

SUBJECT:	S106 Review Update
REPORT OF:	Cllr J Read
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WARD/S AFFECTED	All

1. Purpose of Report

The purpose of this report is to update the Group on the current position in respect of those S106 Agreements that include either a developer contribution or a schedule of works and to give an update on the method proposed for implementing the process and procedures required to ensure effective S106 monitoring in the future.

RECOMMENDATIONS

1. To note the content of the update report.

2. Executive Summary

- The need for a robust, pro-active and effective process for the monitoring of Section 106 Agreements was recognised by Management Team in May 2016.
- An interim Monitoring Officer was recruited in July of this year and began an intensive investigation into the Council's S106 records to establish a comprehensive baseline position.

3. Content of Report

A phased approach is set out below:

3.1 Phase One

- 3.11 To establish the current position including all active S106 Agreements, POA's and Deeds of Variation.
- 3.12 To record these in a spreadsheet this will enable the identification, amongst other things, of:
- Monies received monies due and monies outstanding in respect of commuted AHC sums.
 - Requirements of each agreement with relevant triggers
 - Clear identification of action required with relevant dates
 - Compliance with payment of commuted AHC
 - Compliance with on-site requirements such as affordable housing and open space
- 3.12 In total **581** S106 Agreements have been identified and a high level audit of these has been carried out. This audit has so far identified **41** agreements that are "live". Of these **2** agreements require further investigation.
- 3.14 A joint review has been carried out with finance and the results are as follows:

SBDC s106 Agreements 2001-2018	£
S106 payments received	9,500,000
S106 payments where trigger point has not been reached, requiring monitoring	2,360,000
S106 agreements being reviewed to determine whether payment is due	229,000

3.15 The process will continue until all S106 agreements have been fully audited and added to the Council’s database, this process will run concurrently with Phases Two and Three outlined below.

3.16 Where the potential for non-compliance with the S106 Agreement has been identified contact has or will be made with the developers/landowners to resolve the situation.

3.17

SBDC	Action	Timeline	
	Identify Sites	18/07/18 – 03/08/18	Complete
	Confirm payment	13/08/18	Complete
	Carry out site visits	18/07/18 – 17/08/18	Complete
	Populate spreadsheet	18/07/18 – 17/08/18	Complete
	Position Report submitted	03/09/18	Complete

3.2 Phase Two – Establish Process and Procedures

3.2.1 A new standardised process will enable a clear understanding of roles and responsibilities; improved systems and protocols will ensure that all parts of the process function more effectively and efficiently enabling regular reporting of performance; the corporate risk will be removed. This process is being reviewed and agreed.

3.2.2 It is anticipated that this phase will be completed by late-October.

3.3 Phase Three – Implementation

3.3.1 During this phase the following will be developed and implemented:

- Standardised reports
- Individual monitoring logs
- Supplementary Planning Guidance for Developers
- Standardised letter templates
- Introduction of a S106 Register for public access
- Implementation of a formal reporting mechanism
- Creation of a web page
- Establish charging protocol for compliance requests

3.3.2 It is anticipated that this phase of the project will be completed by mid-December.

4. Consultation

Not applicable

5. Options (if any)

To note the report

6. Corporate Implications**6.1 Financial**

The Council may be asked to repay S106 deposits which have not been used by their expiry date. A reactive rather than pro-active approach increases the risk of payments not being made.

6.2 Legal

There is a risk of challenge by and/or repayment to developers should the Council not be able to prove that monies have been spent in accordance with the relevant planning obligations.

7. Links to Council Policy Objectives

7.1 The proposal supports the objectives of conserving the environment and promoting sustainability as well as delivering cost-effective, customer-focused services.

8. Next Step

An update will be brought to a future meeting

Background Papers:	None other than referred to in the report.
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