

MAYOR AND CABINET		
Report Title	FORMALISATION OF SECTION 106 PROCEDURES	
Key Decision	<u>NO</u>	Item No.
Ward		
Contributors	EXECUTIVE DIRECTOR FOR REGENERATION/EXECUTIVE DIRECTOR FOR RESOURCES	
Class	Part 1	Date: 21 OCTOBER 2003

## 1. Summary

1.1 This report updates Members on the progress by the officer working group in formalising S.106 procedures following an internal audit review of S.106 processes in 2002. Recent Planning Best Value Reviews into local authority planning practices place high regard as to how the risks associated with S.106 arrangements are contained. In summary, these reviews have determined that systems in place must

- Address corporate objectives through the aspirations and policies contained within the Unitary Development Plan
- Demonstrate a methodical and consistent approach wherever possible
- Be sufficiently flexible to respond to the merits of individual planning applications
- Address the issue of accountability and transparency

1.2 An officer working group overseeing S.106 Agreements was set up in 1997 and this report seeks approval to update the terms of reference of the officer working group, an officer protocol covering S.106 processes and procedures and recommends the creation of a S.106 officer post within the Regeneration Directorate.

1.3 A summary of S.106 Accounts (advising as to the status of S.106 balances) was reported to the Public Accounts Select Committee on 17 July 2003. The Select Committee agreed that various initiatives surrounding S106 Agreements should be pursued.

## 2. Purpose

2.1 The purpose of this report is to update the Mayor of

- progress made in implementing the recommendations of an internal

audit report which considered approaches associated with S.106 Obligations;

- progress made in developing a corporate strategic approach to planning obligations under S.106 of the Town and Country Planning Act 1990, thereby maximising the contribution of the planning process to achieve Best Value in the Council's delivery of services.

2.2 A successful S.106 process relies on transparency, clarity of process and procedure, effective monitoring of financial and non financial obligations, effective enforcement in cases of non compliance and a seamless corporate approach to working, to ensure that all applications having S.106 implications/opportunities are identified at an early stage of the planning process.

2.3 Terms of Reference and agreed protocols represent an important constituent of a formalised and transparent process. The responsibility for negotiating and finalising S.106 obligations ultimately rests with the Head of Planning. To assist in the efficiency of the process, it is considered appropriate to create a dedicated S.106 officer post to the Regeneration Directorate, reporting to the Head of Planning. It is envisaged that the S.106 Officer will operate on a self financing basis out of S.106 obligations.

2.4 It is intended that this officer would have a liaison role between the planning service and other relevant service departments, would ensure consistency of process, would track financial and non financial obligations through the process and would liaise with local communities to ensure that they are more aware of S.106 opportunities and how they might influence S.106 processes.

### 3. Recommendations

It is recommended that the Mayor:

- 3.1 notes progress made in the implementation of recommendations made in the audit review;
- 3.2 endorses the terms of reference of the officer working group as a basis for overseeing S.106 obligations and ensuring effective project management (Appendix 3);
- 3.3 endorses the S.106 protocol "Project Control Environment for S.106 Schemes" (Appendix 4);
- 3.4 agrees the creation of a dedicated s.106 officer post within the Regeneration Directorate, reporting to Head of Planning; and
- 3.5 agrees that the Public Accounts Select Committee received regular 6

month monitoring reports on S.106 funds and balances

## 4. Background

### Section 106 Obligations

4.1 Section 106 of the Town and Country Planning Act 1990 allows a local planning authority to enter into a legally binding agreement with a developer in order for them to minimise the impact of development on the local community and/or to undertake works and provide sums to deliver community benefits arising out of the development.

4.2 To retain public confidence, S.106 negotiations must be operated in accordance with the fundamental principle that planning permission may not be bought or sold and Circular 1/97 states that this principle is best served when the process is seen to be fair, open and reasonable.

4.3 The policy background covering S.106 Obligations is contained within both the adopted and emerging Unitary Development Plan, which requires planning applications to consider and accommodate the fair and reasonable direct and indirect infrastructural requirements of development. Planning obligations may relate to matters other than those covered by the planning permission, provided that there is a direct relationship between the planning obligation and the planning permission.

4.4 Circular 1/97 requires planning obligations to be sought only where they meet the following tests

- necessary
- relevant to planning
- directly related to the development proposed
- fairly related to the proposed development in scale and kind
- reasonable in all other respects

4.5 S.106 negotiations need to take full account of these general principles. Furthermore, whilst S.106 Agreements place obligations on the developer and any successor in title, obligations are also placed on the Council. Where financial sums are involved, the Council has an obligation to allocate sums to projects intended by the S.106 Agreement.

### Audit Review of S.106 Processes

4.6 In 2001/2002, S.106 procedures were reviewed by internal audit as part of the 2001/2002 Audit Plan for the Regeneration Directorate. A copy of the report recommendations (dated March 2002) is attached as Appendix 1.

