Part I - Item No. 1

Electoral Division affected:
Chorley Rural North

Chorley Borough Council - Land off Wigan Road, Clayton-Le-Woods - Section 106 Agreement

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Executive Summary

Authority is sought for the County Council to enter into a Section 106 Agreement under the provisions of the Town and Country Planning Act 1990 for a package of measures and a financial contribution totalling £709,221.00 to improve accessibility to the development site and for the provision of additional Primary School Places in connection with development by Fox Strategic Land and Property on land to the east of Wigan Road, Clayton-le-Woods.

When consulted by Chorley Borough Council on an application for the provision of 300 dwellings at land off Wigan Road, Clayton-le-Woods, officers responded with a request for a developer contribution in line with the Planning Obligations policy.

Chorley Borough Council has not determined planning permission for the above site and, therefore, the developer has appealed to the Planning Inspectorate. When considering the application the Inspector will take into consideration the proposed Section 106 Agreements.

Recommendation

The Cabinet Member for Children and Schools is asked to:

1. Authorise the County Council to enter into a section 106 agreement under the Town & County Planning Act 1990 providing for the contribution of £430,221 from the developer towards provision of additional primary school places in connection proposed development on land to the east of Wigan Road, Clayton-le-Woods.
The Cabinet Member for Highways and Transport is asked to:

2. Authorise the County Council to enter into a Section 106 Agreement under the Town and Country Planning Act 1990, for a financial contribution of £279,000 towards a package of highway and sustainable transport measures to provide improved accessibility to the proposed development by Fox Strategic Land and Property on land to the east of Wigan Road, Clayton-le-Woods, and;

3. That approval is given to add a scheme to the Environment Directorate 2011/12 Capital Programme, HT446 – Highways and Sustainable Transport Works at Clayton-le-Woods for £130,000 (estimated £80,000 in 2011/12 and £50,000 in 2112/13), and;

4. That approval is given to add a scheme to the Environment Directorate 2011/12 Revenue Programme, for Sustainable Transport at Clayton-le-Woods – Public Transport Enhancements for £125,000 in 2011/12, and for Travel Planning – £24,000 (£12,000 in 2011/12 and £12,000 in 2012/13).

This decision should be implemented immediately for the purposes of Standing Order 34 (3) as any delay could adversely affect the execution of the County Council's responsibilities. The reason for this is that a public enquiry in relation to this proposal is scheduled to take place on Tuesday 22 March 2011.

Background and Advice

As stated in the Planning Policy Statement: Planning and Climate Change (Supplement to Planning Policy Statement 1), in consideration of the environmental performance of proposed developments, local authorities should expect developments to create and secure opportunities for sustainable transport in line with Planning Policy Guidance Note 13 (PPG13). From 6 April 2010, the Community Infrastructure Regulations 2010 have made the policy tests in Circular 5/05 a statutory requirement. Thus planning obligations can only be used in practice where they satisfy the following statutory tests:

(a) they must be 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.

When consulted by Chorley Borough Council on an application for 300 houses on land at Wigan Road, Clayton-le-Woods, officers responded with a request for a developer contribution in line with the Planning Obligations Policy.

Primary School Places

The application was for the erection of 300 dwellings. Primary school places are already very tight in the Chorley area. Estimates indicate that this development will add to an overall shortfall of primary school places when set alongside future births and other developments in the area. The development is estimated to add 39 primary age pupils to the overall shortfall. The national indicators of costs for
providing additional primary school places as set out in the Planning Obligations in Lancashire policy indicate that providing 39 additional places would cost £430,221.

Monies gathered from the contribution will be put towards the provision of additional primary school places, at one or more schools, within a maximum of three miles from the site. Should the projected numbers resulting from births and developments not materialise to the extent additional places are needed, then the contribution would not be claimed.

Highways Works

The developer has agreed to provide highway improvement works and, a developer contribution of £279,000 to fund a package of measures towards sustainable transport initiatives at the development site.

Following completion of the highway works, which would be carried out under a s.278 agreement under the Highways Act 1980, the developer will make staged contributions towards sustainable transport measures.

