

## 6. **Audit Review - Section 106 Obligations and Commuted Sums Update Report**

*Strategic Director:* Rina Singh, Place & Performance  
*Assistant Director:* Simon Gale, Economy  
*Service Manager:* David Norris, Development Manager  
*Lead Officer:* Simon Gale, Assistant Director, Economy  
*Contact Details:* [simon.gale@southsomerset.gov.uk](mailto:simon.gale@southsomerset.gov.uk) or 01935 462071

### **Purpose of the Report**

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

### **Public Interest**

Section 106 Obligations are a key aspect of most major planning development approvals granted by the Authority. The items captured within Section 106 Obligations 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 the planner and the developer, through use of nationally agreed formulae.

How these are delivered also varies, depending on the requirement i.e. the developer may be charged with completing the work directly, County will undertake highways works and educational provision, and the District open spaces, recreational provision etc.

By their very nature Section 106 Obligations require specified actions to take place within a pre-defined timescale, most often as works undertaken by an Authority in return for payment received from developers, the start date of which is in turn determined by the point at which development commences.

This report updates Audit Committee on the arrangements that have been made to ensure the robust monitoring of Section 106 Obligations.

### **Recommendation**

That members note the report and endorse the actions taken in respect of the monitoring of Section 106 Planning Obligations.

### **Background**

The audit review 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.

Audit Committee was last updated on progress at their February meeting, where members indicated that they were content with the actions taken to date with regard to ensuring that an effective and robust system was in place for the monitoring of Section 106 planning obligations, but requested that the Assistant Director - Economy submit a further progress report when the outcome of the latest audit review was known. This review was finalised in May and concluded that...

*“Management have responded positively to the original audit report and have undertaken a number of measures to address the risks identified. However, at this stage the system for monitoring S106 Agreements is not yet up and running. Many of the controls introduced have only recently been implemented and it is too early to offer an opinion on the effectiveness of these changes.*

*Therefore a partial assurance can only be offered because the financial risk to the Authority remains at this stage. When these improved controls are implemented or operating effectively, I am confident that with the desire of the key staff to manage the S106 Agreements efficiently, the level of audit assurance could move to reasonable.*

*As the outcomes from the original report are still very much ‘work in progress’, I would suggest that a further risk based audit review be conducted by SWAP within the next twelve months.”*

## **Matters Arising Since February/Review**

On 1 April 2010 Neil Waddleton was appointed to the new post of Section 106 Monitoring Officer. This post will sit within the planning team with the specific responsibility of ensuring that all requirements of 106 obligations, including the collection and spending of financial contributions is monitored on a proactive basis. The 106 Officer has already undertaken the following:

### Data Management

Formerly data relating to s106 agreements has been held within a number of different systems 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 ahead of the monitoring process beginning.

### Agreement pro-forma

In conjunction with Robin Legg and Ian Clarke a pro-forma has been produced for all Planning Officers to complete detailing requirements to be covered when drawing up the legal agreements. This will allow consistency in details captured and hopefully aid the agreements to be turned around quicker.

### Idox Monitoring System

This system was installed in June. The 106 Officer and systems support officer have received initial training. Idox are currently uploading geographical data, which will enable the inputting of our 106 agreement details over the summer period. It is anticipated that a presentation of the completed database can be made to Audit Committee in October.

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## Additional Information

In addition to the above the new 106 Officer has been working with officers from other services, investigating agreements where triggers have been reached and actively sought and distributed contributions where appropriate. For example, £159k has recently been sought, received and distributed from a 106 obligation relating to the former Seatons Garage site in Yeovil.

## **Financial Implications**

The 106 Monitoring Officer post is delivered within the 2010/2011 Development Control establishment budget, which accounts for the restructure of that team following the LEAN process.

## **Corporate Priority Implications**

The delivery of Section 106 Planning Obligations has a role in achieving all of the Council's 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:** *Audit Committee reports for January and July 2009 and February 2010*