

Committee:	Executive	Agenda Item No.:	5
Date:	27th October 2008	Status	Open
Category	2. Decision within the functions of Executive		
Subject:	Planning 106 Criteria		
Report by:	Democratic Services Officer		
Other Officers Involved	Scrutiny and Policy Officer Head of Planning		
Director	Director of Strategy		
Relevant Portfolio Holder	Environment		

RELEVANT CORPORATE AIMS

REGENERATION – Developing healthy, prosperous and sustainable communities

The priorities in the Corporate Plan have been considered and have contributed to the ordering of the criteria that the group have agreed.

TARGETS

There are no specific targets specified in the Corporate Plan

VALUE FOR MONEY

There is no financial impact on the Council or its customers

THE REPORT

The report is attached

ISSUES/OPTIONS FOR CONSIDERATION

The Executive is requested to approve the review of Planning 106 Criteria carried out by the Scrutiny Committee and forward the review to the Planning Committee in order that the relevant policies are formulated.

IMPLICATIONS

Financial: None
 Legal: None
 Human Resources: None

RECOMMENDATIONS

1. That the Executive approve the review.
2. That the review be forwarded to the Planning Committee to adopt as their priorities for planning 106 agreements and that policies be produced to support those priorities.

REASON FOR DECISION TO BE GIVEN IN ACCORDANCE WITH THE CONSTITUTION

In order to have a robust policy in place regarding Section 106 Agreements

ATTACHMENTS: Y
FILE REFERENCE:
SOURCE DOCUMENT: *Report to Scrutiny Committee on 30th September 2008*

395. POLICY AND PERFORMANCE MANAGEMENT GROUPS

(1) Progress on Reviews

(v) Chairs Review of Planning Section 106 Criteria

The Chair presented a report detailing a review carried out by the Chair of the Scrutiny Committee and the PPMG Chairs into Planning Section 106 Criteria. The report looked at criteria for both commercial developments and housing developments and prioritised outcomes for a policy to be formulated.

The Chair thanked the Head of Planning, the Development Control Manager, the Director of Strategy and the Chairman of Planning Committee for all their help with the review.

Councillor Wallis asked whether the Percent for Art would still benefit from Section 106 monies and whether there would still be scope to tackle social issues as the arts play a part in tackling changing behaviours. The Director of Strategy explained the ranking principle applied to commercial and housing developments and that percent for art would only be applied if there were funds left over when higher priorities had been satisfied. The Chair confirmed, however, that in some circumstances, diversionary activities as part of community safety initiatives could include an arts element.

Councillor Connerton asked whether Section 106 was collected from developments that started off with just one building and then extended piecemeal.

The Head of Planning responded that the current position was that where it was clear that the site was larger than the application site, the possibility of a 106 agreement was assessed on the whole site where possible.

Councillor Morley asked whether the employment opportunities would be in the form of apprenticeships on the construction sites.

The Director of Strategy explained that this fitted with the Social Outcomes Concordat which had been adopted by the Council, but that there had never been an opportunity to filter this into the planning process. This would enable the Council to try to secure training, not only on the construction site, but also in the end use of any commercial development, hopefully at better than minimum wage.

The Head of Planning noted that Section 106 planning obligations were required where there was a policy within the Development Plan, the review would inform the preparation of new policies for inclusion in Development Plan Documents. This would then give the Council the power to refuse planning permission if the developer refuses to sign a 106 Agreement.

Planning obligations had two elements, the threshold at which they were applied, and the requirement, or financial amount the Council wishes to

secure. Where there is currently no set requirement or amount, this will need to be worked out and consulted upon.

There was also currently no priority order for the various planning obligations, but the review introduces a priority order to feed into the policy process, but which can be applied now. The increased need for affordable housing was so great, that if it is identified as the top priority, it would be likely to take up all available funding generated in Section 106 planning obligations from housing developments

Moved by Councillor K. Walker and seconded by Councillor M. Dooley
RECOMMENDED that (1) the prioritised criteria for the planning 106 agreements be approved,

(2) the Executive, in consultation with the Planning Committee adopt the priorities contained within the report as their priorities for planning 106 agreements and that the policies are produced to support the priorities,

(3) the criteria be reviewed in 2011 when the next version of the Corporate Plan is agreed.

(Head of Democratic Services /Scrutiny and Policy Officer)

Council/ Committee:	Scrutiny Committee	Agenda Item No.:	7 (2)
Date:	30 September 2008	Category	
Subject:	Planning 106 Criteria	Status	Open
Report by:	Scrutiny Chairs		
Other Officers involved:	Scrutiny and Policy Officer		
Director	Director of Strategy		
Relevant Portfolio Holder	Environment		

RELEVANT CORPORATE AIMS

REGENERATION – Developing healthy, prosperous and sustainable communities

The priorities in the Corporate Plan have been considered and have contributed to the ordering of the criteria that the group have agreed.

