

# GIFT FUNDING ARRANGEMENTS - SPENHILL REGENERATION

<b>Cabinet Member</b>	Councillor Keith Burrows
<b>Cabinet Portfolio</b>	Planning, Transportation and Recycling
<b>Officer Contact</b>	James Rodger Planning, Environment, Education and Community Services
<b>Papers with report</b>	None

## 1. HEADLINE INFORMATION

<b>Purpose of report</b>	<p>This report considers a proposed offer of a gift from Spenhill Regeneration Ltd in accordance with the provisions of Section 93 of the Local Government Act 2003. The gift is required to assist in meeting the Council's reasonable and justifiable costs associated with the discharge of its planning function; in particular it would be used to fund an independent highway consultant to review The Transport Assessment which includes complex data and highway modelling .</p> <p>This will ensure additional resources are dedicated consistent with the importance of this project to the local community and the wider area. It is recommended that the gift be accepted.</p>
<b>Contribution to our plans and strategies</b>	The recommendations will assist the planning process to realise the objectives of the Sustainable Community Strategy.
<b>Financial Cost</b>	The offer of £10,000 gift funding from Spenhill Regeneration Ltd will cover the costs of an independent transport consultant to review the Transport Assessment which includes complex data and highway modelling for a proposed Tesco superstore, retail units a hotel and housing at the Master Brewer site, Hillingdon Circus. This will provide additional resources to the Council to enable it to carry out its statutory planning functions.
<b>Relevant Policy Overview Committee</b>	Residents' and Environmental Services
<b>Ward(s) affected</b>	Hillingdon East and surrounding wards.

## 2. RECOMMENDATION

That Cabinet:

- 1) **Accepts the offer of a gift from Spenhill Regeneration Ltd (who are connected to Tesco Plc) in accordance with the provisions of Section 93 of the Local Government Act 2003 and;**

- 2) **Delegates authority to the Deputy Chief Executive and Corporate Director of Planning, Environment, Education and Community Services, in consultation with the Cabinet Member for Planning, Transportation and Recycling, to appoint the necessary consultant(s) required as set out in the report.**

### **3. INFORMATION**

#### **Reasons for recommendation**

It has been a long standing practice of the Council to request that developers pay for the cost of independent assessment of financial appraisals that are used to determine what level of affordable housing an applicant can provide. Tesco has submitted two planning applications which involve a complex Transport Assessment that assesses the combined impact of the two developments. Agreement has been reached with Tesco that they will gift fund the appointment of a transport consultant to validate the transport assessment (all the technical aspects of the data/modelling in the transport assessment will be looked at and the consultant will advise if he thinks the transport assessment has been carried out correctly, and as appropriate any work required to make the assessment valid). It is considered essential that the highway aspects of the planning application are considered in detail and the use of a consultant will assist the Council in this regard. It will also enable the applications to be determined without unnecessary delay.

It is therefore considered appropriate that the Council should accept an offer of a gift to contribute towards the reasonable and justifiable costs of carrying out the above identified planning functions.

#### **Alternative options considered / risk management**

- I. Refuse the gift from Spenhill Regeneration Ltd. This would not be in the best interests of the local communities or the council.
- II. Request changes to the proposed gift from Spenhill Regeneration Ltd. Spenhill Regeneration Ltd are unlikely to increase their offer.

#### **Comments of Policy Overview Committee(s)**

None at this stage.

#### **Supporting Information**

##### **Former NATS site**

1. The former Master Brewer Site is located south of the A40 with Uxbridge Town Centre approximately 2.3 km south-west. To the south of the site is Freezeland Way and beyond this Hillingdon Circus Junction and North Hillingdon Local Centre. Spenhill Regeneration Ltd (who are connected to Tesco) have lodged two separate planning applications which collectively are for:  
"Mixed use redevelopment of the former Master Brewer Site comprising the erection of a foodstore, measuring 3312 sq.m (GFA) (Use Class A1), with 198 car parking spaces and 32 cycle spaces, an additional 3 reatil units, measuring 1034 sq.m (GFA), (Use Class A1 to A5); a safer neighbourhoods unit, measuring 100 sq.m (GFA) (Use Class D1); an 84 bedroom hotel (Use Class C1) and 22 parking spaces and 4 cycle spaces; 53 residential

units (use class C30 with 56 parking spaces and 60 cycle spaces and associated highways alterations together with landscape improvements.”

