

Section 106 Agreements

Kennet seek to deliver quality developments with the appropriate contributions paid by developers to provide the necessary infrastructure reasonably required as a result of the proposal.

We also seek to deal with applications efficiently and wherever possible within the 13 week timetable scheduled for major applications by the Government.

There are four main problems that we currently experience in relation to Section 106 Agreements that involve the County Council. These are:

- 1) Length of time taken to complete an agreement;
- 2) Lack of consultation on matters to be included within an agreement;
- 3) Clarity over responsibility for collection of monies/monitoring of agreement
- 4) Lack of any feedback on sums collected and where money is spent.

Length of time taken to complete an agreement

Currently, planning agreements that involve the County Council take a long time to come to fruition. Examples include the still outstanding agreement at Quakers Walk and the more recently completed agreement in relation to the off-site works required to facilitate the Tottenham House scheme. Whilst some of the difficulties arise from lack of co-operation from developers, there are a number of areas where procedures could be improved. These include:

- Earlier start on drafting of agreement. Currently, drafting may not begin until the district council has passed a resolution resolving to approve the application subject to the completion of the legal agreement. This needs to be brought forward to a much earlier stage. There is no reason why standard drafts on many applications cannot be agreed at pre-application stage, with completion shortly after resolution.
- Direct contact between district council case officer and county legal officer. At present, the planning case officer has little knowledge of who is dealing with the agreement at the County Council. This makes it difficult to chase agreements for progress and also means that 'ownership' of the case becomes muddled. The County's decision to appoint an in-house specialist planning lawyer is welcomed and the district would expect this person to deal with the section 106 agreements.

Lack of consultation on matters to be included within an agreement.

The recent application for a Treatment Centre at Devizes has seen a request for payment for monitoring a Travel Plan to be included within the agreement. This goes beyond areas that have previously been included in agreements. Before such items appear in formal recommendation on applications, there should be discussion between the county and the district concerning whether such matters should be included. There should be an

agreed list of areas that can reasonably be included within agreements. The aim should be that in pre-application discussions with agents/applicants, district planning officers should be able to advise on what likely requirements/subject areas will arise.

Clarity over responsibility for collection of monies/monitoring of agreements

There are no clear procedures in place for who will monitor 'trigger clauses' on county council agreements. As the payment of monies/transfer of land was considered important enough to warrant an agreement, it is vital to ensure that the obligations are complied with and that all parties- developer/county/district – know who is responsible for monitoring triggers and collecting the money. Kennet has set up its own scheme to monitor agreements within the district, but cannot enforce agreements that are made by the County.

Lack of feedback on sums collected and where money is spent

Developers, Councillors and auditors are taking more interest in clauses requiring the money collected to be accounted for. As the money is taken for spending in the local area, the district council should be informed of the sums collected and the subsequent expenditure, to ensure that the aims of the agreement are met. At present, no such system appears to exist.

Conclusion

Both parties are working to secure the best outcome for existing and future residents of the district. However, there is a need for improving existing procedures that would improve the efficiency and accountability of the existing process. A protocol should be established that would set out how these matters will be addressed and improved procedures provided.

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