

Agenda for Scrutiny Committee
Thursday, 4th February, 2021, 6.00 pm



Members of Scrutiny Committee

Councillors C Brown (Chair), C Pepper, V Ranger (Vice-Chairman), E Rylance, M Chapman, I Chubb, A Colman, V Johns, O Davey, S Hawkins, F King, T McCollum, H Parr, B Taylor and C Wright

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Issued: Tuesday, 26 January 2021

Important - this meeting will be conducted online and recorded by Zoom only.
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Public speakers are now required to register to speak – for more information please use the following link: <https://eastdevon.gov.uk/council-and-democracy/have-your-say-at-meetings/all-other-virtual-public-meetings/#article-content>

1 Public speaking

Information on [public speaking](#) is available online

2 Minutes of the previous meeting (Pages 3 - 10)

Minutes of the Scrutiny Committee meeting held on 10 December 2020.

3 Apologies

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency

Information on [matters of urgency](#) is available online

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which officers recommend should be dealt with in this way.

- 7 Decisions made by Cabinet called in by Members for scrutiny in accordance with the Overview and Scrutiny Procedure Rules

There are no items identified

- 8 Verbal update by Councillor Jung on role of the Coast, Countryside and Environment Portfolio Holder

- 9 Scoping of Section 106/CIL Issues (Pages 11 - 31)

The report updates Members on the findings of the SWAP audit into this area of work and to provide information on the current spend.

- 10 Forward Plan (Pages 32 - 36)

Scrutiny forward work plan

- Review S106/CIL

Proposal forms received:

1. Staff morale, mental health and wellbeing
2. The role of Planning Enforcement

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Scrutiny Committee held on 10 December 2020****Attendance list at end of document**

The meeting started at 6.00 pm and ended at 9.15 pm

95 Public speaking

There were no members of the public wishing to speak.

96 Minutes of the previous meeting

The minutes of the meeting held on 5 November 2020 were agreed as a true record.

97 Apologies**98 Declarations of interest**

Minute 106. Car parking tariff review.

Councillor Andrew Colman, Personal, Exmouth Town Councillor.

Minute 106. Car parking tariff review.

Councillor Eleanor Rylance, Personal, Broadclyst Parish Councillor and a resident of Broadclyst which has a car park and a member of the Car Park Task and Finish Forum.

Minute 106. Car parking tariff review.

Councillor Iain Chubb, Personal, Devon County Councillor.

Minute 106. Car parking tariff review.

Councillor Maddy Chapman, Personal, Exmouth Town Councillor and a resident of Exmouth.

Minute 106. Car parking tariff review.

Councillor Olly Davey, Personal, Exmouth Town Councillor.

Minute 106. Car parking tariff review.

Councillor Tony McCollum, Personal, Employed by Honiton Town Council which has car parks managed by EDDC and President of Honiton Chamber of Commerce.

Minute 106. Car parking tariff review.

Councillor Vicky Johns, Personal, Ottery St Mary Town Councillor and Ottery St Mary has two EDDC car parks.

99 Matters of urgency

There were no matters of urgency.

100 Confidential/exempt item(s)

There were no confidential/exempt items.

101 **Decisions made by Cabinet called in by Members for scrutiny in accordance with the Overview and Scrutiny Procedure Rules**

There were no items called-in.

102 **Draft Financial Strategy 2021-2031**

Simon Davey, Strategic Lead Finance, presented the draft Financial Strategy 2021 – 2031. The purpose was to provide background information and set the scene in advance of the Overview Committee considering the more detailed budget for the next financial year at its meeting in January.

The Draft Strategy outlined how the Council would structure and manage its finances over the next ten years to deliver services in accordance with the objectives set out in the Council Plan. The Strategy, which was updated annually, covered the general fund (all services except housing which had its own financial plan) and capital.

The Medium Term Financial Plan (MTFP) was explained, and the following points were highlighted:

- Reduction in funding from central Government had severely impacted on all local authorities
- Renegotiation of the refuse and recycling contract for 2022/23 would require significant capital investment
- The ongoing commitment of £323k per annum for the carbon reduction programme would need external funding if the Council was to meet its objectives in full
- The Covid-19 pandemic has had a significant impact on income generation in the current financial year. Despite Government funding to reimburse the loss of various income streams, the Council would need to find £1.2 - £1.3million of its own funds to make up the deficit
- Timing of the Government's proposed re-basing of business rates was uncertain which made financial planning difficult. The likely loss of business rate income as a result of re-basing had been taken into account in future years
- Income from the New Homes Bonus scheme had been reducing year on year and would disappear completely from 2023/24. As yet there were no details from Government as to a replacement for the New Homes Bonus

The MTFP showed a projected deficit for 2021/22 of £0.694m, which increased annually, reaching £5.653m in 2030/31 as a cumulative deficit. In order to mitigate the uncertainty surrounding the timing of the loss of the New Homes Bonus and the reduction in business rates income, the Council had set aside £2 million into a MTFP risk reserve which would enable the Council to support service delivery and then react when there was greater clarity and certainty.

The MTFP also showed the projected capital expenditure and funding position. Capital expenditure was considered on a scheme by scheme basis and, through a rigorous assessment process, was balanced against the funding available.

During discussions the following points were noted:

- Concern that the increase in car park charges would take away money for the community.

- Clarification sought about whether an analysis had been done on the savings. In response Simon Davey confirmed that an analysis had been done on Homesafeguard which showed there was a demand for additional services that people want and are prepared to pay for. He also referred to item 12. He felt confident, subject to Members approval, that the savings that could be made and were achievable and that the demand was there to generate the level of income.
- It was noted the positive lift in Business Rates was as a result in the efforts of Libby Jarrett and her team.
- Concern raised about the loss of business rates in towns with shops closing down. In response Simon Davey confirmed the loss had been taken into account and although still important it was not significant as there had been high rateable value increases with the likes of the Enterprise Zone and large supermarkets.
- Concern raised about the rise in car park charges if businesses were struggling and a suggestion was made to defer the increase for a year. In response to the suggestion to defer the increase in car park charges for a year he urged Members to consider the loss of £300,000 which would need replacing.

RESOLVED:

That the contents of the report be noted.

103 **Sustainable Homes and Communities Portfolio Holder report**

Before starting her report Councillor Megan Armstrong, the Homes and Communities Portfolio Holder provided a response to a question raised by Councillor Twiss at the Poverty Working Panel meeting. In response to his question about whether the council had applied for government funding towards homeless projects she advised the council did have several capital projects and had purchased the Sailors Rest and a HMO in Exmouth and had ongoing plans for further purchases using our own funds. The Council has received government funding for revenue support as previously reported.

The Portfolio Holder outlined her responsibilities and Members acknowledged the role of the Homes and Communities Portfolio Holder was a strategic role to look at shaping policies and strategies. Members were reassured that the stock condition survey which was overdue would start in the New Year to look at and assess all the councils housing stock to find out what needs to be done to maintain fit for purpose homes for tenants which would also include a climate change action plan.

