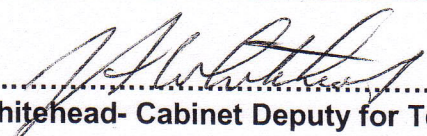


## KEY DECISION NOTICE

<b>SERVICE AREA:</b>	Economy and Environment
<b>SUBJECT MATTER:</b>	<b>DEVELOPER CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)</b>
<b>DECISION:</b>	To approve and adopt this policy document for implementation.
<b>DECISION TAKER:</b>	Councillor A. Whitehead
<b>DESIGNATION OF DECISION TAKER:</b>	Cabinet Deputy – Technical Services
<b>DATE OF DECISION:</b>	28 <sup>th</sup> November 2006
<b>REASON FOR DECISION:</b>	To ensure the Council has an efficient, effective and fair policy for identifying and collecting legitimate planning gain linked to developments. To ensure that the impact of those developments on existing infrastructure, facilities and services is recognised in setting appropriate developer contributions.
<b>ALTERNATIVE OPTIONS REJECTED (if any):</b>	Retain existing ad-hoc Section 106 Agreement system that is less defined and potentially inconsistent in its application.
<b>CONSULTEES:</b>	<p>There has been corporate-wide involvement in the formulation and evolution of this policy guided by the Technical Services Scrutiny Panel, the Strategic Capital Group, and the appropriate Cabinet Member and the Council Leader.</p> <p>An extensive public and stakeholder consultation exercise was carried out in July 2006, the results of which and responses are reported in one of the technical documents accompanying the main policy statement.</p>
<b>FINANCIAL IMPLICATIONS:</b> <b>(Authorised by Borough Treasurer)</b>	<p>Tariffs need to be set at a level to maximise income without deterring development and it would be prudent to bear in mind the charges set by other local authorities.</p> <p>Money raised will be spent on approved capital projects. Approvals will need to be subject to developments commencing within the three year time period. There is a deadline of ten years to utilise the contributions or they must be repaid to the Developer. The contributions must be utilised on a scheme that directly mitigates the impact of the development. The approval to spend tariff proceeds will have to come from the Strategic Capital Group, as is the case with other capital projects.</p> <p>The proposal will result in significant additional work to monitor and manage the arrangements. This will include employee, IT and other overhead costs. These costs need to be recovered through an administrative charge to be levied on all agreements.</p>

	Ongoing maintenance costs cannot be funded from the tariffs levied and it will be the responsibility of relevant service areas to ensure adequate revenue budget provision exists to meet ongoing commitments resulting from the capital spends.
<b>LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)</b>	The proposals comply with the Town and Country Planning (Local Development) (England) Regulations 2004, and the guidance in ODPM Circular 5/05 "Planning Obligations" (July 2005).
<b>CONFLICT OF INTEREST:</b>	None
<b>DISPENSATION GRANTED BY STANDARDS COMMITTEE ATTACHED:</b>	Not Applicable.
<b>REFERENCE DOCUMENTS:</b>	<p>Developer Contributions Supplementary Planning Document – Policy Statement (Final) - Neil Rodgers, Strategic Planning Manager.</p> <p>Developer Contributions SPD Technical Appendices (Final) - Neil Rodgers, Strategic Planning Manager.</p> <p>Developer Contributions Consultation Statement (Final) – Martin Watkins, Planning Officer.</p> <p>Developer Contributions Sustainability Assessment (Final) – Martin Watkins, Planning Officer.</p> <p>Draft versions of above documents deposited for Public Consultation exercise July 2006</p> <p>ODPM Circular 05/2005 Planning Obligations</p> <p>DCLG Planning Obligations: Practical Guidance</p> <p>Background Papers can be inspected and copied by contacting Martin Watkins, Planning Officer: Tel: 0161 342 3103 Email: <a href="mailto:martin.watkins@tameside.gov.uk">martin.watkins@tameside.gov.uk</a></p>

Signed.......... Dated..... 28/11/06 .....

