



# WNDC Board Report

## Report by the Director of Planning Services

Paper Reference: 2011-03-08-02

Agenda Item: 8

17 May 2011

**Subject:** Planning Obligations Strategy Review

**Advice:** That the Board:

- a) **Adopt** the Interim POS (including all supporting technical and consultation documents) for Development Control purposes from 1 June 2011 as providing a framework for negotiation of planning obligations in respect of individual planning applications.
- b) **Delegate** to the Director of Planning Services the finalisation, including minor revision, and publication of the Interim POS.
- c) **Agree** that the Corporation continues to engage and assist public sector partners in the development of their respective approaches to planning obligations.
- d) **Agree** that WNDC continues to engage with all key stakeholders in respect of the operation and monitoring of the Interim POS including liaison with existing groups.

**Summary:**

Members will recall that WNDC has been undertaking a review of the Planning Obligation Strategy. A report setting out the progress on the review was considered by Members in July 2010 when it was resolved to continue with the process including full public consultation.

**Key Points:**

- The POS will be an 'Interim' strategy to provide guidance in the consideration of current and forthcoming planning applications for development by WNDC prior to the adoption of a Community Infrastructure Levy (CIL) by the Local Planning Authorities (LPA's )
- There remains justification for a 'simple' standard charge approach which reflects a genuine pre-estimate of the infrastructure costs of development being brought forward in the area
- There will continue to be a need for negotiation on a site by site basis where viability is an issue and to agree the appropriate use of deferred contributions
- The standard charge approach will be applied flexibly on the larger sites where there will be a significant level of on-site infrastructure, though it will be used as a benchmark for the consideration of the value of any off-set payments and for contributions where on-site infrastructure is not to be provided
- The standard charge will not apply to non-residential development. Instead developer contributions will be assessed on a case by case basis having regard to the benchmark figures set out in the POS.

## 1. Purpose

- 1.1 The purpose of this report is to present the final Planning Obligation Strategy and supporting documents which will make up the 'Interim POS'.
- 1.2 The report also sets out the final stages for adoption of the 'Interim POS'.
- 1.3 Finally, the report sets out how it is intended the Interim POS will 'pave the way' for a Community Infrastructure Levy (CIL) and the role that WNDC might have in assisting the Local Planning Authorities (LPA's) in producing their respective CIL charging schedules.

## 2. Background

- 2.1 The POS has been through a comprehensive review, involving 2 rounds of public consultation. Whilst the original reasons for the review remain relevant (including the economic downturn and changing policy context), the most significant changes that have emerged relate to the emergence of the CIL Regulations (2010) and the government's recent announcement that it intends to keep CIL subject to a few minor changes, not least including that a proportion of monies raised must be spent within the communities that have accepted the development.
- 2.2 It is clear that CIL is intended to be the main source of developer funding towards necessary infrastructure, though the government has announced other possible funding sources such as the New Homes Bonus and Tax Increment Finance. However, both of these are likely to have different roles and priorities and thus the role of developer contributions will remain key.
- 2.3 Whilst it is the government's clear intention to reform the planning system, developer contributions will remain a key part of the government's 'planning for growth' approach announced recently by the Minister for Decentralisation (Statement dated 23 March 2011 and as set out in 'The Plan for Growth'<sup>1</sup>). These make clear the government's top priority to promote sustainable growth and jobs.
- 2.4 Thus the review work conducted in respect of the POS has focussed on viability issues as well as ensuring that in setting an appropriate level of standard charge, it not only

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<sup>1</sup> The Plan for Growth, HM Treasury and Department for Business & Skills, March 2011

takes into account what development can reasonably afford but also ensures that it continues to deliver sustainable development.

