

CHESHIRE EAST COUNCIL

REPORT TO: Corporate Scrutiny Committee

Date of Meeting:	8 th October 2013
Report of:	S106 Monitoring Officer
Subject/Title:	Section 106 Agreements

1.0 Report Summary

- 1.1 The purpose of this report is to update members on the current balance of S106 monies held by Cheshire East Borough Council and also sets out the process and current procedures in place for management of the S106 Agreements on completion of the agreements.

2.0 Decision Requested

- 2.1 That the Corporate Scrutiny Committee notes the report

3.0 Wards Affected

- 3.1 All

4.0 Local Ward Members

- 4.1 All

5.0 Background and Introduction

- 5.1 The S106 Officer reports semi-annually to the Scrutiny Committee

6.0 S106 monies currently held by Cheshire East Borough Council

- 6.1 Presented at Appendix 1 is a spreadsheet relating to the level of resource currently available.
- 6.2 In summary, the Council currently holds a total of £7,971,263.37 in the S106 account. £3,660,345.79 of the total figure is identified as non-time limited funds and £4,310,917 is identified as funds time limited for expenditure. This equates to £7,426,143.82 in capital and £545,119.55 in revenue.
- 6.3 Members should note that this is a working document which is continually being developed.

6.4 Presented at Appendix 2 is an overview of the amount of S106 funds currently being held on a ward basis, it is an overview rather than offering specific breakdown of monies held but it does provide a quick reference for members who can then request the detailed information directly from the S106 Monitoring Officer.

6.5 Comparison of income and expenditure for the last 2 financial years

Type of transaction	Financial Year	
	2011/12	2012/13
Income	265,643.00	1,422,462.00
Expenditure	143,417.00	528,448.36
S106 money returned	0	0

7.0 Income and expenditure for year 2013/14

7.1 From April 2013 to 28th August 2013 the Council has received S106 income of £2,585,244.56.

7.2 The Council is holding a substantial deposit of 2 million pounds for the restoration of Combermere Abbey (Audlem Ward). The S106 agreement relates to an appeal decision which granted permission for 43 dwellings including 5 affordable dwellings at land at Sheppenhall Lane in Aston. This deposit will enable the restoration of the North Wing of the Abbey as specified in detail in the S106 itself. The funds were deposited in June 2013 by Taylor Wimpey with The S106 Monitoring Officer is the Scheme Manager and expenditure has already been incurred and the restoration has begun. The development will, through the Section 106 agreement, provide an increased level of public access, opening the Abbey to for a minimum of 40 days a year, the gardens for a minimum of 6 days a year and opening the Abbey and grounds for an additional two days a year to allow two local Parish Councils to hold events. The S106 also secured other financial contributions which have not yet been triggered.

8.0 S106 Agreements completed

8.1 Presented at Appendix 3 is a list of agreements completed. At the last Corporate Scrutiny Committee members were presented with a basic list, this time the S106 Monitoring Officer has included the specific requirements of the S106 agreements including where the covenants are restrictive. The information

presented gives members a good indication of the types of benefits being secured through the agreements.

8.2 Overall, 47 S106 agreements or unilateral undertakings have been agreed from January 2013 to September 2013.

8.3 Income is dependent on the implementation of the planning permission and then the appropriate trigger being met and effectively monitored.

9.0 Management of S106 Agreements Completed by Cheshire East Council

9.1 The management of S106 agreements including the income generated from them has been the subject of an Internal Audit. This made a number of recommendations, the main of which is developing a formal internal policy and procedure and ensuring the monitoring of income and expenditure.

9.2 In this report the S106 Monitoring Officer will set out formally how the agreements are managed to inform members of the Scrutiny Committee and also satisfy the requirements of the audit report. It is important that the negotiation of planning obligations and subsequent expenditure of any contributions received from developers are carefully monitored in a transparent and accountable way. Effective communication of the agreements to all relevant parties is crucial to the process.

9.3 When a section 106 agreement has been signed, an electronic copy of the agreement accompanied with a completion memo is circulated from Legal Services to all stakeholders which may include colleagues in highways, education, housing, spatial plans (housing land supply), parks and green spaces, land charges, finance and S106 officer for monitoring as well as the planning officer who will issue the decision notice. A copy is placed on the planning register. This ensures that all relevant parties have access to the information they require.

9.4 Information relating to the agreement is then entered into a Microsoft Access database for the purpose of monitoring. The system records information including:

- The planning permission reference number
- Address including ward and parish
- Description of the development
- Planning obligations – financial and in-kind

- Amount of financial contribution
- Trigger for planning obligation
- Date money received
- Physical works completed

- 9.5 The trigger for payment or things to happen can include commencement of development, phases of development, occupation or completion of the agreement itself. Through proactive monitoring, if a payment or event has been triggered, then the S106 Monitoring Officer writes to the developer to request the sum, depending on the wording of the agreement. This may include indexation and late payment interest.
- 9.6 When payments are received they are recorded and noted against the relevant agreement and included in the Council's Capital Programme for spending. This is the information which is presented to members at Appendix 1. To ensure that all relevant parties are informed of S106 income, the S106 Monitoring Officer circulates a memo to Finance, the relevant Stakeholder and the appropriate Ward member for information.
- 9.7 The spreadsheet is maintained by the Councils Finance department, in accordance with financial regulations. The spreadsheet is populated by both the Council's Accountants and the S106 Monitoring Officer, and is then circulated to all budget holders and finance teams on a quarterly basis. It is disseminated to officers within the respective teams so that they are aware of the monies available for spend and project managers are appointed, where appropriate, to ensure the funds are spent against agreed priorities.
- 9.8 The spreadsheet enables the monitoring of deadlines where the money is due to expire. A risk assessment is done on a regular basis to identify where monies are due to expire so that the expenditure of the money can be expedited. In the unlikely event that money expires or there is a residual balance this will be paid back to the developer in accordance with the S106 Agreement. In the last two financial years no S106 monies have been repaid to the developer.
- 9.9 When stakeholders wish to access the S106 monies for spend a process is in place which verifies that spend. In addition to the stakeholders own internal process (i.e. a delegated decision notice sign off for certain amounts) a 'Drawdown request' is completed for both finance and the S106 Monitoring Officer to verify that spend is in accordance with the specifics of the S106

agreement. This effectively monitors expenditure in addition to reporting to Corporate Scrutiny.

- 9.10 The above process is simple, yet effective and all information held is relevant, maintained and accessible.

10 Further improvements

- 10.1 At the last Corporate Scrutiny in April 2013 Members expressed that they would like to see the information relating to S106 funds available readily accessible to them. With this in mind and with the aim to improve transparency and promote the area of work related to S106 agreements, the S106 Monitoring Officer proposes to update and make changes to the web page associated with S106 agreements, currently contained in the planning web pages. The information currently held on web page needs updating. It is intended to publish details of S106 funds received and being held by the Council, the details of agreements completed and possibly link the database so that information becomes 'self serve'.
- 10.2 Progress with particular obligations and expenditure in general will continue to be reported twice yearly to Corporate Scrutiny.

The background papers including the individual S106 Agreements relating to this report can be inspected by contacting the report writer:

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