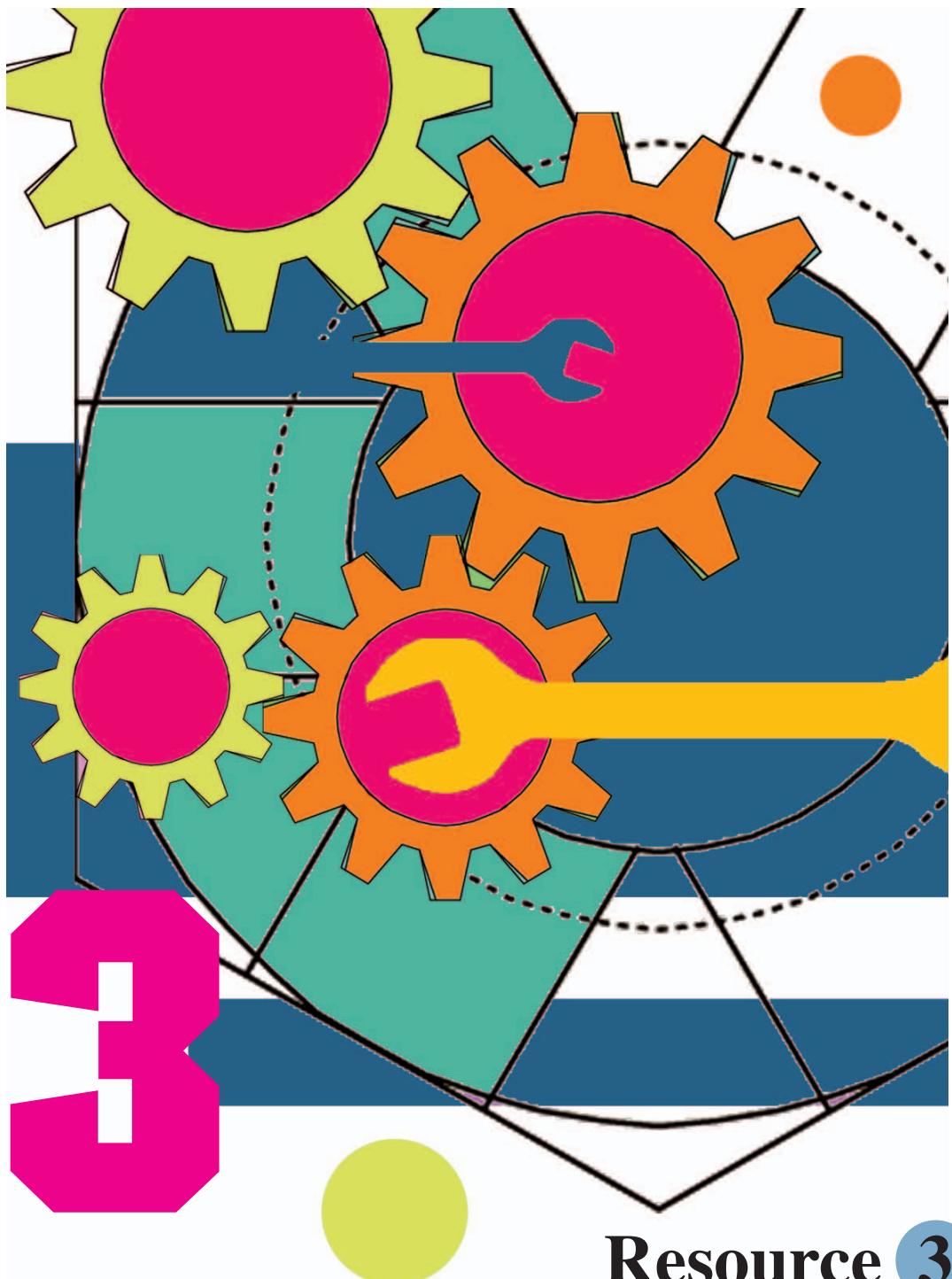


North East Improvement and Efficiency Partnership
Targeted Recruitment and Training (TRT)

TOOLKIT



Planning & Development Control

North East Improvement and Efficiency Partnership

Targeted Recruitment and Training (TRT)

Toolkit

Resource 3 Planning & Development Control

THIS IS NOT LEGAL ADVICE

ANTHONY COLLINS SOLICITORS LLP

134 Edmund Street
Birmingham B2 2ES
Tel. 0121 212 7472
Fax. 0121 212 7434

E-Mail mark.cook@anthonycollins.com

RICHARD MACFARLANE

Research & Project Development Ltd
149 Chamberlayne Road
London NW10 3NT
Tel & Fax: +44 [0]20-8964-2416
Mobile: 077688 93731

E-Mail: Richard@rmacfarlane.co.uk

The Authors

Anthony Collins Solicitors and Richard Macfarlane are the most experienced UK practitioners in the inclusion of community benefits requirements in public sector contracts and agreements including the New Approaches to Public Procurement Toolkit that was introduced to parts of NE England between 2003 and 2006. John Hughes Law Practice are solicitors that have specialised in Planning matters including, community benefits.

Mark Cook and Gayle Monk - Anthony Collins Solicitors LLP

Anthony Collins Solicitors are lawyers and consultants who focus on 7 themes of work, Transforming Communities; Children and Young People; Vulnerable Adults; Enterprise; Housing for all; Entertainment and Leisure; and Faith Communities. Our Transforming Communities theme focuses on work for and with New Deal for Communities organisations, community associations, local authorities, schools and social enterprise, and on a variety of concerns including environmental issues and the provision of better public services.

Mark Cook is probably one of the leading legal experts on community benefits and sustainability in procurement, having co-authored with Richard Macfarlane the JRF Report Achieving Community Benefits through contracts: law, policy and practice in 2002. He has worked with over 60 local authorities and other public bodies in England and Scotland in this important area.

Mark Cook and Gayle Monk can be contacted at:

Tel: 0121 212 7472 Email: mark.cook@anthonycollins.com or gayle.monk@anthonycollins.com

John Hughes

The John Hughes Law Practice Ltd is a small practice providing legal expertise in certain specialist fields of public and local government law, including Town and Country Planning.

John Hughes can be contacted at: Tel: 0845 130 2855 Email: JRHughes@jhlp.co.uk

Richard Macfarlane

Richard Macfarlane is an independent researcher and consultant with 28 years experience of local economic development and urban regeneration, who has specialised in helping public bodies use their contractual leverage to secure community benefits. He has offices in London and in Dumfries and Galloway.

Richard is the most experienced independent consultant working on 'local labour in construction'. He has undertaken a wide range of work that seeks to maximise the local labour market benefits of regeneration and development. Richard conceived and managed the JRF-funded research with Mark Cook that resulted in the publication of Achieving Community Benefits Through Contracts: law, policy and practice, and since publication he has been project-managing a range of policy development and implementation programmes

Richard can be contacted at: Tel: 07768 893 731 Email: Richard@rmacfarlane.co.uk

Contents

1. Economic and Social Wellbeing 5

- 1.1 Introduction 5
- 1.2 Why use Planning Obligations? 6
- 1.3 Beyond Construction 6
- 1.4 Structure of the Toolkit 7

2 Policy and Rationale 8

- 2.1 UK Sustainable Development Policy 8
- 2.2 Sustainable Economic Growth 9
- 2.3 Regional and Local Planning Policies 11
- 2.4 The Community Infrastructure Levy (CIL) 13
- 2.5 Policy on the use of Planning Agreements 14
- 2.6 Local Development Documents 16
- 2.7 Sample Wording for the Local Development Framework 17
- 2.8 TRT Obligations in a Planning Agreement 18
- 2.9 Negotiating a Planning Obligation 19
- 2.10 Adoption of standard targets 20
- 2.11 Construction Trainee Deposit-sums 22
- 2.12 Integrated co-working – a critical component 23

3. Supply-side Actions 25

- 3.1 Importance 25
- 3.2 Matching Opportunity to Need – TRT 25
- 3.3 Maximising local firms participation 26
- 3.4 Facilitation 27
- 3.5 Monitoring, Verification & Reporting 28
- 3.6 Facilitation and Support Services in NE England 29

4. Model Clauses 30

Appendix 1 31

Addendum to Appendix 1 37

Appendix 2 39

1. Economic and Social Wellbeing

1.1 Introduction

This Toolkit will help Local Planning Authorities in NE England and other English regions deliver sustainable development by using development control powers to ensure that developers maximise the recruitment and training of local people – especially those that are disadvantaged in the labour market - in construction and end-use employment. This employment may be direct or through the engagement of a local firms that will generate and sustain local jobs.

