

Report to: **Scrutiny Committee**

Date of Meeting: 21st November 2019

Public Document: Yes

Exemption: None

Review date for release None



Subject: **Section 106 funds and CIL Update**

Purpose of report: This report is designed to provide Members with an update on progress with changes to the systems and processes regarding the collection and spend of monies secured through Section 106 agreements and CIL. The report relates to both the Council response to the Finance audit of these issues published in 2016 and also concerns previously expressed by Members.

Recommendation:

- 1. That Members note the progress that has been made and the resources that have been made available to support the implementation of the new system for monitoring Section 106 and CIL monies.**
- 2. That note that STRATA will be tasked to progress implementation of the public portal into the Exacom system to permit public access to the data held as a matter of urgency once officers are satisfied that the data held is complete and accurate.**

Reason for recommendation: To enable the completion of the project to provide a new fit for purpose system for monitoring the collection and spend of Section 106 and CIL monies.

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

Financial implications: Report highlights no further resource requirement in completion of the project over and above those available. There will be a requirement for continued reconciliation to financial records to ensure accurate balances are maintained.

Legal implications: As set out in the NPPG “reporting on developer contributions helps local communities and developers see how contributions have been spent and understand what future funds will be spent on, ensuring a transparent and accountable system”. The proposed online public portal will supplement the requirement for developer contributions received to be reported annually. There are no legal implications flowing from this information report.

Equalities impact: Low Impact
If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Climate change: Low Impact

Comments

Risk:	Low Risk Click here to enter text on risk considerations relating to your report.
Links to background information:	Click here to enter links to background information; appendices online; and previous reports. These must link to an electronic document. Do not include any confidential or exempt information.
Link to Council Plan:	Encouraging communities to be outstanding, Delivering and outstanding local economy, Delivering and promoting our outstanding environment, Continuously improving to be an outstanding council.

Background

This report is presented further to minute 29 of the Scrutiny Committee meeting of the 3rd October 2019. Members of the working party were asked to follow up concerns with the S106 and CIL systems and processes with officers. Following this a meeting was held on the 11th November to discuss these issues. This report is intended to summarise these and the associated discussion.

The issues with the S106 and CIL system were highlighted in the KPMG “Management of S106 Contributions” report of November 2016 although the deficiencies with the existing system were already understood and measures in place to address them at this time. One of the main weaknesses highlighted in the audit was the “absence of summarised financial information to facilitate the monitoring of S106 contributions”. At that time the relevant information was held in a series of spreadsheets, however the audit highlighted that this did not enable the information to be summarised such that the total amounts of monies due, received and spent could be determined. The system did not readily enable users to identify S106 triggers and when these had been met and therefore there was also concern regarding the monitoring of agreements against the implementation of development on the ground.

Prior to the auditor’s report an IT system known as Exacom had already been purchased to enable the implementation of the Community Infrastructure Levy (CIL) and this was implemented from September 2016. Exacom also has the functionality to enable all Section 106 agreements to be input into the system and then for the data to be extracted to produce the reports referred to in the auditors reports. During 2017/18 a project was undertaken to input the data held in the previous spreadsheet system and the thousands of Section 106 agreements held by the council. Subsequently the system has also been updated to include data on the monies received and spent by application and project. This has been a massive project which has taken much longer than was originally envisaged but it is hoped that it will yield significant benefits in the long term aside from satisfying the auditors concerns.

It is understood that Members had a number of concerns regarding this project in relation to the resources that have been committed to it, the source and accuracy of the data and the understanding of the data by Councillors and others. These issues are discussed below:

Resources

During the whole of 2017 and much of 2018 two temporary full time officers were appointed to support the Section 106 Monitoring Officer with the inputting of data on each of the