4.7 Internal audit found satisfactory compliance with legislation and

guidance, with obligations taking account of the Unitary Development Plan and Circular Guidance. They were satisfied that an effective and transparent process of negotiation is undertaken with developers. However, the report identified areas of the process that could be strengthened and referred to various Best Value Inspection Reports, which placed high regard as to how the risks associated with S.106 arrangements are contained.

4.8 The main area for improvements are listed below:

- A dedicated S.106 electronic database of all agreements that can be automatically reported has not been created;
- Non financial obligations are not summarised, recorded and monitored in an integrated format;
- There is insufficient organisation to ensure that the authority matches potential funding for S.106 opportunities. There is a need to set up sub groups to identify potential projects for funding;
- Lack of a S.106 procedural guide. This may attract criticism from the Best Value Inspectorate. Consistency and objectivity should be clearly defined;
- Financial reporting, summarising individual funding contributions earmarked for specific purposes (affordable housing, employment initiatives and environmental improvements) are not well developed;
- There is concern that the capital asset generated by S.106 obligations are not maintained. Not all S.106 Agreements have interest applied to the capital sum negotiated;
- There is concern that lack of reporting to Members on S.106 programmes means that members fail to appreciate the full impact of the S.106 programme and the opportunities that might arise out of S.106 negotiations.

#### Officer Working/Overview Group

4.9 In March 1997, the then Development and Regeneration Committee considered a report to formalise a management regime for S.106 Agreements. Its purpose was to enable a comprehensive approach to project management arrangements and to introduce a more formal arrangement to the internal monitoring of income and expenditure in respect of payments received.

4.10 At that time, an Officer Working Group was set up to implement the new regime. The purpose of the Group was outlined as follows

- To provide a high level monitoring of S.106 Agreements, in particular to avoid problems of substantial underspend balances.
- To provide co-ordination and prioritisation.
- To develop a strategy and policy framework.
- To have a hands on approach to large programmes.

- 4.11 The audit review has helped inform the priorities of the Officer Overview Group and since that time membership of the Group has expanded to include representatives from all Directorates. A significant amount of work has been undertaken to develop an up to date schedule of current agreements from pooled information across the Council. However, this schedule has focussed on agreements with associated financial obligations. A schedule detailing non-financial as well as financial obligations will be compiled in due course. The most recent schedule is reproduced as Appendix 2 and it is intended that monitoring reports will be produced on a 6 monthly basis, updating Members of S.106 progress.
- 4.12 The Officer Overview Group has drafted Terms of Reference, to ensure that it is appropriately focussed and has clarity in terms of overall responsibilities. The draft Terms of Reference are attached as Appendix 3.
- 4.13 To date, the strategic role of the Officer Overview Group has primarily focussed on affordable housing issues to a lesser extent, support for employment initiatives. A separate affordable housing sub group has been in place for some time. Whilst this is clearly a positive outcome, further work is needed across the Council to ensure that the potential for the impact of S.106 obligations is maximised to achieve best value and appropriately relates to a wide range of strategic and community strategies.
- 4.14 It is the intention that the Development Control Manager, on behalf of the Head of Planning, chairs the S.106 Overview Group. This will ensure that potential S.106 applications are brought to the attention of the Overview Group so that issues/projects/initiatives can be included as part of detailed planning negotiations at an early stage. The Chair will seek to ensure that the Group acts within its Terms of Reference with all projects delivered within the context of the Council's Project Management Guide. Membership of the Group will continue to be made up of key officers from all Directorates who will have sufficient authority to contribute to corporate decisions.
- 4.15 The Council's Strategic Development Sites Group, chaired by the Director of Regeneration, will play a significant role in raising awareness of potential linkages and opportunities. Decisions relating to the use of S.106 monies, up to a level of £500,000 are delegated to the Director of Regeneration where monies are used to support a regeneration scheme. Schemes outside this area would need to be reported to the Mayor and Cabinet.
- 4.16 A draft protocol for S.106 Project Management is attached as Appendix 4. This document is designed to formalise the S.106 bidding and project approval process and secure consistency of approach.