**Cllr Whitehead- Cabinet Deputy for Technical Services**

## KEY DECISION REPORT

<b>SERVICE AREA:</b>	Economy and Environment
<b>SUBJECT MATTER:</b>	<b>DEVELOPER CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)</b>
<b>DATE OF DECISION:</b>	28 <sup>th</sup> November 2006
<b>DECISION TAKER</b>	Councillor A. Whitehead
<b>REPORTING OFFICER:</b>	Pat Rattigan: Assistant Executive Director – Planning and Economic Development
<b>REPORT SUMMARY:</b>	<p>This new policy has been prepared in consultation with officers of numerous sections, and stakeholders following a recommendation of the Technical, Economic and Environmental Services Scrutiny Panel.</p> <p>The aim of the policy is to substantially increase the contribution made by developers to the provision of formal and informal open space, play areas, education and community facilities, and transport highway improvements.</p> <p>At present contributions are made only from a limited number of major developments, which entails the time consuming production of legal agreements.</p> <p>In future the tariff will be levied on most developments excluding minor developments such as house extensions.</p> <p>The policy also sets out procedures for the allocation and monitoring of the ring-fenced capital sums raised.</p>
<b>RECOMMENDATION:</b>	The Council approve and adopt the Developer Contributions SPD policy for introduction and implementation
<b>JUSTIFICATION FOR DECISION:</b>	To ensure the Council has an efficient, effective and fair policy for identifying and collecting legitimate planning gain linked to developments. To ensure that the impact of those developments on existing infrastructure, facilities and services is recognised in setting appropriate developer contributions.
<b>ALTERNATIVE OPTIONS REJECTED (if any):</b>	Retain existing ad-hoc Section 106 Agreement system that is less defined and potentially inconsistent in its application.
<b>CONSULTEES:</b>	<p>There has been corporate-wide involvement in the formulation and evolution of this policy guided by the Technical Services Scrutiny Panel, the Strategic Capital Group, and the appropriate Cabinet Member and the Council Leader.</p> <p>An extensive public and stakeholder consultation exercise was carried out in July 2006, the results of which and responses are reported in one of the technical documents accompanying the main policy statement.</p>

<p><b>FINANCIAL IMPLICATIONS:</b> (Authorised by Borough Treasurer)</p>	<p>Tariffs need to be set at a level to maximise income without deterring development and it would be prudent to bear in mind the charges set by other local authorities.</p> <p>Money raised will be spent on approved capital projects. Approvals will need to be subject to developments commencing within the three year time period. There is a deadline of ten years to utilise the contributions or they must be repaid to the Developer. The contributions must be utilised on a scheme that directly mitigates the impact of the development. The approval to spend tariff proceeds will have to come from the Strategic Capital Group, as is the case with other capital projects.</p> <p>The proposal will result in significant additional work to monitor and manage the arrangements. This will include employee, IT and other overhead costs. These costs need to be recovered through an administrative charge to be levied on all agreements.</p> <p>Ongoing maintenance costs cannot be funded from the tariffs levied and it will be the responsibility of relevant service areas to ensure adequate revenue budget provision exists to meet ongoing commitments resulting from the capital spends.</p>
<p><b>LEGAL IMPLICATIONS:</b> (Authorised by Borough Solicitor)</p>	<p>The proposals comply with the Town and Country Planning (Local Development) (England) Regulations 2004 and the guidance in ODPM Circular 5/05 "Planning Obligations" (July 2005).</p>
<p><b>RISK MANAGEMENT:</b></p>	<p>Failure to produce a new policy would mean that there is inadequate funding to provide green space, education and community facilities, and transport improvements to meet the demands created by new developments.</p> <p>The scheme will have to be monitored. If it inhibits development it may be necessary to review the tariffs.</p> <p>Receipts must be spent for their intended purposes or they will have to be repaid.</p> <p>Government proposals for a Planning Gain Supplement may supersede this policy but Government has advised us to proceed with an interim policy.</p>
<p><b>LINKS TO COMMUNITY PLAN:</b></p>	<p>Several of the fundamental principles of the Community Strategy will be well served by the projects paid for with the funds raised by this policy document.</p> <p>These include "A Safe Environment", "A Prosperous Society", "A Learning Community" and "An Attractive Borough".</p>

