

Report to	South West Wiltshire Area Board
Date of Meeting	17 October 2012
Title of Report	Community Benefits achieved through the Planning Process

Purpose of Report

To provide the Area Board with the following:

- Clarity over the use of Section 106 money
- An update on the future of R2 policy within the new Core Strategy
- A summary of all Section 106 and Unilateral Agreements entered back to 2004 in the South West Wiltshire Community Area.

1. Background

- 1.1. A request was made by South West Wiltshire Area Board for an update on the money secured through Section 106 agreements and/or Unilateral agreements in the South West Wiltshire 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 South West Wiltshire Community Area.

2. Main Considerations

2.1. What is a Section 106 Agreement?

2.1.1. 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.

2.1.2. 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”.

2.1.3. 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.

2.1.4. The former Salisbury District Council local plan contained policy R2 which required new residential development to make a contribution towards public open space on each new development granted permission. Similarly policy G2 (ii) of the same local plan states that inter alia new development will avoid “placing an undue burden on existing or proposed services and facilities the existing or proposed local road network or other infrastructure” Through this policy provision for directly related community infrastructure costs of development proposals, appropriate to the scale of that development

can be sought. Both Policy R2 and policy G2 have been 'saved' as part of the newly adopted (February 2012) South Wiltshire Core strategy and remain the applicable policies.

2.1.5. The Council will examine each development proposal for its need to contribute to the following community infrastructure requirements and negotiate to secure planning obligations or by means of other appropriate methods to secure the requirements identified. The community infrastructure requirements are:

- Affordable housing
- Education, skill training provision and libraries
- Travel and transport infrastructure
- Community buildings and facilities
- Health care provision and social services
- New or improved open spaces
- Leisure, sport and recreation provision
- Waste management and recycling
- Environmental protection and enhancement
- Information Communication Technology infrastructure
- Art in the community

2.1.6. 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.

2.1.7. The agreement will specify what the funding will be spent on. It is Wiltshire Councils responsibility to ensure that the funding is spent in the allocated way. With R2 funding, Town and Parish Councils can apply to Wiltshire Council for funding to be spent on particular projects. The Land Adoptions Team are responsible for approving applications, this is detailed further in the report.

2.1.8. 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 10th house", "payment prior to first occupation", "payment on commencement of development".

2.1.9. These trigger points are recorded by the s106 Monitoring Officer and actively monitored by the beneficiary services

2.1.10. Prior to February 2012 and the adoption of the South Wiltshire Core strategy a unilateral undertaking was used to obtain R2 monies from developers in the south of Wiltshire. This is a one way agreement or undertaking that is made by the developer of the land that they will pay the council the relevant monies for the off site open space provision immediately planning permission is granted. This differs

from a S106 agreement which is a two way agreement between the council and the developer and signed by both parties. Since the adoption of the South Wiltshire Core strategy the council has asked for monies towards affordable housing for all developments. As the affordable housing monies are larger it would be unreasonable to ask for these immediately upon the grant of planning permission and therefore an agreement (S106) has to be entered into with the developer to provide these at a later date when development starts. Since asking for the affordable housing contributions therefore a legal agreement or Section 106 agreement has been used in South Wiltshire in line with the rest of Authority.

2.2. Future policy for R2

2.2.1. Policy R2 (of the Salisbury District Local Plan) has been saved as part of the adopted South Wiltshire Core Strategy.

2.2.2. For the immediate future, it will continue to be used in Section 106 agreements to secure planning obligations for the provision of new open space and commuted payments towards outdoors sports facilities

2.3. 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.

2.3.1. 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.

- 2.3.2. 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.

3. Section 106 Agreements and Unilateral Agreements in the South West Wiltshire Community Area

- 3.1.1. Appendix 1 sets out all of the Section 106 agreements and Unilateral agreements in the South West Wiltshire Community Area secured in the last 7 years.
- 3.1.2. The table shows all of the agreements which have secured financial obligations along with the details of where the funding has been sought and how much has been negotiated.
- 3.1.3. The update position/comment shows some more details about the current situation. This will show where funding has been spent and where funding is still available. There are some agreements where further investigation is taking place to confirm the receipt or spending of funds.

4. Access to funding

- 4.1.1. All Section 106 Agreements specify how the financial contributions should be spent.
- 4.1.2. The Land Adoptions team are responsible for the allocation of 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 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.
- 4.1.3. 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.
- 4.1.4. 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.

4.1.5. 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.

5. Environmental & Community Implications

5.1.1. There are no Environmental and Community Implications

6. Financial Implications

6.1.1. 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

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

8. HR Implications

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

9. Equality and Inclusion Implications

9.1.1. There are no specific Equality and Inclusion implications.

10. Officer Recommendations

10.1.1. There are no officer recommendations.

Appendices	Appendix 1 – Summary of Section 106 Agreements in the Salisbury Community Area.
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No unpublished documents have been relied upon in the preparation of this report.

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