TARGETS

There are no specific targets specified in the Corporate Plan.

VALUE FOR MONEY

There is no financial impact on the Council or its customers.

THE REPORT

The report is attached.

ISSUES FOR CONSIDERATION

None

IMPLICATIONS

Financial : None

Legal : None

Human Resources : None

RECOMMENDATIONS

- 1. That the Scrutiny Committee approve the prioritised criteria for the planning 106 agreements**
- 2. That the Executive in consultation with the Planning Committee adopt this as their priorities for planning 106 agreements and that the policies are produced to support the priorities**
- 3. That the criteria is reviewed in 2011 when the next version of the Corporate Plan is agreed.**

ATTACHMENT: **Y**
FILE REFERENCE: Scrutiny report planning 106 Sept 08
SOURCE DOCUMENT:

Review of
Planning 106 Criteria
September 2008

by
The Scrutiny Chairs

Cllr Bowler
Cllr Dooley
Cllr Gilmour
Cllr Ward
Cllr Walker

As Chair of Scrutiny it gives me pleasure to present this report to you. The review of section 106 was a request from the Director of Strategy and with a short timescale to complete, it required frequent lengthy meetings. The group did not have time to consult directly with the community and therefore used their knowledge of the community requirements, reports from other authorities, guidance and advice from the planning department.

I would like to take this opportunity to thank the Scrutiny Chairs for their time and commitment, Graham Clarke and Chris Doy, to Stuart Tomlinson and Cllr Dennis Kelly for all their help and advice given throughout this review, and also to Bernie, our Scrutiny and Policy Officer for her help and continued support.

Rose Bowler
Chair of Scrutiny

Reasons for the review

At present there is no written policy to give any guidance to on the Council's priorities for the agreement and the request was made to scrutiny by the Director of Strategy.

Aim of the review

To deliver an agreed list of priorities and to give a clear understanding to enable the planning officers to help to develop the 106 agreement together with the members requirements for the benefit of Bolsover District Council and to agree the list of priorities to be included in the Local Development Framework.

Evidence gathered

The group questioned Graham Clarke and Chris Doy from planning, the Director of Strategy Stuart Tomlinson, also the cabinet member Dennis Kelly.

They used the agreed criteria from South Derbyshire District Council and Derby City Council as evidence for the review. They also used the report 'Section 106 Planning Obligations' dated 18 June 2008 by Graham Clarke as input to the review.

The proposed criteria

1. Contributions for essential work on the site

The group discussed all the criteria that could be considered as part of the 106 agreements and considered that some had to be site specific. The output of these discussions produced the following list of elements that will be mandatory for all commercial and housing developments if applicable to the site.

Mitigating environmental impact (GEN3)	no threshold
Removing contamination (GEN4)	no threshold
Floodplain capacity, surface water/groundwater drainage, flooding measures, access to watercourses (GEN5)	no threshold
Sewerage and sewage disposal (GEN6)	no threshold
Housing and commercial site infrastructure (HOU3)	no threshold
Highway improvements, <ul style="list-style-type: none">• Pinxton castle (EMP1)• South Shirebrook (EMP2)• Highway improvements on all applications.• Travel plans• Cycling facilities• Pedestrian routes/access• New Bridleways and greenways (also see TRA12)• Motorway junction improvement	no threshold

Designated and registered nature conservation sites(ENV6)	no threshold
Archaeological sites, minimum disturbance, excavation and post-excavation (CON13 and CON14)	no threshold
Alternatives to existing footpaths/bridleways (TRA12)	no threshold
Essential dwellings in the countryside, prevention of the sale separate to holding(HOU10)	no threshold
Re-use and adoption of rural buildings, to maintain/enhance buildings or site, or prevent separate sale of dwellings linked to business. (ENV4)	no threshold
Landscape zones, non-industrial employment sites(EMP6)	no threshold
Commissioning studies (Post development to validate pre-development assumptions)	no threshold
Natural conservation and geology (ENV5) including increasing / maintaining biodiversity, and mitigation as in GEN 3	no threshold
Conservation, including the implementation of approved conservation area management plans	no threshold
Environmental improvement/public realm improvement/ landscaping, including implementation of master plan proposal	no threshold
Climate change (including energy production, lowering carbon emissions) but excludes the construction which is covered by the building regulations	no threshold
Recycling facilities	no threshold
Repair, restoration and management (CON 12) of: <ul style="list-style-type: none"> • historic parks • gardens • graveyards • cemeteries • repair of historic buildings 	no threshold
Provision of sports areas as detailed in the leisure open space requirements (site specific)	no threshold

This would mean that any land where a development was being planned that was contaminated, had potential to flooding and required drainage installing it would be mandatory for the developer to address these issues.

