Planning Obligations

Written Answer

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 can exercise a community right to bid for independent qualified contractors to deliver highways infrastructure works that are funded by Section 106 contributions from developments within their parish as part of any competitive bidding process carried out by the local highways authority.

Brandon Lewis Minister of State (Communities and Local Government)

Provisions are in place under the Community Right to Challenge to enable town and parish councils and voluntary and community organisations to challenge how council services are delivered by submitting a bid (Expression of Interest) to the relevant council.

Expressions of Interest need to be made in respect of an existing service and one that the local authority has responsibility for providing, which councils must consider and can only reject if specific circumstances set out in legislation apply. If a developer is undertaking work as part of an agreement under Section 106 of the Town and Country Planning Act 1990, then this would not fall under the scope of the Right to Challenge as it would not be a local authority service.

However, if a highways service was to be delivered by a local authority as a result of a Section 106 contribution then this would be within the scope of the Right, although it is important to note that local authorities are able to reject an Expression of Interest if a service is already the subject of a procurement process or pre-procurement negotiations. If this is the case, the town or parish council or community group would be able to participate in the procurement process.

The Community Right to Bid provides local people and parish councils with the opportunity to nominate a building or land for listing by a local council as an Asset of Community Value (ACV), which, if the owner decides to sell, a moratorium of up to six months is triggered. During the moratorium period, the asset cannot be sold except to a community bidder.

If a highways service was to be delivered by a local authority as a result of a Section 106 contribution then this should be within the scope of the Community Right to Challenge. It is important to note though that local authorities are able to reject an expression of interest if a service is already the subject of a procurement process or if the authority has entered into negotiations with a third party to deliver the service and these are at least in part conducted in writing. Where the services are currently being procured, the organisation in question would be able to participate in the procurement exercise.