



Pinsent Masons

Planning Obligations The LPA's View

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November 2009

On the One Hand.....



- Planning permissions are being '***bought and sold***' (Third Report of the Committee on Standards in Public Life 1997)



On the Other Hand.....



- ***“There is a wide variation in what councils secure under the Section 106 process – some are missing out on opportunities to secure benefits through the planning process”*** – Audit Commission 2006

Essence of the System



- Section 106 is a broad statutory power coupled with guidance which can be revisited

- Attempts to date to find a better solution have (yet!) to come to fruition

LPA's Perspective



- **Benefits**
 - Flexibility
 - Make potentially unacceptable development more palatable
- **Disbenefits**
 - Time taken – n.b problems with Grampian style conditions
 - Resources required to support
 - (some) Developer resistance

Relaxation Policies - Flexibility



- See July HCA Guidance
- Not just for developers! -from LPA perspective helps keep schemes on track at a time where public sector needs to take a lead
- Eases viability
- Approach e.g.
 - Key schemes
 - Open book approach to viability
 - Deferred delivery on phased developments



Public Involvement and Transparency



- Para B41 Circular 05/05 – process of policy development and negotiations should be conducted **openly and fairly** and assistance should be given to access **proposed** and **agreed** obligations
- Since 2002 – requirement to include on planning register **proposed** obligations

A Brief Word on CIL – Who were the 1%?



- DJ Survey January 2009
- 363 Councils interviewed
- 59% - no current plans to introduce
- 22% would introduce 'now or in the future'
- 1% had never heard of CIL
- Problem – if CIL is brought in – may not have the option of tariff charges by way of 106

Post May 2010?



- ***“In addition, we will look at the complex array of existing levies on development, for example, Section 106 agreements and the proposed Community Infrastructure Levy. We will examine how these levies can be simplified and localised so that both individuals and communities affected by new development are not only properly compensated for any loss of amenity, but benefit from genuinely improved places to live post-development. We will also consider how to ensure that the cumulative burden of these levies does not undermine the economic viability of regeneration and development.”***



Examples of Planning Obligations in Practice



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- Footpath provision/maintenance
- Educational visits
- Enabling development – repairs to listed buildings in the vicinity

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- Leeds City Council - Public Transport Improvements and Developer Contributions SPD
- **Formula** – developer contribution = the development unit **x** impact multiplier **x** cost multiplier
- Contribution secured by Section 106 obligation
- Looks familiar!

Conclusions/ Points for Discussion



- A tried and tested system?
- Broad power + policy guidance = flexibility?
- Will it deliver LPAs aspirations without other mechanisms?
- Need for more transparency?