

GIFT FUNDING FOR PLANNING FUNCTIONS

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

HEADLINE INFORMATION

Purpose of report	<p>This report considers the offer of a gift from Inland Homes in accordance with the provisions of Section 93 of the Local Government Act 2003 and Section 139 of the Local Government Act 1972 and the Council's power to charge for the provision of discretionary services.</p> <p>The gift is required to assist in meeting the Council's reasonable and justifiable costs associated with providing design advice and the discharge of its planning function, in providing a high quality planning application service assessing and the reserved matters and pre-commencement condition discharge applications for a part of the second phase of the redevelopment of the former National Air Traffic Services (NATS) site, Porters Way, West Drayton, specifically relating to the development of 42 new dwellings and associated landscaping.</p> <p>This will ensure additional resources are dedicated to provide the discretionary service, consistent with the importance of this project to the local community and the wider area.</p>
Contribution to our plans and strategies	The recommendations will assist the planning process to realise the objectives of the Sustainable Community Strategy.
Financial Cost	The costs arising from the discretionary service will be paid for by Inland Homes who have made an offer of £12,000 in gift funding and will cover the costs providing pre-application advice as well as assessing and determining reserved matter applications in relation to 42 new dwellings and associated pre-commencement conditions applications. This will provide additional resources to the Council to enable it to carry out its statutory planning functions.
Relevant Policy Overview Committee	Residents' and Environmental Services
Ward(s) affected	West Drayton and the surrounding wards.

RECOMMENDATION

That Cabinet accepts the offer of a gift of £12,000 from Inland Homes in accordance with the provisions of Section 93 of the Local Government Act 2003 and authorise officers to provide the discretionary services to Inland Homes.

INFORMATION

Reasons for recommendation

The former National Air Traffic Services (NATS) site is a large site in the area of 12.72ha that is available for re-development. Inland Homes have obtained outline planning permission for a residential led redevelopment.

This portion of the development involves 42 new dwellings and an open space area (which will be known as the Village Green). The developer (Inland Homes) now needs reserved matters and pre-commencement condition applications determined to implement the construction of this portion of the development. The applicant is seeking from the Council a dedicated project officer who can provide urban design advice and process the planning applications. By accepting the gift funding, the Council is charging for the provisions of the discretionary service (which is entirely appropriate under the provisions of Section 93 of the Local Government Act 2003) it will greatly assist the Council in meeting the costs incurred in the provision of such services.

As part of fulfilling the requirements of assessment and determination, there will be the need for on-going meetings, and the provision of consistent and timely advice throughout the process. In the case of the reserved matters application, there is an additional requirement for public consultation and finally, to report the matter to Central and South Planning Committee for a decision. It is considered essential to have a dedicated officer for the project, and additional resources are needed to support that function. It is therefore considered appropriate that the Council should provide discretionary services to Inland Homes in exchange for payment of the Council's reasonable and justifiable costs of carrying out such services.

Alternative options considered / risk management

- I. Refuse to offer the discretionary services and not accept the £12,000 gift funding. It should be noted that should this be refused the costs would need to be met by the budget and would result in a negative impact to the planning department.
- II. Request a greater amount of funding for the discretionary services. Inland Homes are unlikely to increase their offer.

Comments of Policy Overview Committee(s)

None at this stage.

Supporting Information

Former NATS site

1. The former NATS site is a large site of 12.72ha at Porters Way, West Drayton. The site has the potential to provide 773 dwellings, and to significantly improve the aesthetic

appeal of the site and the immediate area, and contribute to improving services and facilities in the local area, particularly if the planning process is managed effectively. The Council therefore considered it necessary to prepare supplementary planning guidance for the site. A Supplementary Planning Document (SPD) was adopted by Cabinet at its meeting in September 2009.

