

# RTPI NETWORKS EVENT

S106 – Time for Review

29<sup>th</sup> July 2009

Town Hall, Tunbridge Wells

Kelvin Hinton

Development Management Network



**RTPI**

mediation of space · making of place

# The Event

## Speakers and Programme

- Kelvin Hinton – RTPI Chair
- Andrew Taylor – DC Manager, Tunbridge Wells BC
- Nick Ireland – Associate Director, G L Hearn
- Debate
- Summary/round-up
- Finish      3pm-3:30pm



**RTPI**

mediation of space · making of place

# S106 - Context

- Intended to make acceptable development which would otherwise be unacceptable in planning terms
- Obligations can be used to:
  - Prescribe the nature of a development;
  - Compensate for loss or damage created by a development; or to
  - Mitigate a development's impact
- Fundamental principle that planning permission may not be bought or sold via inappropriate use of obligations



**RTPI**

mediation of space · making of place

# Guidance and Tests

**Circular 05/05: A planning obligation must be:**

1. Relevant to planning;
2. Necessary to make the proposed development acceptable in planning terms;
3. Directly related to the proposed development;
4. Fairly and reasonably related in scale and kind to the proposed development; and
5. Reasonable in all other respects.

Viability referred to para B10 of Annex B



**RTPI**

mediation of space · making of place

# Historic Concerns

- Delay
- Uncertainty
- Inconsistency



**RTPI**

mediation of space · making of place

# Re-negotiate and Scale Back Obligations

- Negotiation as part of current applications
- Ability to modify/discharge obligations allowed under S106
- Two methods:
  - Formal application with subsequent right of appeal (not applicable if S106 under 5 years old)
  - By agreement between interested parties



**RTPI**

mediation of space · making of place

# Re-negotiate and Scale Back Obligations

- Vast majority (if not all) will need negotiated bilateral agreement



**RTPI**

mediation of space · making of place

# Why Councils Concerned

- Role as placeshapers
- Infrastructure planning – LDF
- Delivery – housing numbers and growth



**RTPI**

mediation of space · making of place

# LPA Response to Request to Renegotiate

- LPA can reach three decisions:
  - Obligation absolutely necessary, (i.e. vital to project delivery or acceptability in planning terms)
  - Obligation no longer serves ‘useful purpose’ (i.e. strategic contribution to something that may no longer be being taken forward or is being fund by other means)
  - Obligation still serves a ‘useful purpose’ but scope for modification (i.e. flexibility in amount or timing of payment)
- **But political support to unpick agreements?**



**RTPI**

mediation of space · making of place

# Homes and Communities Agency

## HCA to the Rescue?



**RTPI**

mediation of space · making of place

# Authorities Response

## Contributions 'Sale'



Build now – pay later



**RTPI**

mediation of space · making of place

# What can we do?

## Short term

- Work more collaboratively
- Re-consider the overall package and timing of S106 planning contributions
- Re-consider pre-commencement planning conditions
- Look at the timing and phasing of development

## Long Term

- Development Management ethos
- Scaled back S106
- Re-structure/abolish S106
- CIL implementation???



**RTPI**

mediation of space · making of place