Planning Obligations

Written Answers

Sarah Wollaston Chair, Health Committee

To ask the Secretary of State for Communities and Local Government, whether Section 106 contributions for highways infrastructure works can be used to pay for (a) the costs of administrative, legal or design work or general highways maintenance works required prior to the installation of highways infrastructure works and (b) other associated overhead costs incurred by the local highways authority or its contractors.

Sarah Wollaston Chair, Health Committee

To ask the Secretary of State for Communities and Local Government, in the event that the actual cost of a Section 106 highway infrastructure scheme exceeds the previously estimated and agreed contribution, (a) what options exist for making good that shortfall, (b) whether the local authority or the developer is liable for any additional costs and (c) whether Section 106 contributions originally allocated for other schemes may be reallocated to cover such costs.

Brandon Lewis Minister of State (Communities and Local Government)

It is for the local planning authority to determine what is required and seek planning obligations through a Section 106 agreement in order to make a development acceptable in planning terms. There are three statutory tests that need to be applied when considering a planning obligation, that it is: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Developers may be asked to provide contributions for infrastructure in several ways. This may be by way of planning obligations in the form of Section 106 agreements but can also include contributions through payment of the Community Infrastructure Levy and Section 278 highway agreements.

It is for local planning authorities to decide what provisions they make in Section 106 agreements, and agree these with the interested parties, and therefore any liabilities would depend on the individual agreement. Local authorities and developers can renegotiate planning obligations by mutual agreement at any time or under Section 106A of the Town and Country Planning Act 1990. However, Local planning authorities are expected to use all of the funding they receive through planning obligations in accordance with the terms of the individual planning obligation agreement. This is to ensure that new developments are acceptable in planning terms; benefit local communities and support the provision of local infrastructure.

Sarah Wollaston Chair, Health Committee
To ask the Secretary of State for Communities and Local Government, whether regulations are in place to ensure that (a) town councils, (b) parish councils and (c) local communities receive regular updates from highways authorities about (i) the sum total for Section 106 contributions for highways infrastructure works promised and delivered within their areas each year and (ii) a breakdown of expenditure on individual works within their areas.

Brandon Lewis
Minister of State (Communities and Local Government)

Section 106 agreements are negotiated and agreed between a local planning authority and a developer and/or landowner along with other interested parties in the land, such as mortgage providers. National planning policy makes clear that Section 106 requirements, modifications and discharges should be transparent and available for inspection.

Local planning authorities are expected to use all of the funding they receive through planning obligations in accordance with the terms of the individual planning obligation agreement. This is to ensure that new developments are acceptable in planning terms; benefit local communities and support the provision of local infrastructure.

Planning decisions should be based on Local Plan policy unless material considerations indicate otherwise. Representations from interested third parties may constitute material considerations. Town councils, parish councils and local communities can influence infrastructure and other considerations in Local Plans through the consultation process.

The Community Infrastructure Levy was introduced to provide a faster, fairer and more transparent approach to collecting developer contributions toward infrastructure. The Government launched a review of the Levy in 2015. This review will consider a range of issues, including the relationship between the Levy and Section 106 planning obligations.