

Report to District Development Control Committee

Date of meeting: 13 June 2006

Subject: Section 106 Legal Agreements – Annual Report 2005/06



**Epping Forest
District Council**

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Committee Secretary: S Hill Ext 4249**

Recommendation(s):

- (1) To note the progress with completion and implementation of the provisions of section 106 agreements from April 2005 to March 2006;**
- (2) That officers are requested to seek a negotiated solution to the impasse over the affordable housing contribution from the development on land adjacent to Doe's Site, Dunmow Road, Fyfield; and**
- (3) To determine the method of reporting the Section 106 Annual Report to members in future years.**

Report Detail

1. This annual report derives from recommendations of an Internal Audit Report in 2004. The administration and monitoring of section 106 agreements has been significantly revised and one of the recommendations of the report was to introduce an annual report to members setting out the year's record of progress in the completion of agreements approved by the committees and in securing the benefits negotiated.
2. Legally binding agreements under section 106 of the Town & Country Planning Act 1990 (as amended) are used generally for two purposes – the first is to restrict the approved development in some way and the second is to obtain some community benefit (sometimes referred to as 'planning gain'). These two purposes are apparent in the schedules below.
3. This is the first Annual Report of this kind and the Council is in the vanguard of best practice in this regard. A considerable amount of work has been put into collating a comprehensive register of section 106 agreements. A register is now held covering all such agreements since April 2001. This comprises an index (which is generally comparable to section 1 of the attached Annual Report) plus a detailed register page listing details of the agreement, a summary of its provisions, triggers for securing the benefits, budget codes and spending control officers, notes when benefits are secured and other progress notes.
4. In addition, officers have been researching agreements prior to April 2001 and following up on benefits that are still outstanding. To the officers knowledge there are only two remaining to be finalised, but research continues on these cases and others may be added as they come to light.

5. The compilation of this register provides an informed basis for continuous monitoring of the fulfilment of the obligations within the agreements by Planning Services, and also monitoring by a cross-service group of senior officers. Regular meetings are also held with officers of Essex County Council to monitor progress with securing benefits related to the County as Highway Authority and Education Authority.
6. The report, then, is divided into 6 sections:
 - (i) Section 1 contains all agreements since April 2001;
 - (ii) Section 2: those more than 5 years old that have outstanding benefits to resolve;
 - (iii) Section 3 which gives more detail on agreements which have been completed (i.e. sealed) within the past year with commentary on progress;
 - (iv) Section 4 which lists progress through the past year in securing community benefits on agreements completed prior to April 2005;
 - (v) Section 5 which raises comments on agreements that have seen little or no progress in the past year; and
 - (vi) Section 6 which lists committee resolutions that have been made during the past year but where the agreement itself remains under negotiation.

Decisions Required

Land Adjacent to Doe's, Dunmow Road, Fyfield

7. The committee's attention is drawn to Section 5 of the report which lists those cases where difficulties are being experienced in achieving the expected benefit. In two of those cases officers are working towards the desired outcomes.
8. However, in the case of the Former Council Depot site adjacent to Doe's in Fyfield, officers seek confirmation from this committee that it wishes the officers to continue to seek a negotiated solution to the impasse rather than pursue the matter through the courts when the advice from the Council's legal officers is that there would be little prospect of success.

Future Reporting Arrangements

9. The second area of decision concerns future reporting arrangements. One option is for this report to be provided to the Portfolio Holder in future years with copies simply placed in the Members Room. An alternative, however, is for this report to be included in an Annual Report on the activities of this committee, together, perhaps, with application performance and decisions, appeal performance and progress on the Local Development Framework and matters related to forward planning, conservation and landscape. The views of the committee are sought.