

 Finance and Audit Scrutiny Committee: 8 March 2016		Agenda Item No. 8
Title	The Monitoring of Section 106 Contributions	
For further information about this report please contact	Gary Fisher	
Wards of the District directly affected	All Wards	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	30 June 2015: Minute No. 19 2 September 2015: Minute No. 47	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Yes
Equality Impact Assessment Undertaken	N/A

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	24/2/16	Chris Elliott and Bill Hunt
Head of Service	24/2/16	Tracy Darke
CMT		
Section 151 Officer		
Monitoring Officer	24/2/16	Andrew Jones
Finance	24/2/16	Mike Snow
Portfolio Holder(s)	24/2/16	Councillor Cross
Consultation & Community Engagement		
N/A		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 This purpose of this report is to update Members on the progress that has been made in continuing to develop and review the section 106 monitoring database.

2. **Recommendation**

- 2.1 That the Committee note the contents of the report.

3. **Reasons for the Recommendation**

- 3.1 As Members are aware, in order to ensure that the requirements and financial contributions identified in legal agreements which have been completed in connection with specific grants of planning permission are undertaken, Officers have developed a detailed monitoring spread sheet.

- 3.2 That spread sheet comprises of an individual entry for each requirement or contribution in order that it's undertaking or payment can be tracked, and in the case of financial contributions to ensure that the funding is spent on the project for which it was required within an appropriate timescale.

- 3.3 Key benefits of the development of this spread sheet include:-

- Transparency in the identification and handling of the contributions and other undertakings that are required in relation to specific developments.
- Clarity in the identification of trigger points to ensure that contributions and undertakings are received/implemented at the appropriate stage of the development.
- The ability to ensure that contributions are spent for the purposes identified within the section 106 agreement within the required timescale and that there is no risk of contributions remaining unspent and therefore at risk of being clawed back.
- To enable service areas and other partners to plan their budgets particularly linked to capital projects arising from or related to specific developments.
- To enable town and parish Councils to identify the availability of potential funding.
- To enable members of the public to track the implementation of section 106 agreements in relation to developments that are of interest to them.

- 3.4 The monitoring and updating of the spread sheet very much continues on a collaborative basis particularly involving officers within Development Management; other officers across the Council and colleagues at Warwickshire County Council.

- 3.5 In particular, since the last update provided to this committee in September 2015, further significant progress has been made in checking and following up previously outstanding requirements. Of the 131 agreements included on the overall spreadsheet, 26 are currently being actively monitored, a further 13 relate to developments that have not yet commenced and the remainder have been fully discharged.

- 3.6 The 26 agreements which are currently being actively monitored comprise 187 individual requirements, including 6 agreements which relate to planning permissions granted prior to 2011 and 11 relating to permissions granted from 2013 onwards.

- 3.7 Those outstanding individual requirements extend across a variety of circumstances for example where:-
- i. The development has commenced but the relevant trigger point has not been reached (78 entries);
 - ii. Discussions are on-going with the developer;
 - iii. Funds are being invoiced and are expected (16 entries);
 - iv. Works have been programmed or are in progress;
 - v. Contributions have been received but not yet spent (28 entries); and
 - vi. The contribution/requirement is overdue and being pursued (45 entries).
- 3.8 It is of note that contrary to the position prior to the preparation of the database, with a very small number of exceptions, the position with all of the requirements of active section 106 agreements is now known. A key element of that approach is the on-going monitoring by officers of the progress of all relevant development schemes including the commencement of the development and, crucially the position relative to the various trigger points at which different requirements included in the agreements kick in.
- 3.9 As a result, officers are now able to proactively liaise with developers at the relevant points in the development process including the invoicing of financial contributions as the relevant trigger points approach. In turn, this is having a positive effect on the timely provision of those contributions and in the circumstances where they are not forthcoming, enables the outstanding amounts to be speedily pursued.
- 3.10 One of the particular benefits of this proactive and collaborative approach to the monitoring of section 106 agreements is the creation of focus on specific areas of work which for example within the Parks and Open Spaces team has resulted in priority being given to the monitoring and collection of outstanding contributions. This in turn forms a significant element of the provision and development of open space across the District as part of Council's Green Space strategy.
- 3.11 It is also anticipated that as the clear message arising from this approach increasingly filters through to developers, it will encourage a proactive approach to the discharge of section 106 requirements on their part which in turn may increase the speed and effectiveness with which these matters are resolved.
- 3.12 Officers are also continuing to review and develop the database itself and the collaborative monitoring process and liaising with partners and councillors in doing so.
- 3.13 The current spread sheet which is displayed in 2 ways - the first being the full document and the second focussing on the current active S106 requirements – can be found on the District Council's website here: [Section 106 spreadsheet - Downloads - Warwick District Council](#)

4. **Policy Framework**

- 4.1 **Fit for the Future** – The delivery of section 106 contributions and requirements including, for example the infrastructure necessary to support major development schemes across the District will ensure that such infrastructure comes forward in the right manner and at the right time to support that development and will therefore contribute to the vision of making

Warwick District a great place to live, work and visit as set out in the Sustainable Community Strategy and be consistent with the Fit for the Future programme.

5. Budgetary Framework

- 5.1 This monitoring work is being undertaken within existing budgetary frameworks and is also supported by financial contributions towards the cost of monitoring specific types of development which are identified within appropriate section 106 agreements.

6. Risks

- 6.1 In view of the nature and scale of the development proposals that are to be delivered across the District within the emerging Local Plan period, it is the absence of a robust and detailed monitoring regime, such as that which is being developed, that has been identified as the key risk.
- 6.2 Without such a regime, the risk of essential requirements and contributions not being provided, or of contributions that have been received remaining unspent and liable for repayment is increased.

7. Alternative Option(s) considered

- 7.1 For the reasons identified in paragraph 6.1 and 6.2 above, the option of not proceeding with an appropriate monitoring regime has been discounted.