

UDC SCRUTINY COMMITTEE

(TASK & FINISH GROUP RE PLANNING CONTRIBUTIONS)

24 SEPTEMBER 2019

BRIEF PRELIMINARY NOTES FROM CLLRS EVANS, CRISCIONE AND JONES

- Witnesses (to date):
 - Introductory Meetings held with Nigel Brown and Elizabeth Smith to hear of their role in and to discuss their view as to effectiveness of s 106 Agreements. Following emerged (preliminary):
 - shortage of experienced staff (both functions)
 - very limited coordination/cross involvement of two disciplines (legal would like more), particularly at heads of terms/negotiation stage
 - legal department would welcome greater involvement if additional resources available (estimated time of 3.5 hours on s 106 and 1.5 hours on deeds of variation only per transaction)
 - legal has licensing functions and land charges
 - limited interconnection with ECC
- Document Keeping
 - Schedule of s 106 Agreements and contributions made are held in a word spreadsheet available under FOI request
 - Member of staff hired to regulate s106 agreements
 - not updated historically
 - resources currently available
 - no e linkages to allow drill down to s 106/278 and status of compliance/enforcement (ECC have a system which allows them to chase/collect)
 - s 106 Agreements are kept in hard copy in vaults (no e filing)
- CIL: tariff preferred for administration/ease of collection
 - research to be undertaken
 - hybrid route?
- Enforcement
 - no legal steps have ever been taken by UDC such as mandatory injunctions in connection with enforcement
 - research as to means of effective enforcement/teeth (economically)
- Consultation at UDC
 - SWTC submission very helpful
 - Ask GDTC same
 - Questionnaire for each Ward/PC; or selective (say 10)?
- Further Witnesses
 - UDC re funds recovered/not recovered/returned
 - ECC Education and Transport and use of funds/returned
 - NHS/health
 - Cambs re CIL and experience

- Specialist commentary re suitability of s 106 agreements re open space/play area/planting and maintenance/cost endowment (once it was 20 years – now 10 years)
- TCs/PCs willingness to “take over” open space (reluctance where SUDS/swales)
- Interview a number of development companies in respect of their experience
- Discussion with senior planning lawyer regarding regular mistakes and pitfalls for local planning authorities
- Scrutiny Committee
 - Comments made that SC should be more proactive in working with Planning Committee?
- Legal and other Obligations
 - Numerical dwellings/temporal triggers (blend?)
 - Are the obligations drafted/enforceable (joint and several) where sites split (SW Tesco site and care home lapsed?)
 - Review boilerplate
 - Standard text is not varied except with approval of legal department
 - Planning Performance Agreements exist with major developers (eg Bloor/Bellway). How do these impact?