### **3. Key Points of the Interim POS**

- 3.1 The key points arising from the consultation which the review sought to respond to as appropriate - these are set out below:
  - 3.1.1 Validity and weight of the 'SPD' approach adopted by WNDC
  - 3.1.2 The lawfulness of a tariff approach in the context of CIL regulation 122
  - 3.1.3 The soundness of the viability assessment and level of Discount Standard Charge
  - 3.1.4 Robustness of evidence base and whether there should be geographic variations
  - 3.1.5 Need for clearer guidance as to how it is to be applied in practice

### **4. Response to the key points raised**

- 4.1 WNDC has sought legal advice in producing the Interim POS; the following matters are noted:
  - WNDC is a development control authority entitled to develop 'policies' in respect of the way in which it intends to apply development plan policy and national policy.
  - The POS is not a Supplementary Planning Document but having gone through a process akin to that of SPD<sup>2</sup>, once adopted it is capable of being a material consideration in the determination of planning applications.
  - The Interim POS sets out how the standard charge is to be applied, how it satisfies the CIL Regulation 122 tests and how it can remain a robust approach given that it represents a genuine pre-estimate of the infrastructure costs associated with most forms of development
  - Consideration has been given to refining the charging structure and applying it individually to the respective local authority areas taking account of local and strategic infrastructure requirements.

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<sup>2</sup> PPS12, para. 6.3

- A further review of viability considerations and in particular the assumptions underlying its conclusions (as challenged by consultation responses) do not support a reduction in the level of the Discounted Standard Charge.
  - Developers who demonstrate that their particular developments remain unviable will have recourse to revert to the use of the deferred contributions mechanism and if that is not appropriate then the 'traditional' negotiated Section 106 Agreement.
  - The approach will continue to recognise the contribution made by the larger urban extensions and the need to consider how in-kind on-site infrastructure provision should be dealt with.
  - The POS evidence base has been re-assessed and updated in accordance with the JCS West Northamptonshire Infrastructure Schedule.
  - Meetings will continue to be held with service providers and key public/private sector stakeholders to source further information, gather evidence and seek agreement in any review of infrastructure requirements.
- 4.2 The POS main document (and associated supporting documents) has been revised to take into account the above and all other points raised as set out in the table at Annex A, including updating the infrastructure list in the light of the Pre-submission JCS West Northamptonshire Infrastructure Schedule. A list of the POS documentation is set out in Annex C.

## 5. Next Steps

- 5.1 There is a sound business case, in meeting WNDP's wider Corporate objectives, to make officers of the Corporation available to public sector partners to assist them in taking forward their respective approaches to planning obligations. It is anticipated that this would be on a limited basis with the costs of this resource being met from existing allocated budgets.

## 6. Conclusions

- 6.1 The updated Interim POS which reflects current circumstances remains key to the consideration of current and anticipated development proposals. The public

consultation exercise has emphasised the need to develop a flexible, clear and lawful approach and the Interim POS has responded to these issues.

6.2 The adoption of the Interim POS will assist in achieving the Corporation's Business Plan Objectives, limit the risk of planning appeals and continue to support the Corporation in achieving its' strategic growth and regeneration objectives.

## **7. Recommendation**

7.1 That the Board:

- a) Adopt the Interim POS (including all supporting technical and consultation documents) for Development Control purposes from 1 June 2011 as providing a framework for negotiation of planning obligations in respect of individual planning applications.
- b) Delegate to the Director of Planning Services the finalisation, including minor revision, and publication of the Interim POS.
- c) Agree that the Corporation continues to engage and assist public sector partners in the development of their respective approaches to planning obligations.
- d) Agree that WNDC continues to engage with all key stakeholders in respect of the operation and monitoring of the Interim POS including liaison with existing groups.

## **8. Appendices**

Appendix A: Executive Summary: Interim Planning Obligations Strategy

Appendix B: Interim Planning Obligations Strategy

Appendix C: Supporting Technical Document A-J (excluding B)

Appendix D: Topic Paper B: Viability Review

Appendix E: Topic Paper B: Viability Review Annex A

Appendix F: Topic Paper B: Viability Review Annexes B-D

Appendix G: Supporting Consultation Report