A lengthy questions and answers session followed which was first opened to non-committee members and included:

- Councillor Millar sought clarification on the meaning of systems thinking and an explanation about what had changed from the former portfolio holder. In response it was advised systems thinking meant an effective and efficient way of working. In terms of her role as portfolio holder was looking at all the different departments and getting to know the staff and said she did not want to compare herself to the previous portfolio holder.
- In response to a question about the portfolio holder's involvement with the review of the Housing Company she advised she sat on the TaFF and was working through what direction the Housing Company should take and how the council would best deliver on its affordable housing ambitions.

- Councillor Skinner understood how hard the portfolio holder role was and emphasised the importance to understand that different people need different housing. He emphasised the need to develop schemes for the right people to live in and how communities and families need to stay together to look after each other and suggested that she worked with the Chair of the Strategic Planning Committee to understand what each community needs.

Questions from Councillors de Saram, Moulding, Allen and Key could not be answered at the meeting and would be provided at a later date.

The Leader of the Council applauded Councillor Armstrong for enduring the questions and addressed the issue of the endless supplementary questions that demanded factual information that Members could have asked Officer in advance of the meeting. He advised that Scrutiny was not meant to trip up portfolio holders and ask members to show more respect.

The following questions and comments were raised by committee members:

- The portfolio holders report was welcomed and was excellent.
- The welcome reference to solar panels and a £450,000 secured grant. Would like to see more grants like this.
- Clarification sought on what she thought were the main issues and challenges with the housing in East Devon. It was advised the lack of social housing was a concern and that she did not agree with the right to buy scheme which takes away social housing from people who cannot afford to live anywhere else.
- Concerns raised about the lack of accommodation available for victims of domestic abuse which had seen an increase this year. In response John Golding, the Strategic Lead for Housing, Health and Environment advised the council had arrangements with other authorities to get victims of domestic abuse to a place of safety and if required out the area. There was also a sanctuary scheme that provided additional security to tenants' homes where domestic violence had occurred or feared.
- Clarification sought on what was being done to help vulnerable tenants who struggled with technology and how were they being reached. In response John Golding, the Strategic Lead for Housing, Health and Environment advised the council had provided digital awareness classes for sheltered housing tenants and Mobile Support Officers with the help of Home Safeguard and other teams had contacted every tenant in East Devon and offered support and signposted to community and voluntary groups if assistance was required.
- Disappointed that councillors from the previous administration did not know why they had set up the Housing Company.
- In terms of domestic abuse a suggestion was made to explore empty homes or second homes.
- The need to scrutinise councillors in meetings to gain a positive outcome.
- There are no council houses in Cranbrook. In response Cllr Armstrong agreed there was a clear need for social housing in Cranbrook and whilst housing associations had significant stock in Cranbrook she would look into this in the New Year with Councillor Ledger, Chair of Strategic Planning Committee.

The following motion was proposed by Councillor Ranger and seconded by Cllr Johns.

All councillor should receive training on how to ask constructive questions to address the matter in hand so the meeting can move on at a constructive and timely manner.

The Chairman requested that a vote take place on the motion. The motion was put to committee and with 11 votes in favour and no abstentions. The motion was carried.

RECOMMENDATION to Cabinet:

That all councillors should receive training on how to ask constructive questions to address the matter in hand so the meeting can move on at a constructive and timely manner.

104 **Quarterly performance report**

Members received the report of Joanne Avery, Management Information Officer which provided performance information and progress against our performance indicators from across the council services

This information would provide a clear view of progress against what we said we would deliver in our Council Plan and Service Plans and deal with performance issues arising.

RESOLVED:

That the performance against delivery of our key performance indicators for the 2nd quarter of 2020/22 so that issues can be addressed in a timely way be accepted.

105 **Expenditure on consultants and agency staff 2019/20**

Members considered the report of Melissa Muir, Assistant Accountant which provided details of capital and revenue spend on consultants and specialist advice and agency staff for 2019/20. It was noted Audit and Governance Committee had received previous reports.

This information would provide the expenditure on consultants and agency staff in the delivery of council services.

The following points were discussed:

- Clarification sought on potential savings for the council by not employing outside agency staff but by bringing functions in-house. It was advised agency staff were used in Streetscene during peak times for grounds maintenance and cleansing which was more efficient.

RESOLVED:

The details of expenditure on consultants and agency staff in 2019/20 be noted.

106 **Car parking tariff review**

Members received a report from Andrew Ennis, the Service Lead Environmental Health and Car Parks which set out proposals to engage with the public on proposals to introduce changes to car parking tariffs in some of our car parks. Members noted the report followed consideration of some of the issues raised by Members of the Car Parks Task and Finish Forum.

Members were asked to consider recommendations for the better management of some of our car parking assets and in turn to recommend that the Council should now authorise Officers to carry out the required statutory advertisements and consultation of these proposals.

During discussions the following points were noted:

- Concern about raising car parking charges just after Covid-19. In some areas driving is the only option. It is a bad idea to put charges up in April.
- Prefer to look at category 2 car parks rather than increase costs.
- Need to consider inappropriate parking in towns.
- Need to encourage local shopping.
- If car parking charges increase this will encourage vehicles parking in side roads.
- Suggest to postpone for a year.
- Town centres are struggling.
- Campervan charges in other areas are higher than East Devon.
- Need a shoppers' car park without residents parking.
- Bad timing – need to put off until next year.

RESOLVED:

1. To request Officers to prepare a revised policy for campervans and motorhomes for further consideration by the TAFF.
2. To repurpose the Car Parks' Task and Finish Forum to report back to Scrutiny Committee in the Spring of 2021:
 - a) To consider in more detail the options for supporting the Council's Climate Emergency Action Plan,
 - b) To develop a range of options for the future management of the Council's category 2 car parks,
 - c) To consider any other measures including the possibility of introducing evening charges in certain car parks.

RECOMMENDATION to Council

1. That TAFF Members propose the introduction of a new tariff of £1.20 per hour in East Devon District Council's category 1 (prime location) car parks effective from 1 April 2021
2. That TAFF Members also propose the introduction of a revised pricing structure for car parking permits with a £120 per annum for a single town (and an additional £24 per each town added) up to a maximum annual permit charge of £240 to cover all towns. To provide a 'pay monthly' scheme for all regular customers starting with a single town permit for just £10 per month.

107 **Forward plan**

3 Scrutiny Forward Plan proposals forms were received.

Members considered a proposal form received from Councillor David Key on the ban on Chinese lanterns and loud fireworks.

During discussions the following points were noted:

- Officer comments advised this matter was passed to the Overview Committee.

RESOLVED:

That the proposal on the ban on Chinese lanterns and loud fireworks should not be scoped.

Members considered a proposal form received from Councillor Bruce de Saram on ensuring that our green spaces were safe, welcoming and well managed and to protect our biodiversity

During discussions the following points were noted:

- Should we wait to see what Streetscene have to say as clearly it is an error. It is clearly a mistake at operational level. It is not a pattern of mistakes.
- Comes down to selection of staff and staff training.

RESOLVED:

That the proposal to ensure that our green spaces were safe and welcoming and well managed and to protect our biodiversity should not be scoped.

Members considered a proposal form received from Councillor Vicky Johns to consider S106s due to the lengthy time it takes to get these done. Councillor Johns praised the S106 Officers for doing a fantastic job but said East Devon was a large area with only two S106 Officers.

