

Section 106 Obligations

Strategic Director: Rina Singh (Place & Performance)
Assistant Director: Martin Woods (Economy)
Service Manager: David Norris (Development Manager)
Lead Officer: Neil Waddleton
Contact Details: Neil.Waddleton@southsomerset.gov.uk or (01935) 462603

Purpose of the Report

Section 106 Officer to provide information on signed Section 106 agreements relating to development within Area South. 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 toward 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:

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 have been two significant legislation changes that will affect the way that we are able to seek financial planning obligations in the future:

Contributions from schemes

The NPPG dated 28th November 2014 prevented us from seeking contributions to pooled funding 'pots' intended to provide common types of infrastructure for the wider area from developments of 10 and under. We were successful in obtaining some contributions towards specific pieces of infrastructure; however we were unable to seek any obligations from the majority of applications of 10 and under.

This guidance was then overturned in the High Court, in August, 2015. Community, Health and Leisure Service are therefore again able to seek contributions from any development of 5 or more, in line with our previous policy. However we are now only seeking the contributions towards local facilities (equipped play, youth facilities, playing pitches, changing rooms and community halls) from developments of between 5 and 10 dwellings.

In addition South Somerset are now seeking contribution towards/provision of affordable housing from all new residential schemes.

Policy HG4: Provision of Affordable Housing 1 – 5 Dwellings

Small sites below the threshold for a full affordable housing contribution will be expected, where it is viable to do so to pay a commuted sum:

Yeovil, Primary Market Towns and Local Market Towns will incur a charge of £20 per square metre of internal floor area of the dwellings

Rural Centre, Rural Settlements and everywhere else will incur a charge of £40 per square metre of internal floor area of the dwellings.

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 South this legislation change will mean that no more contributions will be sought for swimming pools, indoor tennis and the district wide sports hall through future application processes.

Projects

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

- Westfield AGP – Opened September 2014
- King Arthur Drive Play Area – Opened April 2015
- Birchfield Bike Park – Opened October 2015
- Lyde Road Key Site - LEAP under construction, completion early 2016.
- Land Rear of Pen Mill – Contributions secure, transfer of land ongoing.
- Refurbishment of Westland Sports Hall
- Refurbishment of Westland Changing Rooms
- Improvements to Milford Park – Preliminary discussions with Ward Members
- West Coker Recreation Ground

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