

CABINET	AGENDA ITEM No. 5.5
8 FEBRUARY 2010	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Peter Hiller - Cabinet Member for Neighbourhoods, Housing and Community Development Councillor Piers Croft - Cabinet Member for Strategic Planning, Growth and Human Resources	
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PLANNING OBLIGATIONS IMPLEMENTATION SCHEME (POIS)

R E C O M M E N D A T I O N S	
FROM : Head of Planning	Deadline date : 8 February 2010
<ol style="list-style-type: none"> 1. That Cabinet adopts the Planning Obligations Implementation Scheme (POIS) as a Supplementary Planning Document. 2. That Cabinet endorses further work to be undertaken by officers on the potential of implementing a Community Infrastructure Levy (CIL) in Peterborough. 	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to Cabinet following approval of the draft version of the POIS by Council on 10th December 2008 which was followed by an extensive public consultation exercise and further evidence gathering since that date.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to recommend that Cabinet approve the Planning Obligations Implementation Scheme (POIS) as an adopted Supplementary Planning Document (SPD); and endorse further work to be undertaken by officers on the potential of implementing a Community Infrastructure Levy in Peterborough.
- 2.2 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
- 2.3 A copy of the POIS has been placed in the Political Group Rooms.
- 2.4 The POIS, once approved by Cabinet, will be adopted as a Supplementary Planning Document.
- 2.5 This report is for Cabinet to consider under its Terms of Reference No. 3.2.4 To promote the Council's corporate and key strategies and Peterborough's Community Strategy and approve strategies and cross-cutting programmes not included within the Council's major policy and budget framework.

3. **TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Council Meeting	
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4. **PLANNING OBLIGATIONS IMPLEMENTATION SCHEME (POIS)**

BACKGROUND

- 4.1 The City Council agreed in 2007 that it needed to adopt a more detailed Section 106 Planning Obligation (S106) framework. Consultants working jointly for PCC & Opportunity Peterborough (OP) developed proposals to stream line the S106 process and procedure. A report on the POIS was submitted to the Joint Scrutiny Committee on 28 July 2008. In light of comments made from the Joint Committee, it was agreed that Officers would investigate further into issues that the Committee had raised as concerns. As such subsequent discussions and consultation 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 10th 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 become adopted as a Supplementary Planning Document (SPD), thus 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 taken into consideration. Whilst some initial reservations were made in relation to the viability studies these have been overcome and the consultants that undertook the studies are confident in their results and the recommended levy outlined in the POIS (Please see Appendix 2 of the POIS document).
- 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 forms that separate guidance as detailed in IMP1.
- 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 14th December 2009.
- 4.6 The POIS 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 CIL in the future).
- 4.7 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.
- 4.8 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 POIS to an adopted SPD status in the interim prior to the

possible introduction of CIL. The following background information provides the Committee with a fuller insight into CIL.

4.9 Community Infrastructure Levy

The Government has recently consulted on draft regulations on the CIL, which is an instrument to raise funding for local infrastructure needs. In simple terms, CIL is a fixed, non-negotiable levy on new development i.e. if you build x then you must pay y (with x and y to be defined and agreed locally). It is expected that the regulations will come into force in April 2010.

4.10 The Government states that CIL will improve predictability and will allow the cumulative impact of development to be better addressed.

4.11 The draft regulations indicate that S106 agreements (planning obligations) will become increasingly limited to mitigate impacts solely resulting from the development. This means that the POIS levy may eventually become unlawful 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 CIL given the potential changes to the use of S106 Agreements and the phasing out of POIS-style levies 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 Cabinet are recommended to endorse further work to be undertaken by officers on the potential of implementing a Community Infrastructure Levy in Peterborough. Officers will feedback 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' library.

5. CONSULTATION

5.1 The POIS 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 consultation between March and April 2009. There is not any intention to have any further public consultation on the document as the consultation undertaken meets with statutory requirements.

5.2 Within the Council, the POIS has been to:-

- Growth Delivery Steering Group – 6th November 2009
- Cabinet Policy Forum - 11th January 2010
- Corporate Management Team – 12th January 2010
- Planning & Environmental Protection Committee – 12th January 2010
- Sustainable Growth Scrutiny Committee – 18th January 2010

5.3 At these meetings questions were raised and officers provided answers resulting in no changes being proposed to the POIS document.

- 5.4 Minor changes have been made to POIS following approval of the Core Strategy Pre Submission Development Plan Document at Full Council on 2nd December 2009.
- 5.5 After the POIS document has been approved by Cabinet it will be published as an adopted Supplementary Planning Document (SPD).

6. ANTICIPATED OUTCOMES

- 6.1 It is anticipated that Cabinet will approve the Planning Obligations Implementation Scheme (POIS) as an adopted Supplementary Planning Document (SPD); and endorse further work to be undertaken by officers on the potential of implementing a Community Infrastructure Levy in Peterborough.

7. REASONS FOR RECOMMENDATIONS

- 7.1 Cabinet is recommended to approve the Planning Obligations Implementation Scheme (POIS) as an adopted Supplementary Planning Document (SPD) because it will add considerable weight to the document when considered in determining planning applications and any planning appeals.
- 7.2 Cabinet is also recommended to endorse further work to be undertaken by officers on the potential of implementing a Community Infrastructure Levy in Peterborough because draft government regulations indicate that POIS-style levies may eventually become unlawful.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The alternative option of not progressing the POIS as a SPD was rejected, as the Council would not have a policy document of considerable weight for planning purposes.

9. IMPLICATIONS

- 9.1 The POIS is intended to be adopted as an SPD and will support the emerging policy CS12 of the Core Strategy (as approved by Council on 2nd December 2009).
- 9.2 The proposed POIS will be administered corporately by the S106 Officer supported by planning case officers, and relevant staff in services and partner organisations and will comply with current legislation under the Town and Country Planning Act 1990 (as amended) and government advice (Circular 05/05) in relation to S106 Obligations and allocation of pooled monies.
- 9.3 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.
- 9.4 If the document is not adopted as an SPD it will be considered as an adopted Council Policy when determining planning applications and appeals but less weight would be attributed to the document.

10. BACKGROUND DOCUMENTS

- Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)
- 10.1 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.

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

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