

## Using planning agreements to reduce social exclusion

This study examines the potential for using local authority planning and development control powers to target the training and employment opportunities generated by new developments at disadvantaged communities. Based on an analysis of the current legal position, a survey of current local authority activity and four case studies, the work concludes that there is scope for wider use of the relevant powers and that this is a valid way of achieving 'sustainable development' and ensuring that new developments make a contribution to reducing social exclusion. The study found:

- f** Planning agreements can contribute to sustainable development by: helping unemployed people back into the workforce; encouraging recruitment locally, so reducing transport emissions; and helping existing businesses by improving the skills of the local workforce.
- f** Wider use of planning agreements to target jobs and training is inhibited by legal uncertainties and a perceived lack of legitimacy. The survey suggests that many local authorities seek to operate entirely within the Government guidelines, which currently do not explicitly refer to this legitimate use of agreements.
- f** Planning agreements can contribute to reducing social exclusion by offering unemployed people and disadvantaged communities training and employment opportunities both during and after construction, provided there is a connection to the development site.
- f** Survey data indicates that 13 per cent of local authorities have used planning agreements in relation to employment matters, with over 80 such agreements in place. This is fewer than 1 per cent of all agreements created each year. Usage is highest in the South East of England, and especially in London Boroughs.
- f** There has been little developer resistance so far. Developers interviewed felt that such agreements were good public relations and also helped address concerns about skill shortages.
- f** Key elements of good practice include: early discussions with the developer; good co-operation between economic development and development control teams; organising a good labour supply and training infrastructure; avoiding time-constrained clauses; including a requirement to provide monitoring information; and allocating responsibility for progress-chasing and reporting.
- f** The researcher concludes that use could be extended if government policy and guidance specifically referred to local training and employment as a legitimate 'social consideration'.

## Introduction

This study focuses on the potential for using planning agreements to ensure that some of the employment opportunities created by new developments (during construction and/or after completion) are targeted at communities with the highest levels of unemployment and associated deprivation.

The term 'planning agreement' refers to a commitment made by a developer when seeking planning permission. (For the study, this includes planning obligations under S.106 of the Town and Country Planning Act 1990, and planning agreements under S.75 of the Town and Country Planning (Scotland) Act 1997.) The principal purpose is to ensure that developers bear the cost of dealing with any adverse impacts of their developments, but an agreement can include other matters. The commitments are written into a legally binding Deed which can be secured against the Title to the development and can therefore be transferred with that Title.

There is currently a debate within the development industry about the future of planning agreements. This centres on four issues: reasonableness, certainty, delays and transparency. Using planning agreements to further training and employment may be seen as going beyond traditional issues of land-use, but it does not exacerbate any of the above concerns. It can fit within the principles of whatever system is used.

## Achieving sustainable development

In recent documents, the Government has recognised the importance of land-use planning in achieving sustainable development and reducing social exclusion:

Sustainable development is about ensuring a better quality of life for everyone, now and for generations to come. It provides the context within which the consideration of economic, social and environmental impacts are balanced and integrated. (LGA and DETR Planning Concordat).

Planning agreements relating to employment matters offer at least three practical ways of achieving these goals.

First, sustainable development requires **action to absorb unemployed people back into the workforce**. There are three arguments for this:

- social justice;
- reducing the 'drag' of unemployment and related deprivation on the economy;
- avoiding skill shortages and wage inflation as the economy expands.

Reducing unemployment is often an element in a local authority's Local Plan and may justify the use of

planning agreements to target employment opportunities on unemployed people. These agreements can include:

- a commitment to target employment opportunities on unemployed people (both during construction and after completion);
- an agreement to pass this commitment on to other parties through contracts, leases etc.;
- the employer's involvement in pre-recruitment training;
- the provision of on-site recruitment and/or training facilities;
- the provision of funds to support local training and recruitment.

Planning agreements can also be used to **reduce the risks to existing businesses** that can arise from granting a new business planning permission, e.g. by ensuring that it contributes to the training of unemployed people and recruits some of its workforce from this group, cutting down competition for a small pool of skilled workers. Such requirements are in line with the principle that employers are responsible for training the workforce they need.

The case studies showed that developers are not necessarily reluctant to negotiate a planning agreement in relation to local training, especially where their financial input is matched with public funds and used to prepare people for employment on the site. Developers interviewed were often concerned about local skill shortages, aware that these will get worse unless they contribute to training, and appreciated that doing this is good public relations. Employing local people also makes good commercial sense for retailers.

Finally, research shows that placing homes and workplaces in close proximity reduces overall travel-to-work distances and increases the percentage of journeys taken on foot, by bicycle or on public transport. It follows that **encouraging local recruitment will contribute to environmental sustainability**. Where development proposals will generate unacceptable levels of road use, a verifiable commitment to local recruitment in the planning agreement may be part of the solution.

## Current patterns of use

A survey of local authorities indicates that 13 per cent had used or attempted to use planning agreements for employment matters (see Table 1). The research suggests that 85-90 relevant agreements have been signed to date, and that a maximum of 1 to 2 per cent of the planning agreements created each year have a local employment element.

The distribution of relevant agreements between types of authority varied widely. There is a strong South of England bias: of the 28 authorities that have

Table 1: Number of authorities using planning agreements by type of authority

	Total	English County		London Borough		Mets.		English District		Scotland		Wales	
		No	%	No	%	No	%	No	%	No	%	No	%
Yes	28	1	5	13	52	3	12	9	6	1	5	1	6
Tried	6	1	5	1	4	2	8	1	0	1	5	0	0
Not used	219	19	90	11	44	21	80	136	94	17	90	15	94
Base	253	21		25		26		146		19		16	

used agreements, 20 (71 per cent) are in the South, 3 in the English Midlands, 3 in the North of England, and 1 each in Scotland and Wales. The telephone follow-up to the survey suggests that most of the major urban areas outside of the South of England have not sought to use this approach.

