

Audit Committee – 27th October 2011

5. Audit Review - Section 106 Planning Obligations and Commuted Sums Update

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Purpose of the Report

To provide a general update on the monitoring of financial and non-financial Planning Obligations.

Recommendations

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

Background

The Committee will remember that an audit review was undertaken at the invitation of management to review the process for managing S106 agreements and ensure that the processes in operation at South Somerset District Council are operating in a sound, robust and controlled manner.

Audit Committee was last updated on progress at their March 2011 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 S106 Planning Obligations, but requested the S106 Monitoring Officer to submit a further update report to their October Committee.

Progress Made

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 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.

Background Papers: *SWAP Final Report, May 2011.*
