



Corporate Services Scrutiny Committee

Briefing Paper

Report of: Sue Saunders (Committee/Scrutiny Officer)
Date: Thursday, 8th January 2009
Open

Section 106 Review Panel

1. Summary

- 1.1 This briefing paper details the recommendations of the Section 106 Review Panel, following its scrutiny of the monitoring of Section 106 monies.

2. Background

- 2.1 Following a Member request, the review panel was established on 4th August 2008.
- 2.2 A review panel which consisted of the following members was formed:

Councillor J Holden (Chairman)
Councillor Mrs H E Dyke
Councillor P B Harrison
Councillor K Stokes
Councillor J Thomas
- 2.3 The terms of reference for the review were:

To consider the monitoring of Section 106 monies and how to report this to Councillors.
- 2.4 The panel met five times between 4th August 2008 and 24th November 2008.
- 2.5 The panel heard evidence from the following officers:
 - Cultural Services Manager – Wyre Forest District Council
 - Head of Financial Services – Wyre Forest District Council
 - Principal Forward Planning Officer – Wyre Forest District Council
 - Enforcement and Implementations Officer – Wyre Forest District Council

Agenda Item No. 5

- Planning Solicitor – Wyre Forest District Council
 - Education Department - Worcestershire County Council
 - Development Control Manager – Worcestershire County Council
 - Highways Development Control Officer – Worcestershire County Council
- 2.6 The Planning Obligations SPD, adopted in February 2007, set out details and procedures for securing developer contributions. It was used as a basis for pre application discussions and applicants could download this information from the Council's website.
- 2.7 Developer contributions must be made in accordance with the five tests set out in the Government's Circular. They must be relevant and directly related to the development in question.
- 2.8 An established monitoring system was in place for those contributions collected and implemented by the District Council. The Enforcement and Implementations Officer was responsible for overseeing this process.
- 2.9 In some instances, i.e. for highway schemes, monies were paid once the first resident had moved into a development, others were payable when a development commenced.
- 2.10 Education and highway contributions were sent directly to the County Council. Contributions towards highway infrastructure should only be spent in the relevant area where the development was taking place, it should not support other areas within the County.
- 2.11 If monies had not been spent within the relevant timescale specified in the agreement, a developer could apply for the money to be returned to them. If monies were given a five-year time limit and they were not spent until the end of the limited timescale, the value might not be sufficient to meet the needs of the project. If payment was delayed, it benefited from RPI increases but if it was held by the Council, it would not increase.
- 2.12 It was anticipated that the Local Development Framework Core Strategy would be adopted in 2010. This was likely to contain policies in relation to implementation and developer contributions, which were likely to be based on the emerging Community Infrastructure Levy (CIL) proposals. It was felt that this would be a more appropriate time to review issues in relation to Section 106 monies. The current Planning Obligations Supplementary Planning Document was based on the Adopted Local Plan Policy IMP.1 and the saved policies as set out in the Adopted Local Plan. Once the Core Strategy had been adopted, there would be scope to review the Supplementary Planning Document.
- 2.13 When a Section 106 Agreement was entered into, it had to be site specific and supporting reports stipulated what the money was for.

- 2.14 If monies had not been spent, the developer may be allowed to receive some interest back but at a low rate.
- 2.15 The District Council completed a Section 106 Monitoring Sheet including details of developments where Section 106 contributions/obligations were required.

3. Key Issues

During the review, it became apparent that:

- 3.1a Ward Councillors did not receive notification when a Section 106 was made. It was felt that Worcestershire County Council could be proactive in this and that this was more specifically directed at County Council's expenditure of the Section 106 monies collected within the District.
- 3.1b There was no specific procedure in place for the follow up and monitoring of Section 106 monies for those Ward Members who were not on the Planning (Development) Control Committee, although all 42 Members did receive the agenda for that Committee which included the Section 106 Monitoring Sheet on a quarterly basis.
- 3.2 Members of the Panel felt that there was a need to be informed of who benefited from Section 106 education monies.
- 3.3 They also felt a penalty should be imposed if a builder did not complete a job within the prescribed timescale. However, they were advised that whilst commencement of a development could be the subject of a planning condition, there was currently no scope for imposing a condition for completion of a development.

4. Recommendations to Corporate Services Scrutiny Committee

- 4.1 **Ward Councillors should be consulted when there was a possibility of open space Section 106 monies being available to provide facilities in their Ward with advice from Officers on location and need.**

As there would be a short timescale for responses due to the requirements on determination of planning applications, the consultation scheme to be provided by the Head of Planning, Health & Environment to suit those timescales and to fully comply with operational and legislative requirements and Government Circular Guidance and include provision for a final decision by the Head of Planning, Health & Environment.

- 4.2 The Head of Planning, Health & Environment to provide Councillors with the Annual Summary of the Operation of the Section 106 Education Contributions policy in the Wyre Forest district when it is received from Worcestershire County Council.**
- 4.3 Amendments to be made to the Section 106 Monitoring Sheets. They would include more detailed information in respect of contributions received and spent.**

5. Wards affected

District wide.

6. Background Papers

The minutes of the Section 106 Review Panel held on:

4th August 2008
20th August 2008
11th September 2008
18th September 2008
24th November 2008

Officer Contact Details:

Sue Saunders
Committee/Scrutiny Officer
Tel: 01562 732733
Email: susan.saunders@wyreforestdc.gov.uk