

**Report of the Director of City Development and the Director of Environment and Neighbourhoods**

**Report to Scrutiny Board (Sustainable Economy and Culture)**

**Date: 26 January 2012**

**Subject: Delivering employment and training opportunities through the Council's planning functions**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. This report provides an update on the information provided to the Board at their meeting in October 2011 which highlighted a number of developments where the use of S106 obligations had secured employment and training opportunities for local people and supply chain opportunities for businesses.
2. The report identifies how this approach will be maintained and strengthened through closer working between relevant services and the early engagement of developers.

**Recommendations**

3. Members of Scrutiny Board are asked to:-
  - (i) note the planned work to support the dissemination of information and closer working between services and the early engagement of developers.

## **1 Purpose of this report**

- 1.1 This report provides an update on the information presented to Scrutiny Board in October which included information on the use of Section 106 agreements to support local employment and training objectives and supply chain benefits.
- 1.2 The report includes an update on the changing policy and legal context and the proposed approach moving forward.
- 1.3 The report also includes information on communicating information on proposed approach to staff and to developers.

## **2 Background information**

- 2.1 The Scrutiny Board established an inquiry into how the Council uses its procurement and planning function as an enabler of locally driven, sustainable economic growth that benefits both local people and businesses.
- 2.2 The report to the October meeting of the Board identified the key mechanisms through which developers and contractors are engaged and provided several examples of where these had and are being pursued to deliver employment, skills training and supply chain opportunities.

## **3.0 The revised policy and legal context**

- 3.1 Local authorities, as part of their planning development management function, can request contributions, either financial or in kind, through planning obligations for measures directly related to a development. This arrangement derives from S.106 of the Town & Country Planning Act 1990. The Government believes that planning obligations should only be sought where they are required to make a proposal acceptable in land use planning terms.
- 3.2 The Government's policy in respect of planning obligations (as set out in Circular 05/2005) has been well established for some time. It requires planning obligations to be:
  - relevant to planning
  - necessary to make the proposed development acceptable in planning terms
  - directly related to the proposed development
  - fairly and reasonably related in scale and kind to the proposed development
  - reasonable in all other respects
- 3.3 A new planning charge; the Community Infrastructure Levy (CIL) came into force on 6 April 2010. CIL allows planning authorities to raise funds from developers undertaking new building projects in their area to be used towards the provision of 'infrastructure' needed to support the development of the area. Infrastructure is given a wide definition, including transport, flood defences, hospitals and other community facilities. Importantly for the purposes of this report, the CIL levy is not intended to relate to the provision of services or training or employment opportunities which remain to be considered through the use of planning obligations.

- 3.4 In order to ensure that planning obligations and the levy can operate in a complementary way, the CIL Regulations place limitations on the use of planning obligations in certain respects, some of which are outside the scope of this report. Of relevance, the CIL Regulations have put the Government's policy tests on the use of planning obligations (see para 3,2 above) on a statutory basis. Therefore a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonable related in scale and kind to the development.

This does not alter the legal position that a developer and local authority can enter into a planning agreement to secure objectives regarded as desirable for the area, whether or not they are necessary to strengthen the planning case for a particular development.

- 3.5 The use of planning obligations to secure employment and training opportunities is a well embedded approach, and is encouraged and supported by the Government. When launching the introduction of CIL and reforms to planning obligations in March 2010, the then Planning Minister, John Healey made it clear that he was looking to councils to follow the best examples of those authorities who used planning obligations to support local skills, training and apprenticeship schemes.

#### **4.0 Maintaining the current position**

- 4.1 We aim to continue the current practice in Leeds to work with developers that have the desire and willingness to do so e.g. Tesco, Hammersons, Land Securities. Employment and training obligations will be included in S106 agreements and developers and the occupiers of the development will continue to be required to make "reasonable endeavours" to employ local people during the construction phase and end uses. The Employment Leeds team will then support the developer and or occupiers to draw up an Employment and Skills Plan which quantifies the number and type of employment and training opportunities that can be accessed by local people and the support to be provided by local agencies through public funds to enable this.
- 4.2 The approach is more likely to be effective if it is raised at an early stage with developers or employers and officers work with them to promote the joint benefits of an agreement. Employment Leeds is confident in its ability to successfully provide developers and end users with high quality candidates in a number of sectors and has significant experience in recruitment to the areas of construction, retail, hospitality, health and social care. These sectors are more likely to have the higher volume of 'entry level' positions.
- 4.3 To promote a consistent approach, the requirement to produce an Employment and Skills plan will be triggered only on those schemes with the potential to provide a significant impact in terms of employment and training opportunities

during construction or in end uses without placing an unnecessary burden on the developer. The following thresholds will guide this process:-

- Retail developments of over 2,000m<sup>2</sup>
- Residential developments of over 250 units
- Construction sites over 10,000m<sup>2</sup>.

