



# REGULATORY SERVICES COMMITTEE

4 JUNE 2015

# REPORT

**Subject Heading:**

Revision to committee resolutions to grant planning permissions subject to S106 Planning Obligation requiring infrastructure contribution.

**Ward**

See Appendix

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**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Framework

**Financial summary:**

None

**The subject matter of this report deals with the following Council Objectives**

Havering will be clean and its environment will be cared for	[X]
People will be safe, in their homes and in the community	[X]
Residents will be proud to live in Havering	[X]

**SUMMARY**

The Community Infrastructure Levy Regulations 2010 (CIL Regs) state that from 6<sup>th</sup> April 2015, no more than five obligations secured through S106 planning obligations can be used to fund particular infrastructure projects or types. This

means that the Council's adopted Supplementary Planning Document (SPD), which seeks to pool contributions for use of infrastructure is now out of date in this respect, although the evidence base underlining the SPD is still sound and relevant for calculating future S106 planning obligations. There are a number of planning applications where Committee resolved to grant planning permission subject to a contribution in accordance with the SPD, which have not been completed and planning permission has not been issued because the planning department was waiting for clarification of the legal issues . In these cases, the need for a financial contribution to fund specific infrastructure necessary to mitigate the planning "harm" caused by the development, can still be demonstrated. Therefore, in order to comply with the CIL Regs, it is recommended that the authority to determine the applications, including the type and quantum of any contribution to be secured by a S106 obligation be delegated to the Head of Regulatory Services.

## **RECOMMENDATIONS**

That, for each of the planning applications listed in the appendix to this report, authority to determine the applications, including the type and quantum of any contribution to be secured by S106 obligation be delegated to the Head of Regulatory Services Committee.

## **REPORT DETAIL**

- 1.1 Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regs) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
  - (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.
- 1.2 Policy DC72 of the Council's LDF states that in order to comply with the principles as set out in several of the Policies in the Plan, contributions may be sought and secured through a Planning Obligation. Policy 8.2 of the Further Alterations to the London Plan states that development proposals should address strategic as well as local priorities in planning obligations.
- 1.3 In 2013, the Council adopted its Planning Obligations Supplementary Planning Document which sought to apply a tariff style contribution to all development that resulted in additional residential dwellings, with the contributions being pooled for use on identified infrastructure.

- 1.4 There has been a recent change to the effect of the CIL Regs in that from 6th April 2015, Regulation 123 of the CIL Regs states that no more than 5 obligations can be used to fund particular infrastructure projects or infrastructure types. As such, the SPD, in terms of pooling contributions, is now out of date, although the underlying evidence base is still relevant and up to date for the purposes of calculating the revised S106 contributions. There are a number of planning applications (see appendix) which were reported to this Committee prior to 6<sup>th</sup> April 2015, with a resolution to grant planning permission subject to the satisfactory completion of an agreement under S106 of the Town and Country Planning Act, but, pending legal advice, the agreements have not been completed. As the amount of the S106 contributions in relation to those applications was based on the tariff approach in the SPD, it is considered that the amount and need or otherwise for contributions needs to be reassessed.
- 1.4 The evidence background to the SPD, contained in the technical appendices is still considered relevant. The evidence clearly show the impact of new residential development upon infrastructure – at 2013, this was that each additional dwelling in the Borough has a need for at least £20,444 of infrastructure. Therefore, it is considered that the impact on infrastructure as a result of the proposed development would be significant and without suitable mitigation would be contrary to Policy DC72 of the LDF and Policy 8.2 of the London Plan.
- 1.5 Furthermore, evidence clearly shows a shortage of school places in most parts of the Borough – (London Borough of Havering Draft Commissioning Plan for Education Provision 2015/16-2019/20). The Commissioning report shows need for secondary places and post-16 places which due to their nature would serve all parts of the Borough. The Commissioning report identifies that there is no spare capacity to accommodate demand for primary and early years school places generated by new development. The cost of mitigating new development in respect to all education provision is £8,672 (2013 figure from Technical Appendix to SPD). On that basis, it is necessary to continue to require contributions to mitigate the impact of additional dwellings in the Borough, unless the development is within an area of the Borough where there is a surplus of school places. Previously, in accordance with the SPD, a contribution of £6000 per dwelling was sought. It is considered that this is reasonable when compared to the need arising as a result of the development.
- 1.6 In conclusion, for those applications where previously the Committee has resolved to grant planning permission subject to a tariff contribution, it would be necessary to continue to require a contribution but rather than previously being pooled for general infrastructure provision, it should be used for educational purposes. Separate monitoring of contributions would take place to ensure that no more than 5 contributions are pooled for individual projects. None of the applications listed in the appendix are within Elm Park or Hacton wards, so it is considered that a contribution equating to £6000 per dwelling for educational purposes would be appropriate.