2. Outline planning permission for the development was issued on 1st October 2010 (LBH application Ref: 5107/APP/2009/2348). Subsequently reserved matters permission has been granted in relation to the first phase of the scheme, and most of the second phase.
3. The current situation is that the reserved matters approval has been given for the most of the second phase of development, further reserved matters approval is now being sought for another part of the second phase of the development. .
4. The applicant has requested that the Council enter into a Planning Delivery Agreement for the provision of pre-application advice and then the subsequent determination of the reserved matters application for the new dwellings as well as the discharge of pre-commencement conditions associated with the same. The sum of £12,000 from Inland Homes would cover costs associated with this work. This would meet the costs of a temporary project officer.
5. 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 the sum of £12,000 from Inland Homes. The sum would be strictly ring-fenced to ensure that it is used in accordance with the planning functions associated with the former NATS site.
6. Whilst the acceptance of this sum cannot in any way influence the outcome of the reserved matters and pre-commencement conditions applications, it can provide an adequate staffing resource to enable the development proposals to be afforded a higher level of priority than may otherwise be possible, particularly given the complexity and importance of this project. In this regard, a temporary dedicated project officer would enable the resolution of issues and help realise the expectations of the Council through the planning process, to inform any application at the earliest possible stage, and also to provide a central contact for the community and key stakeholders.
7. The Council has previously agreed funding in relation to various planning delivery agreements, and planning initiatives, including the reserved matters and discharge of conditions relating to the first phase of the NATS redevelopment and part of the second phase.
8. The alternative, to refuse the sum, would involve meeting the costs of the assessment through the existing planning budget, which is not likely to achieve the same objectives, given the current constraints on that budget and the competing priorities of other work streams.
9. The acceptance of the sum would facilitate the dedication of additional resources to provide planning assessment and to offer an important customer service to the community, as the dedicated officer would take a proactive approach to engaging with the community and various key stakeholders, ensuring the best possible planning outcomes through the reserved matters application process.

10. The Cabinet is recommended to authorise officers to provide the discretionary services to be paid for by Inland Homes in the sum of £12,000. If funding is not provided externally by Inland Homes then these on-going costs will need to be met from existing Council resources.

Financial Implications

The sum of £12,000 from Inland Homes will cover the costs of providing pre-application advice and assessing and determining reserved matters and pre-commencement conditions discharge applications for the last part of the second phase of the redevelopment of the former National Air Traffic Services (NATS) site, Porters Way, West Drayton.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

In terms of service user outputs the sum of £12,000 offers the opportunity to provide a higher standard of service than may otherwise be possible. A dedicated project officer would be proactive in engaging with various stakeholders, a central point of contact for enquiries and add value to the overall process. The project officer would facilitate the sharing of information, coordinating responses from Council to Inland Homes and other stakeholders and ensure a consistent approach to deliver the best outcomes for redevelopment of the site. Such an approach is consistent with the latest guidance from government, and is in the best interests of achieving Councils objectives, as set out in the Sustainable Community Strategy.

Consultation Carried Out or Required

None

CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance has reviewed this report and is satisfied with the financial implications as stated. The offer of £12,000 from Inland Homes 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.

Section 93 of the Local Government Act 2003 provides a general power to local authorities to charge for discretionary services. Discretionary Services are those services that an authority has the power, but is not obliged, to provide. This power aims to encourage local authorities to provide wider ranging and new and innovative services for their communities. The Council may utilise this power if:

1. the Council already has the power to provide the service, but is not mandated or has a duty to provide; and

2. the recipient of the discretionary service has agreed to its provision and to pay for it.

Charges may be set differentially, so that different people are charged different amounts. The Council is not required to charge for discretionary services. They may provide them for free if they have the resources to do so. However, by virtue of Section 93 (3) & (4) of the LGA 2003 there are limitations to the cost of recovery in that for “each kind of service” the income from charges for that service does not exceed the costs of provision. Each Council can decide the method they wish to adopt for assessing the costs.

In planning terms, the effect of the above legislation is that the Council can provide extensions to statutory services including a range of advisory services linked to planning and development control. These are not a statutory requirement, but can make an important contribution to the operation of the statutory services. The Council are entitled to receive income for provision of the discretionary services so long as it does not exceed the cost of providing the service.

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.

In order to conform to government guidance the Planning Performance Agreements ought to be negotiated by officers and properly formalised. In terms of member involvement, Members and officers should have regard to the helpful guidance on Members pre-application involvement set out in the Department of Communities and Local Government “Member Involvement in Planning Decisions”.

Relevant Service Groups

No other service groups are directly impacted by the recommendation.

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.