

IMPROVING PLACES SELECT COMMISSION
20th February, 2013

Present:- Councillor Falvey (in the Chair); Councillors Andrews, Astbury, Atkin, Dodson, Ellis, Foden, Gosling, N. Hamilton, Jepson, Read, Sims, Swift, Wallis and Wright.

Together with co-opted members:- Messrs. T. Roche and B. Walker

Apologies for absence were received from Gilding, Havenhand, Johnston, P. A. Russell and Whysall.

42. DECLARATIONS OF INTEREST

There were no declarations of interest made at this meeting.

43. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

There were no questions from members of the public or the press.

44. COMMUNICATIONS

None were received.

45. MINUTES OF THE PREVIOUS MEETING OF THE IMPROVING PLACES SELECT COMMISSION HELD ON 28TH NOVEMBER, 2012

Resolved:- That the minutes of the previous meeting of the Improving Places Select Commission, held on 28th November, 2012, be approved as a correct record for signature by the Chairman.

46. TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 106 PLANNING OBLIGATIONS - PROGRESS

Further to Minute No. 39 of the meeting of the Improving Places Select Commission held on 28th November, 2012, consideration was given to a report presented by the Planning Manager concerning agreements made under the provisions of Section 106 of the Town and Country Planning Act 1990.

The submitted report detailed the information collated and updated from the first meeting of the Section 106 corporate officer steering group assessing how recipient services engage in the Section 106 process, the monies required from development, monies received and spent on specific projects and the investigation of the move away from Section 106 agreements towards a Community Infrastructure Levy for Rotherham. The appendix to the report included specific details of:-

(i) Section 106 agreements with financial obligations entered into for the financial years 2006/07 to 2012/13;

(ii) trigger points within Section 106 agreements reached during the period from 2006/07 to 2012/13;

(iii) payments made by developers and monies expended by the recipient service during the period from 2006/07 to 2012/13.

The report highlighted the following issues:-

(a) matters concerning specific Council services in receipt of Section 106 contributions – education and schools, green spaces (eg: play areas), libraries, contributions for affordable housing; highways and transportation (including public transportation); one example mentioned was the arrangement whereby planning permissions granted for large scale housing development sometimes lead to pressure upon places available at local schools, which can be mitigated by the developer making a contribution via a Section agreement;

(b) the financial procedures in place to ensure sound financial governance for Section 106 agreements; it was noted that Section 106 contributions are first of all paid into one central holding account and are immediately transferred to the accounts of the recipient Council service;

(c) reference was made to the use of powers under Section 278 of the Highways Act 1980, rather than Section 106 agreements, in respect of off-site highways mitigation works;

(d) the requirements of a Section 106 agreement must be reasonable, because the facility is available to a developer to challenge the terms of a S106 agreement which may not be realistic or reasonable; the heads of terms of Section 106 agreements are considered by the Planning Regulatory Board alongside the application for planning permission.

The Select Commission's discussion of this matter included the following issues:-

: Section 106 contributions are intended to mitigate the effects of the new development which has been allowed by the planning permission; it was acknowledged that the system could not and was not intended to resolve all issues within a community;

: contributions to open spaces and play areas – Members learned that there is no formal policy for the calculation of Section 106 contributions for green spaces/play areas;

: Section 106 contributions are sometimes paid in stages at various "trigger points", eg: according to the number of completed houses in respect of a large scale development;

: Section 106 agreements will include a clause which will require

developers to inform the Local Planning Authority when a trigger point has been reached;

: the current pressure upon primary school places, generally throughout the Borough area, was raised as a significant issue;

: specific issues concerning new residential development (eg: in the Wath-Manvers area, at Treeton, at Waverley and a number of other locations around the Borough area);

: all recipient services are consulted on major planning applications ie: 10 or more houses; recipient services use their policies / calculations to assess the application, for requirements for Section 106, at various thresholds eg:-

10 properties for education purposes

15 properties for the building of a proportion of affordable housing

50 properties for contributions to new open spaces and play areas

: contributions to the development of highways facilities – these are dependent upon an assessment of the number of journeys likely to be made by the vehicular traffic generated by the new development;

: the implications of not utilising the Section 106 contributions paid to the Council by developers; the Council could be required by the developer to return the money, although this has never occurred in Rotherham;

: the current use of Section 106 agreements is being phased out and will be replaced (by Government legislation) by the Community Infrastructure Levy (CIL); under the proposed new system, the Council has to prepare an inventory of the community infrastructure projects which are to be undertaken and funded by the CIL; this work continues and will be the subject of progress reports to Elected Members;

