



East Northamptonshire Council

Policy and Resources Committee - 13 July 2009

Planning Obligations Support Officer Post

Summary

This report sets out the background to this post, current workloads and the options for future delivery of this post after September 2009

Attachment(s)

None

1.0 Background

- 1.1 At the Council meeting on 2 March 2009, a decision was taken to extend the temporary contract for both the Planning Obligations Support Officer and the Children and Young Persons Coordinator posts for a period of 6 months. This was in order that a review be carried out by officers of the options for these posts, including how the necessary work currently carried out by the two post holders could be done without incurring any additional staffing costs, and that a report be presented to the Policy and Resources Committee by no later than July 2009. (Minute 384 (e) refers).
- 1.2 This report deals with the issues as they relate to the Planning Obligations Support officer post. A separate report on the agenda deals with the Children and Young Persons Coordinator post.

2.0 Section 106 Monitoring - History

- 2.1 A Scrutiny review of Section 106 issues took place in 2003/04. This review resulted in 21 recommendations, one of which involved securing a resource to clear the backlog of S106 enquiries and to put in place a system for the monitoring of agreements. A post was created for a temporary period of 12 months and an appointment was made in April 2004. By the summer of that year the post holder had been appointed to one of the vacant Planning Technician roles in Development Control. A decision was taken not to refill the post as it was considered that the responsibility for this work should remain with the post holder.
- 2.2 This situation prevailed for the next 3 years with the amount of time that the post holder was able to dedicate to this work reducing from in the order of an initial 50% of their time to less than 5% by June 2007. This was due to the increasing pressure on the development control section, particularly in terms of the need for timely processing of planning applications. A report was taken to Scrutiny Committee June 2007 setting out the inadequacies of this approach.
- 2.3 It was subsequently agreed by Policy and Resources Committee (minute 91 – 16 July 2007 refers) to create an additional post on the basis that it would initially be for a temporary period of a year to establish its effectiveness and on a part time basis - 25 hours per week, a key initial task being to update the existing database. This followed a finding of maladministration by the Local Government Ombudsman that the Council had not vigorously enforced a section 106 agreement relating to the construction of a play area. The Council's Scrutiny Committee strongly supported the deployment of an additional resource (minute 47 – 20 June 2007 refers).
- 2.4 The post was initially financed from Planning Delivery Grant and the post holder took

up the role in January 2008. The post's term was extended with Members agreement in January 2009 to the end of the financial year and was the subject of a growth bid as part of the 2009/10, financial planning process. This bid was not supported; however the decision was taken by the Council in March 2009 to extend the post for a further period of 6 months pending this review of workloads.

2.5 The post was created to ensure to achieve 4 main outcomes.

- efficient and responsive handling of the section 106 process
- timely monitoring of payment thresholds
- effective maintenance of the section 106 data base
- regular collection of outstanding obligation payments

3.0 Post Effectiveness

3.1 Officers have considered the effectiveness of the post during the review. A number of key elements have been identified. The list below is by no means exhaustive but sets out some of the considerable benefits that have arisen during the provision of a dedicated resource:-

- there is now an accurate and up to date database of agreements in place with clear monitoring of agreement trigger points. To remain effective, it requires to be kept up to date which forms a key part of the post holder's work.

- a clear and efficient single point of contact for enquiries has now been provided.

- timely enforcement of agreements now takes place ensuring that agreed community and developer contributions are collected at the right time and there is regular reconciliation of income/ expenditure leading to much improved financial control and budgeting.

- there is clear accountability to developers for the expenditure of contributions and there is much less chance of "sunset" clauses arising requiring the Council to repay contributions (with interest) where they have not been spent within the required timescale.

- lessons learnt from previous agreement clauses are now being fed into new agreements to ensure a much more robust approach in the future. (It should be noted that a number of issues have been identified regarding the robustness of previous agreement clauses which cannot be remedied retrospectively).

- regular meetings have been established with key partners e.g. the County Council in its role as education authority and Town and Parish Councils over agreement provisions.

In addition the post holder was able to secure an additional £60,000 of developer funding for Rushden Town Council of which it had no previous knowledge or awareness.

3.2 The effect of all of this is that we have much more robust and effective monitoring and operational systems in place than was previously possible. Although the current financial climate has slowed the addition of S106 agreements to the database, it has also made some developers more reluctant to release payments so a complementary amount of work has arisen.

4.0 Potential for covering the duties of this post without incurring additional expenditure

4.1 The Planning Obligations Support Officer post sits within the Planning Services Land Charges and Administration Team of 9.25 FTE which was created following an internal reorganisation of administrative resources in January 2008. Two FTE's are dedicated to Land Charges functions.

4.2 This team deals with the administrative side of the planning appeals process which has also seen a considerable increase in workload for the team within the last year. The requirement for administrative support provided to the Development Control Team has also increased over time. As some Development Control processes have been streamlined, the team is now able to undertake additional validation work to meet the requirements of the DC Improvement Plan targets. In addition increased support has been required for other teams particularly Planning Policy in relation to the Rural North Oundle and Thrapston Plan (RNOT) and other Local Development Framework (LDF) documents.. Scope to undertake the S106 duties from the current post holder within the Land Charges and Administration Team is therefore very limited.