<p><b>REFERENCE DOCUMENTS:</b></p>	<p>Developer Contributions Supplementary Planning Document – Policy Statement (Final) - Neil Rodgers, Strategic Planning Manager.</p> <p>Developer Contributions SPD Technical Appendices (Final) - Neil Rodgers, Strategic Planning Manager.</p> <p>Developer Contributions Consultation Statement (Final) – Martin Watkins, Planning Officer.</p> <p>Developer Contributions Sustainability Assessment (Final) – Martin Watkins, Planning Officer.</p> <p>Draft versions of above documents deposited for Public Consultation exercise July 2006</p> <p>ODPM Circular 05/2005 Planning Obligations</p> <p>DCLG Planning Obligations: Practical Guidance</p> <p>Background Papers can be inspected and copied by contacting Martin Watkins, Planning Officer:  Tel: 0161 342 3103  Email: <a href="mailto:martin.watkins@tameside.gov.uk">martin.watkins@tameside.gov.uk</a></p>
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## **1. Purpose of Report**

- 1.1 The purpose of this report is to describe the work undertaken in developing the Developer Contributions Supplementary Planning Document and to seek Executive approval to adopt the revised document following public consultation as a statutory Supplementary Planning Document.

## **2. Background**

- 2.1 In the past Tameside has used planning legislation to secure planning gain from significant developments, with over one hundred such agreements being negotiated since 1974.
- 2.2 Although substantial funds and improvements to infrastructure have been achieved in the past, it is recognised that a clearer policy framework and a standardised and transparent approach to implementation would ensure better mitigation from the impact of new development.
- 2.3 In March 2005 Full Council resolved to adopt the Local Development Scheme, which scheduled the production of the Supplementary Planning Document subject to this report.
- 2.4 In August 2005 the Technical, Economic and Environmental Services Scrutiny Panel recommended that the Council introduce a system similar to the one used in other local authority areas to seek developer contributions for green space provision and consider extending the tariff concept to other Council service sectors. In drafting the Supplementary Planning Document full account has been taken of the Scrutiny Panel's recommendations.

## **3. Government Policies and Guidance**

- 3.1 The Government has issued new guidance (Circular 5/05) for the future application and implementation of Planning Obligations, which can be achieved either through Section 106 Agreements or unilateral undertakings. This guidance introduces more flexibility including the concept of "pooling" funds from several developments to counter the impact of cumulative developments and it continues to encourage unilateral undertakings as a method of securing contributions. It also establishes the principle of setting formulae and standard charges to secure contributions.
- 3.2 Meanwhile, the Government announced an intention to replace existing Planning Obligation Regulations and Guidance and introduce new legislation to establish a national "Planning Gain Supplement" (PGS) no earlier than Spring 2008. However, in the meantime they suggest Councils introduce local tariffs based on standard calculations and formulae to raise funds for investment in necessary infrastructure.
- 3.3 The Supplementary Planning Document has been drafted to reflect government policy as outlined in Circular 05/05 "Planning Obligations". One key element is that the guidance makes it clear that funds raised are for capital investment only and cannot be used for revenue/maintenance/management purposes. Normal contract establishment costs can be covered but the government expects maintenance of all new and improved infrastructure, facilities and services should be covered by established management regimes and budgets. The one exception is a specific proposal requested and provided within a development for the sole or main use of the users/occupants of that development. The Council can require payment for the subsequent maintenance of the facility in perpetuity.