During discussions the following points were noted:

- Officer comments noted there was a SWAP audit in progress to review S106/CIL and suggested the Committee await the outcome of the SWAP audit before progressing this matter.

RESOLVED:

That the proposal be put on the forward plan and scoped in February 2021.

Attendance List

Councillors present:

C Brown (Chair)
V Ranger (Vice-Chairman)
E Rylance
M Chapman
I Chubb
A Colman
V Johns
O Davey
S Hawkins
F King
T McCollum
H Parr
B Taylor

Councillors also present (for some or all the meeting)

M Allen

M Armstrong
P Arnott
J Bailey
S Chamberlain
B De Saram
P Faithfull
M Howe
D Key
D Ledger
K McLauchlan
P Millar
A Moulding
M Rixson
P Skinner
J Whibley
E Wragg

Officers in attendance:

Simon Davey, Strategic Lead Finance
John Golding, Strategic Lead Housing, Health and Environment
Wendy Harris, Democratic Services Officer
Amanda Coombes, Democratic Services Officer
Andrew Ennis, Service Lead Environmental Health and Car Parks
Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)

Councillor apologies:

C Wright

Chairman

Date:



Report to: **Scrutiny Committee**

Date of Meeting 4th February 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Scoping of Section 106/CIL Issues

Report summary:

Following a request to scope future work on S106 and CIL Issues this report is to update Members on the finding of the SWAP audit into this area of work and to provide information on the current spend. A review of this process is already envisaged by Officers and forms part of the draft Organisational Development Service Plan for 21/22.

Recommendation:

1. That Members acknowledge the findings of the SWAP audit into Section 106/CIL and the recommendations made in the audit report.
2. That Members note that a review of the S106 spend and participatory spend process forms part of the draft service plan for Organisational Development.

Reason for recommendation:

To ensure that Members are aware of the work that has already taken place and is ongoing with regard to this issue to inform their scoping of the matter.

Officer: Ed Freeman: Service Lead – Planning Strategy and Development Management

Portfolio(s) (check which apply):

- Climate Action
- Coast, Country and Environment
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Finance
- Policy Co-ordination and Regional Engagement
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

There are no direct financial implications identified at this stage. The additional s106/CIL resource highlighted in the report has been included in the draft 2021/22 budget although fully funded from income received.

Legal implications:

There are no legal implications other than as set out within the report.

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
 - Outstanding Homes and Communities
 - Outstanding Economic Growth, Productivity, and Prosperity
 - Outstanding Council and Council Services
-

Background

At the Scrutiny Committee meeting of the 10th December 2020 Members considered a proposal from Cllr Vicky Johns to consider the S106/CIL process following concerns that it takes a long time to move forward with delivering projects. Some of the reason for this was thought to be the limited staff resources in this area. Members were advised that a SWAP audit was in progress to consider this area of work and that the committee should wait for the outcome of the audit. It was resolved that the proposal be put on the forward plan and scoped in February 2021.

The Audit

South West Audit Partnership have now completed an audit of the S106 and CIL system. The purpose of the audit was to ensure that appropriate arrangements are in place to manage the receipt and expenditure of S106 and CIL contributions. The audit was brought forward at the request of the leader having originally been planned for quarter 4.

The report gives “limited assurance” noting that the S106 spend and collection work is not up to date due to the substantial work that has been involved in populating the Exacom system and the redeployment of officers into the community hub to help to support the community through the Covid-19 pandemic. The report notes that no monies have been lost or returned to developers as a result of this lack of resource but there are a significant number of outstanding actions required on the system.

The report makes two priority 2 recommendations relating to appointing additional temporary staff resource to help get the system up to date and the updating of guidance on the participatory budgeting process. A further two priority 3 recommendations are made in relation to the introduction of the public facing Exacom module and the use of Exacom for recovering outstanding payments. Officers acknowledge the findings of the audit and are committed to addressing the identified issues as a priority.

The report was reported to Cabinet at their meeting of the 6th January with Members noting the findings of the audit and the need to appoint additional staff resource as a priority. Audit and Governance Committee are also considering the findings. The full report is appended for Members information.

The Current Position

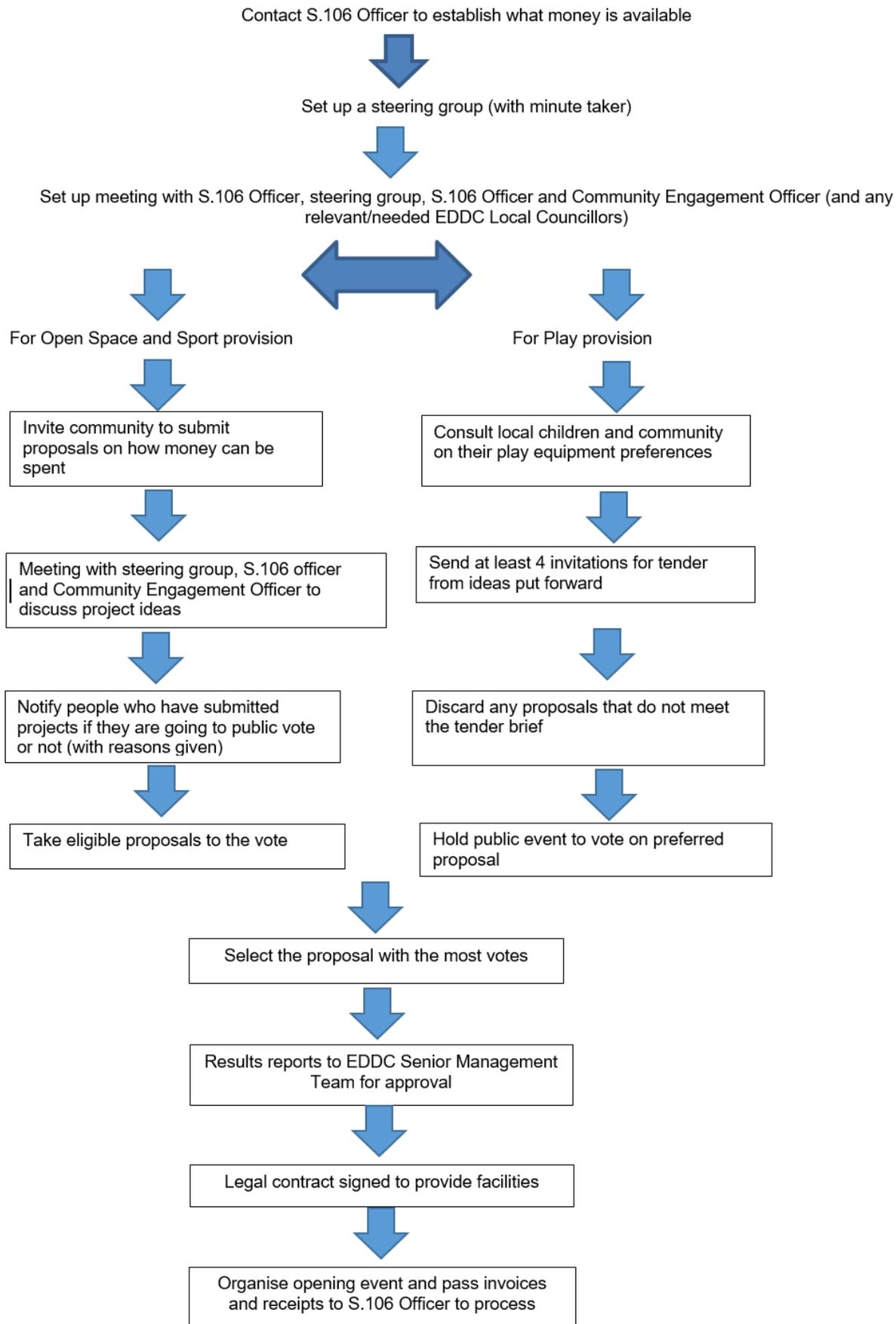
A lot of work has been on-going to get the Exacom system up to date and the information on the Exacom system is now largely complete and a public facing module giving access to the data through the website is being readied to go live shortly. The additional staff resources recommended by SWAP are in the process of being recruited and will help to enable the remaining tasks to be completed and enable further progress to be made on supporting the spend of monies in the community.

