

**SECTION 106 PLANNING OBLIGATIONS****Report By: Head of Planning & Transportation****Wards Affected**

1. County-wide

**Purpose**

2. The purpose of this report is to outline the Action Plan that the Planning Obligations Manager will undertake in the next six months in developing a monitoring system for section 106 Agreements.

**Financial Implications**

3. Without adequate co-ordination, contributions could be spent on inappropriate schemes and not on priorities identified within the Council's various plans and strategies or on other specific projects.
4. Without an adequate and co-ordinated system for monitoring Section 106 Agreements and any subsequent obligations, it is possible that should deadlines expire, secured sums would have to be returned (plus interest) to the developers and required community facilities/affordable housing would not be provided.

**Background**

5. At the Audit and Corporate Governance Committee held on 21<sup>st</sup> November 2008, the Head of Planning and Transportation presented a report on the current arrangements for Planning Obligation Agreements. Members requested that the Planning Monitoring Officer attend the May 2009 meeting of the Committee.

**RECOMMENDATION**

**THAT: (a) Members note the contents of the Report.**

**Reasons**

6. To enable further monitoring in the light of changing circumstances.

**Considerations**

7. From initial findings it has become clear that information flows between the various staff involved in this complicated process is not helped by the

numerous differing systems currently used to monitor and administer section 106 Agreements. Sometimes staff responsible for using infrastructure

contributions are not always informed of the final sum agreed after negotiations with developers. Also they may not be aware that a sum has been paid. Responsibility for checking that the monies have been paid by the trigger date relies on various officers within different departments; there is no one central point of contact.

8. Improvements will be made by moving to an integrated computerised monitoring and reporting system. The system will be administered by the Planning Obligations Manager. This would enable everyone to see the current state of play of all agreements and the passing of 'triggers' will be flagged up automatically. A computerised accounting system of receipts and expenditure will be administered by Financial Services.
9. The Planning Obligations Manager expects that numerous benefits will result from the closer monitoring of Section 106 Agreements and these include:
  - Delivery of agreed community benefits on time, as timetabled in the agreement.
  - Improved service delivery planning and work programming in all departments as every department will be given advanced notice of impending planning gain being triggered at various stages within the life of the development.
  - Improved financial control and budgeting across the Council.
  - Improved enforcement of Section 106 Agreements. Close monitoring will result in early detection of missing gain and improved prospects for ensuring commitments are honoured – whether through reminders or Court action.
  - Limited chances for 'sunset' clauses to be triggered. A sunset clause requires developer contributions to be repaid, usually with any interest accrued, if not spent by the Council on the specified purpose within an agreed timescale
  - Improved accountability to developers for the expenditure of contributions. This is important as it will underpin and demonstrate the Council's reputation for excellent probity.
  - Improved public information on the delivery of 'gain' in their area and better communication of 'progress of delivery' with Ward Members and Parish/Town Councils
  - It will ensure that the Council delivers its obligations within such agreements on time. Clearly this is important as a Section 106 Agreement is a multilateral agreement that requires all parties to honour the commitments they have entered into if trust and understanding are to be developed and if the system and/or parties are brought into disrepute
  - Enhanced reputation. All of the above will help to reinforce the image of the Council as a businesslike organisation that is working with the development industry and local communities to deliver the key objectives contained within its policies and strategies.
10. The key priorities for the Planning Obligations Manager over the next six months will be to:

OBJECTIVE	TIMESCALE	OUTCOME
Establish contact with key officers within the Council who currently play a role in monitoring section 106 Agreements and establish the baseline information held on all existing section 106 Agreements	Monthly and ongoing	Assembly of full information base
Establish contact with, and meet officers from Local Authorities who have been recommended by the IDEA and the PAS (Planning Advisory Service) as a model of good practice for their monitoring systems	End of May 2009	Establishment of system to best practice standard
Work closely with Civica to establish an integrated monitoring and reporting system on section 106 Agreements. The system will record monetary and non-monetary benefits generated by agreements and their expenditure	May – September 2009	Establishment of integrated monitoring and reporting system
Establish an audit trail and allocate funding to service departments to ensure that expenditure follows that originally agreed	May – September 2009	Transparent audit trail
Liaise with Development Management Team and Legal Services in reviewing systems and processes for trigger points within Section 106 Agreements and amend accordingly	June 2009	Effective monitoring triggers within Agreements
Organise and deliver Member and parish council training on the use of section 106 Agreements and the monitoring system	July 2009	Raise awareness of Section 106 Agreements and the monitoring system
Work with Service Departments/Members/ Town and Parish Councils to prepare a rolling programme of local projects/schemes which could reasonably be funded by Section 106 Agreements and against which developers could be advised of local needs	Monthly and ongoing	Appropriate allocation of obligations to benefit both Council strategies and the needs of local communities
Input data into the integrated system	Ongoing	All Officers, Members, Parish Councils and the community having access to information on Planning Agreements

## Risk Management

11. The risk associated with not monitoring legal agreements relating to planning applications is that the Council could be criticised for not operating a transparent and comprehensive framework for monitoring such financial and non-financial obligations.

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Further information on the subject of this report is available from Mrs Y Coleman on tel: (01432) 383083

## **Background Papers**

ODPM Circular 05/2005, Planning Obligations, July 2005

CLG Planning Obligations: Practice Guide, July 2006

Planning Advisory Service: Online enforcement and s10/conditions monitoring system toolkit, December 2006

Audit Commission: Securing community benefits through the planning process – Improving performance on Section 106 agreements

Planning Advisory Service: Colchester – The creation of a Section 106 database

Planning Obligations: Supplementary Planning Document, Herefordshire Council, April 2008