: it was noted that the principal beneficiary of Section 106 contributions should be the immediate area and community around the new development site; Members expressed concern that funds may be expended in other areas; however, the agreement specifies how the funds must be utilised, to mitigate the impact of the development and any alternative spending would have to be agreed with the developer and Planning Regulatory Board if it altered the terms of the original Section 106 agreement;

: it was noted that the passage of time from signing the Section 106 agreement, to payment/receipt of contributions, through to the Council's use of that funding might mean that the purchasing power of the initial contribution had been reduced by inflation; however, the value of contributions is index-linked and interest is added to the accounts of the recipient service;

: an issue was raised about commuted sums for continuing maintenance (eg: for open spaces), in the past a developer was required to carry out works on site and the Council would eventually adopt the open space (a Section 106 agreement was not required); later, Council policy changed and it became necessary for these maintenance costs to be borne by the developer and in most cases the Section 106 agreement would require a developer to set up a management company to look after open spaces on new developments;

: Section 106 contributions can only be used where the new development would cause a problem that requires mitigation; they would not be used to replace existing or previously approved sources of funding, eg: where Central Government funding is provided for the provision of a new school;

: Members questioned the provision of travel passes for use on public transport, which were often included as part of Section 106 agreements and contributions;

: the Local Plan Core Strategy includes an Infrastructure Delivery Plan; a whole plan viability assessment, which provides information about the infrastructure required to ensure future sites for development, will be acceptable.

Resolved:- (1) That the report be received and its contents noted.

(2) That this Select Commission expresses some concerns about the Section 106 process and notes that these may be addressed with the introduction of the Community Infrastructure Levy.

(3) That progress reports about Section 106 contributions and the Community Infrastructure Levy be submitted to future meetings of the Improving Places Select Commission at regular intervals and at least on annual basis, with the first of such reports being submitted in six months' time; and such reports shall include:-

: details of the amounts of Section 106 contributions received by each Council service;

: details, from each recipient service, of the amount of money spent on each scheme (and any under-spending) which is the subject of a Section 106 agreement;

: details of forthcoming proposals which are likely to be the subject of Section 106 agreements and/or the Community Infrastructure Levy;

: details of Section 106 contributions already received by the Council, but not yet utilised;

: an explanation, from Children and Young People's Services, of the process used to ensure that sufficient Section 106 contributions are being

received for education purposes;

: details of the way in which the Council's Green Spaces Service will amend the Green Spaces Strategy so as to maximise the future use of Section 106 contributions and the Community Infrastructure Levy;

: information concerning the provision of travel passes, as part of Section 106 agreements, from the South Yorkshire Passenger Transport Executive.

(4) That this Select Commission suggests that consideration be given to allocating responsibility to the Area Assembly Co-ordinating meetings to monitor the use of Section 106 contributions and the Community Infrastructure Levy in their respective areas of the Borough.

(5) That a further request be made to the South Yorkshire Passenger Transport Executive for information about the provision of travel passes as part of Section 106 contributions.

(6) That Council Falvey be nominated as the representative of the Improving Places Select Commission on the Section 106 corporate steering group and further consideration be given to the need increase Elected Member representation on the steering group.

47. IMPROVING PLACES SELECT COMMISSION - WORK PROGRAMME 2012/2013

Further to Minute No. 24 of the meeting of the Improving Places Select Commission held on 5th September, 2012, discussion took place on the Select Commission's work programme for the 2012/2013 Municipal Year. Members noted the following details:-

(i) Housing issues: repairs have been considered and the allocations policy will be considered at the next meeting of this Select Commission, to be held on 27th March, 2013;

(ii) progress reports about potholes and about the Grounds Maintenance review report will be submitted to the meeting on 27th March, 2013;

(iii) off-road motor cycle nuisance – to be considered at the meeting of this Select Commission to be held on 16th April, 2013.

In addition, Members made the following suggestions of topics to be included within the Select Commission's work programme:-

: Council housing rents and supplementary charges for community rooms and laundry charges;

: community assets/community right to buy;

: future use of community buildings;

: Council housing finance (eg: housing revenue account; the programme of new building and funding for the maintenance of the existing housing stock).

Members were asked to contact the Scrutiny Manager with any other suggested topics.

Resolved:- That the details of the Select Commission's work programme be received.

48. DATE, TIME AND VENUE FOR THE NEXT MEETING

Resolved: - [1] That the next meeting of the Improving Places Select Commission take place on Wednesday 27th March, 2013, starting at 1.30 pm at the Town Hall, Rotherham.

[2] That, in view of the cancellation of the January, 2013, meeting, a further meeting of the Improving Places Select Commission be held on Tuesday, 16th April, 2013, starting at 1.30 pm at the Town Hall.