As will be seen below, there is a significant commitment to increasing training and skills and reducing worklessness and social exclusion within National and Regional Planning Policy. Targeted recruitment and training (TRT) and the use of local supply-chains is not currently identified as a delivery mechanism for the achievement of this policy, but this should not prevent Planning Authorities from using the approaches discussed in this document – as some have done locally and many have done elsewhere in Britain – in order to:

- improve the ‘conversion rate’ between local investment and the reduction of worklessness in the Region.
- increase the progression rate from publically-funded training and job-matching programmes to sustained employment.

Most public sector and private sector investment that could offer employment and training opportunities for disadvantaged communities is undertaken by organisations that do not have TRT as a key aim. Nevertheless, there is often a significant public interest in the proposed development, for example because:

- there has been investment of public money (for example, in site assembly and decontamination, and in the provision of infrastructure) that has been justified by the jobs impact;
- there are Planning Policies relating to increasing skills and employability and reducing worklessness;
- the Development Brief for a site or neighbourhood includes creating employment as an objective for the site, or this may be implied from contextual information that identifies worklessness and deprivation in and around the area;
- the developers have used the projected employment outcomes as part of their justification for the development – especially when seeking support for the development from local communities;
- to avoid detrimental impacts on other local employers there is a need to expand the local labour market in line with the growth of employment from new development;
- there is a concern about increased car-based travel to the development: the recruitment of local residents will help ameliorate this.

In this context local authorities and public sector development agencies may wish to ensure that the investment does maximise employment and training opportunities for local residents, especially people that are not in the labour market. Planning Obligations provide a means of doing this.

This objective may be increasingly important as the growth in public sector investment and training/employability services comes to a halt or declines over the coming years.

1.2 Why use Planning Obligations?

Most development takes place through private investment. If a local authority wants to ensure that this contributes to local social and economic development in line with its policies then the only formal means of doing so is through the Planning system, and specifically through a Planning Obligation. This is a mechanism that allows Planning Authorities (usually local authorities) to obtain commitments from developers that it feels are necessary in order to achieve Planning Policy – including sustainable development.

The alternative is a reliance on corporate social responsibility (CSR) – a voluntary commitment made by the developers or their contractors. The advantages of using Planning Obligation over CSR are:

- durability: the obligations pass on with the title of the property until the authority agrees that they have been fulfilled or are no longer relevant, which is important given the uncertainties around private development;
- it allows the Planning Authority to define how the benefits should be measured, to set targets, and to specify monitoring information to be provided: under CSR the private developer decides on these matters; and
- resources can be obtained from the development towards the costs of training, job-matching and monitoring related to the development.

1.3 Beyond Construction

Much of the existing practice in the inclusion of TRT in Planning Obligations has related to construction activities or large retail developments where the developer is also the occupier. There is emerging practice of the inclusion of end-user TRT requirements in Planning Obligations that relate to other developments that will accommodate a workforce. Applying the approach to a wider range of end-user jobs is important because no more than 10%-15% of any population will want to take up construction-related opportunities.

However, in broadening the approach beyond developer-occupiers it is important for the Planning Authority to consider the limited leverage that the developer will have over the end-

use employers. In these cases the Planning Obligation may reasonably include:

- shared aspirational targets;
- a process for joint working between the local authority, the developer and the end-user employers that it is hoped will achieve these targets;
- agreement on the resources that will be applied by the developer to achieve the end-user employment.

1.4 Structure of the Toolkit

This Toolkit is a modified and updated version of the New Approaches to Public Procurement Toolkit that was introduced into the NE Region between 2003 and 2006. As well as updating the policy and legal context this Toolkit:

- reflects the learning from a number of TRT pilots that has been refined into a Process Map that will be used to guide practitioners in the use of this Toolkit;
- separates procurement and Planning information into separate documents since they tend to be used by different sets of practitioners.

This Resource 3 is focussed on Planning and development control. It sets out relevant policies and practices for the incorporation of TRT and supply-chain requirements in Planning Obligations and includes, in the Appendices, model texts that can be adapted for particular situations.

Whilst every effort has been made to ensure the accuracy of this Toolkit at the time of its compilation, legal advice should be taken before action is taken or refrained from in specific cases. This is especially important in the context of the introduction of a Community Infrastructure Levy (see 2.4 below) and changed arrangements for Planning Obligations (see 2.5 below).

2 Policy and Rationale

2.1 UK Sustainable Development Policy

In 2005 the UK Government published Securing the future – delivering UK sustainable development strategy. This provides a strategic framework for sustainable development that is based on five principles including Ensuring a Strong, Healthy and Just Society that is described as:

“promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunity for all”.¹

This language can be seen us updating a key element of the Government’s 1999 policy on sustainable development:

“social progress that meets the needs of everyone”

The Government’s policy for sustainable development is incorporated in the Planning system through Planning Policy Statement 1 (PPS1). The following quotations from this indicate that targeted recruitment and training can provide one means of achieving sustainable communities:

“4 The Government set out four aims for sustainable development in its 1999 strategy [“A better Quality of Life - A Strategy for Sustainable Development for the UK”]. These are:

- *social progress which recognises the needs of everyone;*
- *effective protection of the environment;*
- *the prudent use of natural resources;*
- *the maintenance of high and stable levels of economic growth and employment.*

5 Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by ensuring that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community.

6 Planning has a key role to play in the creation of sustainable communities: communities that will stand the test of time, where people want to live, and which will enable people to meet their aspirations and potential.

27 Planning Authorities are encouraged to ... create urban and rural regeneration to improve the well being of communities, improve facilities, promote high quality safe development and create new opportunities for the people living in those communities.”

¹ Securing the future: delivering UK sustainable development strategy. 2005 Section 4.

These policy references do not specifically refer to the role of targeted recruitment and training, but do point to the importance of providing opportunities for existing residents in local communities. This would seem to make targeted recruitment and training a ‘planning matter’. Audit Commission guidance expressly recognises jobs and training as elements of community benefits which can be achieved through Section 106 agreements and provides a useful approach to this subject².

2.2 Sustainable Economic Growth

In addition to PPS1 it may be useful to refer to Planning Policy Statement PPS4 and PPG13.

PPS4 was published in December 2009 and sets out the Government’s policy for sustainable economic growth. It replaces PPG4 (the 1992 policy on industrial and commercial development and small firms), PPS6 (planning for town centres) and parts of PPS7 (sustainable development in rural areas) and PPG13 (transport). The new policies in PPS4 are to be taken into account in the preparation of or revisions to regional spatial strategies, and by local authorities in the preparation of local development documents. The policies are ‘material considerations’ to be taken into account by planning authorities in relevant development decisions.³

PPS4 defines “economic development” as including development within Use Classes B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (i.e. the business and industrial categories); public and community uses; and main town centre uses. The policies in PPS4 also apply to development that *provides employment opportunities or generates wealth or produces or generates an economic output or product*.⁴ The policies do not apply to housing development since this is covered by PPS3, but in the context of this Toolkit they will be relevant to planning applications relating to retail, leisure, office and arts developments and could reasonably cover both the initial construction and the ongoing use and facilities management.

In PPS4 the Government’s objectives for planning includes matters that TRT can help to achieve:

- *build prosperous communities by improving the economic performance of cities, towns, regions, sub-regions and local areas, both urban and rural;*
- *reduce the gap in economic growth rates between regions, promoting regeneration and tackling deprivation;*
- *promote the vitality and viability of town and other centres as important places for communities; and*
- *deliver more sustainable patterns of development, reduce the need to travel, especially by car and respond to climate change.*⁵

These objectives are reflected in policies within PPS4 including Policy EC10: Determining

² ‘Securing Community Benefits through the Planning Process – Improving performance on Section 106 agreements’. August 2006

³ PPS4 (2009) paragraphs 2 and 3.

⁴ Ibid paragraph 4.

⁵ PPS4 (2009) paragraph 10.

