

**HERTFORDSHIRE COUNTY COUNCIL
RESOURCES, PROSPERITY, PARTNERSHIP AND
CONSULTATION SELECT COMMITTEE
THURSDAY 15 MARCH 2001 AT 10.30 A.M.**

Agenda Item No.

5

PLANNING OBLIGATIONS

Report of Corporate Director (People and Property)

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Executive Member: - David Beatty

1. Purpose of the report

To consider whether the County Council's arrangements for securing public benefits from developments should be the subject of scrutiny by the Select Committee.

2. Background

2.1 Michael Moore put forward the following for consideration by Environment Select Committee: -

“The Committee are asked to scrutinise and review the effectiveness of HCC in securing public benefits from development. Are the County Council's current arrangements and procedures for securing benefits adequate or inadequate? How can they be improved? Among the points to consider are just how effective is HCC in securing public benefits from developers when development occurs? What procedures are used by officers to decide what benefits to ask for and how much to ask for? How much money and other benefits has HCC received from this source? How is HCC performance in this area to be measured?”

2.2 On 23 January 2001 Environment Select Committee recommended as follows:-

“In view of the wide impact of planning obligations on all County Council services, the Resources, Prosperity, Partnership and Consultation Select Committee be asked to consider scrutinising this activity.”

2.3 The planning system should operate in the public interest, and should aim to foster sustainable development, providing homes, investment and jobs in a way that adds to rather than detracts from the quality of the environment. The mechanisms for achieving these objectives include the town planning development plan system and

development control. Planning consents may be granted subject to conditions and planning obligations. A variety of public benefits may result from development, and it is understood that the original question was particularly directed at those benefits which are secured through planning obligations.

- 2.4 In the context of planning obligations the term “benefit” should be understood as the means by which an adverse impact (or dis-benefit) of development may be mitigated. Such benefits should only be sought where they are necessary to make a proposal acceptable in land use planning terms. They may enhance the quality of development and enable proposals to go ahead which might otherwise be refused.
- 2.5 The County Council uses planning obligations to secure a wide range of provisions for services namely: highways and transportation, libraries, emergency services, social services, environmental improvements and education (including childcare and youth aspects). Provisions include works, land, restrictions on use and financial contributions.
- 2.6 Negotiations for planning obligations are conducted against the background of the law, which defines what obligations may include, and the Government’s policy and guidance on their use. The latter is especially important if there is any dispute between the parties, and is set out in DoE (now DETR) Circular 1/97. Circular 1/97 states that planning obligations should only be sought where they are:
- i) necessary
 - ii) relevant to planning
 - iii) directly related to the proposed development
 - iv) fairly and reasonably related in scale and kind to the proposed development; and
 - v) reasonable in all other respects
- 2.7 The costs of planning obligations can be substantial. Developers or landowners being asked to bear such costs require full justification before entering into obligations. Where a district council is the planning authority, it will also need to be satisfied that any obligations are acceptable. This work is of a detailed technical nature often involving the use of expert consultants on the developers part.
- 2.8 In relation to the questions posed by Michael Moore, the County Council’s current arrangements are overseen by the Planning Obligations Steering Group. This is a corporate group, chaired by the County Property Officer, which works to agreed Terms of Reference and co-ordinates all the County Council’s interests. Arrangements and procedures are kept under review by this group.
- 2.9 The number and value of obligations is generally increasing with time, as is the scope of provisions. However, it will be appreciated that an obligation will only arise where development is proposed and circumstances are such that provisions need to be made, in line with the tests mentioned above (paragraph 2.6). It would be difficult to make

any meaningful comparison with other authorities for this reason alone. However, regional inter-authority liaison arrangements do exist for highways/transportation and for education.

3. Financial Implications

Planning obligations can provide entirely new resources for public services that can reduce or avoid the need to use normal funding methods. As such they play an increasingly important part in the provision of vital services. Planning obligations cannot be used to address existing deficiencies in services that the particular development would not exacerbate.

4. Conclusions

Members are invited to consider whether to scrutinise the effectiveness of HCC in securing planning obligations from development and whether additional information is required before this decision can be made.

Background papers used by the author in compiling this report:

Department of Environment Circular 1/97, Planning Obligations