

Public Transport Scrutiny Panel

Briefing Note - Section 106 and Public Transport

Date: 29/01/2024

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Introduction

Section 106 of the Town and Country Planning Act 1990 allows a local planning authority to enter into a legally binding agreement or planning obligation with a landowner as part of the granting of planning permission. The obligation is termed a section 106 agreement.

These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms. They can be used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing.

It is important to note that while section 106 agreements can be secured to make a development acceptable, there are limitations on their use, and they must be used to address issues arising directly from the development and not to remedy an existing issue, for example.

Community Infrastructure Levy (CIL) legislation relates and requires that any section 106 contributions are subject to three fundamental tests being met. Any section 106 must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Contributions for public transport

In relation to the provision of public transport, planning applications for major developments and associated section 106 agreements frequently make provision to contribute towards the capital investment required to accommodate the additional demands on public transport arising from a development. For example, contributions have been secured on behalf of Leicestershire County Council Highways to install raised curbs at bus stops to facilitate access, or new bus shelters where necessary. However, contributions toward the revenue needs of a service are unlikely to satisfy the requirements of CIL.

There are some exceptional circumstances where Charnwood, in conjunction with the Local Highway Authority, have secured provision of a bus strategy with a view to establishing a new bus route, such as with the large scale sustainable urban extensions (Garendon Park, Thorpebury, Broadnook). This needs to be on the basis

that the scale of growth from the development would be sufficient to support a bus route and, once established, that route would be self-funding.

Process for assessing, securing and collecting section 106 contributions

Upon receipt of a valid planning application, Officers will liaise with statutory consultees for comment on the proposed development and will assess any material considerations, including any requests for contributions or mitigation, in relation to the relevant policies and legislation before issuing a decision. Officers will often refer to the expertise of Leicestershire County Council Highways Officers in relation to the impacts of a development on public transport as well as local representatives.

If a request for a particular contribution is found to be CIL compliant and the planning application is due to be approved then officers will secure the contribution as part of a section 106 agreement which will be signed by all relevant parties prior to a decision being issued. The section 106 will include a defined trigger point by which the relevant contribution is to be provided. Upon completion of a section 106 agreement, the provisions become legally binding upon the landowner.

Once a planning permission has been issued, the progress of the site and the associated trigger points of a section 106 agreement is monitored by Charnwood's Developer Contributions Monitoring Officer. Contributions are then collected from the developer when they are due.

Following receipt of the relevant contributions by Charnwood, officers liaise with the relevant stakeholders to ensure that the contributions are used for an appropriate purpose and within a suitable timescale. For example, if a contribution is secured to provide a play area outside of a development site then, before funds are released, officers will liaise with the relevant parties to confirm that the details of the request meets the provisions of the section 106 and any purpose is directly related to the needs of the development for which it was secured. It is possible to pool contributions from multiple developments and combine them to provide a particular piece of infrastructure if it meets the needs for multiple developments.

In relation to public transport, contributions are commonly secured with Leicestershire County Council as a signatory, in which case construction progress and associated trigger points for contributions are monitored by LCC officers, with contributions called in and spent by LCC.

Conclusion

Section 106 agreements can be used to secure contributions to mitigate a need arising from a development. The use of section 106 agreements needs to comply with the relevant legislation. Multiple contributions can be pooled together to provide a particular piece of infrastructure where it can be justified as being necessary to make each of the associated developments sustainable.

Planning officers assess the evidence presented as part of a request for contributions against the relevant legislation and policies before they are included in a legal agreement that is to be signed by all relevant parties.

Charnwood's Developer Contributions Monitoring Officer monitors the progress of developments to ensure that contributions towards Charnwood's interests are collected when required and manages the allocation of funds to ensure that they are spent in accordance with the purposes for which they were secured.

Leicestershire County Council undertakes monitoring and collection of those contributions which relate to their interests, including contributions relating to public highways.