

GIFT FUNDING FOR PLANNING FUNCTIONS

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Planning and Transportation
Officer Contact	Stephen Timms and Jales Tippell, Planning and Community Services
Papers with report	None

HEADLINE INFORMATION

Purpose of report	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. The gift is required to assist in meeting the Council's reasonable and justifiable costs associated with the discharge of its planning function, in preparing and publishing a supplementary planning document (SPD) and providing a high quality pre-application service in the lead up to submission of a planning application for the former National Air Traffic Services (NATS) site, Porters Way, West Drayton. This will ensure additional resources are dedicated to the whole planning process consistent with the importance of this project to the local community and the wider area. It is recommended that the gift be accepted.
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 offer of £50,000 gift funding from Inland Homes will cover the costs of preparing a Supplementary Planning Document and the part time costs of an officer through the pre-application process, in the lead up to submission of a planning application. 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 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.

INFORMATION

Reasons for recommendation

The former National Air Traffic Services (NATS) site is a large site of 12.72ha that is available for re-development. Rippon Development Services (RDS), agents for Inland Homes, have advised officers that they intend to lodge a planning application for a residential led scheme in the autumn of 2009. In order to ensure a plan-led approach that incorporates the views of local residents and other key stakeholders, it was considered necessary to prepare a Supplementary Planning Document for the site, and this will incur costs to the Council. The offer from Inland Homes will greatly assist the Council in meeting those costs.

In addition to that, there will be the need for on-going meetings, and the provision of consistent and timely advice through the pre-application process, in the lead up to submission of a planning application, along with other associated work. 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 accept an offer of a gift to contribute towards the reasonable and justifiable costs of carrying out these planning functions.

Alternative options considered / risk management

- I. Refuse the gift from Inland Homes. This would not be in the best interests of the local communities or the Council.
- II. Request changes to the proposed gift from Inland Homes. 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 600-800 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 draft Supplementary Planning Document (SPD) has been approved by Cabinet for consultation purposes, at the meeting in May 2009.
2. The work involved in progressing the draft SPD to the adoption stage, including the public consultation exercises, will require the dedicated services of a project officer and these costs will need to be sourced from an appropriate funding stream. It is estimated that these costs, including a full-time dedicated officer, some part-time administrative assistance and the associated costs of publicity and events for the consultation stage would amount to £47,688. With the knowledge that this process will greatly benefit the planning process, Inland Homes have offered a gift to meet some of these expenses.

3. Whilst the SPD, when adopted, will set out the requirements for development of the site, there needs to be on-going engagement with key stakeholders to help realise the objectives and requirements set out in the draft SPD. The pre-application process is an essential part of the planning system, as outlined in Government guidance, such as Planning Policy Statement 1 - *Delivering Sustainable Development*, and the most recent DCLG Circular 03/09 – *Costs awards in Appeals and other Planning Procedures*. The Department of Communities and Local Government have also prepared guidance on this topic, to assist and encourage local authorities to pursue such initiatives, and this is detailed in *Implementing Planning Performance Agreements*, and there are a number of examples across the country where this approach has been used. The pre-application phase for this development will require the commitment of significant resources exceeding that for most other projects in the Borough. This will include project management, co-ordinating meetings, ensuring the provision of consistent and timely advice to key stakeholders, engaging the local community, and resolving complex issues as the masterplan evolves and relevant studies are undertaken. It is essential that such issues are addressed through the pre-application process, rather than after submission.
4. Inland Homes has offered a gift of £50,000 to contribute towards the preparation of the SPD, pre-application costs and the costs of determining any relevant applications(s) in an effective manner. Officers do not consider that this would be sufficient to cover the costs of a full-time dedicated officer. The total estimated costs including a full time dedicated officer for the work are estimated to be in the order of £82,700. However the offer would meet the costs of a part-time project officer. Given that the offer does not cover a full-time dedicated officer, there may be implications on the level of service provided in terms of time and priority afforded to the work. However there will not be any adverse impact on the quality of the project.
5. In order to meet the reasonable and justifiable costs to Council, and to ensure part-time 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 £50,000 from Inland Homes. 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 former NATS site.
6. Whilst the acceptance of a gift cannot in any way influence the outcome of the planning application, 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 part time dedicated project officer would enable the resolution of issues and help realise the expectations of the Council through the planning process, to inform any planning application at the earliest possible stage, and also to provide a central contact for the community and key stakeholders.
7. The Council have recently accepted gift funding in relation to various planning delivery agreements, and planning initiatives, including the discharge of its functions in producing the RAF Uxbridge Supplementary Planning Document (SPD), providing detailed planning advice and processing applications for RAF Uxbridge and RAF West Ruislip, and dealing with airport related planning applications.
8. The alternative, to refuse the gift funding, would involve meeting the costs of the SPD 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 workstreams.