Planning Applications for Economic Development including:

- *the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives; and*
- *the impact on local employment.*⁶

Policy EC1.4 states that, “*When assessing the need for retail and leisure development local planning authorities should*” (*inter alia*):

“(b) in deprived areas which lack access to a range of services and facilities, give additional weight to meeting these qualitative deficiencies. However, any benefits in respect of regeneration and employment should not be taken into account, although they may be material considerations in the site selection process;”

In the context of site selection, Policy EC5.1 sets out a range of considerations and continues:

“*Local planning authorities should ... consider the degree to which other considerations such as any physical regeneration benefits of developing on previously-developed sites, employment opportunities, increased investment in an area or social inclusion, may be material to the choice of appropriate locations for development*”.

In determining planning applications for economic development, local planning authorities are encouraged in policy EC10 to consider a number of factors including:

- “*b. the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured*
- “*e. the impact on local employment.*”

PPG13 is specifically concerned with transport policy, and amongst other things emphasises the need to promote accessibility to jobs etc and reduce the need to travel, especially by car (paragraph 4).

These policies do not specifically refer to TRT but the effect of promoting employment and training amongst local people may well be to reduce deprivation and achieve social inclusion, generate local employment and reduce carbon emissions generated in accessing the workplace. It will thereby contribute to sustainable economic development.

6 Ibid Policy EC10 page 17.

2.3 Regional and Local Planning Policies

A Local Planning Authority is required to make their decisions in accordance with its Development Plan unless material considerations indicate otherwise.⁷ Until recently the Development Plan has comprised a Unitary Development Plan in metropolitan areas, or a Structure Plan prepared by the County Council and district-wide Local Plans prepared by the District Authorities. Following the Planning and Compulsory Purchase Act 2004, Local Planning Authorities (LPA) are required to draw up and submit to the Secretary of State a Local Development Scheme (LDS) setting out their proposed Local Development Documents (LDDs). The LDDs will comprise Development Plan Documents and Supplementary Planning Documents. The Development Plan under the new system consists of:

- the Development Plan Documents for the LPA area; and
- the Regional Spatial Strategy (RSS) for the Region.

Supplementary Planning Documents are not part of the Development Plan. They take the place of the existing Supplementary Planning Guidance issued by Local Planning Authorities and do not have to go through the same formal process to adoption (although they must be subject to consultation). They can, however, deal with specific topics (such as employment, transport etc.) and specific developments or locations for development, and may be taken into account as a ‘material consideration’ in determining a planning application.”

In developing a Local Development Framework and considering applications for major sites Planning Authorities must take account of both National Planning policies (see PPS1 above) and Regional planning policies.⁸ The latter consist of Regional Economic Strategies (RES) and Regional Spatial Strategies (RSS). Planning Policy Statement 12 make clear that Local Development Frameworks and Local Development Documents should not repeat or reformulate National or Regional Planning policies and should be aligned with the local Sustainable Community Strategy.⁹

In the North East of England the RES has a strong commitment to economic inclusion as a part of sustainable development including

“Promoting participation and economic inclusion through activity to help people contribute to and benefit from economic growth”¹⁰

“A strong focus on economic inclusion activities to:

- *improve access to employment*
- *raise economic participation in deprived communities*
- *promote equality and diversity.”¹¹*

⁷ Town and Country Planning Act 1990 Section 54A, and The Planning and Compulsory Purchase Act 2004 Section 38(6)

⁸ Government Office for the North East. Regional Spatial Strategy to 2021. Page 1.

⁹ Planning Policy Statement 12 Local Spatial Planning. 2008 Pages 14/15.

¹⁰ Government Office of the North East. NE of England Regional Economic Strategy to 2016. Page 6

¹¹ Ibid

The RSS identifies “*delivering sustainable and inclusive economic prosperity and growth*”¹² as necessary for the achievement of the Vision for the Region. This is carried forward through Policy 2 on Sustainable Development that includes:

“*to tackle the social, economic and environmental impacts of multiple deprivation.*”¹³

These quotes reinforce the understanding that Planning Policy is no longer just about land use and needs to address social policy issues like poor skills and low levels of economic participation. It reinforces the message that social and economic inclusion is a ‘planning matter’ and may be a material consideration that can legitimately be taken into account in the Planning process.

However, the practical steps envisaged to deliver the ‘step change’ in social inclusion and the development of skills – to address worklessness and increase gross value added in the Region – are those that have been applied without sufficient impact in the past. They are essentially a ‘trickle-down’ approach that runs in parallel with training and job-matching support for individuals. Under this approach it is assumed that opportunities for people that are disadvantaged in the labour market will flow automatically from an increase in economic activity, including that generated by new development. This overlooks the other ways that these ‘new opportunities’ can (and are) filled e.g. through increased commuting and inflows of workers (including those that cross International borders). TRT offers a means of more directly linking new opportunities that arise from investment in the Region to training and employment opportunities for workless people and deprived communities, and it can ensure that this activity is employer led and potentially co-funded.

With uncertainty about future levels of funding for pre-employment and vocational training there may be a greater need to rely on employer-funded training to address social exclusion. Planning Obligations are the only formal leverage that local authorities have to obtain financial contributions for this training.

So it is unlikely that existing National and Regional Planning Policies will make specific mention of TRT as a means of achieving the social inclusion elements of Sustainable Development, and will therefore not provide the clear ‘hook’ that local planning authorities may be looking for to plug a gap in their existing Local Plans. However, in an era of evidenced-based policy development it would be unfortunate if this resulted in a view that TRT could not be included in Planning Obligations on the basis of the broad commitments in the RSS. To argue in this way would result in a situation where:

- TRT could not be included in Planning Policies because there was no evidence of effective use;
- evidence of effective use could not be obtained because there was no facilitating policy within existing Planning Policy, and therefore TRT was not being sought through the Planning process.

Essentially, this line of argument would stifle innovation and frustrate the achievement of the existing policies on social inclusion and social justice – both short term and longer-term.

12 Ibid 3 above page 17

13 Ibid. 2.2a – Page 19.

2.4 The Community Infrastructure Levy (CIL)

Part 11 of the Planning Act 2008 contains provisions for enabling regulations to be made to establish a CIL. However, Authorities do not have to introduce a CIL.

The CIL Commencement Order came into effect in April 2009 and CIL Regulations – permitting the use of the levy - came into force on the 6th April 2010.

The CIL will only provide funding for ‘infrastructure’. The scope is defined in S.216 of the Act and generally relates to buildings and physical infrastructure. It could plausibly relate to the provision of training and job-matching facilities (i.e. capital investment) but not revenue funding for training and job-matching activities.

The Act allows the continuation of S.106 of the Town and Country Planning Act 1990 (planning obligations) subject to any regulations issued.¹⁴ The 2010 Regulations now contain a mandatory requirement that a S. 106 obligation must satisfy three tests. The obligation must be (reg. 122):

- (a) 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

The regulations further provide that planning permission cannot be granted by reason of a S. 106 obligation to provide for the funding or provision of ‘relevant infrastructure’.¹⁵ The latter term is defined as the list of infrastructure projects or types of infrastructure published on the website of the Planning Authority or, if there is no such list, then all infrastructure.¹⁶

From this it appears that the introduction of a CIL need have little impact on the use by Planning Authority of S.106 to obtain developer obligations in relation to TRT activities in pursuance of Planning policies (e.g. on the development of skills, the reduction of worklessness and social exclusion and the reduction of commuting to work by car) because these will not usually require the provision of infrastructure as such. These requirements could include both revenue funding and the provision of training, employment and supply-chain opportunities. More consideration may need to be given where requirements include the provision of, or funding for, a training/recruitment office or centre. A planning obligation could not be used where the local planning authority included such buildings in a list of infrastructure projects or types to be wholly or partly funded from CIL.