Section 106 agreements onto the new Exacom system. Unfortunately it was not possible to transfer the data directly through IT systems and so this had to be done manually. There were several thousand agreements many of them with multiple and complex obligations which had to be understood and then input into the correct fields in Exacom and so this was a very time consuming task. Once the data on each agreement and obligation was in the system it was then necessary to go through them and identify where the monies had been received and if so what they had been spent on. If the monies had not been received it was necessary to determine if the development had progressed up to one or more of the trigger points and if so whether the monies had been paid and if not issue invoices for the outstanding funds. Where monies had been received but not spent it was also important to determine a project for the monies to be spent on to eliminate the risk of developers asking for the monies back as most agreements require a project for spend to be identified within 5 years of receipt. In many cases all of this work had already been done and had been recorded in the previous system, however the transfer to the new system identified a number of cases where this work had not been completed and also a need to audit the previously held data to ensure that it was accurate. Unfortunately this element of the project could only be completed by the S106 Monitoring Officer as the only person with sufficiently detailed knowledge of the previous system and the particular Section 106 agreements. Regrettably this meant that she had to be taken out of doing her usual work in supporting town and parish councils in the spend of Section 106 monies so that this work could be completed. By earlier this year the work was largely completed but there was rising pressure to re-engage with the town and parish councils who were keen to deliver projects and concerned that if they did not progress that the monies would be lost. As a result the Section 106 Monitoring Officer re-commenced this work and significant work has been undertaken with a number of town and parish councils to move projects forward that had been stalled. As this work has become more manageable again work has continued on completing the data held on Exacom and it is hoped that by the time of the Committee's meeting that this will be completed.

Looking to the future having the data held in the new Exacom system will not only address the auditors concerns but will enable direct public access to the data through an interface with our website. This is a project that STRATA are aware of and once the data is complete they will be asked to install the interface. This will limit demands on the Section 106 Monitoring Officer in the future both in terms of requests from town and parish councils and Councillors for data but also from Freedom of Information (FOI) requests which are many and time consuming. It is considered that with the new system in place the Section 106 Monitoring Officer will have sufficient time to undertake her remaining duties which include:

- Supporting Planning Officers in identifying requirements and negotiating Section 106 agreements;
- Monitoring the delivery of developments against S106 obligations and invoicing where trigger points have been met;
- Supporting town and parish councils in engaging with communities on projects for spend;
- Dealing with information requests regarding Section 106 and CIL monies;
- Supporting the process for the collection of CIL, bidding for CIL monies and the spend of CIL monies.

It is important to remember that we also employ an officer who undertakes the calculation and collection of CIL monies and supports the Monitoring Officer and so between these two posts it is considered that there are sufficient resources to administer these processes moving forward.

Source and Accuracy of the data

The data that has been input into the system was held by the Council in a variety of spreadsheets and other systems. When inputting the data this has been checked and then subsequently the data held in Exacom has been examined and checked for errors. It is clearly important that the data is accurate and while it is impossible to eliminate all errors in the data it is considered that the data is reliable.

The intention is to have the information available to the public through the web-site and so it is important that we have confidence in the data. It is however important to understand that the data is evolving and changing over time and therefore may show different data depending on when it is scrutinised. This is because the obligations are all index linked and this indexation will be added to the amounts on a regular basis automatically through the system. There are also monies being received and spent on a regular basis as well and so the system will be updated by officers on a regular basis as well. This should not be a concern of users of the system although it will be important for the data to be caveated to make this clear to users when the system goes live. In so doing we hope to make it clear that it is only a guide to the scale of monies available and what it can be used for so that communities have a guide as to when it would be appropriate to plan a public engagement exercise to identify projects and consult on them. The Section 106 Monitoring Officer will still be available to support communities through this process and ensure that they have 100% up to date and accurate data before any spend commitments are made.

Understanding of the data

It is acknowledged that it will be important to ensure that users of the system understand the data that is being presented through the new system and so we would envisage running training sessions for Members and town and parish council representatives to show them the system and help them to understand how it works when it goes live. It is not considered to be beneficial to show users the main Exacom back office system as this is not designed for wider useage and there is a danger of data overload as the system presents a lot of information which can be hard to understand. The web-site portal into the system will help to isolate the data that the user is seeking and present this in a more helpful format.

The on-line portal into Exacom is a project that STRATA are aware of and it sits in their workload awaiting instructions when we are satisfied that the data is complete and clean. With this in mind it is hoped that the system will be available to go live early next year STRATA resources permitting.