

Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Development Control Committee	27 October 2015

IMPACT OF POOLING ARRANGEMENTS FOR 106 AGREEMENTS FOR THE PROVISION OF POS

PURPOSE OF REPORT

1. To advise members of the Committee of the review of S106 agreements associated with the provision of Public Open Space (POS) and to seek approval to the amended treatment of some section 106 agreements, by the imposition of a condition as opposed to requiring the signing of a legal agreement.

RECOMMENDATION(S)

2. That Members note the report.
3. That any future applications, that would normally require a S106 agreement to provide POS contributions, but would not include the requirement for affordable housing, are dealt with by the imposition of a condition. That those applications that have had a resolution to approve subject to a 106 agreement covering only POS and where the decision has not been issued, are now authorised to be issued with a condition to secure a scheme of off-site public open space in place of a legal agreement.

EXECUTIVE SUMMARY OF REPORT

4. Chorley Council adopted the Community Infrastructure Levy in September 2013.
5. The CIL regulations restrict the use of pooled contributions towards items that may be funded via the levy and that Local Planning Authorities should not enter into more than 5 obligations for one type of infrastructure. The Councils position that no more than 5 payments can be pooled for any one project is not the correct interpretation of the regulations now that Legal officers have formally advised on the regulations.
6. The NPPG advises that the use of negatively worded conditions can be used to secure the provision of POS in accordance with the Councils Policies HS4A and HS4B of the Adopted Chorley Local Plan 2012-2026.
7. The imposition of a condition on applications that do not include an affordable housing obligation would allow for the consideration of how obligations or payments are pooled in accordance with the regulations with greater certainty about the development commencing.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

8. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

9. The Community Infrastructure Regulations were introduced in 2010 and set out an approach that would restrict the type of infrastructure that could be included within S106 agreements and encouraged Local Planning Authorities to adopt a CIL charging regime.
10. Chorley along with the other Central Lancashire authorities adopted a CIL charging schedule in September 2013.
11. The transitional period for CIL and 106 to operate alongside each other ended in April 2015. From that date authorities that did not have a CIL charging schedule in place are not allowed to pool more than 5 obligation's for one type of infrastructure.
12. The practice adopted within Chorley for pooling of S106 obligations has been to identify types of infrastructure and costs and then allocate funds that have been paid as a result of developments commencing but limit the number of contributions to 5 per project.
13. Legal officers have questioned this approach and have provided advice on the interpretation of the regulations. This advice is that the Council should only be pooling 5 obligations as opposed to 5 payments for each type of infrastructure.
14. Chorley consider that the reference to type of infrastructure can be interpreted to include projects to deliver an individual playing pitch or play area improvement or phase of a larger project.

IMPLICATIONS OF REPORT

15. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

16. .

COMMENTS OF THE MONITORING OFFICER

17. The condition proposed, fulfills the requirements of a planning condition in that it is phrased in the negative and does not require a payment of money. The proposal, that development will not commence until an agreement has been reached on a scheme that meets the policy requirements for Public Open Space, is acceptable.

Paul Whittingham
Development Control Manager

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
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