14 Planning Act 2008. Part II S. 223.

15 The Community Infrastructure Levy Regulations 2010. Part II S.122(2) and S.123(2).

16 Ibid S.123(4)

2.5 Policy on the use of Planning Agreements

Under Section 106, Town and Country Planning Act 1990 any person with 'an interest' in the relevant land can enter into an obligation with the local planning authority, for one or more of several purposes including:

- "(a) restricting the development or use of land in any specified way*
- (b) requiring specified operations or activities to be carried out in, on, under or over the land*
- (d) requiring a sum or sums to be paid to the authority on a specified date or dates or periodically."*

The first and second of these purposes could facilitate the inclusion of targeted recruitment and training requirements in a Planning Obligation provided that an appropriate form of drafting is used. This might be along the lines:

"The developer shall not [commence development] or [allow it to be occupied or used] before a programme of targeted recruitment and training has been submitted by the developer and approved by the Local Planning Authority that will achieve [.....], and shall not allow it to be occupied or used until the requirements of the programme have been met."*

* enter the requirements

The third of the above purposes (c) would allow the payment of a financial contribution to the local planning authority to cover the cost of supporting targeted recruitment and training on the development site.

A Section 106 agreement normally takes the form of a Planning Obligation but it could be a Unilateral Undertaking to which the authority is not a party.

A valid Section 106 obligation can be enforced against the original owner and any person deriving title from that person. So the obligation passes from owner to owner until the obligations have been met or the Planning Authority agrees that it no longer serves a useful purpose or should be modified. There is a right of appeal to the Secretary of State if the application for discharge or modification is refused.

Government guidance on the use of Planning Obligations is set out in Circular 05/2005. This lays down policy tests, namely that such obligations should be sought only where they are:

- "(i) relevant to planning;*
- (ii) necessary to make the proposed development acceptable in planning terms*
- (iii) directly related to the proposed development;*
- (iv) fairly and reasonably related in scale and kind to the proposed development; and*
- (v) reasonable in all other respects."*

Three of these tests now have statutory effect under the CIL regulations referred to above. In the consultation Policy Document on Planning Obligations published in March 2010 (paragraph 1.30), it is stated that the first and last tests have not been made statutory as they are considered unnecessary or repetitive. As currently proposed the explanatory text on the remaining tests would require clear policy on TRT (see for example 2.7 below) such that the failure of a developer to show how they will achieve this element of policy may make the proposed development “... unacceptable in planning terms”.¹⁷

In relation to TRT the tests that have traditionally caused most concern are (i) and (ii) above. The other three can be accommodated provided that the requirements are reasonable and are related to the site. As indicated above, in the context of PPS1, PPG 4 and PPG13 it seems reasonable to argue that the “*relevance to planning*” condition would be met, and the Guidance in 05/2005 would appear to ease the “*test of necessity*” in relation to TRT requirements since this is explained as:

“(necessary)..... in order to bring a development in line with the objectives of sustainable development as articulated through the relevant local, regional or national planning policies”. (05/2005 B8)

It seems reasonable to refer to PPS1, PPG 4 and PPG13, as the basis for seeking to include TRT in a Planning Obligation.

However, it would appear that despite the above wording, in the Government’s view it is not sufficient for an obligation to be necessary to achieve a national planning policy: it must also satisfy a local plan requirement:

“Development plan policies are therefore a crucial pre-determinant in justifying the seeking of any planning obligations since they set out the matters which must be addressed in order for the development to proceed.” (05/2005 B8)

So to justify the inclusion of targeted recruitment and training requirements in a Planning Obligation there must be some basis for this in the Development Plan, supplemented as necessary by more detailed guidance in a Supplementary Planning Document. It is not unlawful for a Planning Obligation to include matters that go beyond what is necessary and reasonable. If a Planning Obligation does not conform to policy (or fails to meet the five tests) it could be at risk of a legal challenge but it does not necessarily follow that the Court will quash the Planning Obligation.

The test of validity was set out in the House of Lords decision *Tesco Stores Limited v Secretary of State for the Environment 1995*.¹⁸ In that case, the challenge related to the test of necessity. However, it is suggested that the Court will not readily strike down an Obligation that has been

17 CLG New Policy Document for Planning Obligations. Consultation. March 2010. Part 2 Section PO2.

18 [1995] 2 All. E.R.636

agreed between the developer and the local planning authority, where there is a clear connection between the development and the benefit offered. However, a local planning authority that does not have a policy relating to TRT would be more vulnerable to challenge.

The use of TR&T in Planning Obligations have not been tested through the Courts and so their use is to some extent uncharted territory. It should also be noted that were the New Policy for Planning Obligations consultation text¹⁹ to be adopted in its current form this will increase the importance of including clear statements on targeted recruitment and training in planning policy as a basis for seeking to include related matters in Planning Obligations. Readers should therefore ensure that they are aware of the latest Government policy on the use of Planning Obligations.

2.6 Local Development Documents

The new system of development plans (see 2.3 above) is in force but local planning authorities are currently relying on existing Unitary Development Plans or Local Plans, as the case may be, which have been “saved” by Government regulations. In the absence of a policy on TRT in the saved Local Plan, local planning authorities need to amend their draft Development Plan Documents or produce a new DPD or SPD.

A Supplementary Planning Document could be adopted more quickly than a Development Plan Document (DPD) but as it will not form part of the development plan it will have the status of a material consideration only. Further, Government advice in Planning Policy Statement PPS12 on Local Spatial Planning, paragraph 6.2, is that ‘SPDs should not be prepared with the aim of avoiding the need for the examination of policy’, i.e. through the DPD process. The proposed Development Plan Document or Supplementary Planning Document, as the case may be, will have to be included in the authority’s Local Development Scheme submitted to the Secretary of State and may be subject to his intervention

This situation gives rise to short and longer-term questions about how to incorporate TRT in each authority’s development documents. In the short term it may be necessary to identify a relevant policy ‘hook’ within the current planning policies – that include the RSS. This may be sufficient to justify a requirement for TRT to be included in a S.106 Agreement, or it may be sufficient to justify the development of a supplementary planning document to set out the Council’s policy on TRT.

Each authority will need to examine its current policies to see if an adequate ‘hook’ exists. Since many of the adopted Plans date from the early 1990’s before the concepts of ‘sustainable development’ and ‘social inclusion’ were brought into Government policy it is possible that they will have no useful hooks, but as indicated in 2.2 above the RSS certainly does:

¹⁹ CLG. March 2010.

Vision:

“delivering sustainable and inclusive economic prosperity and growth”²⁰

Policy 2 on Sustainable Development:

“to tackle the social, economic and environmental impacts of multiple deprivation.”²¹

A potential problem with the RSS in the NE of England is that it doesn't specifically refer to TRT as a way of delivering the above vision and policy. Is it the case that only actions that are specifically referred to in the RSS can provide the necessary ‘hook’, or can a Local Planning Authority use innovations like TRT where these will improve the achievement of RSS and National policies as suggested in 2.3 above?

The current text in a Unitary Development Plan or Local Plan may merely refer to implementing the Community Strategy, and the detailed commitments that would apply in the development control process may be contained in that Strategy. This approach – setting out the detailed requirements in a linked strategy document – offers advantages since these strategies may be capable of revision and renewal more easily than development documents. On the other hand they may have less weight in the development control process.

2.7

Sample Wording for the Local Development Framework

In this context the planning authorities may wish to consider including the following text in an appropriate Development Document.

Targeted Recruitment & Training and Supply-chain Opportunities

In line with the Regional Economic Strategy and the Regional Spatial Strategy the Authority recognises the need to support existing communities and achieve social progress by tackling social exclusion, to protect the environment by reducing car-based commuting, and to ensure continued high levels of economic growth by expanding and raising skill levels in the local labour market. It will therefore encourage development that will provide opportunities suitable for people living in local communities, especially those that are disadvantaged or otherwise outside of the labour market, and may require measurable commitments on targeted recruitment and training and the provision of trading opportunities for local firms during the construction and occupation of the development.

The Council may seek Planning Obligations in relation to targeted recruitment and training and use of local supply-chains, including the agreement of targets and delivery processes and the provision of resources to assist in this.

20 Ibid 3 above page 17

21 Ibid. 2.2a – Page 19.

2.8 TRT Obligations in a Planning Agreement

A key characteristic of a Planning Obligation is that there can be little certainty about when the development, or each phase of a development, will go ahead, or who the parties involved in the development will be.