9. The acceptance of the gift would facilitate the dedication of additional resources to provide prepare the SPD, provide pre-application advice, 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 policy-making and pre-application processes.
10. The Cabinet is recommended to accept the gift funding of £50,000. 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 offer of £50,000 gift funding from Inland Homes will cover the costs of preparing a Supplementary Planning Document and the part time costs of an officer through the pre-application process, in the lead up to submission of a planning application. This will provide additional resources to the Council to enable it to carry out its statutory planning functions.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

In terms of service user outputs the gift 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

The financial implications above properly reflect the direct resource implications for the planning service. The gift proposed will contribute to the costs of finalising a Supplementary Planning Document for the site, and ensure a part-time dedicated project officer can be involved throughout the pre-application process. There are no wider implications for the Council's resources as a whole.

Corporate Procurement

Not applicable.

Legal

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. Through the power to recover via a charge the costs to an authority of providing a service, the Government aims to encourage authorities to provide more wide ranging and new and innovative services for their communities. The Council may utilise this power if:

- the Council already has the power to provide the service, but is not mandated or has a duty to provide;
- 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. It may provide them for free if it has the resources to do so. However, by virtue of Section 93 (4) 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 methodology 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. To conform to Government guidance, the PPA ought to be negotiated by officers and properly formalised. In terms of Member involvement, Members and officer 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”, published in January 2007.

In relation to the provision of gift funding for the preparation of the SPD, the relevant statutory power is Section 139 of the Local Government Act 1972. This provides that “a local authority may accept, hold and administer for the purpose of discharging any of their functions, gifts of property, whether real or personal, made for that purpose.”

- The ordinary meaning of a gift is a voluntary transfer of property without consideration. The offer from Inland Homes does not suggest that the Council is to be obliged to do anything in consideration of any payment. Furthermore, any gift made and accepted under Section 139 must be one which is intended to enable the Council to discharge its functions.
- A gift may be made notwithstanding the fact that the donor expects its use by the donee to bring him benefits. Therefore the fact that Inland Homes would for example, have an interest in ensuring that its submissions are dealt with in a timely manner, would not mean that the payments could not be accepted as gift.
- The reality, however, is that the Council would not be providing any advice and assistance solely for the benefit of former NATS site will be in the public interest and in the interests of the proper planning of the area. From the Council’s point of view, Inland Homes is not the beneficiary of the activities associated with the gift funding, nor is the object to provide Inland Homes with any advice or services extraordinary to this particular project. Instead the beneficiaries of the planning process should be the

existing residents of the Borough, particularly those within close proximity of the site, and the future residents that will choose to live on the former NATS site.

- The perception of the public is a matter for the Council to consider if it accepts the payments. The Council must maintain its independence from Inland Homes and its impartiality as a local planning authority with respect to any application or other matter involving Inland Homes. The Council should ensure that legitimate doubts do not arise about such matters. The Council may also be concerned about any widespread impression which might arise, however unfounded.
- One way of addressing this difficulty is to ensure that Inland Homes's proposals are fully reported, and that the community is engaged through the planning process, both at pre-application stage, and after the submission of a planning application. Transparency and accountability will be essential if any payment is to be accepted.

Corporate Property

Not applicable.

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.