

SYSTEMS IN PLACE TO ENSURE THAT SECTION (S) 106 FUNDS DO NOT GO UNSPENT

To: Audit and Accounts Committee

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From: Paul van de Bulk, Capital and Funding Manager (TIPF)

Telephone: 01223 715608

1. Purpose

- 1.1 To describe the systems in place and the work that is underway to ensure that S106 funds are spent within their specified timeframes.

2 Recommendation

- 2.1 To note and comment on the systems in place to ensure that S106 funds are spent within their specified timeframes.

3. Background

- 3.1 Section 106 agreements usually contain clauses that stipulate that if the money paid by the developer to the Council is not spent within a specified time frame, then at the developer request, the Council must pay back the money along with any interest accrued.
- 3.2 There are several scenarios that can occur whereby the County Council does not spend S106 money on time:
- The Infrastructure that was originally specified in the S106 is eventually not required, or did not cost as much as initially estimated;
 - The Council is unable to begin implementing the required project/s for given reasons within the specified time frame;
 - Lack of awareness of the spend deadline.

4. Current System in Place to Monitor S106 Agreements

- 4.1 All S106 agreements where the County Council is party to the agreement are currently logged in a Master Spreadsheet.
- 4.2 The Master Spreadsheet contains information that is used to cross check against the County Council's financial systems in order to monitor Monies received and spent against each S106 agreement. This information is kept up to date through a monthly (and year end) reconciliation exercise.
- 4.3 The Master Spreadsheet also contains information relating to the spend deadline for each agreement. Over the years, and particularly for some older agreements, this particular data field has not been filled in consistently which has led to gaps in the information.

- 4.4 The Master Spreadsheet splits each S106 into its broad objective but does not contain detailed information relating to the exact wording of the S106 agreement that specifies how the money may be used.

5. Next Steps

- 5.1 S106 agreements with imminent spend deadlines in the 2015/16 financial year were identified in January/February 2016 and steps were taken to ensure that any funds were allocated to appropriate projects before the funding deadlines. Of previous concern, the remaining St Neots Market Town Transport Strategy S106 funds have been allocated to projects, subject to approval at E&E Committee on 09 June 2016.
- 5.2 All of the gaps in the spend deadline data on the Master Spreadsheet are currently being investigated and updated. This is being treated as a priority with older agreements being visited first. Given the number of agreements to analyse it is anticipated that this work will be completed by the end of June 2016.
- 5.3 In future, it is anticipated that relevant delivery managers will be given a two year advance early warning for all S106 agreements that are reaching their spend deadline.
- 5.4 Over time it is anticipated that the detailed information on what the S106 should be used for will also be added to the Master Spreadsheet. This will help to streamline the whole process of allocating projects and communicating with relevant delivery managers.
- 5.5 The County Council is still waiting for a major update to the S106 monitoring database (APAS). The updated version is imminent and should deliver significant advantages to the current spreadsheet methodology described above.

6. Financial Scenarios

Schemes that are no longer required.

- 6.1 If a scheme is no longer required and we have sought and received S106 for it the County Council will continue to hold this money in an interest bearing account until such time that the developer makes a request for the money to be returned, unless the S106 specifically requires the Council to repay the money without such request. This money is an asset to the County Council as it helps maintain a healthy cash flow.

Schemes that are delayed

- 6.2 In the event that an applicable scheme has been identified but the scheme is delayed beyond the spend deadline of the S106 agreement, the County Council will continue to allocate the S106 funds to that project. There is a small risk that if eventually a developer requests this funding back under the strict terms of the S106 agreement, then there will be a requirement to switch funding source and substitute the S106 with Prudential Borrowing or capital grant. In the rare occurrences when schemes have been delivered beyond the spend deadline, officers are not aware that a developer has ever requested S106 to be returned.

- 6.3 The Chief Financial Officer has indicated that he should be informed when it is planned to spend S106 beyond the spend deadline in order to either approve, or seek further Member sign off.
- 6.4 The Monitoring and Finance teams have agreed a method to highlight all future S106 funds that are dealt with in this way on the Master Spreadsheet.

Background Papers : None