Neither a planning permission nor a planning obligation will usually dictate the commencement date of a development, although by virtue of Section 91 of the Town and Country Planning Act 1990 a time limit by when a development is to commence must be specified.²² Within that period a site may be sold on or the personalities involved can change: it cannot be assumed that the goodwill that may be evident with the initial applicant will be present when the proposed development is being carried out. A Planning Obligation is binding on successors, but it is clearly important that the obligation is drafted so that it is clear what is expected of them.

This uncertainty also applies to the public sector team. During the delivery of a long development programme the development officers can change, there can be a re-organisation of the service, and the supply-side agencies (training providers, job-matching agencies) can be re-organised and will certainly change their priorities, programmes and resource allocations.

In this context it is important to design targeted recruitment and training requirements that are:

- clearly defined: they don't assume definitions or knowledge that may not be understood at some point in the delivery of the development;
- durable: they will be capable of being delivered by the developer in the circumstances that prevail at some unknown point in the future; and
- are able to be monitored without a major allocation of public resources.

The payment of a sum of money to the local authority to support TRT activities linked to the development site may be regarded as the best way of meeting the above criteria. This is probably true, although there have been problems where the proposed use of the funding has been too narrowly defined and become undeliverable. Also, asking for money for TRT will place this objective in competition with other local authority requirements for the use of the available S.106 'pot'.

The provision of funding for training and job-matching may be a part of a durable approach since it will reduce the reliance on unstable public sector resources. However, it may not achieve the key objective which is to get the target community the skills and work experience they need to operate successfully in the labour market. Access to a job is a critical element of this process and should form a part of the TRT requirements for a development.

It is important that TRT requirements are appropriate to the development that is proposed. Appropriateness can be assessed against two criteria:

²² normally 3 years (or, under Section 92, two years from final approval of reserved matters under an outline planning permission),

- the employment – in construction and end-use – that will take place on the site, including the numbers of people and skill requirements;
- the needs and capacity of the targeted community, including the numbers of people that will be seeking opportunities on the development and their skills and experience.

However, it will be important that all parties recognise that social inclusion will not be addressed without giving new entrants and people without sufficient skills and experience an opportunity to gain skills and experience through employment. The critical question is what proportion of the workforce is it reasonable to ask an employer to recruit as new entrants and returners to the labour market. So local pockets of social exclusion will not benefit if the target area for recruitment is merely extended until it includes sufficient skilled and work-ready people for the employer to recruit.

2.9 Negotiating a Planning Obligation

Planning agreements are the product of a process that has three elements:

- an estimate of the ‘development gain’ that the developer will obtain from the development process to identify the approximate sum that will be available to fund Planning Obligations;
- an internal bidding and negotiation process – within the Planning Authority – to determine the Authority’s priorities for the use of a Planning Obligations funds; and
- a negotiation between the Authority and the Developer that results in the Planning Obligation.

There are some key elements for success in introducing targeted recruitment and training and supply-chain requirements into this process:

- establishing them as an element in planning policy and relevant development briefs: this is important in legitimising the right to include training matters in a Planning Obligation with both the internal officers and the developer’s team;
- introducing the proposed TRT requirements early in the discussions with the developer so that they can build these into their ideas and expectations from an early stage; and
- emphasising the importance of non-monetary outcomes in relation to TRT, and the prospects that these could be delivered at low cost if the contractor engages with the supply-side agencies (see section 3 below): this reduces the internal competition for the use of Planning Obligation money.

2.10 Adoption of standard targets

In Circular 05/2005 the Government encourages the use of formulae and standard charges as a basis for negotiating Planning Agreements:

*"Local Authorities are encouraged to employ formulae and standard charges where appropriate, as part of their framework for negotiating and securing planning obligations."*²³

In this context Planning Authorities should give consideration to the adoption of standard targets for the contributions to targeted recruitment and training matters that will be sought from developers. If these were established in Development Plan Documents or Supplementary Planning Documents potential developers would be able to take account of the requirements from the earliest stage of their development plans. It would also normalise the requirement and reduce potential conflict with other Council Departments that are seeking Planning Obligation outcomes and resources.

The standard targets could cover:

- 'new entrant trainee' person-weeks in the construction period
- 'new entrant trainee' person-weeks in end-use employment
- Finance to be provided for the support of training, job-matching, facilitation and monitoring.

Targets for these can be indicated by a formula based on either:

- the square meterage to be developed or the number of units (e.g. of housing) to be developed;
- the Davis Langdon forecasting database (for construction) and (if commissioned by the NE IEP) workforce densities for end-user occupations.

One of the principles of the 'Local Planning Policy' approach is to make clear to prospective developers what the Planning Authority's requirements will be if they seek planning permission for one or another type of development. There also needs to be a robust basis for setting the standard targets in case this is challenged.

One way of determining the person-week targets would be to make available the Davis Langdon forecasting model e.g. by giving prospective developers access through Council website(s). However, providing such wide access may not be acceptable to Davis Langdon that owns the intellectual copyright to their model: it is understood that the model can only be used by the members of the NE Innovation and Efficiency Partnership. In this context it is proposed that Planning Authorities give indicative person-week targets in the policy documents but state that the actual target will be negotiated on the basis of the David Langdon Forecasting Model. The Council could use the latter to identify the numbers of person-weeks that should be made available, and provide a print-out of this (rather than the formula) to the developer. This print-out would form the basis of negotiation.

²³ normally 3 years (or, under Section 92, two years from final approval of reserved matters under an outline planning permission),

Person-week targets should stay fairly stable over time and should not need to be index-linked since the person-weeks of labour to build a development will stay roughly the same even when the cost of development rises (or falls). Variations will mainly come from innovations in building technologies and these will need to be reflected in a review of the Forecasting Model from time to time.

Where a Planning Authority is seeking a financial contribution to targeted recruitment and training and supply-chain activities, linked to each development, this can perhaps best be set as £x per 'new-entrant trainee person-week' to be provided. The sum-per-person-week would be calculated for the Authority as a whole based on the sum it wants to achieve to support new developments in a period, divided by an predicted number of person-week to be delivered by developers in that period. If appropriate, different targets could be calculated for construction and end-use person-weeks to reflect the different amount of pre-recruitment training and ongoing support needed for new entrants.

Where developments may take place over numbers of years the financial payments to be made should be index-linked.

Table 1 below provides a methodology of how the Davis Langdon Forecasting Model could be used to set targets for new entrant trainee person-weeks in construction for different types of development.

Table 1 – Calculation of indicative new entrant trainee requirements

Type of development	P/wks per £1m*	Sq. Mt per £1m spent**	Units of housing per £1m spent**	Target: p/wks per Sq.Mt./ Housing unit ***
1	2	3	4	5
New Housing	79			
Infrastructure	51	XXXXXX	XXXXX	XXXXX
Public non-housing	68			
Private industrial	63			
Private commercial	71			
Housing refurbishment	88			
Non-housing refurb.	83			

*based on Davis Langdon Forecasting Model

to be inserted by LA surveyor *Col. 2 divided by Col.3 or Col 4 as appropriate.

The above approach may not work easily for infrastructure projects. There will be a degree of infrastructure work within each of the other building types that is reflected in the typical labour-usage and therefore the new entrant trainee target for this type. However, where a development just involves infrastructure the target will probably need to be expressed just as (e.g.) 51 weeks

per £1m in expenditure. Advice may be needed about the likely cost of development before the negotiation of the actual target can commence.

A table similar to the above could be produced for the end-user target based on the typical labour-density per 100 sq mt. of building, differentiated between different types of employment e.g. retail, manufacturing, office, call-centre etc.

2.11 Construction Trainee Deposit-sums

A significant benefit of a Planning Obligation is that they are binding on successors to the title of the property (see 2.4 above). This may be a good sanction on developers where the value of their property would be diminished because Obligations are outstanding. However, one characteristic of construction training requirements is that they are unlikely to be enforced once the construction has taken place. In this context it may be necessary to introduce a trainee deposit-sum, payable by the developer or their contractor, to increase the leverage in relation to this requirement.

A trainee deposit-sum would be identified in Planning Policy and would form part of the negotiation of a S.106 agreement. In essence the sum would be expressed as £x per new entrant person-week to be delivered. This sum would be paid to the Planning Authority prior to Implementation of the development on site, and would be repaid with interest as the trainee weeks are delivered – on the basis of (say) Quarterly Performance reports.

