

TASK & FINISH GROUP: PLANNING OBLIGATIONS AND CONDITIONS held at THE COMMITTEE ROOM, COUNCIL OFFICES on WEDNESDAY, 23 OCTOBER 2019 AT 2.00PM

Present: Councillor J Evans (Chair)
Councillor R Jones

Officers in attendance: N Brown (Development Manager) and B Ferguson (Acting Principal Democratic Services Officer)

1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillor Criscione.

2 REVIEW OF PROGRESS AND STEPS TO MOVE FORWARD

Developer Contributions – Available Guidance

The Group discussed the 'Developer Contributions' guidance that the Council had issued in 2015, which had been produced in the context of the emerging Local Plan 2014. The primary role of this guidance was to secure affordable housing 'off-policy', specifically for those smaller developments which were composed of 15 units or less. The guidance was no longer in circulation as it held no weight or formal status, as demonstrated by Planning Inspectors giving the guidance no credence at appeals. The document also advised on Open Space policy e.g. developers to provide play areas etc. Whilst the guidance held no formal status, some developers did agree to these contributions in what could be described as a 'gentleman's agreement.' Therefore the Council removed the guidance from circulation, as declaring it invalid could have led to fewer contributions.

The majority of applications the Council received related to 10 houses or less, and therefore were exempt from Government's policy of no developer contributions towards affordable units for developments of 10 or fewer. One potential solution to a lack of contributions was the implementation of CIL, which was a more flexible way to achieving developer contributions.

The best mechanism to ensure conditions were unchallengeable during the planning process was a Supplementary Planning Document (SPD), although the Development Manager said this could not be put in place whilst the 'new' Local Plan was emerging. He said the proposed Local Plan would include obligations and conditions which developers would need to adhere to. Stipulations for Open Space would also be included and the policy would be taken to PPWG for scrutiny before a decision being taken at Cabinet in November.

Developer Contributions – Producing New Guidance

The Group discussed producing a guidance document on developer contributions. The new guidance would be written by the Planning Policy Team

Leader; it would not be based on previous guidance. The guidance would help to interpret policies but would also be required to have a mandatory effect.

In principle, the document would be:

- Determinative
- Informative
- Interpretative

The Group discussed Essex County Council's (ECC) policy towards developer contributions, with specific regard to education, and how UDC's policy differed in practice. For instance, UDC did not ask for education contributions from applications relating to commercial developments, whilst ECC did. The point was made that UDC were short changing the system as the contribution caps were set by the County.

Councillor Evans said he was aware of the pressure on capacity in primary schools and had spoken to Headmasters in his locality who felt they were not getting their fair share of developer contributions.

Open Space

The Group discussed the issue of developer's contributing to the maintenance of Open Spaces. There was agreement that consistency was required in terms of the length of time a developer would be asked to contribute towards the maintenance of these open spaces. There was agreement that 10 years was a sensible commitment. Following this term, the parish/town council would be asked to step in and maintain the space although there was acknowledgement that on occasion the parish/town council would need to be encouraged and convinced to take responsibility, particularly for smaller parishes where resources were an issue. A mechanism to do this would be to build in parish engagement during the S106 procedure checklist. If the parish did not want to take on the space during the initial process, a two year stopgap would be put in place during which time the parish could change its decision and take on the responsibility. There was agreement that parish/town engagement was key to this process and UDC needed to be on hand to assist parishes to help with additional responsibilities. The new guidance would include reference to the cost of maintenance e.g. "the bottom line".

SUDs

The Group discussed the issue of SUDs and were told that the cost of maintaining these systems were often adopted by ECC (as per the situation with highways). However, this was not always the case and on occasion drainage systems were picked up by town councils, but it was extremely unlikely that a smaller parish would consider the responsibility of maintaining drainage systems. The Development Manager said UDC did not currently seek contributions for SUDs but they should do so going forward. Members also discussed the issue of freeholding properties and SUDs; who was responsible for maintenance? The Development Manager said this was an issue as if the SUDs system related to

something like a retaining wall, all home owners on the relevant development could be liable to ensure the wall was maintained.

Costings

The Group discussed seeking developer contributions for monitoring S106 agreements. The Development Manager said recent guidance stipulated that 5% of the total S106 agreement could be charged to the developer to fund monitoring costs. He said officers were trying to bring this policy.

Parish/Town Engagement

Councillor Evans had received a report from Saffron Walden Town Council (SWTC) regarding the review on Planning Conditions and Obligations. SWTC wanted early engagement with the Council over S106 negotiations. The Development Manager said he agreed with the recommendations and acknowledged that the Council needed to improve engagement with parish/town councils. However, there were issues with allowing developers and parishes to meet during S106 negotiations as developers tended to offer contributions that were not compliant and it would be left to the planning authority to put a stop to this. It was agreed that a formal procedure needed to be drafted to set out the ground rules surrounding S106 negotiations, and that such an approach should be applied consistently when dealing with parish councils, although it was considered sensible to apply a different approach when dealing with town councils. The Development Manager said the best approach was one whereby both the parish and developer engaged through the Planning Authority in the first instance, and following a Planning Performance Agreement (PPA) further engagement could follow. He said PPAs were a potential solution to community engagement, particularly in cases where S106 contributions were involved.

There was agreement that local councils needed to be asked about what level of engagement they wanted throughout the planning process and at what stage this engagement would begin. Early engagement was seen as key as it could prevent problems and delays down the line.

CIL

The Development Manager said a report would be going to PPWG to scope out the potential implementation of CIL.

Report Templates

Report templates were under review and the Development Manager tabled an example from another authority. In particular, the section on S106 agreement was commended for setting out a clear discussion on the issues at hand.

The meeting ended at 4.00pm.