

Report to: **Overview and Scrutiny Panel**  
Date: **24 January 2019**  
Title: **Process for Spending 106 Funding for Affordable Housing**  
Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee: Overview and Scrutiny Panel

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: on-going

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**Recommendations:**

**That the Panel RECOMMEND to the Executive that an amendment be made to clarify the process for spending Section 106 Affordable Housing monies as set out in paragraph 1.3 of the report.**

**1. Executive summary**

- 1.1 Members have requested that the process for spending funds raised through s106 funds is reviewed.
- 1.2 The process was last reviewed by the Overview & Scrutiny Panel at its meeting on 6 July 2017 (Minute O&S.16/17 refers) and is illustrated in Appendix A.
- 1.3 Stage 3 of the process allows money that accrues in one Parish to be spent, after a certain period of time, in any Parish within the District. Officers consider that this is appropriate since it is essential that where money cannot be spent in the Parish within which it accrued is spent to provide AH wherever possible within the

District rather than being returned to the developer. It is proposed, therefore, that Stage 3 retained, albeit with the clarification that where it is proposed to spend any money outside the Parish in which it accrued this is formally agreed with the relevant Ward Councillor(s).

## **2. Background**

- 2.1 Some concerns were expressed by Members at the Executive meeting held on 14 June 2018 that the process enabled for monies that had been received for a development in one town/parish to be spent elsewhere in the South Hams. As a result, the Executive resolved that (Minute E.04/18 refers):

*'That the Overview and Scrutiny Panel be asked to undertake a review into the process for Spending Section 106 Deposits for Affordable Housing.'*

- 2.2 The requirement to pay s106 money for the delivery, off site, of Affordable Housing (AH) arises in association with development in a specific location and that the s106 requirement accrues in order to make the development acceptable.
- 2.3 The delivery of AH in all Parishes is one of the top priorities of the Council since it is critically important to the sustainability of all communities. It is important, therefore, that any opportunity to do so is taken.
- 2.4 The concern of Members arose due to a specific case where the time limit was approaching for spending s106 AH money in one Parish. Rather than give the money back to the developer, Officers proposed to use the funds to deliver AH in a different Parish in the South Hams.

## **3. Outcomes/outputs**

- 3.1 The purpose of Stage 3 is to ensure that s106 AH money is spent somewhere in the District rather than being given back to the developer. Where it is not possible to spend the money on AH within the respective Parish this represents a lost opportunity to further the sustainability of the communities within that Parish.
- 3.2 Officers in Housing Enabling and in the Community Housing Team work proactively to identify opportunities. Officers also support Neighbourhood Planning Groups in identifying land for development and, subsequently in securing the means and actions to deliver AH through community led projects.
- 3.3 Where it does not prove possible to deliver AH in a specific Parish it is essential that the money is spent within the time allowed. To provide an additional check that all endeavours have been exhausted before spending the money outside the Parish it is

proposed that Stage 3 of the process is clarified to formally require agreement from the relevant Ward Councillor.

#### **4. Options available and consideration of risk**

- 4.1 The option of not allowing money to be spent outside the Parish in which it accrues is not considered to be appropriate since it could result in money that would otherwise be spent in the District being returned to the developer.
- 4.2 It is considered that the additional check will have the effect of ensuring a timely consideration of the options for spending in the Parish concerned and that where this is not possible the next best option will be agreed.

#### **5. Proposed Way Forward**

- 5.1 The proposal is to clarify the process whereby s106 AH money is spent. This will help focus efforts on finding a project within the Parish where the money initially accrues, but ensure that money can be spent elsewhere in the District where necessary to avoid it not being used at all.
- 5.2 It is considered that this approach is in keeping with the Council priority to maximise the delivery of Affordable Housing in the District.

#### **6. Implications**

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		The proposed amendment is concerned with governance and has no legal implications
Financial		None
Risk		None
Comprehensive Impact Assessment Implications		
Equality and Diversity		Improved governance in decision making.
Safeguarding		None
Community Safety, Crime and Disorder		None

Health, Safety and Wellbeing		None
Other implications		None

### **Supporting Information**

#### **Appendices:**

Appendix A: s106 AH funds flow chart (existing, not amended)

#### **Background Documents:**

Agendas and Minutes from the Panel meeting held on 6 July 2017 and the Executive meeting held on 14 June 2018.