

<b>SUSTAINABLE GROWTH SCRUTINY COMMITTEE</b>	<b>Agenda Item No. 6</b>
<b>18 JANUARY 2010</b>	<b>Public Report</b>

## **Report of the Executive Director of Operations**

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### **PLANNING OBLIGATIONS IMPLEMENTATION SCHEME (POIS)**

#### **1. PURPOSE**

- 1.1 To seek the Sustainable Growth Scrutiny Committee's views on the revised Planning Obligations Implementation Scheme (POIS) prior to its consideration by Cabinet (and subsequent publication thereafter).

#### **2. RECOMMENDATIONS**

- 2.1 That the Committee scrutinises the draft POIS document prior to its consideration by Cabinet and makes any appropriate recommendations.

#### **3. LINKS TO THE SUSTAINABLE COMMUNITY STRATEGY AND LOCAL AREA AGREEMENT**

- 3.1 The POIS has been devised as a corporate framework which is intended to be acceptable to landowners and developers and which meets the needs of service departments and the council's partners in its growth strategy. The current and proposed arrangements are integral to providing funding to the Sustainable Community Strategy and Local Area Agreement (LAA) priorities and outcomes. The document helps to deliver Local Plan Policy IMP1 and is consistent with the emerging policy CS11 of the draft Core Strategy.

#### **4. BACKGROUND**

- 4.1 The City Council agreed in 2007 that it needed to adopt a more detailed Section 106 (S106) framework and consultants working jointly for PCC & Opportunity Peterborough (OP) developed proposals. A report on the POIS was submitted to a Joint Scrutiny Committee on 28 July 2008 and in light of the comments made, it was agreed to reflect further on the concerns raised and therefore subsequent discussions were held with house builders, developers' representatives and others.
- 4.2 Following consultation between the City Council, its partners, stakeholders and the community the City Council resolved to approve the draft POIS at the Full Council meeting held on 10<sup>th</sup> December 2008. The POIS has been used as a material consideration in making planning decisions since that date. It was intended that the POIS would then be adopted as a Supplementary Planning Document (SPD) forming part of the Local Development Framework (LDF). In order to achieve this a 6 week consultation period was undertaken resulting in the receipt of substantial external and internal representations. These representations have been reviewed and discussed by officers. Some of the comments have been incorporated into the revised POIS thereby creating a clearer, more user friendly document.
- 4.3 The revised POIS was then sent to Counsel to review in order to assess its robustness and the risk of legal challenge. Counsel's opinion has been received and discussed between officers. Whilst some initial reservations were made about the viability studies these have been overcome and our consultants that carried out the studies are confident in standing by their results and the

recommended tariff charges outlined in the POIS (Please see Appendix 2).

- 4.4 The City Council has a Planning Obligations Policy (IMP1) in the 2005 Adopted Local Plan. As part of that policy the City Council confirmed that separate guidance would be produced to outline priorities for the provision of infrastructure and facilities within the city. This POIS document delivers on that commitment.
- 4.5 The City Council has plans to grow Peterborough, which requires new infrastructure and replacement infrastructure to ensure that the city's growth is sustainably achieved. The City Council has worked with partners to capture the infrastructure requirements which are set out in the Integrated Development Programme (IDP), which was approved by Cabinet on 14<sup>th</sup> December 2009.
- 4.6 The City Council website is located at <http://www.peterborough.gov.uk> and has a series of pages dedicated to the POIS and associated background information. These pages can be accessed via the following link.  
[http://www.peterborough.gov.uk/planning\\_and\\_building/other\\_planning\\_and\\_building/s106\\_planning\\_agreements.aspx](http://www.peterborough.gov.uk/planning_and_building/other_planning_and_building/s106_planning_agreements.aspx)
- 4.7 The POIS document will have a hyperlink to the IDP website when it is launched. The IDP is used as our required evidence base to justify 'charging' developers a financial contribution for wider infrastructure (via the s106 route, or potential Community Infrastructure Levy (CIL) in the future).
- 4.8 S106 contributions will only part fund the infrastructure outlined in the IDP. Funding from other sources will be used to meet the overall costs of infrastructure provision. The City Council will seek such infrastructure funding, as appropriate, on a European, national, regional and local level from both the public and private sector.
- 4.9 At a recent officer-level Growth Delivery Steering Group meeting the POIS was discussed against the background of a potential future mechanism for charging developers for infrastructure, known as the Community Infrastructure Levy (CIL). The conclusion of the Steering Group was to progress the POIS to an adopted SPD status in the interim prior to the possible introduction of CIL. The following background information provides the Scrutiny Committee with a fuller insight into CIL.

