

Section 106 Training Event, Guild Hall, Bath – 24th November 2008

This training event was organised by *South West Planning Aid* a charity whose somewhat esoteric mission seems to be to spread the word to community organisations about how to use the “planning obligations” that can be imposed by Section 106 of the Town and Country Planning Act. Two solicitors from Ashfords presented the legal information. David Trigwell, Divisional Director of Planning and Transport, BaNES and a colleague added the practical local information. Fourteen community groups, seven parish councils and others were represented among the attendees.

The thrust of the event was that planning authorities can negotiate planning obligations with developers to ameliorate the effects of development. But the Council must produce evidence that the obligation is made necessary by the development and that the solution is local. For example extra leisure facilities could not be provided on the other side of Bath to compensate for building work at Peasedown. Unless these two conditions are satisfied it is tantamount to charging for development per se. This is just not the British way!

The message is that community groups should be aware of what can be achieved through Section 106 but that they must be prepared to collect and present evidence of the need (e.g. education, transport, leisure, affordable housing, health, green space etc.) that has been created. It was admitted that BaNES itself does not have a good record in this respect and David Trigwell (who has been in post for two years) reckons that he brings experience of dealing with developers large and small on just this sort of thing.

Two snags are built into the current process: Groups must get in early, before the Committee stage, to influence the negotiations but it is not easy to break through the bureaucracy and confidentiality that can accompany the early stages of development proposals. It is hoped that some of this can go on a website eventually. Secondly the current system means that each development site is individually negotiated which makes it difficult to prove that any particular development creates the need. Indeed there is evidence that developer often think small to avoid planning obligations.

An oddity of the proceedings is that there is every chance in the near future that Section 106 will be made increasingly redundant by Community Infrastructure Levy. As I understand it this means that a planning authority will negotiate a levy to be spent across the whole community. We came across this in the Green Infrastructure event we attended. The key will be to levy a significant charge without stifling development altogether.

Into the near future BaNES is consulting on its *Planning Obligations Supplementary Planning Document* to which the JLAF has contributed its views. This will provide a systematic framework for planning obligations which it is said developers support. In due course this document will take into account Community Infrastructure Levy. Several times this was said to be a “first stab”, “a living document” which will be revised, perhaps as early as 2009. The message, therefore, is to make sure that the JLAF view is reflected in this and the equivalent documents in our other Councils.

Ron Phelps November 2008