

EAST HERTS COUNCIL

PERFORMANCE AUDIT AND GOVERNANCE COMMITTEE – 22 JANUARY
2019

REPORT BY HELEN STANDEN– DEPUTY CHIEF EXECUTIVE

SECTION 106 AGREEMENTS

WARD(S) AFFECTED: All

Purpose/Summary of Report

- To respond to the request from PAG members for a report on Section 106 Agreements (including a financial statement summarising the position)

**RECOMMENDATION(S) FOR PERFORMANCE AUDIT AND
GOVERNANCE COMMITTEE: That:**

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| (A) | Members review the actions and are invited to comment |
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1.0 **Background**

1.1 Section 106 (S106) of the Town and Country Planning Act 1990 allows us, as the local planning authority, to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement.

1.2 These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms. They are used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing.

- 1.3 Section 106 of the Town and Country Planning Act 1990 allows landowners to enter into planning obligations either:
- individually
 - or by agreement with the council as local planning authority
- 1.4 Planning obligations must relate to a specific area of land that is identified on a plan or map attaching to the obligation. They are usually (but not always) used to make sure that a planning permission is carried out satisfactorily.
- 1.5 Historically East Herts Council has entered into S106 agreements with developers across the District. The contributions are used to improve facilities for residents and to enhance the environment. Agreements are usually for a specific purpose and many of the agreements that were signed historically are very specific, tying the funding to a particular area and/or specific provision.
- 1.6 Examples of S106 provisions are:
- works to provide safe access to a site, to accommodate safely local increases in traffic due to the development, and to discourage the additional traffic from using unsuitable local roads;
 - works within a transport sector to encourage travellers to and from a development to change to a more sustainable means of transport, including park and ride;
 - works, services or incentives to secure improved accessibility to and from a site by all forms of transport, including public transport, cycling and walking;
 - flood defence and mitigation works;
 - an element of affordable or special needs housing;
 - the provision or enhancement of play space which cannot be accommodated on-site;
 - education facilities at nursery, primary and secondary levels;
 - community facilities;

- measures to provide for public safety and security;
- a contribution to skills analysis and training provision;
- facilities or measures to offset the loss of or impact on any resource, such as woodland or open space, present on a site prior to development;
- works to adjacent areas of public realm, including tree planting;
- public art.

2.0 **Report**

- 2.1 Following a recommendation instigated by the Deputy Chief Executive, Leadership Team were asked in October 2018 to approve the establishment of a dedicated S106 role to oversee and monitor S106 including proactively ensuring the sums are fully utilised.
- 2.2 In addition an Internal Audit Report on Section 106 Spending Arrangements was finalised and published in November 2018 which gave only limited assurance in the arrangements. The full report has already been issued to PAG members, but is attached at exempt **Essential Reference Paper "B"** for ease of reference.
- 2.3 Officers welcomed the report as it helped to triangulate areas for improvement that officers had already identified.
- 2.4 In late 2017, a project officer was assigned to review the S106 process. She found that the recording of S106 took place across numerous systems and there was no central record. Additionally, there was little monitoring undertaken. As a result of these initial findings a S106 officer group was established who meet on a monthly basis. This has already enabled the identification of potential S106 projects across the District. A list of projects can be found at exempt **Essential Reference Paper "C"**

2.5 Officers had already identified that there was some unspent historical S106 funding that was reaching time-bar. Significant input from the Project Officer currently overseeing S106 has already had a positive effect and projects have been identified to ensure the funding is spent.

2.6 Due to the very specific wording of some historical S106 agreements, it may not be possible to fully utilise the funding, however, officers are working to maximise every opportunity.

2.7 The current financial position (January 2019) in respect of S106 is summarised within exempt **Essential Reference Paper "C"**

3.0 Summary

3.1 Having identified weaknesses within the S106 arrangements, in late 2017 senior officers began to have closer oversight of the process and asked for regular reporting to take place.

3.2 Due to the complex nature of S106 agreements and the lack of consistent recording, it has taken much longer than anticipated to get the agreements into a user friendly format.

3.3 Actions taken so far:

- Centralisation of S106 agreements
- Establishment of an officer working group (meeting monthly)
- Establishment of a project plan list
- Creation and approval of a dedicated role
- Proactively approaching potential partners to expedite S106 spend

3.4 Active recruitment will be undertaken in the New Year and close monitoring and reporting will continue, with oversight from the Deputy Chief Executive and Head of Communications, Strategy and Policy.

3.5 Proposed actions for next six months:

- Recruitment of S106 Officer
- Establish a regular report format
- Appoint a Member 'S106 Champion'
- Develop an effective mechanism for members and officers to further develop and input to the project plan list

4.0 Implications/Consultations

4.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers: none

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