

<b>Report to</b>	<b>Westbury Area Board</b>
<b>Date of Meeting</b>	<b>16 August 2012</b>
<b>Title of Report</b>	<b>Community Benefits achieved through the Planning Process</b>

## **Purpose of Report**

To provide the Area Board with an update on the last 7 years of Section 106 agreements in the Westbury community area.

The report details the following:

1. What is a Section 106 agreement and how are they agreed
2. Summary of money received, money spent and money outstanding
3. How to access funding if there is funding available
4. Emerging policy on funding infrastructure requirements

## **1. Background**

- 1.1. A request was made by Westbury Area Board for an update on the money secured through Section 106 agreements in the Westbury Community Area over the last 7 years.
- 1.2. An exercise has recently been carried out to capture all Section 106 agreements in Wiltshire. A Scrutiny Task Group was set up to help monitor the progress made on this work so that the same information can be given to every Area Board. This report provides all the details captured in the Westbury Community Area.

## **2. Main Considerations**

### **2.1. What is a Section 106 Agreement?**

The definition of a Section 106 Agreement is :

“Section 106 (S106 of the Town and Country Planning Act 1990) allows a local planning authority (LPA) 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.

- 2.1.1. These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms. They are increasingly used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing”.
- 2.1.2. The Council needs to have robust mechanisms in place to secure funding from developers towards the cost of infrastructure. These mechanisms must be supported by a comprehensive infrastructure planning evidence base, which shows what infrastructure is needed, how much it costs, how it will be funded, and when and how it will be delivered. Presently, the Council uses Section 106 agreements to negotiate developer contributions towards infrastructure from each separate development.
- 2.1.3. The Council will examine each development proposal for its need to contribute to the community infrastructure requirements and negotiate to secure planning obligations or by means of other appropriate methods to secure the requirements identified. These contributions are in accordance with the relevant Local Plan policy. For the Western Area, the West Wiltshire District Plan - Policy : I1– Implementation, is the relevant policy for securing contributions. However, since the publication of the Leisure & Recreation Development Plan Document in March 2009, several District Plan Policies (R numbers were deleted) and largely replaced by Policies LP1-LP5, and OS1-OS2 (all of which are listed in the Leisure &

Recreation DPD). In addition to this, the West Wilts area has an adopted SPG covering Open space provision for new housing) published in Aug 2004).

- 2.1.4. It is unlawful for the Council to spend Section 106 money on anything which is not in accordance with how it is set out in the specific agreement.
- 2.1.5. Within each agreement there are trigger points for when the money has to be paid to the beneficiary Services. These triggers are often different for each development and are negotiated with the applicants before the agreements are signed. Examples of trigger points could include “payment on completion of the 10<sup>th</sup> house”, “payment prior to first occupation”, “payment on commencement of development”.
- 2.1.6. These trigger points are recorded by the s106 Monitoring Officer and actively monitored by the beneficiary services.

## 2.2 Emerging policy - role of Section 106 Agreements in the future

The latest Government legislation makes it clear that it intends to revise the current system with the introduction of Community Infrastructure Levy (CIL). This will be a new charge based on the principle of providing infrastructure to support development. In other words, it is a system of pooled contributions that can be spent on infrastructure across a wider area, whereas Section 106 contributions will in future be limited to site specific infrastructure and affordable housing. In time, the current use of Section 106 agreements to collect pooled contributions will be limited because CIL is the Government’s preferred mechanism in this regard. From April 2014, in line with legislation, local authorities will be restricted on the amount of pooled contributions they can collect through Section 106 Agreements, as such Wiltshire Council intends to become a CIL Charging Authority before this point.

- 2.3 The Council’s approach to delivering infrastructure in the future is set out in Core Policy 3 of the draft Wiltshire Core Strategy (Wiltshire Core Strategy Pre-Submission Document, February 2012). Core Policy 3 states that *“Upon adoption of the CIL Charging Schedule, CIL will be used to pool developer contributions towards a wide range of new and improved infrastructure necessary to deliver new development”*. The policy also recognises that Section 106 Agreements may still play a role in securing contributions directly related to specific developments, although there can be no double charging for infrastructure through both CIL and Section 106 Agreements.

3. 2.4 An Infrastructure Delivery Plan has been prepared alongside the Core Strategy to

inform the infrastructure requirements of new development planned for Wiltshire. This forms the basis on which Wiltshire Council can move forward on the preparation of CIL, which is programmed to be in place July 2013. While CIL is being developed Section 106 Agreements will continue to be used. **Section 106 Agreements in the Westbury**

- 3.1 Appendix 1 sets out all of the Section 106 Agreements in the Westbury Community Area secured in the last 7 years.
- 3.2 The table shows all of the agreements which have secured financial obligations along with the details of where the funding has been sought, how much has been negotiated for each beneficiary area and whether we have received money.
- 3.3 The 'total received' column on the appendix shows all the contributions that have been received by the Council. This money may have already been spent on the allocated projects as specified in the Section 106 agreement.
- 3.4 The update position/comment shows some more details about the current situation.

#### **4 Access to funding**

- 4.1 All Section 106 Agreements specify how the financial contributions should be spent.
- 4.2 Funding for Affordable Housing is ring fenced for the provision of affordable homes to meet demonstrable need. However, in some instances, there has been a need to review some of the Section 106 obligations on affordable housing due to market conditions and scheme viability issues. In these cases it is likely that any financial contribution could be negated.
- 4.3 Education contributions are discussed and agreed with all parties throughout the planning process and any funding will have been set for specified projects relating to the development.
- 4.4 The majority of highways contributions are very specific and funding is allocated to particular projects. In some cases, contributions are secured towards outcomes where the project(s) are less well defined, and which offer the Council some limited discretion over how the contribution may be spent. These are normally in towns where overarching transport strategies already exist and it is intended to involve the Community Area Transport Groups (CATG) in helping to decide priorities.
- 4.5 The Land Adoptions team, who are responsible for the allocation of Section 106 money obtained specifically for public open space, are in

the process of contacting all Town and Parish Councils to notify them of any unspent money. Any enquiries relating to this should be sent to [landadoptions@wiltshire.gov.uk](mailto:landadoptions@wiltshire.gov.uk) or contact Stuart Harper from the Land Adoptions team on 01380 734682. Funding secured via a commuted sum will be fed into the budgets for ongoing maintenance of sites.

## **5 Environmental & Community Implications**

5.1 There are no Environmental and Community Implications

## **6 Financial Implications**

6.1 Section 106 money must be spent in line with Section 106 Agreement and cannot be used for other projects not related to the development.

## **7 Legal Implications**

7.1 There are no specific Legal implications related to this report.

## **8 HR Implications**

8.1 There are no specific HR implications related to this report.

## **9 Equality and Inclusion Implications**

9.1 There are no specific Equality and Inclusion implications.

## **10 Officer Recommendations**

10.1 There are no officer recommendations.

<b>Appendices</b>	Appendix 1 – Summary of Section 106 Agreements in the Westbury Community Area.
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