We are in the process of updating the information about the spend process that is available on the website as recommended by the SWAP audit, however the audit did not look at the spend process itself. The spend process involves a range of resources corporately including the comms team and often engineers in the street scene team when council land is involved. The process is based on the principles of participatory budgeting and involves the respective town or parish council with the support of the EDDC's Community Engagement Officer undertaking a lot of work to engage with the community on their needs and aspirations for provision of sport, open space and play provision. These processes were established many years ago and seek to ensure that the sports, open space and play facilities that are delivered meet the needs and aspirations of the community. Officers are not aware of any other local authorities in the area that use a participatory budgeting process to determine spend with many authorities using the funding to support their own capital programme and not engaging with communities over how the monies are spent. Although the process takes significant resources and can be time consuming it has delivered many innovative and popular facilities that may not have been so popular without the involvement of the community in their delivery or may not have been delivered at all.

The full process and guidance notes that are available on the Council's website are appended to this report for Members information and understanding of the existing process. It should be noted that this relates to the spend of monies collected for open space, sport and play areas only.

It is clear that it is a resource intensive process that in recent years has caused frustration among town and parish councils looking to spend S106 monies. This has already been understood and acknowledged by officers and a review of this process has already been proposed as part of the Organisational Development Service Plan and agreed at the joint Scrutiny and Overview Committee for recommendation to Cabinet.

Section 106 Open Space, Sport and Play Monies Spend Process



How can we access open space, sports and play money?

There are important procedures that need to be followed to ensure that you, the town or parish council, are allocated your funds. If you get in touch with our section 106 officer, she will tell you how much money is available.

By following the simple process outlined in the rest of this information, you can make sure the funds are allocated correctly and speedily:

- Set up a steering group with town and parish council representatives and other relevant organisations. This steering group should ensure that local people know what is happening. Town and parish newsletters are a good way to do this.
- Set up a meeting with our section 106 officer, community engagement officer and your steering group. At this meeting you should look carefully at the process and decide what work your steering group is willing and able to do to ensure the funds are spent appropriately. A schedule of future face-to-face meetings must also be agreed. Either the steering group or the section 106 officer and/or community engagement officer will write up an action plan outlining what will happen and when, and who is responsible for each stage of the process. Relevant East Devon District councillors should be made aware of the process and invited along to meetings where appropriate so they can also help town and parish councils if needed.
- Our section 106 and/or community engagement officers are able to advise, or be involved in, every stage of planning events and activities to publicise the projects. They are a very useful resource and are happy to help. However, if the steering group decides not to ask them to get actively involved, then you must make sure are kept fully informed of any activities or events that are planned before any action is taken.
- Our communications officer will be able to offer support with publicity for your events. You should make sure our section 106 officer and/or community engagement officer should make sure that they are aware of any planned activities well in advance. This is a valuable resource, as the communications officer has a comprehensive list of media contacts and will be able to issue press releases or statements on your behalf. Budgets are always under pressure and this is a good way to gain free publicity.
- Children and young people must be given an opportunity to vote on the projects. Play and sport is particularly relevant to them so their votes need to be actively sought. If this is to be done by you, the advice of our community engagement officer must be sought on how to do this most effectively and in line with child protection guidance.
- We strongly recommend that Parish and Town Councils undertaking the participatory budget process take minutes at their steering/working groups and publish them on their websites to ensure that the process is open and transparent.
- Having a Neighbourhood Plans in place that has already identified open space, sports and play facilities needed in the area can reduce the time taken to complete the process, particular if consultation has already been undertaken on the open space, sport and play requirements in the Parish or Town and is included in the Plan.

How to spend money available for sport

Please make sure you read the 'How can we access open space, sports and play money' part of this guide first.

The group (East Devon officers and the town or parish council steering group) should:

1. Look at how much money is available for sport. The definition of a 'sport' is provided by [Sport England](#).
2. Look at your parish plan or neighbourhood plan if you have one. This is a useful starting point and may help you decide what sports provision your parish needs.
3. Invite your local community to submit their proposals on how this money could be spent. This should be done through a publicity campaign in the media and through posters. This can be done for very little cost, if any, by involving us.
4. After initial ideas for projects have been submitted by the community, they must be passed to the section 106 officer. A meeting should be held at which the town or parish council, section 106 officer and community engagement officer are present to discuss the initial project ideas to ensure they meet the Section 106 funding criteria. This meeting and actions from it must also work out if the eligible projects are affordable and possible, for example are there potential sites available for the project.
5. Anyone who has submitted a project must be notified whether it is going to the public vote or not. If not they should be given reasons why it isn't.
6. All the eligible, affordable and possible proposals should be taken to the community for their votes. This voting must be well publicised. Age brackets and postcodes of voters should be collected to ensure all ages and geographical locations within the parish are fairly represented. The voting is most successful when held in places where people are already gathering, for example at farmers' markets, Christmas fayres or local cafés.
7. The most popular project should be the one that gets the pot of money. If there is any money left over after this project is funded it should go to the second most popular project, and so on. By allocating funds in this way, it ensures the most popular projects actually happen. The results will be kept on file and if additional section 106 money becomes available that would be spent on the next most popular project.
8. Our section 106 officer will report the results to our senior management team for approval, and the steering group reports to the parish/ town council. A legal contract must be set up by us between the landowner of the site and us.
9. Organise an opening event at the finished sports facility, making sure that members of the community, councillors, developers whose money contributed to the sports project and the local media are invited.
10. Your town/parish council or other organisation pass received invoices onto our section 106 officer to be reimbursed.
11. In the unlikely event of any discrepancies, the final decision as to which project(s) are supported lies with us and ward councillors as custodians of section 106 monies.

How to spend money available for play

Please make sure you read the 'How can we access open space, sports and play money' part of this guide first.