## Dedicated S.106 Officer Post

- 4.17 It is clear that there is additional potential for the Council to maximise S.106 contributions and projects benefiting the local community. It is crucial however that the process is properly resourced to ensure that the process is as seamless as possible.
- 4.18 There are many players that are, or need to be, involved in the process and it is important that a dedicated post is created to champion, co-ordinate and scrutinise S.106 benefits. The post would also ensure that S.106 benefits are directed towards Council priorities, informed by corporate and community strategies. A number of Boroughs have already gone down this particular route and officers attend an ALG sponsored S106 Officers Working Group which share best practice in S.106 negotiations and management of the process.
- 4.19 It is envisaged that the S.106 officer post would have the following general responsibilities-
- Servicing the Officer Overview Group, ensuring that all Directorates are represented and involved in the S.106 process.
  - Keep up to date information on proposals (either at pre application/application stage) that are likely to have S.106 implications.
  - Keep records of completed agreements and the obligations covered by each of these grants of planning permission.
  - Keeping the Officers Overview Group advised of current applications and progress on S.106 negotiations (financial as well as non financial obligations).
  - Liaison with local amenity and community groups. The post holder could advise on the scope of S.106 obligations and the range of facilities and projects that could be secured through S.106 Agreements. Worthwhile projects arising out of this process (meeting Circular 1/97 requirements) could be referred to the Officer Overview Group for consideration and incorporation as part of the S.106 Agreement process.
  - Ensuring consistency and transparency of process.
  - Liaison between relevant Directorates ensuring that all opportunities are suitably investigated with projects appropriately worked up and costed.
  - Liaison with Head of Law on the enforcement of any breaches of planning obligation and clarifying the requirements of the S.106 Agreement and appropriate triggers (financial and non financial).
  - Responsibility for reporting update reports to Mayor and Cabinet and/or the Public Accounts Select Committee, detailing the current S.106 programme.
  - Ensuring that S.106 work complies with agreed protocol, as set out in Appendix 4 of this report.

- Liaise with other Boroughs to ensure that LB Lewisham applies best practice found elsewhere in securing S.106 benefits.

4.20 Officers are currently in discussions with the planning applications software provider to ensure that a comprehensive S.106 database for the Borough is suitably developed.

4.21 It is envisaged that this post would be self financed out of S.106 obligations. Whilst officers have yet to finalise a Job Description and Person Specification for the post, it is likely that the post would be fixed term (2 years) at a Principal Officer Grade (£36,608 – £39,529 including on costs). It is hoped that the post would be permanently financed out of S.106 Agreement work. The Council already recovers legal and professional fees out of S.106 obligations and it is anticipated that costs associated with monitoring and administering the delivery of S.106 obligations could also be recovered. It is anticipated that developers would be willing to meet this minimal cost per Agreement, in the knowledge that the Council is discharging its obligations in a responsible and transparent manner.

## 5. Public Accounts Select Committee

5.1 On 17 July 2003, a report was presented to the Public Accounts Select Committee advising Members of the status of S.106 financial balances, to advise on the purpose of such allocations and to provide clarification as regards the scope for re-allocation of S.106 funds.

5.2 It was agreed by the Select Committee that

- the appointment of a designated S.106 officer be pursued
- S.106 financial accounts should be monitored by the Public Accounts Select Committee every 6 months
- Councillor Amrani be appointed as the designated Member of the Scrutiny Committee
- A copy of the report be sent to Councillor T Scott

5.3 It is clear that the Public Accounts Select Committee saw the benefits of a transparent and proactive S.106 process and the merits of a dedicated S.106 officer in administering such a process.

## 6. Financial Implications

6.1 Payments received by the Council from developers, which relate to schemes for private development are contributions to costs incurred in relation to development. The Council is therefore not required under Part IV of the Local Government and Housing Act 1989, to set aside amounts for debt redemption.

6.2 Central Government Guidance on the use of S.106 Obligations makes it

clear that a local authority should not require contributions to the General Fund to be used to finance facilities, unless such facilities directly relate to the development.

- 6.3 It is envisaged that the S.106 Officer post will operate on a self financing basis, out of S.106 obligations. It is also envisaged that the post would be advertised as initially fixed term (2 years). As a consequence, this additional post should not place a burden on the existing salary budget within Regeneration Directorate.
- 6.4 The level of contribution that has arisen out of S.106 work has been in the region of £13 million of which approximately £6.5 million has either been spent or is committed. A significant proportion of the remaining £7.4 million is also tied up in specific projects and is not available for other purposes. However, there is a range of smaller (non specific) allocations from which this S.106 officer could be funded.

## **7. Legal Implications**

Guidance on S.106 Obligations is contained within Circular 1/97 and it is essential that the Council's involvement in this area of planning control operates in accordance with Circular advice. It is essential that Head of Law is represented on the Officer Overview Group and that all S.106 Obligations (whether they be financial or non financial) are complied with and with respect to financial contributions are spent in accordance with the terms of the agreement, the law and Government Advice.

## **8. Crime and Disorder Implications**

The Unitary Development Plan includes policies designed to ensure that development maintains and improves safety and security and depending on the scale and impact of development proposed, initiatives to assist in reducing crime can have implications for S.106 negotiations (for example the provision of CCTV).

## **9. Equalities Implications**

Planning Obligations, if channelled appropriately and in accordance with corporate and community based strategies can result in improvements to facilities and to the general environment which should benefit a number of individuals and groups who are currently disadvantaged.