### Legal and policy issues

Policy and legal issues are significant in explaining the current low usage of relevant planning agreements (see Table 2). This research did not analyse the policy reasoning behind these decisions, but other studies have noted that local authorities are not key players in local economic development, and retain a strong bias towards the physical aspects of land use and regeneration in their work. Furthermore, planning departments tend not to be involved in more recent innovations in person-centred local economic development activity.

Local authorities may also be uncertain about the legality and enforceability of using planning agreements for employment matters. Two sets of criteria have been put forward to assess legality.

Current Government Guidance (Circular 1/97 in England, 12/96 in Scotland and 13/97 in Wales) suggests that agreements should only be sought where all of the following tests are met:

- they are necessary to make the proposal acceptable;

- they are 'relevant to planning';
- they are directly related to the proposed site;
- they are fair and reasonable in scale and kind to the proposed development;
- they are reasonable in all other respects.

However, it is not unlawful for a planning agreement to include matters that are in excess of what is necessary, relevant and 'reasonable'.

Court cases have clarified the relevance and meaning of the above tests. These have resulted in a position where legal advisers are suggesting that to be lawful a planning agreement need only:

- be for a 'planning purpose';
- have some connection to the development site;
- be *Wednesbury* reasonable (i.e. not so unreasonable as to defy logic).

If the agreement is used to justify the granting of planning permission it must 'fairly and reasonably' relate to the development site.

Agreements related to employment matters can satisfy these latter tests, because they can make a measurable contribution towards reducing social exclusion and achieving sustainable development, which are understood to be 'planning matters'. In most cases, the agreement will relate to employment on the development site, but support for generalised training or pre-recruitment activity may still be regarded as having a connection to the site.

Of the Government 'tests' the most problematic is whether the employment matters are necessary to 'make the proposal acceptable'. Even here there are circumstances where this would be the case, e.g. reducing traffic volumes.

The survey suggests that many local authorities seek to operate entirely within the Government Guidelines. This is in a context where the number of agreements being negotiated may be small (so there is relatively little experience and confidence in their use), local authorities are not exchanging much information on the subject, and economic development strategies may be the responsibility of other professions and/or favour voluntary approaches.

### Conclusion

The researcher concludes that if the Government (and

Table 2: Reasons given for not using planning agreements for training and employment

	% of respondents*
Never really thought about it	44
It would be beyond our powers	33
It could not be enforced	29
No recent relevant planning agreements	21
It is wrong to use planning agreements in this way	20
It might discourage investment	8
Employment is not a priority for this area	6
It is not in our Policy/Local Plan	3

\* respondents could select several responses

the Scottish Parliament and National Assembly for Wales) wishes to see planning agreements used to help reduce social exclusion and achieve 'sustainable development', local training and employment should be included in planning policy documents and guidance as 'social considerations'. This would increase local authorities' confidence and provide them with a stronger policy framework for their negotiations with developers.

Drawing on the case study work, the researcher also suggests the following features for good practice:

*Planning agreements need to:*

- provide the basis for ongoing co-operation on employment and training matters. Developers interviewed indicated that they take a commitment more seriously if it is included in a binding agreement.
- specifically include public sector developers and ensure that the agreement will pass their commitments on to subsequent site occupiers.
- ensure that requirements are durable so that delivery is not dependent on a particular development timetable. Good examples are a requirement to pay an agreed sum plus inflation, and/or a requirement to 'agree a local training and recruitment plan with the local authority'. The latter may be especially relevant where the viability of the development is considered marginal.
- include a requirement to provide monitoring information. This depends on the local authority establishing a procedure for progress-chasing, verifying, aggregating and reporting on this information. This will require some resources. Failing to do this makes it difficult to evaluate the approach, and the developer, their contractors and end-users of the site may infer a lack of interest.

*Local authorities need to:*

- make clear their intentions in Local Plans and site-specific development briefs. Producing a code of practice on 'targeted recruitment' could provide a useful explanation of what types of action are looked for, and what kind of support is available to the developer.
- include local employment matters in discussions with developers from the earliest meetings. This indicates a serious commitment and allows the developer to accommodate this requirement in their planning.
- promote joint working between the local authority economic development team and the development control team, sharing information on new developments.

- ensure that employment matters are routinely included in proposed agreements. This could include a 'menu' of employment-related matters for consideration.
- ensure that a good labour supply and training infrastructure is available. For large programmes this may require a dedicated team. For smaller developments it will require good networking with specialist providers e.g. Employment Services, colleges, vocational training organisations etc.

### About the study

The research included a survey of local authorities (58 per cent response rate) and case studies in Southampton, Greenwich, Newcastle and Aberdeenshire. The author gratefully acknowledges the inputs made by the case study informants, and the legal comments provided by Professor Malcolm Grant (Cambridge) and Professor Jeremy Rowan-Robinson (Aberdeen).

### How to get further information

Richard Macfarlane is an independent researcher and consultant.

The full report, **Local jobs from local development: The use of planning agreements to target training and employment outcomes** by Richard Macfarlane, is published for the Foundation by YPS (ISBN 1 902633 58 X, price £12.95 plus £2 p&p).