2. The Councils highway engineer has prepared a brief to employ a consultant and to illustrate the complex nature of the transport assessment work to be reviewed the consultant would be required to review the following matters (which it should be stressed are not a complete list of the matters to be considered):
  - Latest traffic modelling submitted by the applicant.
  - The validity and suitability of the trip rate data utilized
  - Acceptability of assumptions regarding pass by and destination trips
  - The assignment of development trips on the highway network,
  - Traffic growth over time.
  - The suitability of the modelling scenarios in terms of the network and development peaks.
  - The assumptions and conclusions of the impact of development traffic flows on the adjacent links and at key links and junctions within the affected area.
  - Assumptions regarding committed highway and development proposals that could affect local traffic conditions.
  - The validity of the input and output data and the conclusions of the Transport
  - Assessment that the proposals can be adequately accommodated without serious detriment on the highway network.
  - Proposed site access layout.
  - Acceptability of expected reserve capacity, delays and queue lengths at junctions/signals.
  - Safety assessment of revised junction arrangements.
  - Level of parking provision and justification.
  - Pedestrian routes and linkages.
  - The extent of the study area.
  - The impact of the development on existing public transport services.
3. In order to meet the reasonable and justifiable costs to Council, and to ensure that dedicated resources are provided to ensure the best outcomes for the project, it is considered appropriate that the Council should accept an offer of a gift in the order of £10,000 from Spenhill Regeneration Ltd. The gift funding that is received would be strictly ring-fenced to ensure that it is spent in accordance with the terms of the gift, and the planning functions associated with the Master Brewer site (re: The appointment of a transport consultant to validate the applicants Transport Assessment).
4. Whilst the acceptance of a gift cannot in any way influence the outcome of the planning applications, in this case it will assist with considering the validity of the applicants Transport Assessment, particularly given the complexity of the subject matter. It should also be noted that this is a high profile application which the Council would wish to ensure is rigorously scrutinised.
5. The Council has recently accepted gift funding in relation to various planning delivery agreements, and planning initiatives. The alternative, to refuse the gift funding, would involve meeting the costs of the assessment through the existing planning budget.
6. Should comments be received by the Local Planning Authority from third parties such as Resident Associations relating to the validity of the Transport Assessment, which are relevant to considering the transport impacts of the proposal, Council officers will require that such matters are considered by the consultant. In this regard the consultant will be

required to not just consider the submitted Transport Assessment but any relevant third party comments arising from the consultation process that relate to the Transport Assessment.

7. Standard procurement rules will be followed and Cabinet is requested to give officers the necessary authority to appoint the chosen consultant. Officers consider that the gift funding should cover the cost of validating the Transport Assessment.
8. The Cabinet is recommended to accept the gift funding of £10,000. If funding is not provided externally by Spenhill Regeneration Ltd then these on-going costs will need to be met from existing Council resources.

## **Financial Implications**

The offer of £10,000 gift funding from Spenhill Regeneration Ltd will cover the costs of an independent transport consultant to review the Transport Assessment which includes complex data and highway modelling for a proposed Tesco superstore, retail units a hotel and housing at the Master Brewer site, Hillingdon Circus. This will provide additional resources to the Council to enable it to carry out its statutory planning functions.

## **4. EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

### **What will be the effect of the recommendation?**

It is considered that the use of the specialist transport consultant will both assist the Council in validating the Transport Assessment but also help provide an evidence base to interest third parties to identify that the Council has rigorously considered the highway implications of the development proposal. In this regard there are not considered to be any negative impacts on residents, service users and communities of accepting the gift funding.

### **Consultation Carried Out or Required**

None

## **5. CORPORATE IMPLICATIONS**

### **Corporate Finance**

Corporate Finance has reviewed this report and is satisfied with the financial implications as stated. The offer of £10,000 from Spenhill Regeneration Ltd will provide additional resources for the Council to carry out its statutory planning functions.

### **Legal**

Section 139 of the Local Government Act 1972 empowers the Council to accept gifts for the purpose of discharging any of their functions. This would include accepting a gift to enable the Council to discharge its planning functions. However, the nature of the transaction in this case is more akin to a payment for the provision of services and therefore Section 139 of the 1972 Act should not be relied upon.

The Council also has powers under Section 93 of the Local Government Act 2003 to charge a person for providing a service provided that the Council is not obliged to provide that service in any event. This report indicates that the service to be provided to Spenhill Regeneration Limited

would be to expedite the planning application: that goes over and above what the Council would be statutorily required to provide in handling planning applications and giving application advice. The amount charged should not exceed the cost of providing the service. Officers have indicated in this report that the entirety of the monies from Spenhill Regeneration Limited will be used to engage the services of the transport consultant.

The Council's constitution states that Cabinet shall be responsible for fixing of fees and charges for Council services which would include the one-off bespoke services that are described in this report.

### **Corporate Landlord**

The Corporate Landlord is in support of the recommendations of this report.

### **Relevant Service Groups**

No other service groups are directly impacted by the recommendation.

## **6. BACKGROUND PAPERS**

Planning Policy Statement 1 – Delivery Sustainable Development

Department of Communities and Local Government Guidance Circular 03/09 – Costs awards in Appeals and other Planning Procedures.

Department of Communities and Local Government Guidance - *Constructive talk - Investing in pre-application discussions*.

Department of Communities and Local Government - Guidance Note on Implementing Planning Performance Agreements 2007.

Department of Communities and Local Government “Member Involvement in Planning Decisions”, published in January 2007.