

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Audit Committee	
MEETING/ DECISION DATE:	30 th April 2025	EXECUTIVE FORWARD PLAN REFERENCE:
		E 9999
TITLE:	Section 106 – Update Report on Audit Findings	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		

1 THE ISSUE

- 1.1 An internal audit in 2022 reviewed S106 funding and the use of secured funds, resulting in a 'Limited Assurance' rating which was reported to the Audit Committee in November 2022.
- 1.2 The audit report identified three high-risk areas, two medium-risk areas, and two opportunities. While the medium-risk areas were mitigated and one opportunity delivered, the high-risk areas remained unresolved, principally due to lack of consistent use of the Council's S106 data management system ("Exacom") and a lack of capacity within teams. This led to the assurance rating staying 'limited', as reported in [May 2024](#).
- 1.3 A project group was formed in July 2024 to work in collaboration with Planning, finance, and legal services to address the outstanding risks.
- 1.4 This report updates progress since July 2024 on mitigating high-risk areas and delivering the remaining opportunity, with timescales for completion.
- 1.5 On completion of this project, the audit team will be invited back to confirm assurance.

2 RECOMMENDATION

2.1 The Audit Committee is asked to note the report, specifically -:

- a) The plans to mitigate the outstanding risks identified in the audit report
- b) Plans to use the public facing module
- c) The timescales for implementation, roll out, and delivery of the project.

3 THE REPORT

Background

3.1 The high-level risk recommendations in the 2022 audit report were:

- (1) *“The Project Module in Exacom¹ should be fully utilised as the central database, recording full details of committed / actual spend sums to ensure effective monitoring of unallocated balances, and use of all funds within prescribed timescales”.*
- (2) *“Roles and responsibilities for maintaining the Exacom Project Module to be agreed with all relevant parties, including ongoing monitoring arrangements and agreement that any required action identified by the CIL / S106 MO or the Project Finance Team is implemented within agreed timescales”.*
- (3) *“The CIL / S106 MO should introduce a proactive and systematic monitoring process for reviewing balances and spend timescales to ensure funds are committed (with planned completion date) / spent within timescale”.*

3.2 The audit report also identified an opportunity to utilise Exacom’s “Public Facing Module” as an online portal allowing the public, Parish and Town Council’s and Ward Members to see the collection, management, allocation and spend of planning obligations in their area – this would improve transparency and accountability.

3.3 Between July and September 2024, the project team researched Exacom's underuse, interviewing stakeholders and benchmarking best practices.

3.4 This identified inconsistent use of Exacom by services who relied on their own records instead. This led to a lack of transparency and oversight.

3.5 The inconsistent approach to S106 fund management is a resource burden on the S106 Monitoring Officer's time and has resulted in unspent funds being returned to developers, totalling around £245k.

3.6 The team further identified that there is c.£11m in developer contributions at risk of repayment by 2027, with c.£4.6m at risk in the next 18 months, due to inconsistent fund management and lack of oversight. Efforts have been made with individual service areas to mitigate this risk and ensure unspent funds are allocated to the relevant projects.

¹ Exacom is the Council's data management system for CIL and S106

- 3.7 Having completed the initial analysis and considered various options for improvement a report was taken to the Business Change steering group in October 2024 for approval to proceed with four workstreams:
- a) Workstream 1 – Centralising all Section 106 funding information in one system.
 - b) Workstream 2 – Employ a new Section 106 officer in the Planning team
 - c) Workstream 3 – Establish a link between the Council's core financial system (Agresso) and Exacom
 - d) Workstream 4 – Implement Exacom's Public Facing Module (PFM)
- 3.8 Each workstream has been designed to address each of the outstanding high-risk recommendations and deliver the identified opportunity.
- 3.9 The Council's senior auditor has been engaged in the development and progress of each of these workstreams and is content that assurance will be provided if these workstreams are delivered.

Workstream 1 - Update

- 3.10 To complete workstream 1, the Council hired external consultants "*The Obligations Office Ltd*", a partner of Exacom. They specialise in updating S106 databases. They started in January 2025 and are working through all current and historic S106 agreements. This work will finish by the end of April 2025, centralising all records. Having all data centralised will enable the Public Facing Module to be activated. The cost for this service was £68,833 (+VAT), funded by transformation reserves (approved in November 2024).
- 3.11 So far, the consultants have identified about £2m in uncollected S106 contributions. These relate to cases where a demand notice has been issued but remains unpaid by developers. In May 2025 the consultants are due to produce a report on all outstanding monies to enable the Council to prioritise collection.
- 3.12 The consultant's work has highlighted issues in current internal processes. The uncollected monies were missed due to lack of capacity in the obligations team. This issue will be resolved through new ways of working (Workstream 2).

Workstream 2 - Update

- 3.13 The project team have identified and agreed new processes and governance. Planning will control all developer contributions through a single account and services will request money from this account for specific projects.
- 3.14 This approach ensures central oversight of fund collection, allocation, and spending. It enables Planning to hold services accountable and removes the risk of repaying developers by ensuring any upcoming repayment triggers are identified and flagged early.
- 3.15 Concurrent to the management of funds, planning will be responsible for ensuring there are no outstanding funds by proactively chasing developers for payment.