If some or all of the development is sold-on before completion the obligation to deliver the trainee-weeks would transfer to the new owner (along with other S.106 obligations) and the organisation that paid the deposit would have to recover any outstanding deposits from the new owner. The latter could then reclaim the deposits as they deliver the outstanding trainee-weeks. The arrangements for the deposit sum – see Addendum 1 of Appendix 1 – would state that any sums held by the Authority after two reporting periods in which there has been no reclaim would become the property of the Authority and could be used to support construction training activities in its area. The Authority would have to give notice to the property owner prior to this, and give the latter time to submit a reclaim if appropriate.

The deposit-sum is not designed as a penalty. It is a payment for the administration, facilitation and workplace support required to ensure that new entrant trainees from the identified source are able to get the jobs, training, mentoring and support they need to become fully employable within the relevant industry. The developer is asked to facilitate this and where they do so they obtain a repayment of the deposit sum. However, if they do not do so to the specified level than the remaining deposit sum can be used by the local authority to place trainees with other employers.

The deposit sum needs to be calculated so that it covers the functions set out above. This is likely

to be at a level that is sufficient for a developer and their contractor to think it best to deliver the trainee-weeks and get their money back. If the sum is low they may just treat it as a ‘tax’ they pay and not bother to deliver the trainee-weeks and reclaim the money. This would not achieve the primary objective of Planning policy that underpins the use of S.106 powers in this way.

Outside of London and South-East England it is frequently argued that the greater the financial demands for S.106 (or in the future CIL) payments the greater the deterrent for developers to invest – or probably more accurately, the greater the reluctance of land-owners to make land available for redevelopment since the S.106/CIL payments impact on the land value. The trainee deposit-sum payment is not a cost to the development unless the developer has no intention to delivering the TRT requirements, but it will have an impact in the up-front funding that a developer or their contractor has to finance. To reduce this impact the Planning Authority could:

- link the payment of trainee-deposits to phases of the development where these can be identified in such a way as the tariff can be applied e.g. phases in a large housing development where the number of units is known, or a new phases of a commercial development where the square meterage is known;
- waive the payment for a period to allow the developer to show evidence that they are delivering the requirement without payment of the deposit, and only implement the deposit requirements where the developer or their main contractor have not delivered in previous developments or in early stages of the current development.

However, it is important to only apply the waiver arrangements where the development will go ahead in identifiable phases and where it is practical to obtain the deposit sum at a later stage of the development.

2.12

Integrated co-working – a critical component

A critical aspect of success in obtaining TRT and supply-chain opportunities in a Planning Obligation is for economic development officers to become a part of the component team that negotiates each Agreement. This requires that these officers have:

- information about what developments are upcoming and the opportunity to ask that TRT and supply-chain requirements be included in a Planning Obligation;
- full involvement alongside other departments in the internal and external negotiations;
- clear ideas about what they are seeking from each development: how to identify the scale of potential local opportunities and their priorities for what is included in the Obligation; and
- models to follow and adapt – although hopefully over time the development control and legal officers working on the documents will become accustomed to the TRT documentation.

The key to access to TRT opportunities through a Planning Obligation is likely to be obtaining legitimacy for TRT within the Planning Authority and obtaining the goodwill and commitment of planning and development control officers so that they automatically look out for TRT opportunities. This could be underpinned by a more formal (say monthly) review of forthcoming planning applications and identification of those that are of interest for TRT.

3. Supply-side Actions

3.1 Importance

The ‘supply-side actions’ include:

- for TRT: training provisions including trainee management and support, recruitment and job-matching provisions, access to funding for training;
- for SME opportunities: a register of small businesses, social enterprises and other ‘additional suppliers’ within the target areas, and providing these businesses with information, training and support to enable them to better bid for contract opportunities.

These arrangements are very important because:

- they can eliminate or very significantly reduce the cost of implementing the requirements: costs that are otherwise borne by the developer for the works or perhaps the vendor of property;
- the potential that the requirements can be delivered in a cost-neutral way makes it much easier to obtain support for the proposals from development control officers – the ‘gatekeepers’ to the Planning Obligations;
- good supply arrangements for trainees, workers and firms from the target communities will make it easier for developers, contractors and end-use employers to deliver their obligations, and this will improve outcomes.

The availability of supply services should be one factor influencing the community benefit requirements that are put into Obligations. To set outcomes for which there are poor supply-side arrangements and therefore potentially greater cost implications will make it more difficult to obtain ‘gatekeeper’ support for the requirements and less likely that the developer/contractor/employer will succeed in delivering the requirements.

3.2 Matching Opportunity to Need – TRT

If the policy objective is ‘social inclusion’ then it is important to provide a route for non-employed people without recent, relevant, work experience to get access to the job and training opportunities. It is important to ensure that each ‘step on the ladder’ between non-employment and employment is in place and resourced. Table 2 provides an example of what could be provided to assist people become job-ready.

Table 2 Steps into Work

Steps on the ladder	Possible Actions
Initial recruitment and assessment	Outreach work. Taster sessions. Work with schools. Skill assessments. Profiling possible supply-chain companies, including their speciality, capacity and financial strength.
Pre-recruitment training	Short-course training, including bespoke training for employers needs. College NVQ 1 courses. Intermediate labour market employment and training.
Job-matching and Training contacts	Pre-selecting candidates for employers to select from. Work trials. Support for candidates coming off benefits. Support for employer and employee to sustain the job. Providing relevant contacts to contractors.
Employment	Continued in-service training. Training management services. Provision of training and accreditation. Grants to cover time off for continued training (e.g. from CITB). Support for employer and employee to sustain the job.
Progressions	Facilitating the placement of trainees with new employers if the first employment is not providing the required training or experience, or if it ceases. Advice on self-employment.

For longer-term developments the durability of the supply of trainees can be important. There may be an expectation that supply-side services should be provided by other public bodies like the Learning and Skills Council or Jobcentre Plus and their provider networks, using public resources. However, as a ‘trainee supply-chain’ to the contractor/employer they may be very unstable because their policies and programmes change frequently, often at relatively short notice, in response to regional or national policy changes. The latter may reflect changing political attitudes to training and unemployment.

In this context a local authority seeking to include TRT requirements in a Planning Obligation may need to take a lead in the provision of supply-side services. It can work in partnership with other public agencies, but it must ensure that the step-ladder to employment is maintained for its ‘priority communities’ and that the services are employer-focussed. Part of this role will be to put together additional funding to ‘top-up’ and underwrite the services and resources provided from time to time by other public agencies.

3.3

Maximising local firms participation

To maximise the participation of local firms in contracts associated with the development may require some or all of the following:

- increased information on opportunities advertising contract opportunities through local newspapers, websites and procurement portals, and through ‘meet the buyer’ events;
- pruning and standardising the pre-qualification information requirements;
- avoiding unnecessary aggregation of requirements into larger contracts, and disaggregating

the delivery of the requirements through the use of 'lots' and frameworks with smaller call-off contracts;

- encouraging main contractors to advertise their sub-contract and supply opportunities e.g. through newspapers and 'meet the buyer' events;
- helping local firms to access 'supplier development support': specialist one-to-one support to help the company become better managed, more cost-efficient and better equipped for a competitive tendering process.

3.4

Facilitation

Success in achieving TRT and supply-chain outcomes relies on good facilitation to help the developer/contractor or end-use employer to make links with local providers of training and trainees, non-employed people and firms. The facilitator may be from the local authority's economic development team or a specialist body operating on a local or sub-regional basis. This is where the commitment is likely to be strongest: there is knowledge of what training and recruitment outcomes are required, and there is knowledge and contact with the supply-side (for example, training, job-matching and supplier-development agencies).

It is also important that the facilitator has experience of the relevant sector - e.g. construction: its contracting processes and training arrangements.

There are a number of elements to the facilitation role:

- working with the Planning Policy team to develop an appropriate approach and policy, and where necessary working to include detailed requirements in the Sustainable Community Strategy or in a separate Local Economic Development Strategy;
- working with the development control team to identify appropriate targets, and helping them adopt/develop appropriate wording for the Planning Obligation;
- provide briefing to developers, contractors and end-use employers on the TRT and supply-chain requirements and supply-side services and resources;
- evaluating information on TRT and supply-chain opportunities provided by Developers and their contractors in response to S.106 requirements;
- progress-chasing when the contractor starts on site to make sure that there is a good relationship with supply-side agencies and that action on TRT and supply-chain opportunities starts early;
- developing a good working relationship with end-use employers to help them target opportunities and access training and job-matching services and resources;
- routinely receiving and responding to monitoring information on behalf of development control colleagues, including attending meetings to discuss any problems with TRT and identifying local firms.

