

GLOUCESTER CITY COUNCIL

COMMITTEE : **PLANNING**

DATE : **12th MAY 2015**

TITLE : **SECTION 106 PLANNING OBLIGATIONS**

REPORT BY **JON SUTCLIFFE**

1.0 **INTRODUCTION**

1.1 Members will be aware that many proposals are approved subject to a Section 106 Planning Obligation being completed. This report seeks to look at the process of drawing up and completing those Obligations and in particular the timescales that can be involved.

2.0 **CURRENT PRACTICE**

2.1 While the Committee recommendation will contain what are referred to as 'heads of terms' of the required Obligation (for example payment of £x in relation to primary education), it is necessary for solicitors to draw up a document which contains various legal and procedural clauses in relation to delivering the actual requirements of the heads of terms.

2.2 Government have recently looked at factors which can delay the planning process. In March 2015 the Department for Communities and Local Government published a 'response to consultation' on "Section 106 Planning obligations – speeding up negotiations". That document stated that the consultation "confirmed the Government's view that Section 106 negotiations are a significant source of delay within the planning application process". New national planning policy guidance on s106 matters was issued on 26 March 2015. Amongst other changes, it confirms that s106 negotiations should be concluded within statutory timescales, and promotes the use of standard clauses to minimise the need to draft s106's from scratch.

2.3 In line with that guidance, One Legal are currently undertaking work to draw up sample model clauses to cover typical obligations, which will assist in speeding up the process of completing s106 documents.

2.4 While Council officers from Planning and One Legal endeavour to progress the drawing up of s106 documents expeditiously, there are occasions when following a Committee resolution the applicant may not progress matters as swiftly as might be expected.

- 2.5 While it is acknowledged those occasions are not the majority of cases, it is thought that Committee may wish to be able to consider if and when applications ought to be brought back to Committee in the event of a lack of progress in negotiations relating to s106 issues.

3.0 SUGGESTED WAY FORWARD

- 3.1 Firstly it has to be acknowledged that there may be occasions when delays in completing s106 documents are unavoidable, or potentially down to factors outside the control of either the Council or the applicant. In such circumstances it is unlikely to be necessary or reasonable to refer the decision back to Committee to be re-considered.
- 3.2 However, when there is what could be judged to be excessive delay or reluctance from an applicant to progress s106 matters in a timely proactive manner, then it is suggested that it may be appropriate to consider putting the application back before Committee to be reconsidered. This would be particularly beneficial if for example there had been some change in circumstances since the Committee's original decision on the application.
- 3.3 It is suggested that flexibility in considering such matters is crucial, and therefore it is not felt that a 'hard and fast' rule should be adopted. It is suggested that in the majority of instances negotiations and progress towards completion of s106 documents should continue immediately following any Committee resolution and progress continuously after that.
- 3.4 For what is hoped will be those limited number of occasions where there is limited progress on a s106 after 3 months from the Committee decision, then it is suggested that the Development Control Manager would consider whether it is necessary to bring an application back to the Committee.

4.0 CONCLUSIONS

- 4.1 There is a wish from Government to see completion of s106 negotiations speeded up to enable decisions to be issued in a timely manner. It is considered that the measures currently being taken and suggested in this report seek to enable the Council to respond to those wishes and deal with s106 matters in a more expedient manner.

5.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER

- 5.1 That the Development Control Manager be authorised to consider referring applications back to Committee to be reconsidered in the event of negotiations or progress with any required s106 Obligation not being completed or showing demonstrable progress towards completion after a period of three months from the Committee's original decision.

Decision:

Notes:

.....

.....

Person to contact: Jon Sutcliffe
(Tel: 396783)