#### Community Infrastructure Levy

- 4.10 The Government has recently consulted on draft regulations on the CIL, which is an instrument to raise funding for local infrastructure needs. It is expected that the regulations will come into force in April 2010. The Government states that the CIL will improve predictability and will allow the cumulative impact of development to be better addressed.
- 4.11 The draft regulations indicate that Section 106 agreements (planning obligations) will become increasingly limited to mitigate impacts solely resulting from the development. This means that the POIS tariff could eventually become illegal and, therefore, only a temporary solution to help fund infrastructure provision. As such, although adoption of the CIL will be optional, it is likely that most Councils will choose to implement the CIL given the increasing limits of Section 106 agreements, the outlawing of POIS-style tariffs and the need to help fund infrastructure provision.
- 4.12 The CIL charging structure would form a new type of document within the Local Development Framework; and be subject to consultation and independent review.
- 4.13 We will request that Cabinet, at their meeting on 8 February 2010, endorses a proposal that officers research in detail the potential of implementing a CIL in Peterborough, with detailed submission to a future Cabinet meeting towards the end of 2010/early 2011.
- 4.14 Further information on CIL can be found on the following websites:

Department of Communities and Local Government:

<http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyimplementation/reformplanningsystem/planningbill/communityinfrastructurelevy/>

The Planning Advisory Service:

<http://www.pas.gov.uk/pas/core/page.do?pagelid=122677#contents-1> and

<http://www.pas.gov.uk/pas/core/page.do?pagelid=109617#contents-2>

- 4.15 A copy of the POIS and IDP have been placed in the Members' Group Rooms. The POIS, once approved by Cabinet, will be published.

## 5. KEY ISSUES

- 5.1 The City Council has relied on policy IMP1 for its current S106 policy framework since 2005 with the adoption of the current Local Plan. This is proving unsatisfactory in that it is: -

- insufficiently detailed.
- open to different interpretations.
- open to challenge and less defensible than it could be.
- not a reliable framework on which service departments can depend in planning capital programmes.
- unreliable as a framework for assessing developer contributions.

- 5.2 For these reasons, the current S106 policy framework weakens the City Council's negotiating position with developers. In response to this the POIS has been developed and provides: -

- a link to the IDP - a costed social and physical infrastructure programme which has to be funded for the growth strategy to succeed, and to which new development needs to make a proportionate contribution.
- the principle that all significant developments including minor residential but not house extensions make a contribution to infrastructure growth because of their impact on the use of social and physical infrastructure like schools and public transport.
- contributions to neighbourhood and city-wide provision, on a phased basis in some cases and by negotiation on larger sites.
- standard contribution figures for a range of different developments which will be used to assess the S106 Obligation.
- contributions are sought for all new housing developments – including affordable
- pooled arrangements for taking funds from a series of relevant developments and banking them over a period, adding other funding until the project is fully funded and can commence implementation.
- scenarios showing the impact on new development, and a separate report which assesses this. The report's conclusion is that the new scheme's impact will vary case by case, but that it enhances transparency and consistency for developers.
- the scheme will be carefully monitored and reviewed at least annually and modified to ensure it meets its objectives. Its infrastructure costs and contributions will be indexed.
- the scheme will collect contributions for PCC and partner services.

- there will be a charge on development towards the costs of running the S106 activity which will be administered within the Planning Service and be accounted for to the Planning Committee.

5.3 As a result of the above points the POIS now provides the City Council with a much stronger position when negotiating with developers.

## **6. IMPLICATIONS**

6.1 The POIS is intended to be adopted as an SPD and will support the emerging policy CS11 of the draft Core Strategy.

6.2 The proposed POIS will be administered corporately by the S106 Officer supported by planning case officers, and relevant staff in services and partner organisations.

6.3 The POIS will create a more efficient and consistent method of collecting S106 contributions that can be pooled and spent on the infrastructure projects outlined in the IDP. This will assist in delivering the City Council's growth agenda.

## **7. CONSULTATION**

7.1 The POIS document has had extensive consultation internally with officers and externally with developers and other parties who have contributed to the development of the scheme, plus a 6 week statutory consultation between March and April 2009. There is not any intention to have any further public consultation on the document.

## **8. NEXT STEPS**

8.1 The POIS is scheduled to go to Cabinet for final approval on 8<sup>th</sup> February 2010. Thereafter the document will be published and form a policy document of considerable weight for planning purposes.

## **9. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

9.1 The POIS refers to and has been informed by a wide range of publicly available documents, including: the Integrated Development Programme, Sustainable Communities Strategy, Local Development Framework, Local Area Agreement and regional documents, such as, the Regional Spatial Strategy for the East of England and the East of England Regional Economic Strategy. Full details are contained within Appendix 7 of the POIS document.

9.2 A sustainability appraisal report (original main report dated February 2009, plus an update report dated December 2009) are available on request and will be published with POIS.

## **10. APPENDICES**

10.1 Appendix 1 - Revised Planning Obligations Implementation Scheme