- 3.16 Critical to this workstream is the need for an additional resource in Planning to support the CIL/S106 Monitoring Officer to be funded by surplus CIL/S106 administration funds.
- 3.17 The Planning Service are currently reviewing staffing options as part of a wider structure review. It has therefore been recommended that an additional resource is employed on a fixed term basis initially – potentially drawing on existing internal resources - to allow the service to review the impact and roll out of the new ways of working and to identify how any increase in demand might be managed.

Workstream 3 - Update

- 3.18 This workstream has not progressed as it relies on an upgrade to the Council's central finance system (Agresso). The project team have been engaging with the Financial Systems Review Project Team and integration of Exacom into the new Agresso system is scheduled for later this year (noting the new finance system is not scheduled to go live until April 2026).
- 3.19 Whilst the Agresso/Exacom integration has not yet progressed, the project team have fixed the link with Civica (the Council's online payment system) so customers can now pay S106 (and CIL) online. This has reduced the need for manual processing and will ensure that Exacom is updated when monies are paid.

Workstream 4 - Update

- 3.20 The project team reviewed Exacom's Public Facing Module (PFM) and discussed its potential for accountability and transparency with other Councils who have already deployed it. The PFM has also been demonstrated to key stakeholders to showcase its capabilities and how it can be used to support services.
- 3.21 The deployment of the PFM depends on completing workstream 1 (updating Exacom data) and workstream 2 (adopting new ways of working and adding resources). The council has already procured the PFM module as part of its current contract with Exacom.
- 3.22 The intention is to commence testing the PFM internally from May 2025 before a public launch in Q3 2025 to ensure familiarity and identify any data gaps that require resolving. It is intended that Members will be briefed on the PFM before it goes live.
- 3.23 Activation of the PFM will provide public transparency over developer obligations. It will also help services to plan infrastructure delivery, improving project timeliness using S106 and CIL funding.

Summary

- 3.24 The objective of the project team is to deliver and mitigate the outstanding recommendations in the 2022 audit report to provide overall assurance to the Council that it has control and oversight of its S106 funds. The project now is nearing completion.

- 3.25 Centralisation of data is complete and the roll out of the new ways of working will commence in June 2025 (subject to internal resourcing). The public facing module will be available as an internal resource to allow for testing from June 2025 onwards and it is anticipated that the public launch will happen in Q3 2025.
- 3.26 The only outstanding matter is the integration of Exacom and Agresso however this is subject to a wider Council project to update the corporate financial management systems. The new finance system is due to go live in April 2026 and the project team are working to ensure integration is complete prior to the launch date.
- 3.27 Audit colleagues have been kept informed as to the direction of this project and the progress to date and are content that once delivered, the risks identified in the 2022 audit report will be resolved.
- 3.28 Completion of this project will deliver the required actions in the audit report and provide assurance that the processes surrounding the management, monitoring and reporting of S106 are comprehensive, up-to-date, and accurate.
- 3.29 It is recommended that audit are invited back in Q3 2025 to confirm assurance with the recommendations with a follow up session in Q1 2026 once the wider financial systems project has completed.

4 STATUTORY CONSIDERATIONS

- 4.1 S106 agreements are required to comply with three legal tests: they must be necessary to make a development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Unlike the Community Infrastructure Levy, S106 is ringfenced to what is specified in the legal agreement accompanying the relevant planning application and as such these funds cannot be used as a general pool of funding. The Council is accountable for how it uses its S106 funds and is required to publish an annual report (the Infrastructure Funding Statement) detailing the collection and expenditure of its S106 funds.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The financial totals are laid out in the detail of the report including the amounts at risk. Adopting the new ways of working will require staff resource to ensure the system is maintained and to enable accurate and transparent reporting through the Public Facing Module. The Planning Department currently generates a surplus in administrative fees associated with S106 and CIL which are sufficient to cover the required resource.
- 5.2 CIL and S106 admin fees are ringfenced by the relevant legislation and regulations to the administration of developer obligations.
- 5.3 The Planning Service are currently reviewing staff requirements and structures as part of the Smarter Structures programme.

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance. Risks have been articulated through the Audit Report

7 EQUALITIES

- 7.1 EqIA not completed as this is an update to Audit Committee to provide information about the work undertaken to mitigate risks identified in a 2022 audit report.

8 CLIMATE CHANGE

- 8.1 Developer contributions are sought to mitigate the impact of development on its immediate area, this precise mitigation will be dependent on the specifics of the planning application however can include initiatives to support retrofitting/ installation of solar on affordable housing, delivery of green infrastructure, supporting sustainable travel, or supporting nature conservation projects.
- 8.2 Ensuring the council has oversight of its secured funds enables the timely delivery of relevant projects that can support the council's climate and ecological emergency commitments, reduces the risk of repaying funds to developers, and improves transparency and accountability.

9 OTHER OPTIONS CONSIDERED

- 9.1 This is an update report on progress to achieve audit recommendations.

10 CONSULTATION

- 10.1N/A

Contact person	Louise Morris (Head of Planning and Building Control)
Background papers	Link to Business Change Hub Project Brief - Project brief.docx Link to Business Change Gateway Report - Proposed Workstreams Report.docx
Please contact the report author if you need to access this report in an alternative format	