



Portfolio Holder Decision
Making Session and date/time

28th Jan 2015
10 am

Item

1

Public

MANAGEMENT FEE INCREASE – SECTION 106 CONTRIBUTIONS

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1. Summary

1.1 A commitment to ensuring that infrastructure is provided alongside development is a strong theme throughout the Shropshire Core Strategy and is embedded in the Spatial Vision, Strategic Objectives and Policies CS1, CS2, CS3, CS4, CS5, CS6, CS7, CS8, CS9, CS13, CS17 and CS18. Identification of infrastructure is through a number of means, including the LDF Implementation Plan and its accompanying 18 Place Plans and through Supplementary Planning Documents that articulate the Core Strategy policies. The Delivery mechanisms are through Planning Conditions, Planning Obligations such as section 106 legal agreements for Affordable Housing (AHC); and through the Community Infrastructure Levy (CIL).

1.2 In the past, while large developments contributed towards infrastructure provision through conditions attached to planning decisions and/or s106 agreements small developments rarely did so resulting in a cumulative impact on infrastructure.. In order to address this discrepancy, and to ensure that all development is in future matched by accompanying infrastructure, Shropshire's Core Strategy Policy CS9 requires all development to make "contributions to local infrastructure in proportion to its scale and the sustainability of its location".

1.3 In some cases, all three of the delivery mechanisms will be utilised. For example, developer contributions for affordable housing, open space, sport and recreation and educational provision on an application may be delivered through planning conditions, planning obligations and CIL.

1.4 The Developer Contribution SPD adopted in July 2011 states that Council's planning obligations monitoring officer will ensure collection and spend by service departments. In order to provide this service, the Council will levy an administration charge on each legal agreement equivalent to 2% of the value of the contribution, unless agreed otherwise with the applicant. This admin charge will be 'capped' at £10,000 per agreement, unless agreed otherwise with the applicant. This will be in addition to the normal costs and any external specialist advice costs required for processing and completing the legal agreement.

1.5 Therefore until the wording within the Developer Contribution SPD is amended through due process to reflect such a change to policy, the admin charge can only be increased to 5% with the applicant's agreement. In practice, as this does not increase the contribution the applicant pays, it is considered unlikely that applicants will object. It expected that a review of this SPD will be carried out in 2015.

1.6 The current fee (2%) is deducted from the agreed contribution, it is not a fee additional to the contribution. This level of fee is anomalous with existing Shropshire Council s106 Affordable

Housing Contribution and the Community Infrastructure Levy both of which attract a 5% management fee.

1.7 This report seeks to increase and regularise that administration fee to 5% on all applicable applications received from Mon 2nd Feb 2015.

2. Recommendations

2.1 It is recommended that the Portfolio Holder for Planning, Housing and Commissioning (Central) agrees to:

- a) Allow the increase from 2% to 5% on all relevant s106 agreements that provides a cash sum.
- b) Allow the increase from Mon 2nd Feb 2015 on all new applicable planning applications received from that date.

Reasons for decision:

To increase the contribution towards the collection, administration and management of the s106 contributions.

REPORT

1. Risk Assessment and Opportunities Appraisal

1.1 The fee increase will help to ensure that the service can respond to the increase in business growth and continue to effectively manage the timely collection of the s106 infrastructure contributions.

1.2 It regularises the management and administration fee from all the applicable collected Community Infrastructure and s106 contributions.

1.3 The recommendations within this report are compatible with the provisions of the Human Rights Act 1998. There are no direct environmental, equalities, consultation or climate change consequences from this proposal.

2. Financial Implications

2.1 The figures below only note the value of the s106 contributions this report refers to and the payments received by the Council to date with the current administrative fee of 2% deducted from that sum. It excludes all other contributions (eg Affordable Housing Contributions) that currently attract a 5% fee.

2.2 The bracketed figure highlights what the administrative fee would have accumulated had a 5% charge been applied on these contributions:-

2013/14

- Received = £ 433,650.00
- 2% fee = £ 8,673.00 **(5% = £ 21,683.00).**

2014/15 (to date)

- Received = £ 225,326.00
- 2% fee = £ 4,506.00 **(5% = £ 11,226.00).**

NB. It should be noted that this proposed increase in the revenue, results in a corresponding reduction in the available capital.

3. Background

3.1 Planning Conditions are the main mechanism for provision of essential on-site design requirements and critical infrastructure. The long-term maintenance of integral and critical infrastructure is usually secured through adoption agreements between the developer and a suitable organisation, for example roads and street lighting with the highways authority; sewers with the utility provider; amenity open space with a suitable council or private contractor.

3.2 Planning Obligations (section 106 agreements and undertakings) are tailored to a specific development and must be directly related to its impact on particular infrastructure. For employment-related and other non-residential developments, planning obligations will continue to be the main mechanism for ensuring that contributions to ensure satisfactory infrastructure capacity and provision are made where necessary.

3.3 A small proportion of residential developments may also require an additional section 106 agreement for infrastructure where there are site-specific requirements that are not covered by the Community Infrastructure Levy. These include very large developments or those with special features or with specific or unusually high infrastructure demands.

3.4 At present to monitor the planning applications, administer the invoicing system and manage the collection of these funds, accounts for 100% of a full time post. A further 5 Officers can account directly for a proportion of their time in the process of delivering these infrastructure aspirations and requirements within a community through the reviewing the Place Plan priorities with those communities, the extensive liaison necessary in bringing forward the capital scheme through the capital project appraisals process, project managing the councils financial interest in the development and ensuring the councils and communities priorities and aspirations are met by the development.

3.5 A 5% fee reflects the current nationally set fee level for the administration and management of the Community Infrastructure Levy (CIL), which is a similar contribution, applicable to housing development planning applications and which is gathered and administered by the Council for the benefit of locally determined infrastructure priorities. The Affordable Housing s106 Contribution increased the management and administration fee from 2% to 5% in January 2014.

4. Additional Information

4.1 Approval may require the wording within existing s106 template agreements to be amended.

5. Conclusions

5.1 This is a report for the Portfolio Holders decision.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information):

Key Decision: Yes

Included within Forward Plan: Yes

If a Key Decision and not included in the Forward Plan have the General Exception or Special Urgency Procedures been complied with: Yes/No

Name and Portfolio of Executive Member responsible for this area of responsibility: Cllr Mal Price

Local Member:

Appendices:

Declaration of Interest

- I have no interest to declare in respect of this report

Signed Date

NAME:

PORTFOLIO HOLDER FOR:

- I have to declare an interest in respect of this report

Signed Date

NAME:

PORTFOLIO HOLDER FOR:

(Note: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter.)

For the reasons set out in the report, I agree the recommendation(s) in the report entitled

Signed

Portfolio Holder for

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and pro-forma is returned to Democratic Services for processing.

Additional comment :

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Note: If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, Head of Legal and Democratic Services, Chief Executive and the Head of Finance, Governance and Assurance (S151 Officer) and, if there are staffing implications the Head of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Portfolio Holder: Your decision will now be published and communicated to all Members of Council. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication.