

Contact Officer: Leigh Webb

## KIRKLEES COUNCIL

### ECONOMY AND NEIGHBOURHOODS SCRUTINY PANEL

**Friday 20<sup>th</sup> December 2019**

Present: Councillor Harpreet Uppal (Chair)  
Councillor Martyn Bolt  
Councillor Richard Eastwood

Co-optees:

In attendance: Councillor Peter McBride – Deputy Leader and  
Regeneration  
Councillor Rob Walker – Cabinet Member Culture and  
Environment  
Mathias Franklin – Head of Planning and  
Development  
Kevin Walton – Senior Planner  
Steven Wright - Planning Policy and Strategy Group  
Leader

Apologies: Councillor Richard Murgatroyd  
Councillor Yusra Hussain  
Councillor John Taylor  
Andrew Bird (Co-optee)  
Chris Friend (Co-optee)  
Eilidh Ogden (Co-optee)

**1 Membership of the Committee**

Apologies were received from Councillor Yusra Hussain, Councillor John Taylor, Councillor Richard Murgatroyd, Andrew Bird, Chris Friend and Eilidh Ogden.

**2 Minutes of the Previous Meeting**

That the minutes of the meeting held on 14<sup>th</sup> November 2019 be agreed as a correct record.

**3 Interests**

No interests were declared.

**4 Admission of the Public**

All items were considered in public session.

**5 Deputations/Petitions**

No deputations or petitions were received.

**6. Public Question Time**

No questions were asked under this item.

**7. Section 106 Process**

Kevin Walton, Senior Planner, submitted a report setting out the internal governance procedure to which Kirklees Council follows when monitoring and managing financial contributions received by the council under Section 106 agreements attached to the development of land.

It was reported that as a result of recent legislative changes, the Section 106 process is being evaluated and refined to enable the Local Planning Authority to record and report the annual Infrastructure Funding Statement. The process has a number of elements including the recording of the signed agreement, monitoring, invoicing, recovery, accounting and review of unspent funds leading to the allocation, expenditure and delivery of infrastructure. Details of governance arrangements for each of these steps was included within the report.

The report suggested that going forward the spending of S106 monies received from developments should be made clearer with Service areas who are responsible for the delivery of the s106 obligations acting in a coordinated way. This could happen through Capital Programme Boards, over seen by Service and Strategic Directors. It was explained that the spending of the monies received from s106 should align with capital delivery programmes so that unspent and future s106 monies can be used effectively to support the delivery of local infrastructure to help meet the needs of communities and ensure that new developments mitigate their impacts fairly.

Questions and comments were invited from Panel Members and the following issues were raised:

- In response to a question concerning the responsibility for the administration, monitoring and enforcement of planning conditions, the Head of Planning and Development explained that this was a statutory function of the Local Planning Authority which is exercised through the Council's scheme of delegation.
- With regard to a specific issue raised by Councillor Bolt concerning a developments in the Mirfield area, the Head of Planning and Development, Matias Franklin, acknowledged that payment from a developer was not paid due to financial issues. Matias made reference to the database for collection of 106 monies, which is accessible by Members, that shows a high degree of compliance in developers meeting their financial obligations.

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- In relation to metro card take up, it was acknowledged that take up across developments was not consistently high. It was suggested that improved communication with residents was needed to increase take up or consideration of alternative relevant options.
- In response to concerns relating to unpaid monies from developers, Kevin Walton explained the enforcement and debt recovery processes in place to recover monies.
- With regard to the development of Section 106 agreements, it was explained that at the pre-decision phase it was important for local ward members to make representations to influence the nature of the agreements in their area.
- Officers acknowledged the importance of transparency in setting out where monies will be spent. It was reported that an online database for Members to see spending within individual wards was to be re-introduced.
- Councillor Bolt highlighted the issue of Academy schools being precluded from accessing monies through Section 106 agreements.
- With regard to the issue of frontloading payments from developers, the Head of Planning and Development explained that a balance needed to be struck between enabling development and enforcing obligations. A phased payment approach offered the best approach to ensuring developments are delivered and obligations met.
- In response to enforcement action it was reported that it was very rare, 3 in the last 20 years, for payments not to be made, resulting in court action
- With regard to unspent monies an undertaking was given to provide information in respect of the average time for Departments to draw down outstanding monies.
- The Head of Planning and Development confirmed that any request from developers to vary planning conditions or 106 agreements due to viability were dealt with through a separate process and members were made aware.

### **RESOLVED –**

1. That the Panel notes the internal governance procedures in place to monitor and manage the financial contributions from Section 106 Agreements.
2. That further information be provided in respect of the average timeline for 106 monies being drawn down, by Department
3. That further data be provided relating to variances on section 106 agreements due to viability.

4. That clearer information on alternative sustainable transport options be provided to residents, in addition to Metro cards, which may not always be the most suitable option.

## **8. Open Space Supplementary Planning Document (SPD)**

Steven Wright, Planning Policy and Strategy Group Leader, submitted a report setting out details of the draft Open Space SPD which is identified in the council's revised Local Development Scheme (LDS) to provide further guidance for developers and the local community on how the Local Planning Authority will determine open space provision required for new housing developments.

It was explained that Supplementary Planning Documents (SPDs) are produced to add clarity in relation to the application of planning policies set out in the Local Plan. The draft Open Space SPD is a means of providing clear guidance about how the council will implement Local Plan policy LP63 (New Open Space), a copy of which was appended to the report. LP63 determines what will normally be expected in terms of high quality, well-designed open space for new housing developments in Kirklees. It was reported that once adopted, SPDs are a material consideration in planning decisions but are not part of the development plan. SPDs are subject to consultation but not an Examination in Public.

The following five step approach for determining new open space was set out in the draft SPD:

Step 1: Determine whether open space is required

Step 2: Establish the type of open space required

Step 3: Calculate the amount of open space required

Step 4: Decide the location of new provision

Step 5: Calculate the off-site financial contribution (if appropriate)

With regard to timescales it was reported that the Council will consult on the draft Open Space SPD during February 2020 for a period of six weeks and will be carried out in accordance with Statement of Community Involvement. Following the consultation, all comments will be considered, allowing for any changes to be incorporated in the Open Space SPD which it is anticipated being adopted in July 2020.

During consideration of this item, Members discussed the siting of offsite provision; the impact of cumulative building developments; and the measures used to assess open spaces.

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### **RESOLVED -**

1. That the Panel notes the content of the draft SPD, with the following comments:
  - Offsite provision – Panel noted that “nearby” was not strictly defined and stressed the importance of ensuring access through safe, accessible corridors which do not rely on additional car journeys
  - With regard to when open space is required, the panel noted the number of 300 or more dwellings to require playing pitch provision and highlighted the issue of cumulative developments within close proximity
  - As part of the assessment of open spaces, the issue of flood mitigation measures should be considered.
2. That the Integrated Impact Assessment for the Open Spaces SPD be shared with the Panel.

### **9 Work Programme 2019/20**

That the Panel’s Work Programme and forthcoming items/activities was submitted.

### **RESOLVED –**

That the Panels Work Programme and forthcoming items/activities be noted.