- 1.7 It is therefore recommended that power to determine the applications, including the type and quantum of any contribution to be secured by S106 obligation be delegated to the Head of Regulatory Services.

## IMPLICATIONS AND RISKS

### **Financial Implications and risks:**

The continued ability to seek contributions for new development would help to deliver needed infrastructure, although the monitoring of contributions to ensure that no more than 5 are pooled for any particular infrastructure project would require additional resources.

### **Legal Implications and risks:**

Legal resources are required for the completion of the legal agreement. There is a risk of a successful legal challenge if the method of calculating the S106 contributions is not altered to comply with the three CIL tests as set out in the report.

### **Human Resource Implications:**

None

### **Equalities and Social Inclusion Implications:**

The Council's planning policies are implemented with regard to Equalities and Diversity.

## BACKGROUND PAPERS

Application forms and plans for applications identified in the appendix.

## APPENDIX

### APPLICATIONS NOT DETERMINED, BUT SUBJECT TO COMMITTEE RESOLUTION TO GRANT PLANNING PERMISSION SUBJECT TO S106 SECURING CONTRIBUTIONS TO INFRASTRUCTURE COSTS

Application Reference	Address	Ward	Date of Committee	Description of Development	S106 Contribution Sought	Other S106 Requirement
P1195.14	Tara, Southend Arterial Road, Romford	Squirrels Heath	04-12-2014	Demolition of the existing bungalow and construction of 8No flats with parking and landscaping	£42,000	n/a
P1136.12	1A Hillview Avenue, Hornchurch	Emerson Park	09-01-2014	Single storey house – outline	£6000	Reserve part of adjoining site for visibility splay
P1616.14	5 Fitzilian Avenue, Romford	Harold Wood	19-02-2015	Demolish existing rear storage buildings to erect 1 no. Mews House and 1 no. Town House and refurbish shop accommodation into Town House.	£18,000	n/a

Application Reference	Address	Ward	Date of Committee	Description of Development	S106 Contribution Sought	Other S106 Requirement
P1158.14	168 Hornchurch Road, Hornchurch	Hylands	08-01-2015	Demolition of vehicle workshop; construction of four residential apartments in new two storey building; construction of three residential apartments in existing residential and car showroom property; change of use to Class A1 and/or A2 retail use and/or car showroom in the ground floor car showroom together with ancillary development.	£30,000	n/a
P1196.14	1 Junction Road, Romford	Romford Town	04-12-2014	Proposed extension and conversion of existing solicitor's office (B1a) to form 6no. residential flats (C3), consisting of 3no. one-bedroom flats & 3no. two bedroom flats.	£36,000	n/a
P1054.13	Land North of 8 Jackson Close, Hornchurch	Squirrels Heath	29-01-2015	The erection of 6 no. dwellings	£36,000	n/a

Application Reference	Address	Ward	Date of Committee	Description of Development	S106 Contribution Sought	Other S106 Requirement
P1422.14	The Old Forge, Hall Lane, Upminster	Harold Wood	19-02-2015	Demolition of drain clearance and design factory to create 4 no. 3-bedroom dwellings (2 no. semi-detached properties)	£24,000	n/a
P0040.15	168-170 South Street, Romford	Romford Town	02-04-2015	Change of use of first floor retail and office space to 3no. self-contained apartments with additional windows and alterations to South Street elevation.	£18,000	Restriction on ability for occupiers to obtain parking permits.
P1448.14	58-60 Station Road, Upminster	Upminster	02-04-2015	Conversion and ground, first and second floor extensions of the existing building to provide A1 and A2 uses on the ground floor with a cycle store and two bin stores and 5 no. residential units on the upper floors.	£30,000	n/a
P0090.15	1 Albert Road, Romford	Romford Town	02-04-2015	Proposed demolition of existing building and construction of 5 new dwellings with off street car parking, landscaping and private amenity space	£30,000	n/a

Application Reference	Address	Ward	Date of Committee	Description of Development	S106 Contribution Sought	Other S106 Requirement
P0778.12	Garage court to the rear of 411- 419 South End Road, Romford	Elm Park	08-05-2014	Outline permission for the demolition of 15 garages and erection of 5 no. houses.	£30,000	n/a
P1159.13	Land rear of 4-12 Tansy Close, 10-14 Dewsbury Close, 50-82 Dewsbury Road and 1-9 Woodlands House, Harold Hill	Gooshays	09-01-2014	Demolition of existing garages and construction of 5 new dwellings, private amenity space, parking and an access road	£30,000	n/a