

Area West Committee - 16th November 2011

10. Section 106 Obligations

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Purpose of the Report

It was agreed at the regular meeting of the Area Chairs that it was necessary for the Section 106 Officer to attend the Area Committees on a regular basis and provide information in relation to Section 106 agreements for that area. As requested, agreements containing financial contributions will be presented within the monitoring reports, however if any further detail was required on any other agreement it was agreed that this would be undertaken directly with the officer. This was endorsed by the District Executive Committee in April 2011, as was the desired format of the monitoring report. The Area West monitoring report is attached at pages 23 -27.

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 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 contribution 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.

Recommendations

That members note the report and endorse the actions taken in respect of the monitoring 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 Section 106 obligations, including the collection and spending of financial contributions are monitored. The Section 106 Officer has already undertaken the following:

Data Management

Formerly data relating to S106 agreements has been held within a number of different Services across the Council. Work has been carried out to cross-reference these with the data held in the main legal database. We are now in a position where we have captured in one-list, details of agreements to be entered into one system and it is anticipated that the inputting will be completed by April 2012.

Monitoring System

A monitoring system has been developed with the required functionality to enable the S106 Officer to effectively manage the legal agreements and the obligations within them. Management and monitoring reports have been designed and extrapolated from the system. The population of the database is well underway.

Agreement Pro-forma

In conjunction with the Principal Solicitor and Assistant Director (Legal and Corporate Services) a pro-forma has been produced for all Planning Officers to complete detailing requirements to be covered when drawing up the legal agreements. This allows consistency in capturing details and assists in the more efficient production of agreements.

Additional Information

In addition to the above the Section 106 Officer works closely with officers from other services, investigating agreements where triggers have been reached and actively sought and distributed contributions where appropriate.

Members have requested training workshops to gain a greater understanding of the way in which leisure and recreation contributions are sought through the planning process and it is understood that the Assistant Director, Health and Well-Being will be confirming dates for these in due course.

Successes

The 'profile' of Section 106 agreements has been raised significantly by the appointment of the Section 106 Officer and an increased awareness has resulted in significant demands upon his time. This is considered to be a positive outcome as it is important for members and the wider community to have a greater understanding of planning obligations and access to what is now a transparent process.

Progress of monitoring historical agreements is ongoing and an important element of this is the enforcement of planning obligations that have reached their relevant trigger points. This has resulted in the receipt of approximately £1.8 million since April 2010.

Since being in post the Section 106 Monitoring Officer has fostered good working relationships with internal officers, services and elected members with the mutual interest of monitoring and managing S106 agreements.

An Audit review of the 106 processes was carried out in early 2011 and the report was issued in May. The outcome of this review was very positive and it recognised the very significant improvements that had taken place over the last 12 months.

The Future

The Community Infrastructure Levy (CIL) is a new Levy that it is intended local authorities will charge on new developments in their area. The system will replace the existing Section 106 mechanisms, and the money raised can be used to support the funding of necessary infrastructure, some of which will be identified within the Infrastructure Delivery Plan (IDP). The CIL Regulations came into force on the 6th April 2011. From April 2014, the authority will only be able to secure contributions towards strategic leisure provisions if it has implemented a CIL charging scheme, according to the regulations.

This system has advantages in that the authority can apply a charging structure to almost all types of development, and it provides greater flexibility and freedom to prioritise what the money should be spent on. Monies raised are not directly linked to specific projects or locations, a specific downside to the current system, and it is for members to decide which projects should be given priority across the district as well as a percentage (not clarified as yet) to be spent locally.

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