The group (our officers and your town or parish council steering group) should:

1. Look at how much money is available for play and where it could be spent. This is within usually 600 metres of the development the section 106 contribution has come from.
2. Look at your parish plan or neighbourhood plan if you have one. This is a useful starting point and may help you decide where to spend the money.
3. Consult local children on what they do and don't like about play areas and what the important activities are in a play area for example, sliding, climbing, rather than ask them to select specific pieces of equipment. This ensures that the play companies have some flexibility and can perhaps put in new and exciting pieces of equipment the children may not know about.
4. Send at least four play companies an invitation to tender detailing what you want them to provide and what your budget is. If it is a council owned play site, then we will do this for you. If it's owned by you or the community then we can help you with this process.
5. Your steering group should discard any of the designs that come back and don't meet the brief and/or the budget. They should end up with a short list of about three designs for the community to vote on.
6. Plan and hold a play event and/ or go into local schools and encourage children and young people from within the parish to take part by voting for the play area they want. A play event could include face painting, games, or circus skills. A small amount of the section 106 money is set aside to pay for consultation. The voting could be held as part of a local event, for example a village fête. Alternatively nearly all schools are keen to get involved in local community projects so the voting could be held as part of an assembly. You just need to make sure that you get the views of the right age ranges.
7. Whichever play area design receives the most votes is the one that will happen.
8. Our section 106 officer reports the results to our senior management team for approval, and your steering group reports to your parish/town council. A contract must be signed with the play company, and a legal contract must be set up by us between the landowner of the site and us.
9. If the play area is owned by the town or parish council or other organisation they would pass received invoices onto the section 106 officer to be reimbursed.
10. Once the play area is built an opening event is organised. Members of the community, councillors, developers whose money contributed to the play area, and the local media should be invited.
11. In the unlikely event of any discrepancies, the final decision as to which project(s) are supported lies with us and ward councillors as custodians of section 106 monies.

How to spend money available for open space

Please make sure you read the 'How can we access open space, sports and play money' part of this guide first.

The group (our officers and your town or parish council steering group) should:

1. Look at how much money is available for open space, what exactly it can be spent on and where it could be spent.
2. Look at your parish plan and neighbourhood plan if you have one. This is a useful starting point and may help you decide where to spend the money.
3. Invite your local community to submit their proposals on how this money could be spent. This should be done through a publicity campaign in the media and through posters. This can be done for very little cost, if any, by involving us.
4. After initial ideas for projects have been submitted by the community, they must be passed to the section 106 officer. A meeting should be held at which the town or parish council, section 106 officer and community engagement officer are present to discuss the initial project ideas to ensure they meet the Section 106 funding criteria. This meeting and actions from it must also work out if the eligible projects are affordable and possible, for example are there potential sites available for the project.
5. Anyone who has submitted a project must be notified whether it is going to the public vote or not. If not they should be given reasons why it isn't.
6. All the eligible, affordable and possible proposals should be taken to the community for their votes. This voting must be well publicised. Age brackets and postcodes of voters should be collected to ensure all ages and geographical locations within the parish are fairly represented. The voting is most successful when held in places where people are already gathering, for example at farmers' markets, Christmas fayres or local cafés.
7. The most popular project should be the one that gets the pot of money. If there is any money left over after this project is funded it should go to the second most popular project, and so on. By allocating funds in this way, it ensures the most popular projects actually happen. The results will be kept on file and if additional section 106 money becomes available that would be spent on the next most popular project.
8. Our section 106 officer will report the results to our senior management team for approval, and the steering group reports to the parish/ town council. A legal contract must be set up by us between the landowner of the site and us.
9. Organise an opening event at the finished sports facility, making sure that members of the community, councillors, developers whose money contributed to the sports project and the local media are invited.
10. Your town/parish council or other organisation pass received invoices onto our section 106 officer to be reimbursed.
11. In the unlikely event of any discrepancies, the final decision as to which project(s) are supported lies with us and ward councillors as custodians of section 106 monies.

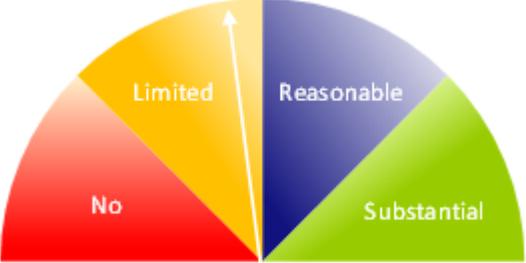
S106/CIL Compliance

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Final Report

Issue Date: 7 December 2020

Executive Summary

Assurance Opinion		Recommendation Summary	
	<p>Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.</p>	Priority	Number
		Priority 1	0
		Priority 2	2
		Priority 3	2
		Total	4

Audit Conclusion

The objective of the audit was to ensure that appropriate arrangements are in place to manage the receipt and expenditure of S106 and CIL contributions. We originally had scheduled to undertake the audit in Quarter 4 however was brought forward to quarter 2 at the request of Members. A number of weaknesses were already known to the service at point of testing, such as the Exacom system not being up to date however work was ongoing to ensure that the system was brought up to date before the end of 2020/21. However, at point of testing these issues were still outstanding and have contributed to a Limited Assurance opinion being offered in relation to the audit objective.

The S106 spend and collection process is monitored and managed by a single S106 Officer with support on community consultation and engagement from the Community Engagement Officer. Although the S106 Officer is very experienced and knowledgeable it is a multi-faceted role with a significant workload. The implementation of Exacom has made administering and managing the process more efficient but it did take a considerable time to set up and the S106 Officer spent almost 12 months populating the system when it was first introduced back in late 2018/19, with the assistance of two temporary officers. This has caused a delay in progressing some of the S106 spend. In addition, during the Covid-19 pandemic, the S106 Officer was redeployed again to assist in the Community Hub. During this time, no S106 demands were raised and there was no community engagement or consultation as the Community Engagement Officer was also redeployed. This has resulted in Exacom not being up-to-date and reports showed that there were actions outstanding back to 2018. In addition, S106 demands have not been raised on a timely basis and there are also demands that require chasing but due to Exacom not being up to date we are unable to confirm the total outstanding. We therefore suggest that the resources required should be reviewed to assess the requirement to manage the backlog and resilience and that the S106 Monitoring/CIL Administrative fund be used to finance any requirements. Once the any additional resource has been agreed, Exacom should also be utilised further to aid in the recovery process. It is important to understand that none of these issues or delays have resulted in having to pay the developers back any unspent S106 contribution.

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The Participatory Budget Guide used by Town and Parish Councils is on the EDDC website and provides the process for obtaining funding for Sport, Play and Open Space provision. It requires reviewing and updating to include the whole process until the project is complete. A flow chart of the process would make it easier to follow.

Finally, once Exacom is updated, the Public Facing Exacom should be rolled out as soon as possible. This will allow Parish and Town Councils and other interested stakeholders to access current information on the S106 spend received and due.

Background

This audit was originally planned for quarter 4 however we were asked to bring it forward at the request of the Council Leader to assess the quality of management information and the level of community engagement.

The purpose of the audit is to ensure that EDDC have comprehensive controls to ensure that all planning contributions are collected and then spent in accordance with the agreements in place.

To address the impacts of development Councils seeks contributions from developers in the form of facilities, infrastructure, or financial contributions. Contributions were historically collected through Section 106 Agreements' (after Section 106 of the Town and Country Planning Act 1990). The Government has now introduced the Community Infrastructure Levy (CIL) which allows Councils to raise funds from developers undertaking new building projects in their area, to be used to fund a wide range of infrastructure that is needed as a result of development. The Levy operates alongside traditional Section 106 Agreements as a means of collecting developer contributions.

