

Subject: Review of Section 106 Procedures **Status:** For Publication

Report to: Performance Scrutiny Committee **Date:** 13 June 2007

Report of: Deputy Chief Executive

Portfolio

Holder: Spatial Development and Regeneration

Key Decision: NO

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

1.1 To present the findings and associated recommendations following an independent review of current practices and procedures in relation to section 106 agreements.

2. CORPORATE PRIORITIES

2.1 The matters discussed in this report are linked to and support the following corporate priorities:-

- *Delivery quality services to our customers (Customers Improvement)*
- *Delivering regeneration across the borough (Economy Housing)*

3. RISK ASSESSMENT IMPLICATIONS

3.1 The Council needs to ensure it follows industry good practice principles in relation to the management and delivery of section 106 agreements. This report addresses identified gaps thus minimizing future risk.

4. BACKGROUND AND OPTIONS

4.1 An independent review was carried out prior to December 2006 in relation to the management of section 106 agreements. The review was requested by members following a series of complaints and concerns by members.

4.2 For background information, section 106 agreements are part of the planning process. A local planning authority and developer may enter into a legal agreement to provide infrastructure and/or services on or off the development

site. This agreement, commonly known as a section 106 is a delivery mechanism for the matters that are necessary to make a development acceptable in planning terms.

4.2 Review outline and methodology

4.2.1 The objectives were to review the process and procedure surrounding section 106 agreements and undertake a review of case and file management.

4.2.2 Specific outputs from the review were to include:

- a. Recommendations for Improvement
- b. Identification of any people, process or performance issues with recommendations.

4.3 The Methodology for conducting the review consisted of

- a. Review of existing documentation
- b. Review of current best practice in respect of 106 agreements
- c. Review of random cases
- d. Interviews/questionnaires with relevant staff
- e. Analysis of funding's compared to best practice
- f. Recommendations

5. Key Findings

5.1 The background and history of issues relating to section 106 agreements goes back many years. The review highlighted that there had been no systematic or comprehensive management of section 106 agreements until very recently. There appeared to be no linkages to corporate objectives or ownership at a senior management level within the council spanning many years.

5.2 In summary therefore the key findings identified:

- Lack of ownership of 106 agreements at a corporate level
- No evidence of linkages to the community strategy or corporate priorities
- Lack of policy, procedures and guidance to support staff, members and others.
- No monitoring system in place
- Evidence of poor case and file management
- Ineffective training and support to staff

5.3 The issues relating to section 106 agreements are clearly complex and the review confirmed that many of the issues and poor practices did not relate to specific cases but was more widespread with problems created due to lack of adequate systems and procedures and lack of ownership at an individual and corporate level. However, it was noted that the new management arrangements which were introduced in development control in October 2006

had started to address the issues identified above with many of the recommendations being addressed.

- 5.4 The findings and recommendations following the review have been incorporated into the development control improvement plan which was approved by members in October 2006. Appended to this report are the recommendations following the review, all of which have been discussed and agreed with the head of planning.
- 5.5 The review recognized the importance of ensuring all relevant staff are adequately trained and supported and this is reflected in the action plan.
- 5.6 Monitoring of the actions is being carried out by the Deputy Chief Executive and Portfolio holder and a further report will be provided to members updating on progress in due course.

6. COMMENTS OF THE HEAD OF FINANCE

- 6.1 The efficient and effective management of section 106 agreements can have a direct and tangible financial benefit for the Council.
- 6.2 The action plan identifies the need for regular monitoring of section 106 agreements, by Finance, in conjunction with other departments to ensure the effective use of section 106 receipts and the administration procedures of those section 106 agreements.

7. COMMENTS OF THE HEAD OF LEGAL

- 7.1 The effective management of Section 106 agreements is essential and the introduction of procedure and policies will mitigate the risk of legal challenge.

8. COMMENTS OF THE HEAD OF HUMAN RESOURCE

- 8.1 The training needs of staff are being addressed as per the action plan.

9. Conclusion

- 9.1 As can be seen from the recommendations appended to this report many of the items have been addressed or are in the process of being actioned.
- 9.2 The review concluded that there is now evidence of strong senior management action to address all the issues identified, thus moving the Council quickly to a place of best practice and this is being monitored to ensure success.

10. RECOMMENDATION

- 10.1 That members note the report.

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No background papers