These highway works and sustainable transport measures include:

- Highway improvement works on A49, Wigan Road. This includes the new site access roundabout, footway upgrade to shared footway/cycleway, two new bus stops and a Toucan Crossing close to Moss Lane junction. (Delivered under a S278).
- Carriageway works at the Hayrick Junction (A49/Leyland Way/Lancaster Lane), to include the extension of left turning lane on A49 Wigan Road into Leyland Way, to improve public transport and network reliability. (The developer has agreed that the improvement scheme is to be progressed via a S278 Agreement and hence would not be included in the S106.)
- £20,000 for the provision of 2 Quality Bus standard stops on Lancaster Lane, one in each direction.
- £20,000 for provision of passenger information to both east & westbound stops on Lancaster Lane, or other enhancements to the existing bus network for bus priority (adaptive bus priority linked to MOVA) and providing additional journeys.
- £40,000 for Installation of MOVA signal control technology with bus priority at the A49, Wigan Road/A6, Lostock Lane /Station Road signal junction.
- £40,000 for Installation of MOVA signal control technology with bus priority at the Hayrick (A49 Wigan Road/Leyland Way/Lancaster Lane) signal junction.
- £125,000 Public Transport funding to enable the existing bus network to be enhanced and provide additional journeys, providing a minimum of a bus every 30 minutes to Leyland & additional journeys linking to Chorley & Preston (including provision of evening & Sunday services).
- £24,000 for LCC to provide advice and guidance on Travel Plan development and implementation in line with 2.1.5.16 of the Planning Obligations in Lancashire Policy (September 2008).
- £10,000 for upgrading Public Right of Way - Improvements to Footpath 16 from Wigan Road to Bristol Avenue (Lever Houses Primary School) to upgrade a continuous clear pedestrian route.
Chorley Borough Council has not determined the planning application for the above proposal and, therefore, the developer has appealed to the Planning Inspectorate. If the Inspector approves the application on appeal at a public inquiry and agrees that the section 106 agreement is material and satisfies the tests in the 2010 Regulations referred to above, the development would be subject to the Section 106 Agreement to cover the matters referred to in this report.

Although Chorley Borough Council is the local planning authority for the proposal it is considered that the County Council should be a party to the Section 106 Agreement to enable the County Council to enforce those parts of the agreement which are directly relevant to the County Council.

Consultations

Chorley Borough Council.

Implications:

This item has the following financial implications:

Financial

Chorley Borough Council is the determining authority for the planning application, and, as such, determined that £709,221 of the developer contribution would be secured for the provision of additional primary school places and highways works for the County Council to administer. The legal agreement commits the developer to pay a commuted sum to the County Council, and contains reciprocal obligations on the County Council’s behalf in respect of any unexpended commuted sum.

The proposal will require the addition of the following scheme to the Environment Directorate 2011/12 Capital Programme, HT446 – Highways and Sustainable Transport Works at Clayton-le-Woods for £130,000 (estimated £80,000 in 2011/12 and £50,000 in 2112/13). This will be fully funded by a developer Section 106 contribution to encourage sustainable transport.

The Section 106 Agreement will also provide £149,000 to fund enhanced public transport services and travel plan guidance (by LCC) which will be accounted for through the Environment Directorate revenue budget:
Public transport enhancements - £125,000 (125,000 in 2012/13)
Travel planning - £24,000, (£12,000 in 2011/12 and £12,000 in 2012/13).

Risk management

If the County Council was not party to the section 106 agreement then it would not be able to directly enforce the obligations for payment of the commuted sum against the developer.

As with the all Highways projects, appropriate controls will be in place through the scheme development and construction stages to ensure that costs are carefully monitored and appropriate measures taken to minimise the risk.
With regard to the public transport enhancement; the funding will be for a set period to pump prime new or extended services while the development is coming on line; if at the end of the funding period the service is not commercially viable I would expect the bus operator to stop the service, (or except the operating loss). LCC should not take on additional financial support of the services after the developer funding expires.

Any representations made to the Cabinet Member prior to the issue being considered in accordance with the Public Notice of Forward Plans

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<th>Name:</th>
<th>Organisation:</th>
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Local Government (Access to Information) Act 1985
List of Background Papers

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<tr>
<th>Paper</th>
<th>Date</th>
<th>Contact/Directorate/Tel</th>
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<tbody>
<tr>
<td>Planning Obligation in Lancashire policy paper.</td>
<td>Revised Sept 2008</td>
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<tr>
<td>Submission for contribution to provide primary school places</td>
<td>26/05/10</td>
<td>Lancashire County Council Capital Provision and Planning Team 01772 531774</td>
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Reason for inclusion in Part II, if appropriate

N/A