The EDDC Operational Risk Register has the following low risk relating to the impact of not receiving the contributions due:

The Council does not receive grants and contributions to which it is entitled to meet, or help meet, its expenses having a negative impact on the Council's budget.

The control is stated as Receipt of Section 106 funds and that there is an S106 Officer in post who ensures funds that are due to the Council are charged and that checks are made by accountancy to ensure monies received tied back to agreements.

EDDC use a participatory budgeting process to distribute the S106 funds for sport, play and open space provision. Therefore, the Town and Parish Councils and residents of East Devon are able to actively contribute in their development. We were unable to find any other Council that uses participatory budgeting in this way.

Financial Information

The Project Dashboard in Exacom shows the following data on S106/CIL:

Type	Potential	Due	Collected	Allocated	Spent	Available
CIL	£5,231,143	£2,989,570	£5,397,903	£3,001,448	£86,880	£2,309,574
S106	£40,570,240	£575,002	£20,695,685	£3,080,790	£6,460,062	£11,158,104

For CIL, the amounts allocated to the Neighbourhood CIL are as follows:

Type	Potential	Due	Collected	Allocated	Spent	Available
Neighbourhood CIL	£924,817	£548,359	£861,553	£788,912	0	£72,642

15% of CIL receipts that arise from development in the parish area are allocated to the Neighbourhood CIL. For those Councils with a Neighbourhood Development Plan 25% of CIL receipts will be paid.

The CIL Regulations state that a Town/Parish Council must use CIL receipts passed to it in accordance with Regulation 59A or 59B to support the development of the local council's area, or any part of that area, by funding:

- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
- (b) anything else that is concerned with addressing the demands that development places on an area.

For S106, the amounts that are allocated directly to the Parish and Town Councils for Play, Sport and Open space only. The figures are as follows:

Type	Potential	Due	Collected	Allocated	Spent	Available
Sport	£556,453	0	£528,896	£394,785	£48,326	£75,785
Open Space	£2,257,914	£397,546	£4,354,148	£1,838,518	£1,570,944	£944,686
Play	£859,721	£5,428	£777,939	£88,653	£387,402	£301,884
Total	£3,674,088	£402,974	£5,660,984	£2,321,956	£2,006,673	£1,332,355

This means that only 35% of S106 collections for sport, open space and play have been spent leaving 41% allocated but not yet spent and 24% available to be spent. £135,855 of these collections have been received up to 10 years ago. There is also £463,626 relating to 74 agreements which have passed their spend deadline. It is important to note that the spend deadline is not written into the agreement and therefore is only an internal target.

The Council charges 5% of the CIL receipts to fund the costs of the administration which currently has £123,535 available. There is also a S106 Monitoring Pot which has £46,124 available. This is used to fund the Planning Obligations Officer and the CIL Officer but there are funds remaining after these have been allocated.

Corporate Risk Assessment

Objective

To ensure that appropriate arrangements are in place to manage the receipt and expenditure of S106 and CIL contributions.

Risk	Inherent Risk Assessment	Manager's Initial Assessment	Auditor's Assessment
1. S106/CIL contributions are not received by the Council or obligations are not met by developers resulting in reputational damage and financial loss.	High	Medium	Medium

Scope

As part of our review the following controls were examined:

1. Data is input into the database in a timely, effective and accurate manner to allow appropriate management and monitoring of both the S106 and the CIL agreements.
2. There are clear processes and procedures in place for both staff and developers which are in line with legislation.
3. Reporting and monitoring of S106/CIL is undertaken on a regular basis and includes informing parishes on the receipt of S106 contributions and any delays in their receipt.
4. All relevant stakeholders are involved in the decision-making process and the participatory budgeting process is adhered to.
5. Trigger points are set so that demands are raised and collected on a timely basis.
6. Outstanding demands are subject to effective debt collections process including legal recovery when necessary.
7. The Impact of Covid-19 is understood and is being mitigated.
8. There is adequate resource in place to manage the S106 and CIL process.

We have concentrated on the S106 process and how the funds are used for sport, play and open space provision within the district. We have also undertaken a high-level review of the CIL process. We have not looked at the Affordable Housing Provision.

Findings and Outcomes

Risk 1. S106/CIL contributions are not received by the Council or obligations are not met by developers resulting in reputational damage and financial loss.

Medium

1.1 Finding and Action

Issue

Actions outstanding on Exacom dating back to 2018.

Findings

We found that data is input into Exacom accurately and the issue identified in the previous audit on applications having a missing Ward or Parish is no longer a concern. However, there are a large number of outstanding actions dating back to 2018 and therefore Exacom is not currently up to date, which the team are already aware of. The Primary Stages report shows that the actions outstanding include:

Year	Total	Check/Email Devon CC to see if actions outstanding	Demand required or needs chasing	Spend needs checking to see if allocated and/or spent	Site Visit required	Miscellaneous
2018	881	57	87	229	96	412
2019	150	7	2	41	2	98
2020	218	1	3	37	3	174
Total	1249	65	92	307	101	590

There are also 770 agreements where the target is ASAP and these relate to removing Land Charges. However, this was followed up with the Land Charges team and 152 of these agreements have been removed but Exacom has not been updated.

We are unable to state with certainty that all these actions are outstanding as it may be just a case of the action not being removed once completed but this is the report that the Planning Obligations Officer will use to deal with outstanding actions. It is also difficult to ascertain the full impact of these outstanding actions and what the implications is on them remaining incomplete, although some of the financial impact is shown in Finding 1.2 below. The reason for the delay in completing the outstanding actions is mainly caused by the Planning Obligations Officer was redeployed to populate Exacom, input the projects and sort out the finances during late 2018 – autumn 2019 and therefore was not undertaking her usual role. In addition, during the Covid-19 pandemic both the Planning Obligation Officer and the Community Engagement Officer were redeployed to the Community Hub to assist. This meant that very little progress was made during this period either. There was no cover for S106 during the periods when the Planning Obligations Officer was redeployed which caused these actions to remain outstanding for, in some cases, over two years.

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There is a CIL administration Fund and S106 Monitoring Fund which is used to fund both the Planning Obligations Officer and Planning Obligations Support Officer. However, there is currently sufficient funding left to consider appointing an officer to assist with the backlog and provide the resilience required.

We also suggest that the Primary Stages Report is run on a regular basis and presented to the Assistant Development Manager and Development Manager to monitor the progress of the outstanding actions and establish whether any additional resource has been effective.

SWAP Ref: 44284

Agreed Action	Priority Score	2
<p>We agree to review the current resources and review the requirement for a temporary officer to be appointed to assist with the backlog of actions We will also instruct the Planning Obligations Officer to provide us with a quarterly report on the status of the outstanding actions – including recovery (see finding 1.2).</p>		
<p>Responsible Officer</p>	<p>Development Manager</p>	<p>Timescale</p> <p>Quarterly reports from Jan 2021</p> <p>Review resource needs and advertise post by end Feb 2021</p> <p>Appoint: April 2021</p>

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1.2 Finding and Action

Issue

Not all demands are raised on a timely basis and the recovery processes are ineffective as there are unpaid demands dating back to 2017.

