

Cabinet - 23 March 2005

Section 106 and Developer Contributions to Open Space Improvements

Portfolio: Councillor Marco Longhi, Environment
Councillor Garry Perry, Culture and leisure

Service Area: Built Environment

Wards: All

Forward Plan: Yes

Summary of Report

This report explains the current operation of the existing Section 106 policy of collecting financial contributions in lieu of developers providing on-site public open space on developments of 4 or more dwellings in accordance with Section 106 of the Town and Country Planning Act. This report recommends that the operation of this policy should cease with immediate effect and the report explains why officers are recommending this action to Council.

The Report recommends a new replacement policy that will properly relate to the new Unitary Development Plan, Government policy and be based on a new Green Spaces Strategy. The new policy will be designed to remove the administrative burden and impact on performance in the speed of determining major and minor applications.

Recommendations

1. Cabinet approves the cessation, with immediate effect, of the operation of the existing policy of collecting financial contributions in lieu of developers providing on site public open space on developments of 4 or more dwellings.
2. Cabinet agrees that the loss of revenue to services be supplemented by use of Planning Delivery Grant until a new Supplementary Planning Document has been adopted by the Council during 2005/06.

Resource and Legal Considerations

Income from contributions over the last 10 years is £572,387.45; about £57,000 per year which is spent on upgrading existing open space facilities. However, actual amounts vary each year depending on the number of dwellings granted planning permission and/or constructed each year (depending on the terms of S106 agreements).

Monies collected are paid directly to the Green Spaces Service within the Lifelong Learning and Community Directorate and they have used it to attract match funding from other sources or where other funding mechanisms don't exist. It is anticipated that a contribution in the region of £50,000 is therefore required to be made from Planning Delivery Grant in order to bridge the gap in revenue between the cessation of the old policy and the introduction of the new.

The current Supplementary Planning Guidance (SPG) directly relates to policy 8.4 of the Walsall Unitary Development Plan (UDP) 1995. The SPG derives from this policy and requires that applicants/developers pay a financial contribution of £100 per new bedroom that they would be creating collected on all residential developments of 4 or more units. This is collected by way of a Planning Obligation either on a unilateral basis or by agreement under Section 106 of the Town and Country Planning Act and paid to Green Spaces.

Related policies in the adopted UDP regarding standards of open space provision are not consistent with the more recent Planning Policy Guidance 17. Policies LC1 – LC6 of the new UDP weight than the predecessor plan following Cabinet's resolution on 19 January 2005 to make no further change prior to adoption. These UDP Review policies, whilst being consistent with PPG 17, currently lack evidence to set standards as required by PPG 17. This evidence will be provided in a new Green Spaces Strategy, the preparation of which is currently being led by Green Spaces.

The current policy is to be superseded by the new Unitary Development Plan in March this year. However, the emerging plan is already more up-to-date and relevant with respect to this matter and therefore, under Government Planning Policy Statement 12, policies in the new plan are given more weight. The current policy basis for the collection of commuted payments in this respect has therefore been superseded and the legal basis for the continued operation of the policy has ceased. To continue to do so would place the Council at risk of challenge as to the legitimacy of collecting monies on this basis.

Citizen Impact

Local communities currently benefit from the use of this money for improvements/maintenance of areas of existing open space in the area where the new residential development is to take place on a 'windfall basis'. The future policy could direct LNPs to decide how this should be spent.

Community Safety

No specific issues arising from this report.

Environmental Impact

Larger residential schemes will still be considered for on-site provision, which can accommodate local or neighbourhood open space or play facilities.

Performance and Risk Management Issues

There would be a significant and immediate improvement in the performance of the speed of determining planning applications which will help the Council to meet its statutory targets imposed on it by the Government and increase the prospects of securing a higher level of Planning Delivery Grant in 2006/07 based on performance in 2005/06.

Equality Implications

None arising from this report.

Consultation

None undertaken at this stage.

Vision 2008

The cessation of the operation of the existing policy and the subsequent introduction of a new Supplementary Planning Document, compliant with national and local planning policy, would support the Council's aim in Section 10 – To transform Walsall into an excellent local authority.

Background Papers

1. Walsall Unitary Development Plan 1995; and
2. Revised Deposit Plan March 2002

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Signed: 

Executive Director:

Date: 11 March 2005

Signed: 

Portfolio Holder: Councillor Marco Longhi

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