

Report to: Scrutiny Committee



Date of Meeting 11<sup>th</sup> July 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## S106 and CIL Resourcing Update

### Report summary:

This is a brief report to update Members on progress with addressing resourcing issues involved in Section 106 obligations and CIL administration. This is further to a report to the Committee's meetings on the 7<sup>th</sup> September 2023 and 4<sup>th</sup> April 2024 and subsequent resolutions from Cabinet on resourcing these key areas of work.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

That Members note the progress that has been made on addressing the resourcing of CIL and Section 106 work.

### Reason for recommendation:

To ensure that Members are advised of progress in addressing the issue of resourcing Section 106 and CIL work as highlighted at previous meetings of the committee.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information** Previous Scrutiny Report - [070923 S106 CIL Resources and Processes 2023 Scrutiny.pdf \(eastdevon.gov.uk\)](#)

**Link to [Council Plan](#)**

Priorities (check which apply)

- Better homes and communities for all
  - A greener East Devon
  - A resilient economy
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## **Background**

This report seeks to update Members on progress in increasing staff resources associated with CIL and Section 106 work further to Members previous consideration of these issues at their meeting of the 7<sup>th</sup> September 2023 and 4<sup>th</sup> April 2024. At the September meeting Members made a series of recommendations as follows:

### **“RECOMMENDATIONS TO CABINET:**

1. Recommend that Cabinet support the proposed revised S.106 Monitoring Fees charging schedule appended to the report [Report on Section 106 and CIL Resources and Processes] and recommend to Council that these charges be applied with effect to Section 106 agreements associated with planning applications received once the new charges have been published on the Council's website.
2. Recommend to Cabinet and to Council that the proposed Planning Obligations Team incorporating the existing CIL and Section 106 Officer posts and the proposed new Planning Obligations Manager and Planning Obligations Support Officer posts be created with the new posts to be funded from S.106 Monitoring Fees and CIL admin funds.
3. Recommend to Cabinet that the current spend process for S.106 receipts for spend in the community on play areas, open space and other community spaces be amended as per option 2 as detailed in the report and delegated authority be given to the Assistant Director – Planning Strategy and Development Management to issue best practice guidance on the Council's website on how Town and Parish Councils should engage their communities on spend decisions.
4. Recommend to Cabinet that an interim solution be found to put resources in place as soon as possible in respect of dealing with the approximately 150 outstanding cases where a notice of payment has been issued and monies remain outstanding.

These recommendations were subsequently agreed and in the update report to Scrutiny Committee on the 4<sup>th</sup> April 2024 Members were advised that:

Concerning Recommendation 1 above, the revised monitoring fees schedule has now been adopted and published on the Council's website.

Between Sept 2023-April 2024, a thorough recruitment process was undertaken to identify candidates to fill the permanent roles referred to in Recommendation 2.

Recommendation 3 relates to revisions to the best practice guidance on the Council's website covering engagement with town and parish councils on the spend of Section 106 monies. Formally reviewing and updating this guidance is a key priority for the new Planning Obligations team.

In terms of addressing issues raised in Recommendation 4, two additional temporary members of staff were appointed to deal with a backlog of S106 and CIL cases. This is in addition to the agency Section 106 Monitoring Officer who has been in post since early last year.

The following was then agreed:

**RESOLVED:**

1. That the Scrutiny Committee receive an update report in late Summer 2024 to advise of progress in forming the new planning Obligations Team and their progress in addressing the issues highlighted in the report.

**Current position**

Following a successful recruitment process, a new team of officers is now in place in addition to a full-time CIL Officer who has been in post since 2016. The Planning Obligations team is led by a Team Leader, supported by a permanent S106 Monitoring Officer, two permanent full-time CIL Officers and a Support Officer. Two out of three temporary members of staff have had their contracts extended in the short term to ensure a smooth transition is achieved while the new officers review current systems, address a backlog of work and put into place new, more efficient processes for collecting, recording, and spending both CIL and S106 contributions.

Priorities in the short term are to recover outstanding monies, undertake effective monitoring of developments, issuing of CIL liability notices and checking of exemption applications. Collectively, these actions will ensure that money raised from development is optimised.

A review of S106 deeds over 6 years old has been undertaken in the last few months resulting in the number of outstanding payments being halved through a combination of settlement, removal of duplicate deeds, and reclassification of some cases as not having reached trigger points for payment. A process has been initiated to attempt to recover outstanding S106 debt involving about 100 cases. The vast majority are amounts of less than £5k which we are working to recover, however there are 3 much larger amounts of between £60k and just under £100k outstanding. One of these relates to a housing developer that is in administration and officers are currently working with legal services to investigate what action can be taken. The remaining larger amounts relate to the same housebuilder who we are actively pursuing.

Action has also been taken to begin to address Members concerns regarding spending of S106 and CIL contributions. Every Town and Parish Clerk in the district has been contacted to raise awareness of the advice and guidance that is available from the Planning Obligations team, and meetings have been held with some local councils with further events planned. We will shortly be updating advice on spending contributions on our website with the objective of introducing a more stream-lined, localised process.

CIL contributions in East Devon are currently split into various pots. 15-25% is transferred twice yearly to towns and parishes (percentage is dependent on whether they have a 'made' Neighbourhood Plan), 8.6% is spent on habitat mitigation projects, 5% on administration and the remainder is available for strategic projects. We propose to hold a bidding process to facilitate spending on key infrastructure projects to be made in the Autumn. We are currently looking at setting up an initial meeting of the CIL Member Working Group in July to commence this process.

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**Financial implications:**

There are no direct financial implications arising from this report.

**Legal implications:**

There are no legal implications arising from this update report