

**LETCHWORTH COMMITTEE  
27 JANUARY 2016**

**\*PART 1 – PUBLIC DOCUMENT**

**AGENDA ITEM No.**

**8**

**TITLE OF REPORT: SECTION 106 AND UNILATERAL UNDERTAKINGS**

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

**1. SUMMARY**

- 1.1 At the meeting of the Letchworth Committee on the 9th December it was resolved in minute 64 (7):-

‘That the proposed allocation of section 106 funding to Mrs Howard Hall to improve the thermal conditions be referred back to the next meeting of this Committee due to be held on the 27<sup>th</sup> January.’

- 1.2 The Committee, whilst acknowledging the building is held by the Council on a 999 year lease and the works would improve the building, were concerned that the organisation operating the building made a profit and that these works would enable them to make a greater profit. Further details and a written report were requested.

**2. RECOMMENDATIONS**

- 2.1 That, subject to the agreement of a new lease and the satisfactory receipt of further information to support the application for funding from section 106 contributions, the Community Development Manager, on behalf of the management of Mrs Howard Hall, applies for funding towards this project.
- 2.2 The agreement would be a contribution of circa £20,000, unless otherwise advised, and would be drawn from the section 106 agreements regarding applications:-

08/00987/1 Former Murco Filling station	£5023.76
08/00229/1 Land off Cade Close	£6995.47
10/00278/1 Land at Broadwater Dale Garages	£4902.36
08/02803/1 Trembaths, Talbot Way	£2021.47
09/02218/1 1Northfields	£ 237.38
10/00799/1 Sollershott Hall Sollershott east	£1066.27
10/01087/1 50c Station Road	£ 467.95
11/00110/1 Land at 99 Northfields	£ 247.33
13/01590/1 39-43 Leys Avenue	£ 710.64

Total                    **£21672.63**

### 3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that there is a robust system for negotiating and managing Section 106 and Unilateral Undertakings.

### 4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 This is the appropriate manner in which to fund this improvement to the community hall facilities and that it is considered that there is no suitable alternative option available.

### 5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 No external organisations have been consulted.

### 6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

### 7. BACKGROUND

- 7.1 The Council introduced a Planning Obligations supplementary planning document (SPD) in 2006 giving a formula for developers to calculate as to what their section 106 costs might be. Its introduction has led to the majority of sites within the District since 2006 contributing towards the cost of infrastructure. Unilateral undertakings are a particular type of obligation under section 106 that are only signed by the developer, instead of bilaterally by both the Council, and the developer.
- 7.2 The main objective of the SPD was to ensure that the additional demands upon infrastructure, services and facilities from new development are provided for and are put in place at the right time and contribute to the Council's priorities and capital programme.
- 7.3 In section 4.4 of the SPD it recognises that community halls, town and village halls offer a range of facilities such as meeting places, club venues, entertainment, learning, sport and leisure. They are an important focal point and they provide activities that develop local groups and promote a sense of belonging to the community for the District's residents.
- 7.4 Where possible, contributions are sought towards the provision of new centres, hall or **enhancement of existing facilities**, together with any related projects, services and programmes that may be necessary.
- 7.5 As referred to above contributions were negotiated and collected from the developments referred to recommendation 2.2 and are available to be considered for spend on appropriate projects.

- 7.6 The implementation of the changes to the Community Infrastructure Levy Regulations introduced in April 2015 with regard to the pooling limits has meant that the 'tariff' system used to calculate contributions as set out in the SPD is now principally used only as a negotiating tool associated with a specific infrastructure project or other wise it has little or no relevance. The monies concerned with this application relate to contributions made under the tariff system and prior to the changes in legislation.

## **8. ISSUES**

- 8.1 Members at the last Committee raised certain concerns with regard contributions being made to the proposed project, particularly in relation to the ownership and operation including financial matters which are addressed below but first I would set out in detail the proposed project and the reason for seeking section 106 contributions.

### **8.2 The project**

- 8.2.1 Mrs Howard Hall was refurbished and greatly extended in 2007 by the Council. One of the new halls in the building which is occupied by the New Life Church can become extremely cold in winter months due to the rooms positioning (exposure to outward elements on three sides) plus the rooms height and inadequate heating.
- 8.2.2 These factors have the effect of allowing the heat that is generated by the heating system to rise and escape as there is inadequate roof insulation. In addition to using the hall for its own purposes the New Life Church also makes it available for use by other groups including dementia/diabetes/falls and trips education classes. Mostly it is the elderly or the very frail that use the room and in cold weather they often have to wear coats even with additional heating. This has resulted in many complaints being received by the Letchworth Garden City Community Group the sub-leaseholders.
- 8.2.3 This has prompted the application for the rooms' thermal upgrade for the longer term. The plan is to install a 'Cellotex' type of insulation between the exposed underside beams and then place a further plasterboard finish over the top to allow the heat to be retained. Two low oscillation fans are also to be installed to circulate the heat back down once it rises to ceiling level.
- 8.2.4 Given the building listed status of the building, specialist architectural guidance has been obtained on what can be done and to what standard. Following this listed building consent has been granted by the Council on the 9<sup>th</sup> December 2015 to upgrade the thermal properties of the roof by the addition of internal insulation with an integral plasterboard finish whilst exposing the underside of the existing rafters. Approval under the building regulations also has been obtained. Full plans / drawings are available on the proposed thermal upgrade to the hall should they be required.