4.3 Another option that has been considered is the transfer of duties to the Planning Enforcement Section. The capacity in this team was increased as part of the DC Improvement Plan. As a result we have been able to increase the level of enforcement action to meet Members and Customer expectations and have cleared the backlog of cases. However, demand is more than matching capacity and if S106 activity were to be transferred to this team then there is a real risk that a back-log would be created again.

4.4 Having reviewed the current work loads, not extending this post in any way would significantly decrease the work that could be undertaken and increase the risks that key action dates would be missed and the Council would:

- have to refund monies to developers
- miss match funding opportunities
- fail to chase payments that are due from developers
- have an increased risk of Ombudsman queries.

If these risks materialise, the Council would be in a poorer financial situation.

4.5 Now that the database has been established and the back-log cleared, it is estimated that an ongoing requirement of a minimum of 2 days a week on this task is necessary to manage the risks outlined above to acceptable levels. This will not, however, provide the current level of service, and would represent the bare minimum requirement. This would represent an ongoing cost to the Council of £850 per month.

4.6 If it is decided not to extend the current contract then there will be a small liability for redundancy of approx. £500.

5.0 Other Possible Approaches

5.1 The potential for the funding of part of the costs of the post from other sources has been considered. Officers have identified that Colchester City Council put in place as long ago as 2003 the requirement for developers to pay a fee of £300 for every principal clause contained within a Section 106 agreement - this contribution being required towards funding the cost of a dedicated Section 106 officer post. "Principal clause" is defined as one that relates to the provision of a specific financial contribution or specific item/collection of items with a similar character/function e.g. an equipped play area.

5.2 This policy was changed in 2006 as it was felt that the fee did not accurately reflect the complexity of a number of the agreements and the amount of time required to monitor the provisions contained therein. The new scheme, which is understood to be

still operational, reflects the need to undertake both financial and physical monitoring associated with S106 agreements and this is based upon an hourly rate including overheads, the number of clauses which will need monitoring, the number of times the trigger points are checked and the length of time over which the agreement will be monitored. Officers have not explored this option in any detail at this stage but it does provide another potential way forward in terms of continuing what is considered to be the necessary work of this post.

5.3 It should be noted however that such charges can only be levied on new agreements. In the current financial climate, these may be slow to be finalised, therefore income will not be forthcoming in the next two years and may never cover the total cost this role. In addition if the net amount of developer contribution does not increase the level of community benefit may proportionately decrease to offset these administration charges.

6.0 Conclusions

6.1 This report has set out the background to the Planning Obligations Support Officer post, why a dedicated resource was created, the effectiveness of the role and the inability to continue to provide the full range of duties undertaken by this role by subsuming the work of the post within existing resources.

6.2 However, it is possible that an acceptable level of service can be provided whilst recognising the financial constraints on the Council by reducing the hours for this work and seeking developer contributions to support some of this work.

6.3 It is therefore suggested that a new post for 2 days a week be created for the period October 2009-March 2011, during which time efforts will be made to attract developer contributions from new S106 agreements. This arrangement would be reviewed in October 2010 to assess its viability. This would cost the Council a maximum of £10,520 in 2009/10 (including possible redundancy) and £10,100 in 2010/12

7.0 Recommendations

7.1 It is recommended -

(1) That Members note the contents of the report and consider the option of not extending the current 25 hours a week contract but create a new temporary post as outlined in paragraph 6.3.

(2) That Members ask officers to investigate further the likely impact of charging for administration of S106 agreements as part of the wider review of Planning to be undertaken by the Budget Review Group

Implications:		
Corporate Outcomes or Other Policy/Priority/Strategy		
Good Quality of Life	<input type="checkbox"/>	Good Reputation <input type="checkbox"/>
Good Value for Money	<input checked="" type="checkbox"/>	High Quality Service Delivery <input checked="" type="checkbox"/>
Effective Partnership Working	<input type="checkbox"/>	Strong Community Leadership <input type="checkbox"/>
Effective Management	<input type="checkbox"/>	Knowledge of our Customers and Communities <input type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours		<input type="checkbox"/>
Other:		<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval		<input type="checkbox"/>
Financial	There are no financial implications at this stage	<input type="checkbox"/>
	There will be financial implications – see paragraphs 5.1, 5.2, 6.2, and 6.3	<input checked="" type="checkbox"/>
	There is provision within existing budget	<input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date	<input type="checkbox"/>

	Decisions may have potential for income generation	<input checked="" type="checkbox"/>
Risk Management	An assessment has been carried out and there are no material risks	<input type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference – 105,109,237. inherent risk score - residual risk score -	<input checked="" type="checkbox"/>
Staff	There are no additional staffing implications	<input type="checkbox"/>
	Additional staff will be required – see paragraph	<input type="checkbox"/>
Equalities and Human Rights	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications	<input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph	<input type="checkbox"/>
Legal	Power: Planning and Compulsory Purchase Act 2004	
	Other considerations:	
Background Papers: None		
Person Originating Report: Trevor G Watson - Head of Planning Services - tgwatson@east-northamptonshire.gov.uk - 01832 742218		
Date: 25 June 2009		
CFO		MO
		CX

(Committee Report Normal Rev. 19)