

Single Member Cabinet Decision


**Executive  
Forward Plan  
Reference**

E3249

**E3249 Introduction of S106 Monitoring Fees**

<b>Decision maker/s</b>	Cllr Tim Ball, Cabinet Member for Housing, Planning, and Economic Development
<b>The Issue</b>	<p>Under the Community Infrastructure Levy (Amendment)(England)(No.2) Regulations (“the CIL Regs”), Regulation 122 (2A) allows Local Authorities to charge a fee in relation to section 106 agreements for the monitoring and reporting of planning obligations.</p> <p>As of December 2020 there is an annual requirement for all Councils to report on all aspects of CIL and S106 funds received, allocated and spent. The above provision in the CIL Regs to charge a monitoring fee in respect of S106 monitoring and reporting is designed to enable authorities to be adequately resourced to effectively monitor and report on planning obligations.</p> <p>In accordance with the CIL Regs and the guidance contained in the National Planning Practice Guidance it is proposed that Bath &amp; North East Somerset Council adopt a formal charging schedule for the collection of S106 Monitoring Fees.</p>
<b>Decision Date</b>	Not before 5 <sup>th</sup> December 2020
<b>The decision</b>	The Cabinet Member agrees that the Council implements a fixed fee for the monitoring of S106 agreements. The fee will be set at £400 per obligation to be written into the legal agreements. Fees will be capped at £10,000 per legal agreement. The fee is to be payable on commencement of development and the scale of fees will be reviewed within 36 months of the date of this decision.
<b>Rationale for decision</b>	There is an annual requirement for all Councils to report on all aspects of CIL and S106 funds received, allocated and spent this requires active monitoring of all development sites subject to a S106 agreement. The CIL regulations have been amended to allow Council's to charge a monitoring fee to cover the cost of undertaking monitoring (including preparing annual reports). This proposal will introduce a scale of fees which have been devised in part by assessing the scale of fees adopted by other Councils.
<b>Financial and budget implications</b>	The chargeable rate of the CIL/S106 Monitoring Officer is calculated at £63,403.20 per annum (this is the recoverable rate the Council can seek to cover salary, over-heads and on-costs). The Monitoring of S106 agreements takes approximately 50% of the Officers time

	<p>however the Officer is also reliant on support from other officers in the Development Management teams. Based on previous years data the Council could generate in excess of £60k per year in monitoring fees which would be sufficient to cover the resources required for the life of each legal agreement. The resources are contingent on the number of obligations requiring monitoring and so the fees are set at a scale in kind to cover overheads. It is not the intention of this proposal to generate income but to cover costs, as such the fees will be reported annually and reviewed within 36 months of the decision.</p>
<b>Issues considered</b>	<p>Planning; Development; Customer Focus; Sustainability; Income; resources;</p>
<b>Consultation undertaken</b>	<p>Section 151 Finance Officer; Monitoring Officer; Leader; Director – Development and Public Protection</p>
<b>How consultation was carried out</b>	<p>By email with a copy of the draft report and outline of the proposal</p>
<b>Other options considered</b>	<p>In total 4 fee options were considered as detailed in the report. The proposed option was considered the most transparent for developers</p>
<b>Declaration of interest by Cabinet Member(s) for decision:</b>	<p>xxxx</p>
<b>Any conflict of interest declared by anyone who is consulted by a Member taking the decision:</b>	<p>xxxx</p>

<b>Name and Signature of Decision Maker/s</b>	<p>Cllr Tim Ball</p> 
<b>Date of Signature</b>	<p>15<sup>th</sup> December 2020</p>

**Subject to Call-in until 5 Working days have elapsed following publication of the decision**