## **5.0 Implementation and supporting activity**

- 5.1 Nominated officers from Employment Leeds and the Planning Service will work together to identify the planning applications that meet the criteria in paragraph 4.4. Where Planning officers meet with developers at a pre-application stage and the development meets the criteria, Employment Leeds officers will be invited to take part in the pre-application meeting.
- 5.2 The above work will need to be supported by a closer relationship between Planning service and Employment Leeds. This will be achieved by establishing more structured communication processes and through staff training. This will commence with a presentation on employment and training services and the proposed new approach to the Planning service case workers meeting in early February.
- 5.3 Subject to discussions, the developer and Employment Leeds will agree an Employment Action Plan which seeks to secure jobs and training in the construction phase and end use and monitor the implementation of the action plan. The agreement will contain standard wording wherever possible. The draft model agreement is attached at appendix 1 for information. A guide for developers will be produced outlining the obligation, roles and responsibility of the council and developer and the steps involved in producing an employment action plan. This will be provided to developers at the earliest possible stage in the process.

## **6.0 Corporate Considerations**

### **6.1 Consultation and Engagement**

- 6.1.1 The next meeting of the Leeds Planning and Developers Forum to be held on 24 January 2012 will include a presentation and the opportunity for discussion on employment and skills obligations and the support that can be provided through Employment Leeds.

### **6.2 Equality and Diversity / Cohesion and Integration**

- 6.2.1 Evidence from the last recession and the current data indicates that increased unemployment has disproportionately impacted on those neighbourhoods with the highest levels of claimants. Targeted support to enable those seeking skills training and paid work will reduce the benefit claim period, help local people develop the skills to secure, stay and progress in work and improve their lives. Employment and skills obligations should include minimum levels to be achieved and be targeted to specific communities and claimant groups as well as cohorts of young people engaged in employability and skills programmes.

### **6.3 Council policies and City Priorities**

- 6.3.1 The existing activity and proposed approach will contribute to the achievement of targets in both the Sustainable Economy and Culture Partnership and the Children and Young People's City Priority Plans. The proposed activity will contribute to increasing the skill levels of local people required by businesses in the City and by increasing the number of people in employment, apprenticeships and learning.

### **6.4 Resources and value for money**

- 6.4.1 The proposed policy framework and toolkit can be developed and implemented within the Council's existing resources.

### **6.5 Legal Implications, Access to Information and Call In**

- 6.5.1 Activity to secure employment and skills obligations must comply with and not contravene the legislative framework and guidance issued by the Secretary of State on the use of Planning Obligations.

### **Risk Management**

- 6.5.1 A risk management assessment will be undertaken as part of the feasibility work to develop these proposals. The impact of introducing employment and skills obligations on developers will need be considered over the short, medium and long term and in the context of prevailing economic conditions; the strength of targeted sectors within the economy; and the need to balance any gains with the need to encourage continued investment in Leeds.

### **7.0 Conclusions**

- 7.1 As reported at the first session of the inquiry, employment, training and supply chain benefits have been secured on a number of developments to date through the use of S106 agreements. It is planned to continue this approach and to seek to more effectively target the approach to those developments with significant employment generating potential during construction and in end uses. This work will be supported by close working between services and early engagement with developers.

### **8.0 Recommendations**

- 8.1 Members of Scrutiny Board are asked to:-

(i) note the planned work to support the dissemination of information and closer working between services and the early engagement of developers.

### **9.0 Background documents**

- 9.1 There are no background documents.

## **Appendix 1**

### **Employment and Skills Model Clauses for inclusion in a S106 Agreement**

#### Clause 1.

From the start of the tendering process for the construction of the Development and throughout the period when the Development is under construction to use (or procure that its building contractor uses) its reasonable endeavours to co-operate and work closely with Employment Leeds (the Employment and Skills Service of the Council) to develop an Employment and Training scheme to promote employment opportunities for Local People during the construction works.

#### Clause 2

To include in any building contract for the said construction works the following obligations on the main contractor:

- to use its reasonable endeavours to employ local contractors and sub contractors and Local People in the said construction works;
- to consult with Employment Leeds with a view to identifying procedures to facilitate the appointment of contractors and sub contractors and Local People in the said construction works;
- prior to the commencement of the said construction works to use reasonable endeavours to agree with Employment Leeds a method statement to facilitate the appointment of sub-contractors and Local People in the said construction works;

Provided that nothing in this clause shall require the Owner (or its building contractor as the case may be) to do or refrain from doing anything which would be contrary to prudent business practice.

Clause 3 To use reasonable endeavours to procure that the Occupiers of the relevant parts of the Development:

- work with Employment Leeds and agree a method statement identifying the number and types of employment and training opportunities that can be accessed by Local People within such part of the Development and the resources needed to deliver the same;

- provide to Employment Leeds on a 6 monthly basis details of the recruitment and retention of Local People as employees within such part of the Development and the training in place for apprentices and the existing workforce by reference to national industry standards;
- provide Employment Leeds and partners identified by Employment Leeds with details of any employment vacancies that are created within such part of the Development, to be provided by way of a monthly updated list of current vacancies;

Provided that nothing in this clause 11.3 shall require the Owner (or an Occupier as the case may be) to do or refrain from doing anything which would be contrary to prudent business practice.