

COMMITTEE **PLANNING**

DATE **30 October 2012**

SUBJECT **S106 DATABASE AND MONITORING**

REPORT OF **Leigh Palmer Development Manager within
Planning Department**

Ward(s) ALL

Purpose To inform and update Members of the current position in respect Planning Obligations received since 1990.

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Recommendation That Planning Committee note the content and conclusions of the report

1 Background

- 1.1 As Members will be aware new development may place additional pressure on existing social, physical, economic and community infrastructure and without such infrastructure provision the new development could have a detrimental impact upon local amenities and the quality of the environment.
- 1.2 In some circumstances Planning Obligations are used, where supported by Borough and County policies, to ensure that new development supports and does not harm local infrastructure and or the quality of the local environment.
- 1.3 The terms 'planning agreement', 'planning obligation', 'unilateral obligation' and 'planning gain' are often used interchangeably. However, technically, a planning agreement, also known as a Section 106 Agreement (a reference to the relevant section of the Town and Country Planning Act 1990), is the overarching legal agreement which results from the planning obligations process. Planning gain is merely a generic term used to describe the community benefits achieved through this process.
- 1.4 Members will be aware that the Community Infrastructure Levy (CIL) is on the horizon to and is to be fully operational by 2014. Officers are currently working on a County wide initiative that will deliver a robust and credible/defensible CIL figure for each of the participating Councils.
- 1.5 CIL will deliver a flat rate chargeable to developers/applicants per square metre of new development. These monies will be aggregated and spent delivering identifiable infrastructure projects for the Borough and the County.

- 1.6 It is not yet known whether affordable housing will be delivered via CIL or remain a planning policy agreement and S106 agreements. Between now and 2014 the Council will be developing and updating its planning policy in terms of affordable housing through the Core Strategy. Prior to the Core Strategy the Planning Policy position was that an affordable housing contribution was sought on 15 units and above, this threshold has now dropped to cover schemes that promote any new residential unit (1 unit and above).
- 1.7 This simple and robust policy document for affordable housing has not yet been finalised, but will become operational following the adoption of the Core Strategy.

2 Context (What are planning obligations)

- 2.1 Planning obligations are legal agreements entered into generally between the local planning authority and the applicant, developer and or any others who have an interest in the land. As outlined above they are mechanisms to ensure that matters required to make a development acceptable are secured.
- 2.2 From the 700 – 800 planning applications per year that are determined by Eastbourne Borough Council only a handful require planning obligations.
- 2.3 Once completed, obligations are registered as a Local Land Charge and are typically enforceable against those persons – organisations who have entered into the obligation as well as any subsequent owner of the site.
- 2.4 Planning obligations can be in a unilateral or mutli-lateral form, and all types of agreement as outlined above are entered into under Section 106 of the Town and Country Planning Act 1990.
- 2.5 Planning obligations can cover any number of topic areas but the main ones for Eastbourne tend to relate to

a) Affordable Housing:

- Affordable Housing on site provision
- Affordable Housing off site provision in lieu

b) Education

- Primary School Place Contributions
- Secondary School Place Contributions

c) Community Facilities

- Health
- Libraries
- Leisure and Sports Building
- Local Community and Youth Facilities
- Policing resources and other emergency services
- Community facilities: revenue contributions

d) Public Realm

- Parks and Open Spaces
- Streetscape
- Public Art
- Community Safety & Visitor Management
- Public realm: revenue

e) Transport

- Public Transport
- Traffic and Highway Works
- Parking Restrictions
- Car Clubs
- Travel Plans

f) Sustainability

g) Employment & Training Measures

- Local Labour in Construction
- Employment & Training Contributions
- Securing Employment Premises

(h) Flood attenuation

- New infrastructure to mitigate localised flooding (Lakes in Eastbourne Park)