Findings

We are unable to confirm with any accuracy how many demands are due to be raised although the Primary Stages Report indicates that there are 92 demands that either require raising or chasing.

The Balance Sheet Report shows the following data:

Type of Value	Amount	Number of Covenant
Total Potential	£60,684,908	1766
Total Due	£20,823,408	961
Total Paid	£20,574,085	901

Other important data is shown below:

Total Potential unraised/not due	£40,773,328	805
Total due but not received	£510,521	61

We were advised that the amount 'due but not received' should be correct but they have not been double checked for accuracy and could have been superseded with new permissions.

We were informed by the Planning Obligations Officer that a more accurate method to establish which demands require raising was to review the actions outstanding on the Primary Stages Report. This report showed that there are 92 applications that require invoices raising or chasing and we were advised that no demands have been raised between April and August 2020 during the Covid-19 pandemic.

Total value of these agreements is £1,241,916 but £812,177 has been paid leaving a total of £429,739 that potentially requires raising. This does not include one application which totals £4,663,493 where there has been some payments received but there is currently a demand required for the indexation amount and late payment interest plus 5 months x £999 for monitoring fees which has not yet been raised.

We also ran the S106 Unpaid demands report in early September, and this showed the following demands remain unpaid:

Year	Value	Number of demands
2017/18	£136,819	36
2018/19	£7,452	3
2019/20	£60,795	10
2020/21	£265,086	5
Total	£470,153	49

Exacom has the ability to monitor outstanding debts and can be used to issue reminder letters via the Notices Module. However, the demand raising and recovery process, has not been formally agreed since it has moved from the Accounts Payable function, so this has not been utilised. It should therefore be made a priority to review all the demands outstanding and issue reminders using Exacom where appropriate and this could include using a temporary officer to assist in the raising and chasing of demands where appropriate.

In addition, the outstanding actions on the Primary Stage Report should be reviewed and all demands that are due should be raised.

NOTE: A recommendation has already been made as part 1.1 re. additional resource to support in the management of data which will support in addressing this issue.

SWAP Ref: 44284

Action	Priority Score
We will start to utilise Exacom to track the recovery process including using further notices and date tracking. This process relies on having sufficient resource in place so will be reliant on a temporary officer being appointed.	3
Responsible Officer	Timescale
Planning Obligations Officer	By June 2021

1.3 Finding and Action

Issue

Participatory Budgeting Guide is out of date and not easily located.

Findings

The main information that is available for Town and Parish Councils to advise them of how the S106 spend process works is the Participatory Budgeting Guide on the website. We were advised by the Planning Obligations Officer that she provides the link direct to the correct part of the website, but it is difficult to find it if you search for it on the website.

In addition, although this is useful information to assist the Town and Parish Council with the process it should be reviewed and updated. The following issues were identified:

- It states that Community Infrastructure Levy (CIL) is due to start soon when it was implemented in September 2016.
- It also states that EDDC are considering expanding the types of open space that the contributions can be used for and this has taken place as contributions are used for open spaces as well as sport and play.

The update should make clear the differences between the S106 and CIL and provide some idea of the timescales involved in the whole process. We also suggest that Parish and Town Councils undertaking the participatory budget process should take minutes at their steering/working groups and publish them on their websites to ensure that the process is open and transparent. We also suggest that reference is made to the benefit of having Neighbourhood Plans in place. This can reduce the time taken to complete the process if consultation has already been undertaken on the open space, sport and play requirements in the Parish or Town and is included in the Plan

SWAP Ref: 44299

Action

Priority Score

2

We will review and update the Participatory Budgeting Guide, and this will include recommending that Parish and Town Councils should take minutes of the steering/working groups and publish them on their website.

Responsible Officer

Development Manager

Timescale

By end Jan 2021

1.4 Finding and Action

Issue

Parish and Town Councils are not advised on how much S106 has been collected.

Findings

Currently, EDDC do not routinely provide the Parish or Town Councils with a report on how much S106 has been collected although they will provide this information if requested. However, they do receive an update on how much CIL has been allocated.

We discussed reporting with the Planning Obligations Officer, and she advised that she could produce an update to Parish and Town Councils on how much S106 has been collected. However, with the upcoming public facing module from Exacom soon to be published, this information will be readily available then. Parish and Town Councillors can then extract the information when required.

The Public Facing Exacom is working in the test system and is ready to be published once the data is brought up to date. It therefore should be made a priority to ensure that this is completed as soon as possible and then Exacom should be published.

SWAP Ref: 44300

Proposed Action	Priority Score
We will ensure that the Public Facing Exacom is made available as soon as we have been given assurance that the Exacom is complete and accurate.	3
Responsible Officer	Development Manager
Timescale	By end March 2021

Other suggestions

Overage

The Development Delivery Project Manager introduced a new procedure in January 2020 to monitor those S106 agreements with an overage clause. Prior to this process being implemented EDDC would be relying on the developers to submit the final account which is part of the agreement. A former Housing Delivery Officer was previously monitoring Overage but when she left in 2018 there was a period when it was not being monitored. However, this was picked up the Planning Obligations Officer after a gap when it wasn't being monitored.

The Development Delivery Project Manager confirmed that EDDC have not missed issuing any Overage demands but as the Development Accounts have not been submitted by the developers it maybe that they are due.

The agreements with an overage clause have all been reviewed and recorded them on a table to monitor the status. Due to the Covid-19 pandemic no work has been done on this since March, but the Officer is progressing it from October 2020 and will be issuing stage 1 letters to all developers who have an overage clause and haven't sent in the Development Account and have completed the site.

It was agreed that a full audit trail of actions undertaken on each agreement should be held.

Audit Framework and Definitions

Assurance Definitions

None	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Substantial	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.

Definition of Corporate Risks

Risk	Reporting Implications
High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.
Medium	Issues which should be addressed by management in their areas of responsibility.
Low	Issues of a minor nature or best practice where some improvement can be made.

Categorisation of Recommendations

In addition to the corporate risk assessment it is important that management know how important the recommendation is to their service. Each recommendation has been given a priority rating at service level with the following definitions:

Priority 1	Findings that are fundamental to the integrity of the service's business processes and require the immediate attention of management.
Priority 2	Important findings that need to be resolved by management.
Priority 3	Finding that requires attention.

Please note that this report has been prepared and distributed in accordance with the agreed Audit Charter and procedures. The report has been prepared for the sole use of the Partnership. No responsibility is assumed by us to any other person or organisation.

If you require the report in an alternative format, please contact SWAP Head Office.

Proposal form for items for consideration by Scrutiny Committee



Submitted by: Cllr Helen Parr

Date submitted: 18 Jan 2021

Item for Consideration: Staff Morale, Mental Health, Wellbeing`

Expected outcome (i.e. new policy, new action, new partnership, review and/or scrutinise the performance of other public bodies or of the Council in relation to its policy objectives, performance targets and/or particular service areas):

Scrutinise the performance of the Council in relation to its policy objectives, performance targets eg.

