

5. Audit Review Section 106 Obligations and Commuted Sums Update Report

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Purpose of the Report

At its meeting on 22nd January 2009, this Committee requested a report to the July meeting to advise members of the actions taken to date in response to the recommendations made by this Committee on 22nd January 2009 in response to the December 2008 Audit Review of Section 106 obligations and commuted sums undertaken by SWAP.

Recommendation

That members note the actions taken to date.

Background

The audit review (attached at Appendix 1, pages 5-13) was undertaken at the invitation of management in response to a perceived need to review the manner and methodology of calculating and managing payments to the authority in respect of Section 106 (S106) Agreements concluded as part of the Development Control planning approval process to affirm that the processes and procedures in operation within South Somerset DC are operating in a sound, robust and controlled manner. It is worth noting that although S106 sums can be large overall the main items of spend are education, highways and housing. Most housing is built by the developer and then transferred to an RSL and therefore funds do not change hands. Currently SSDC has £323.5k in funds from S106s mostly for the provision of community infrastructure.

In response to the findings of the review, the Audit Committee resolved to agree the proposed next steps as outlined in the report of the Head of Development & Building Control at the January meeting. These were:

1. Within 3 months ensure that there is a robust mechanism in Financial Services for allocating monies received from developers to the relevant service areas.
2. Within 6 months ensure that the monitoring databases in the various service areas are merged with the current legal database and within 6 months ensure that the central database is developed so that key dates in each obligation are flagged at the appropriate time.
3. Within 3 months identify and designate Lead Officers in each relevant service area for the monitoring of 106 obligations.
4. Within 3 months set out a process map for how 106 obligations should be handled, including how they are recorded and monitored and how commuted sums are allocated. Within 6 months ensure, through the relevant Lead Officers that the agreed process becomes embedded in each service area's working procedures.
5. Within 3 months develop a template to ensure that regular management reports are produced for all extant 106 obligations. Such reports should capture on a

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development by development basis, agreed actions (by both the Developer and Authority); trigger points, deadlines and conditions agreed within the agreements (together with status indicators on actions to be completed by SSDC); and the outstanding conditions that are yet to have been triggered/complied with.

6. Within 6 months start a regular cycle of sending these management reports to Area Committees in order that members are kept apprised of where monies are due and spent in their areas.

Progress on the Agreed Actions

As a result of the 22nd January meeting, a Section 106 working party was set up to carry out the necessary work in order to address the issues raised in the SWAP review. Progress on each of the agreed actions is as follows:

Within 3 months ensure that there is a robust mechanism in Financial Services for allocating monies received from developers to the relevant service areas.

- A protocol is being produced for all Heads of Service in respect of the spending of money.
- In order that a robust tracking mechanism is in place, the original planning application should be used as the unique reference number throughout the whole process.
- When any 106 agreement is signed, then Legal shall inform Finance and send across details of sums of monies to be collected and any conditions imposed alongside those sums.
- When any money is received in respect of a planning obligation (whether it is submitted to Finance, Legal or Planning) then the lead officer from those three services shall meet to agree where the money should go, how much and when/how it should be spent. Finance shall then instruct the relevant Head of Service.

Within 6 months ensure that the monitoring databases in the various service areas are merged with the current legal database and within 6 months ensure that the central database is developed so that key dates in each obligation are flagged at the appropriate time.

- The current situation is that we have 3-4 different systems to record the same data in various departments. We are speaking to IDOX, the company that runs our UNIFORM (planning back office) system about their module in Uniform, which appears to be a natural fit. We are currently waiting for IDOX to complete a re-write of this module and then we will look at implementing it in a timetable to be agreed with the IT team. As an alternative, we have the opportunity to secure a Microsoft Access based system that is currently being used successfully at Colchester Borough Council, and subject to further, ongoing investigation this may be a preferred option.
- Once the database is set up then the working party will meet quarterly to monitor progress on all extant 106 obligations.
- The Head of Legal Services is undertaking an audit of all current extant 106 obligations.

Within 3 months identify and designate Lead Officers in each relevant service area for the monitoring of 106 obligations.

Service Area	Lead Officer
Area East Office	Tim Cook
Area North Office	Charlotte Jones
Area South Office	Martin Woods
Area West Office	Andrew Gillespie
Development Control	Adrian Noon
Strategic Housing	Colin McDonald
Legal	Angela Watson
Leisure	Lynda Pincombe
Somerset County Council	David Clews (Education) Jeff Copp (Highways)
Streetscene	Debbie Moseley

Within 3 months set out a process map for how 106 obligations should be handled, including how they are recorded and monitored and how commuted sums are allocated. Within 6 months ensure, through the relevant Lead Officers that the agreed process becomes embedded in each service area's working procedures.

- The Head of Development & Building Control has prepared a draft process map, which has been circulated to all 'Lead Officers' for comment. It is proposed that the agreed process be adopted by no later than the end of July 2009.

Within 3 months develop a template to ensure that regular management reports are produced for all extant 106 obligations. Such reports should capture on a development by development basis, agreed actions (by both the Developer and Authority); trigger points, deadlines and conditions agreed within the agreements (together with status indicators on actions to be completed by SSDC); and the outstanding conditions that are yet to have been triggered/complied with.

- A template has been produced and will be shown at the meeting.

The next meeting of the working party is to take place on 1 July 2009 (after the writing of this report but prior to the Audit Committee) and a verbal update will be made to members at the meeting, including a presentation of process maps and templates mentioned above.

Financial Implications

None at this stage.

Background Papers: *Audit Review of Section 106 Obligations and Commuted Sums undertaken by SWAP.
Report to Audit Committee and minutes of meeting held on 22nd January 2009.*