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**CABINET RESPONSE – MANAGEMENT OF SECTION 106 FUNDING FOR THE DEVELOPMENT OF COMMUNITY PROJECTS**

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**Background**

1. The Environmental Scrutiny Committee agreed as part of their work programme to undertake an inquiry into the Managing Section 106 Funding for the Development of Community Projects. As a result, the Committee agreed to set up Task and Finish Group Inquiry. The terms of reference were agreed as follows:

*The aim of the inquiry is to provide Members with the opportunity to explore and consider how Section 106 funding can be used to fund the development of community projects. This will include reviewing:*

- *The definition of Planning Obligations / Section 106 funding – to include the constituent parts of this funding mechanism;*
- *The regulations governing what type of community projects can be sought through the Section 106 funding process;*
- *An overview of Section 106 contributions received by the Council including financial payments and in-kind provision;*
- *The resources used by the Council in managing the Section 106 funding process;*
- *The mechanisms used for recording Section 106 funding contributions and ensuring that the terms of these developer contributions are met, for example, they are not returned due to failure to meet deadlines;*
- *How Section 106 funding has historically been calculated and allocated to fund identified projects;*
- *The consultation and engagement which takes place between councillors, officers and the public;*

- *The impact of the Community Infrastructure Levy Regulations on the Section 106 funding process. How community projects are identified through the Section 106 process and potential improvements which could be introduced;*
- *The strengths and weaknesses of gathering Section 106 funding for the development of community projects;*
- *The developer view of the Section 106 funding process;*
- *Examples of good practice in using Section 106 funding to develop community projects.*

2. The task group Inquiry was informed by evidence and advice from the following:

- Councillor Ramesh Patel, Cabinet Member for Transport, Planning & Sustainability;
- Councillor Michael Michael, Chair of Cardiff's Planning Committee;
- Simon Gilbert - Operational Manager, Development Management (Strategic & Place Making), Cardiff Council;
- Michael Barnett – Planner, Cardiff Council;
- Vesna Coles, Solicitor, Cardiff Council;
- Don Davidson, Group Leader – Neighbourhood Regeneration, Cardiff Council;
- Gladys Hingco, Scrutiny Research Manager, Cardiff Council;
- Luke Catterson, Scrutiny Research Officer, Cardiff Council.

3. The report was presented to Cabinet on the 21<sup>st</sup> September 2017; a copy of the report has been attached to this report as **Appendix 1**. A full response was agreed by Cabinet on the 16<sup>th</sup> November 2017; a copy of the full response has been attached to this report as **Appendix 2**.

### **Cabinet Response to Recommendations**

4. The scrutiny report made a single process recommendation that required a Cabinet response; the recommendation was accepted. The recommendation was based on eight basic elements, these were:

- The creation of a project list;
- An identified project point of entry for new ideas;

- A project validation & assessment process;
  - Project decision making (approval or rejection);
  - A project list to act as a storage point for ward based projects;
  - Specified geography for each project list;
  - An access point for complementary services;
  - Supporting resources.
5. Full details of the response and future actions are contained in **Appendix 2** of this report.
6. Since the meeting on the 16<sup>th</sup> November 2017 officers have started developing the details required to address proposal. A report will be submitted to Cabinet in the near future setting out how the new process for managing section 106 for community projects will operate. Subject to Cabinet approval, the new process will be introduced in the 2018/19 financial year.

### **Way Forward**

7. Officers from the City Operations Directorate have been invited to attend the meeting. They will provide a summary of the Cabinet response and answer any questions that Members may have. The Chair of Planning has also been invited to support the item
8. Members may consider the response contained in the attached **Appendix 2** and provide any comments, advice or recommendations relevant to the contents of this report.

### **Legal Implications**

9. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not making policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to the Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be

within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

10. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not making policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

### **RECOMMENDATIONS**

11. The Committee is recommended to consider the Cabinet response, the information presented at the meeting and then provide the Cabinet Member and City Operations Directorate with any comments, concerns or recommendations.

**Davina Fiore**

**Director of Governance and Legal Services**

**10 January 2018**