All the other elements were considered and grouped in to the following 2 types – commercial and housing. The group discussed and took in to account the needs across the whole of the District. The group also considered the Council's priorities stated in the Corporate Plan. The size of the developments were also considered. The input from all these areas enabled the group to prioritise all the criteria detailed in the next section of this report.

2. Contributions from commercial developments

The criteria agreed by the group in priority order :

Areas in priority order	=>1,000 sqm	>2,500 sqm	>5,000 sqm	>10,000 sqm	>25,000 sqm	>50,000 sqm	In Corporate plan?
Min and max employees	14-52	35-131	71-263	526-1402	357-1315	714-2631	
Community safety including: <ul style="list-style-type: none"> prevention e.g. diversionary activities reactive e.g. CCTV, police, CAN rangers 	X	X	X	X	X	X	✓
Increased employment and training opportunities: <ul style="list-style-type: none"> for the disadvantaged and economically inactive for local people 		X	X	X	X	X	✓
Contribution to public transport : <ul style="list-style-type: none"> major development (TRA7) minor development 			X	X	X	X	
Percent for art and culture in the community (GEN17) - to support the Council's Arts Strategy	X	X	X	X	X	X	

The group considered the criteria and felt that those that were specified in the Corporate Plan should take priority over the others. The group felt that as representatives of the residents of the district that community safety was the most important to them and it was therefore made the main priority.

3. Contributions from housing developments

The criteria agreed by the group in priority order :

Areas in priority order	>10units	>15units	>25units	>50units	>75units	>100units	In Corporate plan?
Affordable housing (HOU5) including: <ul style="list-style-type: none"> on new housing development Revised % Upgrading council housing stock/private housing (to provide housing to rent or part buy)		X	X	X	X	X	✓
Increased employment and training opportunities: <ul style="list-style-type: none"> for the disadvantaged and economically inactive for local people 		X	X	X	X	X	✓
Community safety including: <ul style="list-style-type: none"> prevention e.g. diversionary activities reactive e.g. CCTV, police, CAN rangers 	X	X	X	X	X	X	✓
Outdoor recreation and play space for(HOU5)new housing			X	X	X	X	
Indoor/community facilities(General)		X	X	X	X	X	
Health care and service (including doctors and dentists) The PCT have worked out a figure per house but an impact				X	X	X	✓

Areas in priority order	>10units	>15units	>25units	>50units	>75units	>100units	In Corporate plan?
assessment needs to be provided by the PCT							
Contribution to public transport : <ul style="list-style-type: none"> • major development (TRA7) • minor development 				X	X	X	
Education (Assessment made of 3 school levels only and contribution required when capacity needs to be increased)				X	X	X	
Percent for art and culture in the community (GEN17) to support the Council's Arts Strategy	X	X	X	X	X	X	

The group used the same criteria for the housing. The amount of affordable housing that is required by the government directive for the district will not be able to be delivered by the private developers. The group considered the concerns raised by the officers including open spaces and education. However, in the current climate the group felt that this had to be the main priority and affordable housing was placed at the top of the list.

All others were considered in relation to affordable housing. The group felt that education had not been a requirement and therefore could not supercede the existing priorities in the Corporate Plan.

To ensure that open spaces were not lost in the district the group added the provision of open spaces to the mandatory list to ensure that it kept in line with leisure's open space requirements.



SCRUTINY REVIEW SCOPE

Review Topic: Planning 106 agreement

<p>Policy and Performance Management Group Chairs</p>
<p>Review Members: Cllr Bowler Cllr Dooley Cllr Gilmour Cllr Walker Cllr Ward</p>
<p>Relevant Portfolio Holder: Cllr Kelly</p>
<p>Corporate Aim: The agreement could support the aims: COMMUNITY SAFETY – Ensuring that communities are safe and secure ENVIRONMENT – Promoting and enhancing a clean and sustainable environment REGENERATION – Developing healthy, prosperous and sustainable communities SOCIAL INCLUSION – Promoting fairness, equality and lifelong learning.</p>
<p>Aim of Review: To deliver an agreed list of priorities to enable the planning officers to develop 106 agreements in line with the members requirements for the benefit of the community. This will be delivered by the end of September 08 to enable it to be included in the Local Development Framework (LDF).</p>

Terms of Reference and Scope

All elements will be considered for inclusion on the list of priorities.

Meeting Dates:

3 July 08
3 July 08
4 August 08
20 August 08
28 August 08
11 September 08

Provisional Timescales:

Evidence gathering – July – September 2008
Finalise list – week commencing 8 September
Develop report by 16 September

How community will be involved :

Due to the short timescales it is not possible to involve the community. However the group will review information already supplied by the residents (e.g. CVP survey, Citizen panel) to assess if they can support the priorities agreed.

Key Issues and Reasons for Review:

Review requested by the Director of Strategy

Information Requirements and Sources:

- The existing criteria that it used to develop the agreements
- Input from the planning officers
- Information from other councils
- The Corporate Plan