### **8.3 Ownership and lease**

- 8.3.1 Mrs Howard Hall is a grade II listed building and Letchworth's first public building, paid for by public subscription in memory of Ebenezer Howard's first wife who died in 1904, the hall is owned by the Letchworth City Heritage Foundation. It is leased via a head lease of 999 years to this Council and is occupied under sub-leasing arrangements to the Letchworth Garden City Community Group (LGCCG). The existing sub-lease is currently held over and discussions are ongoing between the group and the Council regarding a new lease which when agreed will have duration of 25-30 years.

#### **8.4 Letchworth Garden City Community Group**

8.4.1 The group comprises three organisations all of which operate in the building: The New Life Church, Fun-Zone Out Of School Club, and Choice Pregnancy Counselling Service. All three are represented on its Management Board. The LGCCG is a Registered Charity with Limit of Liability and therefore though its governance conditions are not permitted to make a profit from its operations. Any 'access income' (hire income less operating costs) that arises from its operation is reinvested back into the Charity. A clear example of this can be seen with the proposed project as the group have spent circa £1,000 thus far from its reserves in obtaining all of the permissions and consents required for this project.

#### **8.5 Consideration of request for funding**

8.5.1 The request for funding has been submitted by the Community Development Manager on behalf of the LGCCG.

8.5.2 The principal consideration for this request is whether or not the targeted section 106 funding is appropriate and available. With regard to the appropriateness I would refer to paragraph 7.3 and 7.4 of this report which sets out the objectives within the SPD which includes enhancements to existing community facilities. The proposals would enable improvements to the existing facilities, with improved insulation, and thereby enable further lettings and increased activities. This in turn mitigates the effect of new development in terms of community hall use in Letchworth particularly as this is in a town centre location with good links to the other parts of the town.

8.5.3 The targeted funds are available and have not been allocated for any other project. It will be noted from the appendix that there would over £10,000 of unallocated monies remaining in the contributions after this allocation.

8.5.4 The applicant who has entered into a section 106 agreement or a unilateral undertaking has a right to seek a refund if these monies are not used for the appropriate purposes identified in either the specific agreement or the adopted SPD.

### **9. LEGAL IMPLICATIONS**

9.1 The Council requires Section 106 Agreements and Unilateral Undertakings where appropriate under the Town and Country Planning Acts where development involves matters which cannot be controlled by planning conditions. There are strict rules which govern the negotiation and implementation of matters covered by Section 106 Agreements and in essence, these need to relate to the development proposed both in scale and kind. The Section 106 SPD has been formulated with those principles in mind and the implementation of the SPD is being undertaken in a satisfactory manner.

### **10. FINANCIAL IMPLICATIONS**

10.1 Interest accruing on S106 receipts is pooled corporately and included in the total income arising from investments. This is the case with all of the Council's 'reserves' and investment interest is then used to contribute towards General Fund revenue expenditure. Risk arising from interest rate fluctuations is considered in the Corporate Business Planning process and is a consideration when setting the level of balances. There may be occasions where the S106 agreement requires a refund with interest in the event that prescribed works are not acted upon.

- 10.2 The financial implications of a planning permission may be agreed but if the planning permission is not implemented the monies will not be received.
- 10.3 When negotiating monies for capital schemes there may be a delay in implementing those schemes which may result in a change of cost.

## **11. RISK IMPLICATIONS**

- 11.1 The work associated with the implementation of the requirements of the Community Infrastructure Levy Regulations and the Section 106 SPD is currently contained within the existing work plans and resources. A review of the document has been incorporated within the work programme for the Local Plan following the resolution of Cabinet in July 2103 not to pursue a Community Infrastructure Levy for this Council for the time being.

## **12 EQUALITIES IMPLICATIONS**

- 12.1 The Equality Act 2010 came into force on the 1<sup>st</sup> October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5<sup>th</sup> April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 There are not considered to be any direct equality issues arising from this report.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

## **14 HUMAN RESOURCE IMPLICATIONS**

- 14.1 There are no new human resource implications arising from the contents of this report as the monitoring of Section 106 and Unilateral Undertakings is currently undertaken using existing staff resources.

## **15. APPENDICES**

- 15.1 Monitoring report on Section 106 and Unilateral Undertakings for Community Centres, Town and Village halls dated 12/01/16.

**16. CONTACT OFFICERS**

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**17. BACKGROUND PAPERS**

- 17.1 Section 106 Supplementary Planning Document adopted November 2006 and monitoring reports