

**HERTFORDSHIRE COUNTY COUNCIL  
ENVIRONMENT  
SCRUTINY COMMITTEE**

Agenda No.

**6**

**TUESDAY, 21 OCTOBER 2003 AT 10.00 A.M.**

**INTERNAL AUDIT REPORT – MANAGING SECTION 106 AGREEMENTS**

*Report of the Director of Environment*

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**1. Purpose of the report**

To enable Members to consider a report by Internal Audit and the action to implement improvements in line with the report recommendations.

**2. Summary**

The Internal Audit Report, whilst expressing general satisfaction with the controls and procedures in place to ensure that S106 Agreements are implemented effectively and efficiently, makes recommendations for improvements.

**3. Conclusion**

That the Environment Scrutiny Committee considers this report and the priorities for action and considers whether it wishes to scrutiny this matter further.

## 4. Background

4.1 At its meeting on 18 March 2003 the Environment Scrutiny Committee:

- a) recommended that internal audit revisits the work done in 1997 and be informed that S106 agreements are the subject of scrutiny;
- b) requested a report back at a later date once the audit had been completed to establish whether further scrutiny of the issue is required;
- c) asked the Chief Officer to ensure that the audit exercise covers the enforcement and implementation of S106 agreements to make certain procedures are adequate.

4.2 As a result, Internal Audit produced the attached report. Its main conclusions are:

1. Internal Audit is generally satisfied with the controls and procedures in place to ensure that S106 Agreements are implemented effectively and efficiently. There are some areas of concern that cloud issues surrounding the implementation and enforcement of S106 Agreements and cause a false perception of its operation to be generated. Tightening up in these areas will hopefully serve to eliminate these misconceptions.
2. Whilst S106 Agreements as part of the Town and Country Planning Act 1990, can be implemented and controlled using procedures and departmental instructions, it is both unreasonable and unrealistic to expect them to be rigidly enforced in every circumstance to a recognised format or formula.
3. By their very nature, securing, agreeing collecting and implementing S106 Agreements can be a lengthy process often taking up to 5 years to complete. This is due to variations to the original application for planning permission and obviously the changing requirements of the local community and environment.
4. There is no standard formula on which the value of the contribution or scale of the related development is based. It is largely dependent upon:
  - i) The negotiation skills of the individual planning engineer.
  - ii) Being able to justify the scale of the proposed development that the contribution will be used for.
  - iii) The availability of transport strategy and demographic statistics.

5. There is a clear split and defined separation of duties with regard to the different departments who actively become involved with the implementation and operation of the development and projects involving S106 Agreements and contributions. For this reason no one person will be completely conversant with the status, history and individual specifics of the S106 Agreements from conception to completion.
6. However with records of all live projects being maintained for five years and then archived after completion for a further five years, before controlled disposal, audit / management trails are clearly visible.
7. With departmental reorganisations, redeployment, some divisional changes in infrastructure and the natural turn over of staff, the controlled implementation of Section S106 applications, collections and arrangements can sometimes be affected. This is largely because once S106 Agreements are processed via the relative departments; there are no feedback mechanisms or loops to confirm successful completion of the task.

4.3 The report sets out the management response to these recommendations. These actions are particularly focused to ensure that systems are improved in the areas of :

- Departmental S106 procedures to bring together all aspects of S106 negotiations, agreements and arrangements;
- Using a central database to maintain S106 agreements (AMOS);
- Prioritising on an annual basis applications for available funding
- Recording of preliminary costs of S106 agreements;
- Spending of authorised and released funding;
- Collection of S106 contributions from the Developer.

## **5. Audit Committee**

At its meeting on 11 December, the County Council's Audit Committee will receive a report commissioned from Internal Audit by the Director of Environment. This report looks at specific issues relating to S106 monies to :

- 51 Clarendon Road - Watford
- Leavesden developments - Three Rivers.

The recommendations of this report are very similar to those set out in that report.

## **6. Financial Implications**

There are financial implications in setting up appropriate systems as outlined in this report. These costs will be met by the current budgets. It is anticipated that better control over the collection and expenditure of S106 monies will have a positive financial benefit.

## **7. Rural Implications**

There are no specific issues affecting rural areas.