

# **National Planning Forum: Inspiring planning**

## **DRAFT Notes of Meeting**

**19<sup>th</sup> April 2005: Local Government House, London**

Welcome from the Chair, Liz Peace, Chief Executive, British Property Federation

### **Debate: Section 106 agreements, planning gain supplements, tariffs.**

Liz Peace opened the debate, outlining the various discussions and initiatives underway and possible changes that appear to be under consideration in Whitehall. She touched on the potential impact of some of these possible changes as relayed to her from her members.

Kelvin MacDonald then took the Forum through a reduced history of planning obligations from the C17th finishing with a more detailed resume of where we are now. (see attachment)

Chris Watts outlined the commission Halcrow's are undertaking for ODPM highlighting good and less good practice in LPA's on planning obligations. The Report should be published in the summer.

Discussion points that emerged:-

- Press reports of a 20K 'roof tax' at Milton Keynes are premature. Nothing is yet settled.
- Surveys have found very little evidence of good practice in this area. A cause for concern. Either it is difficult to access-or more likely, doesn't exist.
- Binding legal agreements for the mid or long term are a problem for LA's (as well as developers). For developers the economic cycle can turn against them whereas LA's have constraints with three year tranches on spending from HM Treasury. This makes it difficult for all public sector bodies to make legal commitments to long term spending.
- Mediation-sometimes welcomed by developers to navigate an impasse but generally disliked by LA's (members as well as officers) who see it as a loss of control.
- Few LA's have staff trained in necessary skills and legal staff appear to have poor appreciation of need for urgency. "Lawyers make a meal of the simplest tasks."
- In-house LA valuers not always used or engaged by the planners to assess development economics -a cultural /attitudinal issue.
- Tariffs and levy's are not universally popular, but have some benefits as they require LPA's to consider from the outset what planning contributions they will seek and offers developers early certainty of what will be required of them.
- Developers have no absolute certainty how much a development will ultimately

realise. A local tax on profits is not unacceptable although timing of tax take is critical. Profits normally come late and payments should reflect this.

- Developers need some guarantees (which can be included in the S106) that LA's will fulfil their side of the bargain and implement the planning gain within agreed timescales. This is of mutual benefit.
- House builders generally make their profit from the land deal rather than the development. Given a choice they may not prefer to build!
- Circ 1/97 has settled down and developers and LPA's generally know what is expected of them. Change is not viewed with enthusiasm when there is so much development Government wants carried out. The suggested Barker tax is 'bad' and unlikely to work in practice.
- It is difficult to see how the present system can deliver the major infrastructure London and the SE needs. The development industry wants to see practical outcomes which it can put towards planning objectives.
- How do you prioritise between affordable housing, health and education? Roads against Crossrail? Who does this? Do RA's have a role?
- Should affordable housing always come first in every housing development? It may be that other infrastructure should take precedence in certain circumstances.
- Flexibility and goodwill in bi-lateral negotiations is needed for a system to work. Systems need to be kept simple. Developers want to negotiate with a single agency not a consortium. Although the case officer leads on the application, perhaps there should be a trained negotiator in every LPA who leads on contributions?
- The new Draft Circular *does* allow for revenue funding where linked to a project.
- Tower Hamlets is producing a spreadsheet to quantify health needs for various developments. This will inject consistency and objectivity into the process and help everyone involved.
- Sport England has produced a 'kitbag' to assist everyone involved in securing sporting facilities associated with developments (see sport England website)
- There is a marked difference between London and the SE and the rest of UK when it comes to development profitability. And also between Metro Manchester, Leeds, Newcastle and other parts of those same cities. Outside the 'hot spots' planning gain can be an 'impossible dream'
- Where land is in public ownership and/or needs extensive remediation (typically a northern scenario) tax could stifle development. Public investment is needed to prime the pump and then long term partnerships and commitment from LA's, developers and other agencies to secure long term goals rather than *site developers*.
- Can we define the tipping point where a tariff based approach for a site needs to be replaced by a PPP? Should there be a default tariff if no agreement is reached by conventional negotiation after a period?
- LPA's are struggling to manage the S106 process. It is now required to do much more than it was designed for. "Buying a pp" now seems acceptable-even encouraged. DC planners are being put between the rock (targets) and the hard place (the need to deliver planning gain for a widening list of 'customers')
- Some LPA's have abandoned the necessity test and are using plan policies to

underpin negotiations. If a LDF includes items, does this supercede the necessity test?

- Landowners and developers already pay Capital Gains and Corporation Tax. There is a risk of killing the goose that lays the golden egg!

In summarising how the NPF may take this forward, the following was mentioned:-

1. Exploring further the training needs of staff (not just planners, but staff in all LA departments and agencies that are now in this loop), to enable them to reach better understanding of the complexities of the development process.
2. Highlight the benefits of a collaborative, long term partnership approach for an area over the one-off deals and the need for all the players who will play a major role in delivering sustainable communities to be aware of the bigger picture of who is providing what.
3. Settle on a standard S106 agreement (from the various examples that exist) which can be recommended to all LPA's in England-just like the new standard application for pp.
4. Incorporate the findings of this debate in the planned NPF discussion with ODPM on Thames Gateway and infrastructure, including an invitation to colleagues in HM Treasury. This to include clarification on the re-draft of Circular 1/97 and the supremacy of the necessity test.

### **Formal Agenda**

- 1 Apologies (list available for inspection)
- 2 Minutes of meeting on 12 December 2004 -Agreed
- 3 Matters arising:
  - Kelvin MacDonald reported that he had exhumed the RTPI good practice notes and sensed they were past their sell by date.
  - The Secretary reported that he had now secured agreement to the Good Practice Notes and they were now printed and would be available for downloading from the website shortly. He thanked colleagues for their help and stressed that it was up to everyone to disseminate these through their own networks.
  - The Secretary reported he was in discussions with ODPM about further funding for NPF and he hoped to report at the next meeting.
  - The Secretary reported that he would be stepping down in June after two years in the post. He mentioned that it had been his mission to get the NPF established as a going concern, adding value and creating outcomes. This was now the case. The Executive had agreed to advertise for a replacement from the summer.
- 4 Infrastructure: A meeting will be sought with ODPM on the Thames Gateway area as an example of how delivery of sustainable communities will be secured.
- 5 Elections: Mark Southgate will be the Vice Chair representing Govt/agencies: Cllr Richard Kemp will be the Vice Chair representing local government: Mike Hayes will be the Vice Chair representing the professional Institutes. Liz Peace paid tribute to Michael Coupe-retiring Vice Chair who had made a great contribution to the Forum in the critical early years. She hoped he would remain as a member of the Forum.
- 6 AOB :The Secretary tabled the **revised Concordat** (see attachment) which he had produced bringing the document in line with new legislation. This was a key document which complements those in the folder produced for the annual conference in 2004. The Secretary asked colleagues for feedback on the Draft by the end of the month to enable the Concordat to be produced for the June Meeting.

The Next meeting will be at 1pm on 14th June 2005 at LGA House, London. The topic for discussion will be **Planning for Climate Change**.