

## APPENDIX 2

<b>Area of Review</b>	Section 106 Agreements/SANGS
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Control Objectives	
1.	That roles and responsibilities are clearly defined for the management of Section 106 Agreements
2.	That Policies and Procedures are in place and are up to date
3.	That supporting information on Section 106 Agreements are up to date
4.	That income from Section 106 Agreements is collected in a timely manner
5.	That an appropriate audit trail exists for income collected
6.	A clear plan exists to ensure monies are appropriately utilised

### OPINION ON CONTROL FRAMEWORK

The overall level of opinion that can be provided on the internal control framework for this review is:

Levels of Assurance	
Substantial	Substantial assurance given where there is a sound system of controls in place, which applied consistently to enable achievement of the intended objective.
Satisfactory	Satisfactory assurance given where there is generally a sound system of internal control in place with only minor lapses, and in general, objectives achieved.
Limited	Limited assurance is given where controls in place are not always applied and objectives may not be achieved, meaning the Council is exposed to the risk of financial loss, fraud, or the loss of reputation.
None	No assurance is given where weaknesses in control has resulted if a failure to achieve objectives

## APPENDIX 2

### 2. EXECUTIVE SUMMARY & CONCLUSIONS

- 2.1 Section 106, Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) are financial (and non-financial) planning obligations owed to the local authority. These obligations have significant financial value for the authority. HDC has an adopted Local Plan that contains a ten year land supply. Current development is generally in large well-defined areas. There are, therefore, a small number of applications.
- 2.2 Several staff in the planning team did not have up-to-date job descriptions however through discussions, roles and responsibilities were clear between the key staff currently in post. However the lack of formally documented procedures and single points of failure in the process leads to a risk that unavailability of key individuals would result in the process not being effective. There is strong collaboration between individuals in the Planning and Finance departments
- 2.3 The policy framework for S106 is dated and this results in case-by-case negotiations and a lack of transparency for all stakeholders. However, the council's plans to introduce Community Infrastructure Levy (CIL) will mitigate this risk in the medium term. S106 applications and agreements are well controlled. However, the policy framework for indexation is unclear and enhancement/clarification would have significant benefit if the current low inflation environment were to change.
- 2.4 Compliance testing found that records and monitoring of S106 liabilities were robust. Individual agreements and obligations were recorded against the planning application within the Uniform system. However, there was not a central register of S106 obligations with their respective trigger points. There is no formal routine to the monitoring of trigger points but use of local intelligence and ad hoc monitoring enables trigger points to be identified. This combined with the underutilisation of soft intelligence presents the opportunity to enhance financial forecasts.
- 2.5 Grampion liabilities are those applications that only have a SANG/SAMM element. Substantive testing of grampion SANG/SAMM liabilities found that they were accurately calculated, recorded and accounted for. Segregation of duties is maintained via planning officer validation of SANG/SAMM obligations as part of the planning process, plus the monthly reconciliation of payments by finance. These controls mitigate the opportunity that exist for individual collusion with the developer.
- 2.6 Testing of payments showed that money was collected in a timely fashion and that indexation, and interest, where applicable, had been calculated accurately. During testing it was possible to track obligations from agreements through to the utilisation of S106/SANGS. The work completed to create the Infrastructure Funding Statement (IFS) will strengthen this process.
- 2.7 We found that S106 contributions are collected promptly and assigned to appropriate budget codes. SANG/SAMM payments are assigned to a balance

## APPENDIX 2

sheet code pending commencement of the development and then released to the appropriate SANG code. Contributions collected on behalf of HCC are identified and paid quarterly. Monthly reconciliations between transactions and obligations ensure that any errors are detected. It is unclear who has responsibility for monitoring whether S106 obligations are spent within five years of the occupation of the final dwelling.

- 2.8 The audit found that the controls over the processing of S106 and SANG/SAMM conditions was substantially complete and generally effective. The audit has identified a number of opportunities to strengthen controls that will improve the control framework further. We have identified 11 Medium concerns and 3 Minor concerns that were discussed at the exit meeting.

## APPENDIX 2

	Finding	Risk	Management Response	Responsible Officer	Target Date
1	A number of job descriptions were not available at the time of the audit. We were informed that roles and responsibilities were not fully documented there was however a good understanding of respective roles among the key members of the team.	Medium	Head of Service will document roles and responsibilities for officers dealing with S106 Agreements.	Head of Place	November 21
2	<p>The “Planning Obligations (106 Agreements) Principles and Priorities” set out the method for the calculation of S106 on the Council’s website.</p> <p>It is outdated in terms of the infrastructure requirements and therefore S106 agreements require individual consultation and ad hoc agreements.</p> <p>This risk is in place until it is mitigated by the introduction of a CIL.</p>	Medium	CIL is expected to be implemented within 12-15 months.	Head of Place	August 22

## APPENDIX 2

3	<p>There is a lack of documented procedures for recording of S106, monitoring of trigger points and the collection of SANGS/SAMMS.</p> <p>There is no management approval of procedures reducing their ability to ensure that processes are effective, efficient and contain appropriate safeguards</p>	Medium	Processes will be documented and approved by management.	Head of Place	31 October 2021
4	There is an inconsistent approach to which elements of the S106 obligations have been subject to indexation. In a number of agreements, it was found that significant sums were not subject to indexation resulting in a loss to the council.	Medium	Indexation will be discussed with our legal services at B&D to ensure it is always included in future S106 agreements.	Head of Place Head of Corporate Services	December 21
5	<p>There is no central log of S106 agreements. While each agreement is logged on the Uniform system, there is no overall log of the agreements in place.</p> <p>There is effective communication and collaboration between the Planning and Finance departments that mitigates this.</p>	Medium	A central log of S106 agreements will be created and introduced.	Head of Place	

## APPENDIX 2

6	There is no forecasting of when income is likely to be received. There is the opportunity to utilise information (including soft intelligence) about progress to anticipate when trigger points are likely to be met.	Medium	Regular meetings (quarterly) be set up between the Finance Manager and Planning team to forecast income and cash on a rolling 12 month basis.	Head of Place	
7	It is the developer's responsibility to ensure that they notify the Council when trigger points are hit. Monitoring of trigger points is on an ad hoc basis.  This risk is mitigated via interest charged to developers for late notification, so they are incentivised to notify HDC when triggers are met.	Medium	Trigger will points be recorded in the Section 106 monitoring spreadsheet and be monitored via the quarterly monitoring process.	Head of Place	July 21
8	There has been no debt greater than three months and therefore no formal debt collection processes have been required. However, there is no debt collection process that takes into account the nature of S106 obligations.	Medium	A new debt management policy is being taken to Cabinet in September	Head of Place	Oct 21
9	It is not clear how funds are being monitored to ensure that they are spent within five years of occupation of the final dwelling.	Medium	This will be done as part of the monitoring spreadsheet that will be reported to SLT on a bi-annual basis	Head of Place	July 21

## APPENDIX 2

10	<p>During the course of the fieldwork stage of the audit we have not been able to fully reconcile all the information in the financial system with the information recorded in the Infrastructure Funding Statement.</p> <p>There is no management assurance that the information recorded in the Infrastructure Funding Statement for 2019/20 is accurate.</p>	Medium	Full reconciliation to be carried out on the 20/21 IFS	Head of Corporate Services	November 21
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