

## Section 106 Obligations

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### Purpose of the Report

Section 106 Officer to provide information on signed Section 106 agreements relating to development within Area East. Agreements containing financial contributions will be presented within the monitoring report (Appendix A), **however if any further detail was required on any other agreement it was agreed that this would be undertaken directly with the officer.**

### Public Interest

Section 106 Obligations are a key aspect of most major planning development approvals granted by the Authority however they are also necessary to provide additional control in relation to smaller schemes. The items captured within Section 106 Obligations usually deal with the additional infrastructure costs that will be incurred within the area of the Authority arising from the completion of a development. Depending on the scale of the proposed development the sums of money associated with a Section 106 Obligations can be considerable.

This may take the form of changes to highways, contributions towards increased schools provision, creation/maintenance of open spaces, recreational areas and so on. The costs arising from these are often significant and require negotiation and settlement between officer and the developer, through the use of nationally agreed formulae.

There is a variety of ways in which these requirements can be delivered. Normally the developer makes a payment to allow the relevant authority to provide the requirement e.g. Schools or Play areas. Alternatively, the developer may be charged with completing the work directly for example a new highway junction.

By their very nature Section 106 Obligations require specified actions/payments to take place within a pre-defined timescale or event (known as 'triggers') and it is essential that the Section 106 officer has a system and processes in place that ensures the agreements are effectively managed.

Members will appreciate that the level of contribution that was secured from each development was dependent upon several factors, particularly the 'formula' that was being used for calculating the Sports, Arts and Leisure, Education and Highway contributions at the time of each application. It is also important to emphasise that it is very difficult to make meaningful comparisons between obligations that were sought on different developments, as each scheme has to be considered on its own merits.

### Recommendation

That members note and comment on the report and verbal update, and endorse the actions taken in respect of the monitoring and managing of Section 106 Planning Obligations.

## **Background**

A Section 106 Officer was appointed on 1 April 2010. This post sits within the planning team with the specific responsibility for ensuring that all requirements of S106 obligations, including the collection and spending of financial contributions are monitored and managed.

## **Additional Information**

Since my last report there has been a significant legislation change that will affect the way that we seek financial planning obligations. Members may recall that when I was at the July 2015 Committee I highlighted a change to the way in which the District Council could be securing planning contributions/obligations from developers. In short, the government introduced guidance that sought to prevent local authorities requiring S106 contributions from schemes of 10 dwellings and below. This was subsequently challenged and the High Court decided that the government had not followed the correct procedures and this guidance was rescinded. The government challenged the High Court judgement at the Court of Appeal and they were successful in getting this ruling overturned.

This ruling meant that sites of fewer than 10 homes will no longer have to make an affordable homes contribution and in addition the council will not be seeking contributions towards local community and leisure projects from these smaller schemes unless there is clear and robust evidence to justify an exception.

### CIL Regulations (2011, amended 2013 & 2014)

From April 2015, no more contributions may be sought/collected in respect of a specific infrastructure project or a type of infrastructure through a S106 agreement if 5 or more obligations have been entered into since April 2010 and it is a type of infrastructure that is capable of being funded by CIL.

In Area East this legislation change will mean that no more contributions will be sought towards the swimming pool or AGP at the Wincanton Sports Centre through future application processes.

### Audit

We have been recently awarded “substantial” assurance from a recent Audit undertaken of the processes and controls for S106 management.

## **Projects**

Members may wish to note that the main projects delivered/under way or priorities as a result of appropriate collected S106 monies are:

- Bruton

New play area at Frome Road. Land adopted July 2015, capital monies and commuted sums received. Designs being finalised and possible installation spring 2017.

Jubilee Park project being progressed with Town Council & Community Health & Leisure.

### Ansford/Castle Cary

Project planning for new changing facilities at the Donald Pither Playing Field.

Nets and pitch improvements at Castle Cary cricket club.

- Henstridge

Improvements to changing rooms at Ash Walk.

Planned pitch improvements to be undertaken.

- Templecombe

Improvements to play area at the Recreation Ground and commuted sum to be passed to the Parish Council.

- Barton St David

Improvements to the local play area and enhancements to the village hall.

- Babcary

Enhancements/improvements to the “hut”.

- Sparkford

Parish Council seeking to purchase land to secure long term location for their play area and potentially a new village hall.

### **Financial Implications**

No direct financial implications from this report however members will be aware that ineffective management of planning obligations does have the potential to require the district council to refund contributions to developers.

### **Corporate Priority Implications**

The effective management of planning obligations will be beneficial in achieving all of the Councils Corporate Priorities

### **Carbon Emissions & Adapting to Climate Change Implications (NI188)**

Section 106 Planning Obligations have a key role in delivering sustainable communities thereby contributing to a reduction in carbon emissions and helping to adapt to climate change.

### **Equality and Diversity Implications**

Section 106 Planning Obligations have a key role in delivering sustainable communities thereby ensuring access to facilities, homes and services for all members of our community.

**Background Papers: None**