

**REPORT OF**    **Planning Manager**  
**To:**            **Community & Resources**  
**Subject:**      **S106 Process**  
**Date:**         **14 March 2022**

**Reference:**

<p><b>PURPOSE OF REPORT:</b> To provide an update of the Section 106 process following Community &amp; Resources Committee of the 24<sup>th</sup> January 2022</p>
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## 1. INTRODUCTION

A report was presented to Community & Resources Committee on the 24<sup>th</sup> January 2022 outlining the existing S106 process and funding allocation. In particular, that report considered the following:

- Planning Background
- How are Section 106 agreements agreed
- Monitoring of Section 106 agreements
- Distribution of funds and application process for unallocated funds

At the Committee meeting, Members requested further clarity and assurances that Ward Members would be consulted and involved within the S106 process.

## 2. REPORT

As previously reported to Members, discussions concerning planning obligations take place as early as possible in the planning process and ideally an applicant will seek pre-application advice especially where the site is considered major development. Through the planning application process, applicants are required to submit a document entitled 'Heads of Terms' which sets out the planning obligations they are proposing to provide and how these accord with current planning policy.

In most cases applicants will have had pre-application discussions with both TDC and DCC Officers to establish the planning obligations required to be provided. As part of the planning process, Ward Members are consulted on the proposed Heads of Terms by the Planning Case Officer as part of the consideration of the application and prior to the determination of an application.

Following concerns raised by Members regarding a potential lack of consistency with the involvement of Ward Members, process changes have been identified, and Planning Officers have also undertaken a half day professional development session focusing on S106 Agreements on the 17<sup>th</sup> February.

Whilst it appeared that Ward Members were consulted on a large number of S106 instructions, following review it is noted that in the instance where a proposal was 'Policy compliant' (that being the planning obligation accorded with the requirements set out within the adopted North Devon & Torridge Local Plan) there have been instances where Ward members were not notified.



Moving forward to ensure consistency of Ward member consultations, additional checks and balances will be added to the process at both the Officer delegated / Committee report stage, and the Legal Instruction stage, with both forms now requiring Officer confirmation of Ward Member consultation.

These measures will be monitored by the 'sign off' Officer (ordinarily Development Manager or Team Leader) who will ensure appropriate consultation and discussion has taken place (having regard to the particular legal requirements of planning obligations as laid out in the Committee report of the 24<sup>th</sup> January).

These additional 'checks & balances' will ensure Ward Members are consistently notified of S106 agreements, and involved in any required negotiations of planning obligations to the benefit of the local communities in respect of site specific obligations, or the wider district in respect of strategic obligations.

### **3. IMPLICATIONS**

#### Legal Implications

The process takes into consideration relevant legislation (namely the Town & Country Planning Act 1990, The Community Infrastructure Levy Regulations 2010 & the National Planning Policy Framework).

#### Financial Implications

No known financial implications arising at the time of writing this report.

#### Human Resources Implications

No known resource implications arising from this report.

#### Sustainability/Biodiversity Implications

No known sustainability/biodiversity implications

#### Equality/Diversity

No known equality/diversity implications

#### Risk Management

Not applicable

#### Compliance with Policies and Strategies

The stated process accords with the adopted North Devon & Torridge Local Plan, TDC S106 Grant funding guidance notes and accords with the communities, health and housing theme of the Strategic Plan 2020-2023.

#### Data Protection (GDPR) Implications

No known GDPR implications.

#### Climate Change

No known climate change implications.

#### Lead Member Views

Date of Consultation – 1<sup>st</sup> March 2022.

Councillor Watson – “The process amendments to be put in place will help Ward Members continued involvement in any S106 negotiations. I hope that this will give Members



confidence that they will continue to be involved in any future discussions and give them an overview of planning obligations coming forward in their Ward”

### **SUPPORTING INFORMATION**

Consultations:                      Date of Consultation – 3<sup>rd</sup> March 2022  
Officers Consulted - Steve Hearse, Staci Dorey, David Heyes,  
Sean Kearney

Contact Officer:                      Shaun Harrington Planning Manager