(i) Land Transfers

3. Monitoring of the Planning Obligations

- 3.1 With a starting date of 1990 officers within the Planning Department researched all of the relevant planning files for Planning Obligations with a view of quantifying the relevant applications and also understanding the extent and value of the monies received.
- 3.2 This is considered to be important so that a robust monitoring regime could be adopted and also to ensure that the monies received and the infrastructure promised was actually spent and or provided, otherwise there may be a requirement to refund the applicant.
- 3.3 Within the survey period (date of this report) only those Planning Obligations where payments that had been received by the Council but have yet to be spent have been reported. These agreements have been summarised and entered into the list below
- 3.4 This database includes a number of key criteria, covering:-
1. Open Space/Play
 2. Affordable Housing
 3. Flood drainage
 4. Miscellaneous

3.6 TABLE 1

THEME	TOTAL FUNDING (000)	COMMITTED FUNDS	FUNDS TO SPEND	COMMENTS
Open Space Play	437,000	260,000	177,000	See project table below for detail on the commitments
Affordable Housing	745,000	745,000	0	Two committed projects see table below for detail on the commitments
Flood Mitigation	652,000	0	652,000	To be spent as part of Eastbourne Park works (Note 1)
Miscellaneous	750,000	0	750,000	Employment contribution from Morrisons (Note2)
TOTALS	2,584,000	1,005,000	1,579,000	

Notes

- 3.7
1. Build a lake/wetland area for flood attenuation
 2. To kick start Sovereign Harbour business Park

TABLE 2

THEME	LOCATION	TOTAL COST	S106 CONTRIBUTION	COMMENTS
Open Space	Sov Harbour Play Space	27,303	27,303`	Awaiting conclusion of SPD
Open Space	Princes Park Dev Plan	183,000	183,000	Development Plan prepared to be consulted upon
Open Space	Channel View Rd. Play (Splash Pad)	120,000	50,000	20K ESCC 50K Play Pathfinders Money
Affordable Housing	Belmore Road (6 x 2 Bed houses)	678,825	678,825	Feasibility and pre app discussions
Affordable Housing	Langney Infill (1 x 1 bed bungalow)	66,208	66,208	Feasibility and pre app discussions
TOTAL			1,005,338	

- 3.8 In broad terms the S106 fund stands at approximately £2.6m. However as highlighted by Table 2 that about £1m is committed to specific projects. Of the £1.6m remaining the majority (c£1.4m) is earmarked, although not formally committed to the two large projects which are likely to come forward in the near future and for which monies were specifically collected.
- 3.9 These projects are:-
- 3.10 Flood Mitigation (£65k) – a new lake/wetland area as part of the emerging Eastbourne Park
- 3.11 Employment Space (£75k) – to assist with the starting new business in Eastbourne (currently being considered to delivered at Sov Harbour)
- 3.12 The contributions yet to be committed are therefore the Open Space/Play monies which amount to £177k and were largely collected during the last year including payments received from McCarthy and Stone at Jevington Gardens for £109,530 and the other is from Pembury Road (EBC partnership scheme now called Cranbrook) for £27,242
- 3.13 Projects using this funding will be put forward as bids in the Capital Budget prioritisation procedure as part of the Service and Financial Planning Process.
- 3.14 On the Public Open Space topic area there have been a high volume of commitments over the last couple of years with many projects completed and delivered with the assistance of this money, the most recent of which can be seen in Table 2 above. Of note here it is important to understand that there remains a Public Open Space commitment of £27K within the Sovereign Ward.

4. Human Resources

- 4.1 There are no financial-resource implications for this monitoring as it can be delivered within the existing staffing establishment albeit the resources are likely to be reassigned following the roll out of the Future Model.

5 Legal

- 5.1 There are instances whereby by S106 agreement may not be honoured by a particular party and in these circumstances the Council would investigate appropriate legal action to secure the necessary payments and or the provision of the necessary infrastructure.
- 5.2 Members should also note that a significant number of S106 Agreements are time limited which means that if the monies are not spent within a given time then the monies have to be given back to the relevant party.

5.3 The Planning Manager will, at the quarterly update, inform of those cases where it is urgent that the monies are spent.

6 **Environmental/Community Safety/Human Rights/Anti Poverty**

6.1 There are no adverse impacts on these implications as a direct result of this report.

7 **Conclusions**

7.1 That Members agree to endorse this report and acknowledge that there will be a quarterly update on S106 issues

Background Papers:

S106 Access Database

Leigh Palmer
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