

**HITCHIN COMMITTEE
18 JUNE 2019**

***PART 1 – PUBLIC DOCUMENT**

TITLE OF INFORMATION NOTE : PLANNING OBLIGATIONS

INFORMATION NOTE OF THE DEVELOPMENT AND CONSERVATION MANAGER

EXECUTIVE MEMBER: PLANNING AND TRANSPORT

1. SUMMARY

1.1 The purpose of this information note is to update Members on on-going work officers have and will be undertaking together with relevant Executive Members, which seeks to improve the level of Member and community involvement in identifying projects which could benefit from the allocation of existing or future S106 funds. The report summarises, mainly for the benefit of new Members, what S106 of the Town and Country Planning Act (1990) (as amended) can deliver in terms of seeking funds from developers to assist mitigate the impact of development on the existing residents and the delivery of council services at both a local and county level. It then seeks to explain how the current system of collection and distribution of funds operates before setting out how the system can adapt to legislative changes and the changing priorities of the Council.

2. STEPS TO DATE

2.1 Planning Officers have been working with the previous executive members and council officers on devising a new system for consultation on planning applications to improve how projects can be identified for funding in the earliest possible stage in the planning application process.

2.2 The Strategic Planning Manager will shortly be presenting a draft new Planning Obligations Supplementary Planning Document (SPD) to replace the effective but largely out of date 2006 Planning Obligations SPD. Further progress on SPDs will need to track progress of the submitted Local Plan North Hertfordshire District Local Plan (2011-2031), as any new SPD can only be 'supplementary' to an adopted Local Plan which sets the strategic template for any new detailed specific objectives set out in SPDs. Consultation on this document will take place later in the summer and Members will have an opportunity to input into the document before presentation to Full Council.

2.3 The adoption of the new SPD together with improved Member and community engagement should improve the identification of projects eligible for funding and should assist planning officers in their negotiations with developers on individual planning applications and ultimately deliver wider benefits to communities where significant new development takes place.

3. INFORMATION TO NOTE

- 3.1 S106 of the Town and Country Planning Act (1990) (as amended) enables local planning authorities to enter into binding legal agreements with developers which are secured upon the grant of planning permission. Such agreements contain what are known as Planning Obligations, whereby a developer when undertaking development will provide new infrastructure on site (usually in the form of new schools or community centres for example), agree to provide and maintain new open spaces and play areas, provide affordable housing (to be managed by a registered provider) or provide financial contributions towards improving the capacity of local services. Any improvement to local services must have a direct link to the development itself. The most obvious and clearly understood link would be between new housing development and local school capacity of General Practice waiting lists for example. Other mainly District Council run services have a link to the development but such links can be more difficult to evidence and identify as directly affected by the proposed development, such as local allotments, community centres, public conveniences or leisure centres for example.
- 3.2. Between November 2006 (adoption of the current Planning Obligations SPD) and 2010 when the first Community Infrastructure (CIL) Regulations were introduced North Hertfordshire District Council operated a clear and effective tariff approach to collecting S106 funds. Applicants for qualifying developments (for residential developments of one dwelling and above and non residential over a certain floor space) needed to agree to contribute to loosely worded categories of infrastructure, leisure centres, community centres, sustainable transport, open space, play space and other non District Council services. This enabled the Council to gather significant funding and then decide how to allocate those funds at a later date.
- 3.3 This system works on the basis that the Development and Conservation Manager has delegated power to agree specific allocations upon being presented with projects which meet the regulatory criteria for spend. Community development officers have a key role in identifying these projects together with Ward Councillors and Area Committees. This ensures that funds are not misallocated putting the Council at risk of having to refund the money if it was been spent inappropriately. The Development and Conservation Manager provides annual reports to each Area Committee setting out how this system progresses on a yearly basis. This system is still in operation for the remaining discretionary funds.
- 3.4 Subsequent CIL regulation changes which are updated almost annually have tightened the ability of local planning authorities to collect and distribute funds in this way. In summary these changes now mean that funds can only be collected on schemes of 11 dwellings and above and for a specific project that must be identified within the legal agreement and secured at the grant of planning permission. This means that over time the discretionary allocation pots have diminished and cannot be replaced. A full update on the implications of this for the Hitchin Area will be presented in the report to the September meeting of the Committee.
- 3.5 To maximise future returns on from S106 Obligations focus must turn to identifying relevant projects before the grant of planning permission and it is this area where work is on-going to improve the level of Member and community involvement.

4. NEXT STEPS

- 4.1 Officers will continue working with relevant Executive members to establish a more effective ward councillor consultation process for each qualifying planning application in their areas. Parish Councils and Neighbourhood Planning Groups are also anticipated to form part of this consultation process. A balance will be struck between enabling Councillors to remain neutral on the outcome of the planning application (importantly not fettering their discretion if they sit on the Planning Control Committee) whilst at the same time assisting officers in identifying local projects which may benefit from S106 funds. In non-parished areas such as Hitchin the role of ward Councillors will be of greater importance as good source of local knowledge and community engagement.

5. APPENDICES

- 5.1 None

6. CONTACT OFFICERS

- 6.1 Simon Ellis (Development and Conservation Manager)
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7. BACKGROUND PAPERS

- 7.1 None