligation monitoring and management system in July/August and implementing any improvements identified from the audit.	The audit was completed in December 2003. The conclusions of the audit was that overall the systems in place for managing planning obligations were good. A summary of the audit report and extent of implementation of the recommendations can be found in Appendix 5 of this report.
Develop and implement with Legal Services a formal of simple legal	Format for standard Unilateral Undertakings introduced March 2004.

undertakings to be used in connection with planning obligations for minor applications in order to improve the time taken to complete legal agreements.	
Review and reduce the timescales for completing legal agreements.	Procedures for completing planning obligations including timescales reviewed, and revised procedures introduced March 2004. Review to take place by end May 2004.
Investigate the practicality of setting up a Members Working Group to receive regular reports and provide feedback on the management of the planning obligation system.	Not progressed to date. Will carry out investigation by end June 2004.
Investigate the practicality of storing status reports on planning obligations on the City Council's web site.	Initial investigation completed. Web site to be developed by end May 2004. Public information leaflet to be developed by end May 2004.

Monitoring of student parking controls

5.10 In recent years a number of planning applications have been considered for purpose built student accommodation to be operated by parties other than the University of Cambridge or APU (these establishments operate their own student car and parking control schemes), or for variation to planning conditions attached to existing student accommodation to enable them to be occupied by students who attend educational establishments other than the University of Cambridge or APU. In these instances, the grant of planning permission has planning conditions attached or a planning obligation which prohibits residents from owning or controlling a car in Cambridge, applying for a residents parking permit, requires monitoring of the situation and sets out the steps required to be taken by the accommodation operator if a resident is found to be in breach of these matters. The table attached as Appendix 6 is a summary of the planning enforcement monitoring exercise carried out in 2003/2004 in respect of monitoring compliance with planning conditions and planning obligations attached to these establishments.

5.11 The monitoring exercise reveals that the establishments are currently complying with the requirements of their planning permissions and planning obligations.

6. CONSULTATIONS

6.1 In preparing this report, consultations have taken place with the following:

- (i) Head of Parks & Recreation
- (ii) Head of Community Development
- (iii) Environment & Transport & Finance officers at Cambridgeshire County Council
- (iv) The four Area Committees in January/February 2004
- (v) Residents associations, community groups, selection of planning agents and major developers operating in the city, housing

associations, City and County Councillors whose wards include part of the city and other interest groups.

7. OPTIONS

7.1 The options are:

- (i) Not to have a Planning Obligation Strategy at all;
- (ii) Not to revise and update the current Planning Obligation Strategy;
- (iii) To update the current Planning Obligation Strategy as recommended in this report.

Option (iii) is recommended as it is considered that the absence of an up-to-date framework for negotiating planning obligations would have the following impacts:

- There would be no clear overall framework or guidance for developers to understand how the infrastructure issues relating to their development proposals will be assessed, nor information on the likely costs related to mitigating the impacts of their proposals on infrastructure resulting in a lack of certainty for developers;
- The contributions provided by developers to mitigate the impact of their development would not cover the true cost of providing appropriate infrastructure;
- There would be no agreed framework of infrastructure projects for funding using planning obligation contributions to fund, nor any method of comprehensively combining contributions arising from individual developments to enable them to be used to implement larger more expensive items of infrastructure.

8. REASONS FOR DECISION

8.1 It is important that the planning obligation system is open and accountable. Consideration changes to the Planning Obligation Strategy and the management and monitoring of planning obligations handled by the City Council by Environment Scrutiny Committee is an element of this.

8.2 As part of the adoption of the Planning Obligation Strategy as Supplementary Planning Guidance, it was agreed that the Strategy would be reviewed annually. This report sets out the outcome of consultation on that review and makes recommendations for changes. Stakeholder consultation is an integral part of the adoption of Supplementary Planning Guidance.

9. IMPLICATIONS

9.1 Financial Implications

Planning obligations can provide financial contributions to local authorities to implement improvements to infrastructure to ameliorate the impact of development proposals. In some cases planning obligation contributions are combined with other sources of funding to take forward projects. Where a new facility will result in a new maintenance obligation for the City Council, this has been factored into the total cost of the project.

9.2 Staffing Implications

To date expenditure of planning obligation contributions has been handled by existing City and County officers. However, if the number of planning obligations continue to increase, there may be staffing implications in relation to the drawing up of agreements and implementation of projects for the expenditure of contributions. Implementation of some of the larger schemes identified may require the assistance of external consultants. The cost of schemes identified for potential funding include an element for project management and delivery.

9.3 Equal Opportunities Implications

Projects or improvements funded by planning obligation contributions will have an impact on the community and officers will therefore need to ensure that equal opportunity issues are satisfactorily addressed through their implementation, for example ensuring that facilities are accessible by all.

9.4 Environmental Implications

The schemes identified in the Obligation Strategy for implementation relate to the improvement of city infrastructure such as public transport, pedestrian and cycling facilities, open space and community facilities. Many of these schemes will have significant environmental benefits such as reducing reliance on the use of the car and providing/improving local facilities.

9.5 Community Safety Implications

Some of the schemes for implementation identified in the Strategy will have a direct effect on improving community safety, for example, improving lighting on public open spaces and environmental improvements.

APPENDICES ATTACHED TO THIS REPORT

- Appendix 1 – Summary of proposed changes to Strategy consulted upon
- Appendix 2 – Summary of consultation responses
- Appendix 3 – Proposed changes to Planning Obligation Strategy
- Appendix 4 – Expenditure of planning obligation contributions 2003/04
- Appendix 5– Summary of internal audit of planning obligation system
- Appendix 6– Monitoring of student accommodation parking controls 2004

BACKGROUND PAPERS

The following are the background papers that were used in the preparation of this report:

- Planning Obligation Strategy 2002
- Circular 1/97
- Planning Green Paper December 2001
- Cambridge Local Plan 1996
- Cambridgeshire and Peterborough Structure Plan 2003

INSPECTION OF PAPERS

To inspect the background papers please contact:	Contact: Fionnuala Lennon
	Telephone: 01223 - 457154
	Email: fionnuala.lennon@cambridge.gov.uk

If you have a query on the report or wish to be forwarded a copy of the Planning Obligation Strategy (also available on the Council's web site) please contact:	Author: Fionnuala Lennon
	Telephone: 01223 - 457154
	Email: fionnuala.lennon@cambridge.gov.uk