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|--------------------------|---|---------------------------------------|---------------------|
| <b>Subject:</b>          | <b>Review of section 106 Developer Contributions<br/>Temporary Recession Measures</b> |                                       |                     |
| <b>Date of Meeting:</b>  | <b>15<sup>th</sup> January 2015</b>   |                                       |                     |
| <b>Report of:</b>        | <b>Executive Director, Environment Development &amp;<br/>Housing</b>                  |                                       |                     |
| <b>Contact Officer:</b>  | <b>Name:</b>  | <b>Debra May</b>                      | <b>Tel: 29-2295</b> |
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| <b>Ward(s) affected:</b> | <b>All</b>  |                                       |                     |

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

1.1 This report is to inform the Committee on the current practice of prioritised and reduced section 106 developer contributions. These measures were first introduced in 2010 due to the impact the economic circumstances at the time were having on development activity in the City.

1.2 This is the 5<sup>th</sup> annual review. This year the recommendation is that the measures are not renewed. If the recommendation is agreed the City Council will revert to the guidance and processes in the approved Developer Contributions Technical Guidance.

**2. RECOMMENDATIONS:**

2.1 That the Committee agrees not to renew the Section 106 Developer Contributions Temporary Recession Measures and that they no longer apply after 31<sup>st</sup> January 2015.

**3. CONTEXT/ BACKGROUND INFORMATION**

Policy context

3.1 To meet planning policy requirements to enable the granting of planning permission for development it may be necessary for developers to mitigate potential negative impacts by providing or upgrading infrastructure. These requirements are secured through section 106 Planning Obligations, commonly known as developer contributions. Developer contributions are sought, where necessary, in accordance with existing planning policy, as set out in the current adopted development (local) plan, to mitigate site specific impacts or contribute towards the necessary infrastructure needs that the development creates.

Current Practice

- 3.2 During 2009/10 in view of the prevailing economic conditions the Council reviewed its approach in respect of negotiating developer contributions. In April 2010 the Council agreed support to the development industry by introducing short term Temporary Recession Measures that allowed for reduced or waived s106 planning contributions. This has been applied through minor changes or the application of a flexible approach in certain types of developer contributions where accumulatively they could impede development and economic activity.
- 3.3 The ‘recession’ measures have been renewed annually since 2010 in recognition of the need to enable appropriate development in the City.
- 3.4 As a “snap-shot” of development activity, information from the Council’s regular monitoring shows a steady increase in the number of residential completions since 2010/11 (287 in 2010/11 – 436 in 2013/14). The number of unimplemented planning permissions for residential development is now at the highest level (apart from 2010/11) for six years.
- 3.5 In view of the above information the recommendation now is that after January 31<sup>st</sup> 2015 the temporary measures will cease to apply and the Council will revert to securing necessary planning contributions as per the earlier approved Developer Contributions Technical Guidance. Although the blanket approach of reducing or waiving certain contributions on all development will not be continued the City Council will continue the normal practice of constructive negotiations on developer contributions on individual developments including consideration of financial viability when relevant in order for appropriate development in the city to go ahead.

3.6 Future approach and guidance on securing developer contributions

To meet planning policy objectives, development will be required to provide adequate mitigation or support for community infrastructure through planning obligations. Obligations will continue to provide a valuable means of securing site specific mitigation in order to make developments acceptable in planning terms.

- 3.7 To ensure consistency when seeking developer contributions and to provide developers and the public with a clear understanding of what is expected in terms of calculating the necessary s106 contributions detailed guidance is identified in the Developer Contributions Technical Guidance approved by Cabinet on 17<sup>th</sup> February 2011. This document provides further guidance on:

- Affordable Housing,
- Local Employment & Training,
- Sustainable Transport,
- Recreation Open Space,
- Education provision
- Sustainable Buildings – and
- Nature Conservation

The guidance also sets out the methodology, thresholds and calculations and further details on how contributions will be spent.

- 3.8 The Technical Guidance is subject to a current review and is being updated to accord with updated government legislation, together with minor textual changes

and clarification on methodology for assessing contributions. The full level of contributions required will be agreed by negotiation through the planning process. It is expected that an update of the Technical Guidance will be reported to the next meeting of this committee.

#### **4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 An alternative option is to extend the temporary s106 measures until January 2016. This may affect the level of supporting infrastructure or mitigation provided on future development.

#### **COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The temporary s106 Recession Measures were introduced during the economic recession in response developers and the business community concerns. No objections have been raised generally to the principle of planning contributions. Further internal consultation has been undertaken and comments are included in this report.

#### **6. CONCLUSION**

- 6.1 The recommendation is to not renew the temporary recession measures on s106 requirements for a further year and to revert to the full Developer Contributions Technical Guidance.
- 6.2 There are clear indications from the development industry of a recovery of property values with willingness, for example, to pay for pre-application advice and clear indicators of development schemes being commenced.

#### **7. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 7.1 Developer financial contributions (through Section 106 obligations) are commonly used to secure infrastructure and services created by the demand from new development. They include highways infrastructure, transport improvement and travel initiatives, education, health, community or recreation facilities. The removal of temporary recession relief measures and priorities increases the potential contributions from developers.

*Finance Officer Consulted: Name Jeff Coates*

*Date: 09/12/2014*

##### Legal Implications:

- 7.2 Developer contributions are secured under planning obligations agreed or offered under s106 of the Town and Country Planning Act 1990. Any obligation must meet the statutory tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. The viability of a proposal development is capable of being a material planning consideration and is therefore something

that the local planning authority is able to take into account in considering the amount and nature of s106 obligations sought

*Lawyer Consulted: Alison Gatherer*

*Date: 05/12/14*

Equalities Implications:

- 7.3 Developer contributions can provide wide community benefits and contribute towards physical, social or community infrastructure. This may include highways works, local employment, affordable housing, recreation space and education facilities or other related impacts from a development that needs to be provided or managed in order to enable the development to proceed.

Sustainability Implications:

- 7.4 The aim of developer contributions is to assist in enabling development to contribute towards the establishment of sustainable communities. The continuation of seeking contributions will ensure appropriate measures are secured to the wider infrastructure to help provide long-term sustainable development for the city.

Any Other Significant Implications:

As Appendix 1

**SUPPORTING DOCUMENTATION**

**Appendices:**

None

**Documents in Members' Rooms**

None

**Background Documents**

1. Brighton & Local Plan 2005
2. Developer Contributions Technical Guidance – 17<sup>th</sup> February 2011
3. Brighton & Hove submission City Plan Part One

Crime & Disorder Implications:

- 1.1 Where appropriate agreements may include requirements to address community and public safety initiatives, such as lighting improvements.

Risk and Opportunity Management Implications:

- 1.2 Decisions on determining planning applications should take account of all material considerations including the provision of the infrastructure necessary to support the development. If development takes place without adequate contributions to infrastructure provision, a strain is placed on existing facilities to the detriment of the wider community and public resources.

Public Health Implications:

- 1.3 Developer Contributions may be secured towards retention or provision of new health facilities for the city and address inequalities that can impact upon health.

Corporate / Citywide Implications:

- 1.4 Reverting to the Developer Contributions Technical Guidance will ensure that the Council's policies on securing contributions towards appropriate supporting infrastructure and services will help deliver the Sustainable Community Strategy priorities to improve housing and affordability, promote sustainable transport and improve health and well being in the city.

