

ENVIRONMENT, CULTURE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL
23 JUNE 2009

SECTION 106 CONTRIBUTIONS
(Director of Environment, Culture and Communities)

1 INTRODUCTION

- 1.1 At their previous meeting on 16th March 2009, Members asked for a briefing highlighting how the Council secures, holds and applies s106 receipts. This report and the attached Annexe are intended to address this request.

2 SUGGESTED ACTION

- 2.1 Note and comment upon this report and the attached briefing paper

3 SUPPORTING INFORMATION

- 3.1 Members have expressed the desire to better understand on what basis the Council secures s106 receipts and how these receipts are utilised once received.
- 3.2 The Council sets out its requirements for mitigation of development through its Core Strategy and also through a planning policy document called "Limiting the Impact of Development". It is not the focus of this briefing to reflect upon these documents other than to say they were derived though extensive consultation, have a pseudo legal nature, and objectively demonstrate to any developer why these contributions are required and to varying degrees of precision what they must be used for.
- 3.3 In financial terms, the most significant receipts relate to highway improvement works and these are usually defined tightly within the agreement with very limited scope for interpretation. Contributions for affordable housing are also clearly defined. Depending on the scale of the development, receipts for educational purposes can be precise (eg a primary school) or less defined (Improving secondary schools in a defined area). Typically but not exclusively, receipts for community, youth, leisure, culture, recreation and open spaces offer most flexibility but their application is also normally restricted to a defined geographical area. These restrictions usually take the form of "X miles from the development" and are not restricted by bureaucratic boundaries.
- 3.4 It is the Borough Council's duty to utilise these receipts lawfully and in accordance with the S106 agreement. Lead Officers from within service departments are responsible for managing any projects to spend receipts and advice is sought from S106 officers and the Borough Solicitor to ensure projects are appropriate. As the briefing note describes, ideas for projects come from a number of sources and many are done in partnership. Only the Council or relevant Executive Members have the authority to approve schemes and these decisions are transparent and subject to consultation and scrutiny.
- 3.5 Although the existing information and decision making processes are apparently transparent and accessible, it is clear from members' feedback that in reality this could be improved. In discussion with the Executive Member for Planning and Transport and the Executive Member of Leisure, Corporate Services and Public

Protection, it is proposed to add a further consultation process to involve members in s106 projects proposed for their wards in advance of the approval decision.

- 3.6 The new process will only apply to schemes proposed “in year”. Members will be expected to comment on projects funded by s106 contributions but identified in the Council’s capital programme through existing processes but probably most effectively through the Panels’ scrutiny of the budget around Christmas of each year.
- 3.7 All new in year projects, howsoever derived, will be developed to an outline stage such that their purpose, approximate cost and timescale can be clearly understood by ward members. These members will be consulted and will have the opportunity to influence whether the project proceeds or not and in the latter case (or where there are other concerns) dialogue with the Executive Member will ensure concerns are fully understood by the Executive Member before a decision to proceed or not is made. If the decision is made to proceed, projects will be fully worked up and formal approval sought through the Executive Work Programme. This formal stage allows all members of the Council to review the proposal and of course any decision made can be subjected to a formal scrutiny process. This “new” consultation process mirrors that taken to review highway safety schemes which is considered to be very successful in engaging members at the appropriate time.
- 3.8 Members are therefore asked to review the briefing note and reflect upon the proposed improvement to consultation regarding s106 schemes.

Background Papers

Core Strategy

Limiting the Impact of Development

Contact for further information

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