

Council – 28 February 2019

Notice of motion – Locality Working

A notice of motion to Council on 28 February 2019 from Councillors S. Coughlan, D. Coughlan, P. Bott, C. Bott, S. Fitzpatrick and J. Fitzpatrick:

That this Council:

- notes the continued development of locality working and the drive to create more localised decision making that reflects the needs of local communities.
- notes the first Housing devolution deal announced for any Combined Authority by the Chancellor Phillip Hammond in March 2018, which was successfully negotiated by the portfolio lead for Land and Housing at WMCA in 2017/18 and will see £150 million for land and building remediation and £350 million for the delivery of new homes.
- Instructs officers to ensure that ward Councillors are involved in the use of all locally raised funds in their wards from money that has been secured through Section 106 (S106) legal agreements (a mechanism to fund works that are of public benefit and make development proposals acceptable, that would not otherwise have been) because local Councillors alongside their residents and businesses will work hard to ensure we get maximum value for our communities from developers' contributions.

Response:

1. Cabinet agreed the Localities Delivery Model on the 18th May 2017. Cabinet further agreed on the 21 March 2018 the Terms of Reference for the Strategic Locality Partnership Boards.

There are four Strategic Locality Partnership Boards covering the East, West, North and South localities. Meetings of these SLPB's are held four times a year and include a variety of attendees including local councillors. A local councillor chairs the meetings. Also in attendance are representative from various organisations including Police, Fire, Schools, Health, a young persons representative, Voluntary Sector Organisations and representative from the business community.

It should be noted that the Strategic Locality Partnership Boards are not decision making bodies but rather focus on the co-ordination of resources to a common goal.

There is some ongoing work in the East Locality to identify different approaches to the Locality Panel and work to ensure greater community buy in. This involved changing the format to more of a workshop approach, which proved successful with the participants. This new approach is currently being

evaluated however there is no expectation to make the Strategic Localities Partnership Board a decision making body.

2. The WM Housing Deal when announced brings together elements of funding that will be provided to the region, and included in the announcements was three Housing Infrastructure Fund projects and a Land Fund to support housing delivery in the WMCA 'Growth Corridors'. Notably for Walsall the announcements included the commitment to use the Land Fund in the Walsall to Wolverhampton Growth Corridor. The Land Fund will be devolved to the WMCA to support activity that enables housing development and can be used as leverage towards other public and private investment. The activity that may be supported by the Land Fund includes land assembly, remediation and development viability gap funding with future investment assessed against an emerging WMCA Commissioning Framework, and the delivery plan provided to the Government as part of the Deal negotiations.

In preparation for the Land Fund becoming available, Walsall and Wolverhampton Councils have worked with partners- the WMCA and Homes England to establish new governance arrangements to oversee the delivery of Growth Corridor and have commissioned external advisors to prepare a delivery programme based on a series of anchor sites that alongside other identified housing sites in Local Plans, can contribute to the delivery of up to 8500 new homes by 2031. The work of the external advisors has helped identify where further pre-development activity is needed and where this should be led by the public sector to facilitate land owners and developers bringing forward deliverable funding proposals to the WMCA. To support this activity both Councils have agreed to fund a range of pre development and feasibility studies.

The Council anticipates that the WMCA will confirm that the first tranche of Land Fund from Government has arrived soon but this will not stop the two Council's using its limited resources to continue the work it has already started to bring forward key housing sites in the Corridor. Examples of sites the Council is supporting in the Corridor include; Walsall Town Centre- Station St & Waterfront Walsall, Willenhall Garden City and the Walsall Gateway

3. Funds secured via Section 106 agreements have become a significant element of a major planning application. The agreements are essentially a contract between an applicant and the Council but can also include third parties, e.g. a lender. In accordance with the requirements of Section 106 of the Town and Country Planning Act 1990, these agreements can be used to secure contributions for off-site works to address planning policy requirements for example, to support the provision of public open space. A key requirement of each agreement though is that any monies secured are directly linked to the development which gave rise to the agreement. In the case of the provision of new play space, any improvements should be delivered within walking distance of the new properties, ideally, within 400m for smaller facilities for young children but in the case of larger facilities for older children, 800m may be appropriate (a ¼ mile or ½ mile).

Further criteria on section 106 agreements are set down in Regulation 123 of The Community Infrastructure Levy Regulations 2010 (the CIL Regulations). This regulation, which is under review by the Government, prohibits the pooling or joining together of more than 5 section 106 contributions. In practice this means that if there are 6 developments close to each other, say in the town centre, they cannot all contribute to spending on a single project in the Arboretum.

To ensure contributions are not pooled into one or two larger projects, Section 106 agreements now specify where any contributions have to be spent. Whilst some of the earlier agreements were drafted primarily in conjunction with officers from Clean and Green, agreements are now drafted following consultation with the three ward Councillors of the Ward affected by the development as well as the Clean and Green service. This approach seeks to ensure that not only are contributions and the resulting new facilities provided in accordance with the Walsall Green Space Strategy 2018 – 2022 which was adopted in July last year but also reflect local concerns as expressed by Councillors.

In addition to securing contributions for open space, officers will also seek to secure either on site affordable housing provision or a contribution to off-site affordable housing. This work is undertaken with the Councils Housing Strategy Officer and the nature of each obligation will be based on the type of development being proposed and the needs of the local area. In some instances there is a shortfall of smaller flats whilst across the Borough, the need may change to three bed houses. With regard to affordable housing, officers are generally keen to secure on site provision as obligations are often limited to 5 years and if not spent or at least committed in time, the money may be returned to the developer. In locations where the existing level of social housing is higher than normal, contributions may be considered more appropriate.

Contributions to education and medical provision may also be required particularly with regard to larger schemes but any request made by the Local Planning Authority to an applicant needs to be based on sound evidence that the new development will place a pressure beyond the capacity of existing facilities. If a harmful impact on existing services cannot be evidenced then any requests for Section 106 funding are normally found to be unreasonable should an applicant appeal the Councils decision to the Planning Inspectorate. If the evidence to support a requirement for Section 106 contributions is found to be particularly poor, applicants can also seek to secure costs from the Council for the effort of pursuing the matter through the appeal process.

On a final note, contributions to local facilities whether they be open space, affordable housing or education provision are dependent on the financial viability of the development being proposed. The Government has long held through the appeal decisions issued by the Planning Inspectorate that Section 106 obligations should not be sought by a Planning Authority if they will make

a development economically unviable. A number of appeals were fought by Councils in the wake of the 2008 credit-crunch when applicants sought to reduce their Section 106 contributions but with rare exception, the Planning Inspectorate took the view that the deliver of housing without contributions was preferable to no housing being delivered at all after taking into account the competing pressures for housing demand and infrastructure delivery. As a result of this, this Council along with other Local Planning Authorities now require an applicant to submit an economic viability appraisal which looks at returns from sales against development costs. Where the appraisal shows profits to be at or below normal profit margins which are between 18% and 20% depending on the type of development proposed and the site in question, then the requirement for Section 106 contributions for infrastructure provision may be reduced or removed in their entirety.

Officers will continue to liaise with Ward Members on how any contributions arising from a development are used to ensure the impact of new development are off-set as effectively as possible.

James Walsh
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Simon Neilson
Executive Director, Economy & Environment

21 February 2019