Priority for matter to be considered (please tick):

High (up to 3 months)	X
Medium (3 to 6 months)	
Low (over 9 months)	

Basis on which priority has been set:

This matter has been raised by members at several meetings recently eg. O & S Budget meeting, and in view of the Covid pandemic and other pressures on officers there is clearly concern. Cllrs should be kept informed and the CE has offered to come to a meeting and talk to cllrs.

The suggested item should be included in future programme(s) because: (please tick as appropriate)

a) It is a district level function over which the district has some control	X
b) It is a recently introduced policy, service area of activity which would be timely to review	
c) It is a policy which has been running for some time and is due for review	X
d) It is a major proposal for change	
e) It is an issue raised via complaints received- cllrs have raised this matter	X
f) It is an area of public concern	X
g) It is an area of poor performance	
h) It would be of benefit to residents of the district	X

Which of the Council's objectives does the issue address?:

Council Priority Four- Outstanding Council and Council Services
Investors in People High Performing (Platinum) award; Mindful Employer

Is there a deadline for the Council to make a decision? (If so, when and why?):
Urgent, the wellbeing of staff is involved

Members are requested to provide information on the following:-

What do you wish to achieve from the review?: Cllrs be advised by the Chief Executives on the current position re Staff Morale/ Wellbeing and to agree actions to address the situation.

Are the desired outcomes likely to be achievable?:Yes

Will it change/increase efficiency and cost effectiveness?:Yes

Additional information – an explanatory sentence or paragraph to be provided below to support each box which has been ticked:

The council is a very well run organisation, and has an excellent record as an Employer [Platinum Level Investor in People Award 2020]. However, there is currently concern re staff morale during these unprecedented times of Pandemic, and change. Cllrs have raised this issue and should be advised by the CE of his views on the matter, kept informed of actions he has taken, and actions he considers the council could take to improve the position.

The public expect the council to deliver good services and be a good employer in order to do this. Officer wellbeing and morale is vital to being a well run organisation.

Please can you return the completed form to Democratic Services via email to democraticservices@eastdevon.gov.uk.

MONITORING OFFICER COMMENTS

It is within the remit of the Scrutiny to review this matter if so minded. Consideration needs to be given to the nature and scope of any report that is requested from the Chief Executive given that the committee receives details around staffing as part of the SPAR reporting system.

Date: 19.1.2021

Proposal form for items for consideration by Scrutiny Committee



Submitted by: Val Ranger

Date submitted: 18th January 2021

Item for Consideration: The role of Planning Enforcement

Expected outcome (i.e. new policy, new action, new partnership, review and/or scrutinise the performance of other public bodies or of the Council in relation to its policy objectives, performance targets and/or particular service areas):

To scrutinize the performance of the council in relation to this service area.
 To ensure all councillors understand the role of Planning Enforcement, its scope and its limitations.
 To ensure this area is sufficiently resourced.

Priority for matter to be considered (please tick):

High (up to 3 months)	yes
Medium (3 to 6 months)	
Low (over 9 months)	

Basis on which priority has been set:

The suggested item should be included in future programme(s) because: (please tick as appropriate)

a) It is a district level function over which the district has some control	yes
b) It is a recently introduced policy, service area of activity which would be timely to review	
c) It is a policy which has been running for some time and is due for review	yes
d) It is a major proposal for change	
e) It is an issue raised via complaints received	yes
f) It is an area of public concern	yes
g) It is an area of poor performance	possibly
h) It would be of benefit to residents of the district	yes

Which of the Council's objectives does the issue address?: Outstanding Place and Communities

Is there a deadline for the Council to make a decision? (If so, when and why?): No formal deadline but the reputation of the council and confidence in the service are at stake.

Members are requested to provide information on the following:-

What do you wish to achieve from the review?:

- 1) Consistency across the district.
- 2) More transparency for residents and councillors
- 3) Clearer enforcement path with timescales
- 4) Difference between the action taken against homeowners and action taken against the bigger corporate developers, the former often seeming more harsh than the latter.
- 5) Other policy links – here are three examples:
 - a. a number of farmers diversify from farming into renting out fields for horses which impacts on the commons and heathlands AONB/SSI/Pebblebed heaths. They are often accompanied by swings to entertain the children, caravans, trailers and other paraphernalia. Stables pop up outside of other people's houses with no permission. We have no equestrian management policy. When invited to apply for change of use to equestrian they don't want to as agricultural farms do not have to pay capital gains tax when passed onto family heirs whereas equestrian properties do pay CGT.
 - b. some landowners and developers are gaming the planning application process. They are also prone to gaming the planning conditions. They can also go as far as using the Planning Inspectorate to fend off EDDC and using the cost of litigation as a further deterrent. There are real remedies available, but first the issue needs to come before Scrutiny.
 - c. Request to variation of conditions on a site where the original developer went bust and the new owner did not comply with conditions (this quote is on the EDDC website in the public domain so there is no breach of sensitive information here BUT I don't think the application has formally been determined yet :
REVIEW OF SUBMITTED DETAILS Due to inadequate detailing and poor construction management the as-built scheme falls far short of its original design intentions and approved planning drawings. It is unrealistic to expect that the as built external works can be brought back in line with the originally approved design proposals, but while some compromise is necessary, further changes are needed both to the as-built construction and latest landscape drawings. Notable issues to be addressed are the treatment of the hill top to the east of the site; treatment of the footpath following the northern site boundary; completed earth bunds around plot curtilages; changes to plot boundaries; design of surface water drainage and provision of adequate structure planting to screen the development in key views and help assimilate it into the surrounding landscape.

Are the desired outcomes likely to be achievable?: yes

Will it change/increase efficiency and cost effectiveness?: Yes. Potentially there is a risk this area could prove to be under-resourced which may have longer term financial implications.

Additional information – an explanatory sentence or paragraph to be provided below to support each box which has been ticked:

I list here examples of questions that members may wish to have addressed:

Conditions How are they checked?
 What penalties are applied where a breach takes place?
 How are penalties enforced?
 Failure to comply with Conditions – what happens next?
 Retrospective applications – how can we discourage these – national policy change/
 lobbying of MPs?
 Change of use – the slippery slope to an end result?
 Variation of conditions once a site is part built and it is no longer considered 'practical' to
 ensure conditions – see 19/1794/VAR?

Building Heights – how and when are these checked at the start of work, during work before its too late?

Trees – where felled with or without approval – is replanting enforced?

Sustainability – what measures, parity across district?.

Adverse impact on neighbouring properties – flooding, amenity – how is this monitored

Consultees reports - Full reliance on taking Highways, DCC, EA reports as gospel. Is this good enough.

Repercussions if their reports prove to be incorrect?

Failure of a councillor to disclose a personal interest – which later comes to light. What action can be taken?

Please can you return the completed form to Democratic Services via email to democraticservices@eastdevon.gov.uk.

MONITORING OFFICER COMMENTS

It is permissible for Scrutiny to look into the matter of the Council's approach to planning enforcement although consideration will need to be given to the potential resourcing issue. Some of the questions posed don't immediately pertain to enforcement but rather the wider issue of the approach to the handling of planning applications. Scrutiny will need to clearly define what it wishes to focus on. It will need to be borne in mind that Scrutiny are not able to review the particular merits of planning decisions.

Date: 26th January 2021

Deputy Monitoring Officer in the absence of the Monitoring Officer.