#### **4. Public Consultation**

- 4.1 The draft Supplementary Planning Document was published for the purposes of statutory public consultation during July 2006 for four weeks. All the registered consultees from the Statement of Community Involvement were contacted either by email or letter with a referral to the website where all the relevant documents were displayed, and all the local libraries and customer service centres. Adverts were placed in the local newspapers.
- 4.2 Twenty-nine responses were received and these have been summarised and responded to in the Public Consultation Statement. All comments and objections were fully considered and appropriate amendments to the document are recommended.
- 4.3 The main issues raised are summarised as follows:
- Payment should only be made once construction has started,
  - The SPD does not comply with the governments guidance,
  - The formulas are overly complex,
  - The SPD does not contain a list of costed capital projects,
  - Pooling of contributions breaks the direct link between the development and the investment in infrastructure,
  - Application of the land and property moderator to commercial development would be unreasonable,
  - The integrated Transport Tariff does not make any allowance for existing traffic generation,
  - A streamlined S106 process would be a better option,
  - The Council is seeking a share of developer profits for the community,
  - The time frame for completion of capital schemes is too long.

#### **4. The Main Proposals**

- 4.1 There are two main elements to the Supplementary Planning Document:
- The introduction of a Tariff system to raise funds from relevant developments for improved or new investment in the services of Children and Young People, Public Open Space and Highways. Also a need for an implementation strategy and the introduction of a web-based automatic calculation system against which to test the development proposals.
  - A standardised approach to Section 106 Agreements for significant developments.
- 4.2 Tariffs will apply to all planning applications above the threshold of 1 dwelling and 250 sq m of non-residential floor space. There are a number of exceptions listed in the Supplementary Planning Document; particularly where the Council has an interest in the land.
- 4.3 The tariffs rates for each of the service area are based on formulas, which determine the financial contribution a development would need to make to lessen the impact that development would have on services, infrastructure and facilities.
- 4.4 Funds will be raised on a ward basis for Green Space, a township basis for Community Education and a Borough-wide basis for Integrated Transport, but the funds will be pooled and spent on a rolling prioritized list of capital projects. This takes account of the cumulative impact of a number of developments over a wider area, as well as the impact on the immediate neighbourhood of any particular development.

4.5 From the receipt of the monies the Council has a period of ten years to spend the funds raised within the relevant service sectors on capital projects with a clear link to individual developments.

4.6 To ensure that the introduction of the tariffs will not have an adverse impact on regeneration investment a property value moderator has been added that proportionally reduces tariff rates for residential development in the more deprived wards.

## **5.1 Operation of the Policy**

5.1 The planning applicant will be expected to submit a signed Deed of Unilateral Undertaking at the time the planning application is submitted to the Council, which will set out contribution to be paid. If the application is approved the payment of the tariff will be required by a planning condition which will stipulate that payment should be made when the construction of the development has commenced (as defined by law).

5.2 A new Monitoring Officers post will be created in the Planning Department to monitor and administer the tariff system with assistance from dedicated officers in the other Council service areas who will have responsibility for administering the funds.

5.3 To ensure there is a transparent audit trail between the receipt of contributions through to expenditure on relevant capital projects, an administrative procedure has been produced. The allocation of funds will follow the Council's existing process of monitoring capital expenditure where Cabinet Deputies and the Strategic Capital Group appraise, approve and monitor capital schemes. This process should ensure that funds raised are spent on appropriate areas and can be linked back to the developments providing the contributions.

5.4 To assist applicants in accessing the calculation of the tariff a web-based calculator has been created which will allow prospective developers to input basic information about the development to determine the level of contributions required for their development.

5.5 As part of the Local Development Framework Monitoring Report, the tariff calculations and values will be assessed annually to determine their effect on the economy and development industry. Adjustments will be recommended so that development viability is not harmed.

## **6. Launch of the Tariff System**

6.1 Once the Supplementary Planning Document is adopted the following measures need to be put in place before an anticipated launch date early in 2007:

- Recruitment of a Monitoring Officer,
- Develop an ICT system to link existing financial systems; to record contributions received and expenditure made,
- Inform the public and customers of the pending launch date in the press, on the Council's website and by letter.

## **7. Recommendation**

7.1 It is recommended that the Developer Contributions Supplementary Planning Document is adopted as a Supplementary Planning Document in accordance with the Town and County Planning (Local Development) (England) Regulations 2004.