From the above list it can be seen that the lack of the facilitation resources could limit the scope for the proper delivery of TRT and supply-chain opportunities through a Planning Obligation. The facilitation role needs to expand as the number of operational projects/contracts increases. It is likely that one facilitator could eventually manage 10-15 projects with some administrative support. To maximise the benefits it is important to target the facilitation resources at large and longer-running developments. However, the capacity will be significantly reduced if the facilitator also has to do extensive work with training and job-matching agencies to ensure the availability of suitable services for the contractors.

To reiterate, facilitation is an essential service that the economic development department or an external agency will need to provide to the client/developer and the development control team to enable them to include TRT and other community benefits in a Planning Obligation.

3.5

Monitoring, Verification & Reporting

Monitoring and verification are critical issues when TRT and ‘local firm’ requirements are included in a Planning Obligation. It is important for the development control team to know what is being delivered, especially where they are holding a deposit-sum.

Monitoring refers to the supply of information on performance. Verification aims to provide the client with a means of checking the monitoring information.

There is no point in specifying outcomes that cannot and will not be monitored and verified. This risks diverting the effort of the development control team for little measurable gain, and probably little actual gain. So the decision about what requirements to include in the Planning Obligation must be influenced by the systems and resources available for the monitoring and verification of outcomes. This requires choices to be made, and the choices depend on priorities. It is better to include a few requirements and know these are being delivered than to be over-sophisticated in setting targets and then not be able to monitor and verify the outcomes.

As indicated above, the facilitation of the approach set out in this Toolkit is quite labour-intensive. Improved value from this investment in facilitation will be achieved if the monitoring and verification system is web-based or e-mail based and fairly automatic. The development of a standardised monitoring and reporting system for the Region will add significantly to the efficiency of the TRT activities.

3.6 Facilitation and Support Services in NE England

Users of this Toolkit should contact the economic development team in the Local Authority in which they are operating to discuss the facilitation and support services that are available.

4. Model Clauses

As a starting point for the development of appropriate TRT and supply-chain requirements two model clauses are included here as appendices.

Appendix 1 provides text for a Heads of Terms and a Planning Obligation, with the latter containing the detailed requirements. Some of these can be excluded if they are not required.

Appendix 2 provides for the situation where the detailed requirements are contained in a separate Strategy that can be obtained by prospective developers, rather than in the Agreement itself. This provides the Authority with the potential to modify the Strategy from time to time. Again, those parts of the Strategy that are not required can be left out of the Agreement.

Appendix 1

Text that can be included in the Heads of Terms and a Planning Obligation setting out the details of the TRT and supply-chain requirements for both construction and (if required) end-use opportunities.

Draft Heads of Terms

.... Targeted Recruitment and Training

[The Developer] shall not commence development until it has obtained written approval from the Authority for a Targeted Recruitment and Training Method Statement that includes measurable targeted recruitment and training and supply-chain commitments, [and paid a Targeted Recruitment and Training Deposit Sum to the Authority] (*delete the latter if not required*).

Text for the Agreement

Definitions

Commence Development on Site means the date on which any material operations (as defined in Section 56(4) of the 1990 Act) forming part of the development begins to be carried out

Construction Training Performance Statement means a quarterly statement demonstrating the achievement of the Targeted Recruitment and Training obligations as set out in the S.106 Agreement, in the period and to date.

Employees means people that are engaged by employers in Employment Premises including self-employed people and those on temporary contracts.

Employment Premises means: buildings which provide workspaces of any kind or facilities for a workforce (including e.g. maintenance workers) that operate across the site or in and around the site.

End-User Employers are those that occupy, manage or maintain Employment Premises.

Full Accreditation means the achievement of full CSCS registration and successful completion of courses for which the New Entrant Trainee is registered.

Local Impact Area: an area identified by the Authority from time to time and defined by the first three/four digits of the post-code that is the target area for recruitment of new entrant trainees and workers for the site. Initially this will be areas with post-codes commencing [...] (*enter the selected codes*).

Mentoring and Trainee Support Arrangements means individual support with vocational, training or personal matters relating to the work and training of New Entrant Trainees.

New Entrant Trainee is (a) a person who has left or is about to leave a school, college, university or other educational or training establishment, or (b) an unemployed person who is seeking employment, or (c) a person identified by the Targeted Recruitment and Training Team whose current contract of employment or apprenticeship has been or is about to be terminated and who wishes to complete their training, where in any such case (a), (b) or (c) that person requires onsite training and assessment or offsite training or a mixture of both. New Entrant Trainees could be apprentices (i.e. persons registered as an apprentice with an industry recognised body) that can be counted as a 'new entrant' for up to [104] weeks, or a Trainee (i.e. a person that has a trainee contract or a contract of employment or self-employment that are not apprentices) that can be counted as a 'new entrant' for up to [52] weeks.

Person-week (P/wk) is the equivalent of one person working for 5 days in any working week either on site (including sites that are not covered by the Planning Obligation where this is necessary to maintain continuity of employment or provide an appropriate range of experience), or through a mix of on-site work and off-site training.

Site Vacancies means any job/apprenticeship opportunity, including those for New Entrant Trainees that arises on the development site, including those with contractors and sub-contractors.

SME means a small and medium sized enterprise defined as one that has fewer than 250 employees.

Source agreed by the Authority will normally be a training organisation that is significantly used by the communities' resident in the Local Impact Area.

Supply-chain means the firms or organisations that supply works, services or goods to the developer, contractor or an occupier of the development. The services may include the supply of trainees and workers, or identifying local firms that could form part of the supply-chain

Targeted Recruitment and Training Team means a team that is identified by the Authority from time to time to work with Developers and their contractors to ensure maximum fulfilment of their S.106 obligations on Targeted Recruitment and Training.

Targeted Recruitment and Training (TRT) Method Statement means a document prepared

by the Developer for approval by the Authority that sets out how the TRT and supply-chain elements of the S.106 Agreement will be implemented.

[**Training Deposit Sum** means a sum to be paid to the Authority in relation to each new entrant trainee person-week that is to be delivered as set out in the S.106 Agreement] (*to be included where a deposit sum is to be used*).

Trainee Retention means maintaining the employment of New Entrant Trainees for the full period that they can be counted as New Entrant Trainees through good terms and conditions, good management, mentoring and trainee support arrangements.

TRT means the Targeted Recruitment and Training and supply-chain requirements as described in the S.106 Agreement..

[**TRT Rectification Notice** means a notice given in writing that sets out steps that the Developer is advised or required to undertake (or ensure that their contractors undertake) in order to ensure that the TRT elements of the Planning Obligation are delivered in full. Discretion to waive the payment of a Trainee Deposit Sum will not be exercised by the Authority where a Rectification Notice has been served on a Developer or their contractor and this has not been withdrawn.] (*to be included where a deposit sum with a waiver is to be used*).

Wider Impact Area: an area identified by the Authority from time to time and defined by the first three/four digits of the post-code that is the target area for identifying businesses that will benefit from sub-contracts and supply contracts for the site. Initially this will be areas with post-codes commencing [.....] (*enter the selected codes*).

Work Experience means unwaged opportunities for students, trainees and job-seekers.

..... Targeted Recruitment and Training

The developer shall not Commence Development until

...1 it has obtained written approval from the Authority for a Targeted Recruitment and Training Method Statement that will deliver the following obligations;

In relation to the construction of the development

...1.1. to consult with the Targeted Recruitment and Training Team, and ensure that all main contractors consult with the Targeted Recruitment and Training Team on a regular basis;

...1.2 provide [....] person-weeks employment for New Entrant Trainees recruited from a Source Agreed by the Authority;

...1.3 provide, when reasonably requested [....] person weeks of unwaged Work Experience for people obtained from a Source Agreed by the Authority;

...1.4 within 10 working days of the date of their appointment each New Entrant Trainee recruited from a Source Agreed by the Authority is to be registered with the Targeted Recruitment and Training Team by completing in full a pro-forma provided;

...1.5 to notify all Site Vacancies to the Targeted Recruitment and Training Team and the Source Agreed by the Authority

...1.6 to maximise the supply-chain opportunities provided to SMEs that are based within the ‘Wider Impact Area’.

...1.7 to provide an aspirational target for the value of contracts that will be delivered by SMEs based in the Wider Impact Area.

...1.8 arrangements to ensure co-operation from contractors and sub-contractors to achieve full delivery of these requirements

...1.9 to maintain appropriate Mentoring and Trainee Support Arrangements to maximise trainee retention and full accreditation; and

...1.10 ensure that appropriate records are maintained to provide verifiable evidence for the Quarterly Performance Statements as set out in ...3 below.

In relation to the occupation and facilities management of the development (delete 1.11 and 1.12 if not required)

...1.11 to consult with the Targeted Recruitment and Training Team, and use reasonable endeavours to ensure that end-user employers consult with the Targeted Recruitment and Training Team , on a regular basis, to maximise the achievement of the targets set out in 1.12 below.

...1.12 to use reasonable endeavours to deliver the following aspirational targets for end-user employment in the site:

..1. 12.1 [30%] of Employees are residents the Local Impact Area;

...1. 12.2 [20%] of the vacancies in the first occupation of the Employment Premises are filled by residents of the Local Impact Area who were not in employment when they were selected;

...1.12.3 [20%] of subsequent staff turnover or business growth vacancies are filled by residents of the Local Impact Area who are not in employment when they are selected.

[...2 it has paid a Training Deposit Sum of [£65] for each person-week set out in ...1.2 above unless this payment is waived by the Authority in accordance with the operating arrangements set out in Addendum 1] (*delete this and the Addendum if no trainee deposit-sum payment is required*)

...3 It has agreed to provide the following monitoring information:

...3.1 Within 28 days following each period of three months beginning with the date of Commencement on Site to submit to the Authority a Construction Training Performance Statement for the preceding three month period and the development to date that includes the following information:

3.1.1 The number of person-weeks employment for new entrant trainees recruited from a source agreed by the Authority that have been provided;

3.1.2 The number of weeks of unwaged work experience that have been provided;

3.1.3 The number of people that have commenced work on the site (including existing employees that have been transferred to the site by their employer);

3.1.4 The number of vacancies notified to a Source Agreed by the Authority;

3.1.5 The number of people that have worked on the site – including those engaged in any capacity by contractors and sub-contractors and suppliers - that have a main residence within the Local Impact Area

3.1.6 The number of SMEs based within the Wider Impact Area that have obtained supply-chain opportunities, and the value of contracts delivered by these suppliers..

...3.2. Within 28 days of the completion of three months from the date the first occupation of Employment Premises and each 13 weeks thereafter to provide a Report to the Authority that includes for the period and the occupation of the site to date:

...3.2.1 the total number of personnel engaged by the end-user employer(s) in the Employment Premises in any capacity;

...3.2.2 the number of the personnel included in ...3.2.1 above that were transferred from other sites;

...3.2.3 the number of these personnel included in ...3.2.1 above that were recruited to work on the site (new recruits)

...3.2.4 the number of vacancies filled by residents of the Local Impact Area

...3.2.5 the number of vacancies filled by people that were not in employment at the time of selection;

...3.2.6 a projection of the anticipated vacancies on the site, by occupation, in the forthcoming six months.

... 4 It has agreed that twelve months after Commencement on Site and each twelve months thereafter until the Authority has issued the Completion Notice for the development the Developer shall consult with the Authority and then provide a revised Targeted Recruitment and Training Method Statement for Agreement by the Authority covering the forthcoming 12 months.

Addendum to Appendix 1

This addendum should be included where ...2 in Appendix 1 is included in a Planning Obligation. It can also be included as a part of the Targeted Recruitment and Training and Supply-chain Opportunities Strategy – see Appendix 2.

.... Operating Arrangements for the Trainee Deposit Sum

1. One week prior to Commencement of Development the Developer shall pay to the Authority the trainee deposit sum as set out in Section [...1.2] of the Planning Obligation unless it has been confirmed in writing by the Authority that it has waived this obligation for the Development or phase.
2. The Authority may at its discretion agree to waive payment of the deposit sum for a site or phase but this will not be agreed where a Targeted Recruitment and Training Rectification Notice has been issued to the Developer or their contractor on any Development for which the Authority has issued Consent and this Notice has not been withdrawn.
3. Where a Trainee Deposit Sum has been paid in relation to a Development or Phase of development the Authority shall within six weeks of receipt of each Construction Training Performance Statement or receipt of acceptable supplementary information (whichever is the later) refund to the Developer the deposit sum paid for each additional person-week of employment provided for a New Entrant Trainee in the period covered by the Construction Training Performance Statement, plus interest calculated on a daily basis at the current base rate from time to time of [] (*enter Bank name*) from the date the deposit is lodged with the Authority to the date of repayment.
4. Where the Performance Statement is not received by the due date or the agreed trainee-week outcomes are not being achieved as set out in the Planning Obligation and/or the Construction Targeted Recruitment and Training Method Statement the Authority may issue a Rectification Notice setting out the action that needs to be taken by the Developer and their contractors to fulfil the TRT elements of the Planning Obligations. This will remain in force until the agreed opportunities are being provided at which point a Withdrawal of Rectification Notice will be issued.
5. Where the Developer is not entitled to full repayment of a deposit due to under-achievement the Developer may submit with their Construction Training Performance Statement a request for a discretionary repayment of some or all of the balance of the deposit sum. The Authority may make repayment of some of all of a deposit sum where it is satisfied that the Developer and

their contractor(s) used best endeavours to implement the targeted recruitment and training requirements. The Authority will give a reply to the Developer's request within 4 weeks of the date of receipt.

6. Any deposit sums and related interest retained by the Authority after the expiry of [six months] from the date of the most recent Construction Training Performance Statement shall be used to support construction training initiatives in the Authority's area, provided always that the Authority has given four weeks' notice in writing to the Developer that the remaining fund is to be used in this way. This support may include administration, facilitation, training, and financial incentives for employers.
7. Deposit sums from one development cannot be carried forward to another.
8. Where some or all of the development is to be undertaken by a new party the Developer is to notify the Authority in writing of the name and address of the new party and the maximum value of any deposit-sum that they can reclaim.
9. The Developer shall pay interest on any trainee deposit-sums due to the Authority but not paid, from the date the payment is due until actual payment. The rate of interest shall be 4% above the base rate from time to time of [] (enter Bank name).

Appendix 2

Text that can be included in a Planning Obligation where the details of the TRT and supply-chain requirements are set out in a separate ‘Targeted Economic Benefits Strategy’ that can be accessed by any prospective developer but which can be updated regularly to reflect changing requirements or supply-side services.

The Strategy should include some or all of the items included in Appendix 1, including definitions. The requirements could be split into Parts covering, for example:

- ***Construction targeted training and recruitment and related monitoring***
- ***Construction supply-chain opportunities and related monitoring***
- ***End-user targeted recruitment and training requirements and related monitoring***
- ***End-user supply-chain opportunities and related monitoring***
- ***Deposit-sum arrangements***

This will allow the relevant parts to be quoted in the Heads of Agreement so it is clear what the Developer has committed to deliver.

The Strategy should provide information on what supply-side resources are available and/or who should be contacted for this information and assistance.

Draft Heads of Terms

.... Targeted Economic Benefits

The Developer will fully implement Parts [.....] (*add the numbers*) of the Authority’s ‘Targeted Economic Benefits Strategy’ dated (*enter date*).

Requirements to be included in the S.106 Agreement

.... Targeted Economic Benefits

..... 1. the Developer shall not to Commence Development on Site until it has:

...1.1 secured the Authority's written approval for a Method Statement that will implement in full Parts [.....] (*add the numbers*) of the Authority's Targeted Economic Benefits Strategy.

[...1.2 .paid a Training Deposit Sum of [£65] for each new entrant trainee person-week to be delivered as set out in the Method Statement unless this payment is waived by the Authority in accordance with the operating arrangements set out in the Targeted Economic Benefits Strategy.] (*delete if not required*)