## **10. Environmental Implications**

Planning Obligations are a crucial way of ensuring adequate measures are taken by developers or the Council on their behalf, to ameliorate any potential environmental dis-benefits likely to arise from major development



proposals and to secure positive improvements to the natural and built environment.

## 11. Conclusion

- 11.1 The Borough is currently experiencing unprecedented development interest and it is crucial that the Council organises itself so that S.106 opportunities arising out of this development pressure are realised and channelled into worthwhile projects in accordance with corporate and community priorities.
- 11.2 The work that has been done since the 2001-2002 Audit Review has very much focussed on processing and accountability issues. The up to date summary position as regards the S.106 Programme (Appendix 2), the Officer Overview Group Terms of Reference (Appendix 3) and the Officer Protocol (Appendix 4) are crucial constituents of this more formalised approach to project management and financial accountability.
- 11.3 The creation of a dedicated S.106 officer post should help co-ordinate this process and should build on the work that has been carried out thus far. Other London Boroughs have adopted a similar approach and a London wide S.106 Practitioners Working Party, convened by the ALG has been set up to disseminate best practice. Endorsement of the Terms of Reference and Officer Protocol and the creation of a S.106 officer post overseeing the process would represent a significant step change in the management of S.106 work.

### BACKGROUND PAPERS

<u>Short title of Document</u>	<u>Date</u>	<u>File Location</u>	<u>File Ref</u>	<u>Contact Officer</u>	<u>Exempt Inf.</u>
Report to Public Accounts Select Committee	17.7.03	Gov. Support	Minute Book	C Weaser	N/A

If there are any queries on this report, please contact Peter Smith, Planning, on extension 49785.

**S.106 Overview Group**

**Terms of Reference**

**1. Roles and Responsibilities**

- To evaluate development proposals and agree corporate action to maximise regeneration opportunities for the Borough.
- To identify potential benefits and/or conflicts of development proposals for service delivery and performance targets across all directorates.
- To update colleagues and share information on known or anticipated development proposals, site availability or requirements.
- To keep abreast of relevant legislation and seek to identify best practice in other authorities as part of the Council's commitment to Best Value.
- To set up working groups to examine a particular site, proposal or issue in detail.
- To advise and recommend solutions on development sites and proposals.
- To have input into the drafting of committee reports relating to the corporate use of S.106 contributions.
- To ensure that S.106 monies are managed in compliance with the Council's financial regulations and Standing Orders, as well as other known regulatory frameworks.
- To ensure that S.106 projects are managed in accordance to the provisions of the Lewisham Standard of Project Management
- To implement and manage an appropriate database of S.106 Agreements and their associated projects.
- To ensure proper monitoring of the progress and budgets of all S.106 funded projects and non financial obligations.
- To report (as and when appropriate) to Senior/Chief Officers and other

Management/Executive Forums on S.106 related matters, including Mayor and Cabinet.

- To agree and manage the protocols for allocating S.106 funds and administering the S.106 process.

## 2. Meetings

- The Chair - will ensure that the Group acts within and appropriate to its terms of reference and will ensure that the work of the group properly links with the works/initiatives of other groups.
- Quorum - Five officers (with representation from Head of Law, Head of Planning and Capital and Treasury at all meetings).
- Regularity of Meetings (every six weeks)

## 3. Membership

- The Membership of the S.106 Overview Group shall be made up of nominees from the following Sections

Regeneration	Planning Urban Renewal Economic Development Highways and Transportation
Resources	Programme Management Capital and Treasury Head of Law
Education and Culture	1 nominee
Social Care and Health	1 nominee

## **S.106 Steering Group**

### **Project Control Environment for S.106 Schemes**

#### **1. Purpose of Protocol**

- 1.1 This document sets out the programme management methodology to be used by the S.106 Officer Steering Group for managing and monitoring S.106 schemes to ensure effective delivery and compliance to known agreements, regulatory frameworks, Council Standards and general good practice.

#### **2. Definition of Terms**

##### **2.1 S.106 Agreements**

Otherwise known as Planning Obligations. The process is a means of ensuring that adequate measures are taken by developers and by the Council to maximise the financial benefits that may arise from major development proposals and to secure positive improvements to the natural and built environment of the Borough.

##### **2.2 S.106 Officer Steering Group**

The membership of the Officer Steering Group is made up of officers of Planning, Highways, Housing, Finance and Programme Management sections of the Council as well as nominees for Education and Culture and Social Care and Health. The main aims of the Group among others are

- To monitor progress of all S.106 projects (financial and no financial).
- To consider new bids for projects to be funded out of S.106 monies.
- To ensure that all relevant bids have a Project Inception Document (PID).
- To manage and account for S.106 monies.
- To explore opportunities for S.106 related issues.
- To keep abreast of legislation, good practice and relevant regulations.
- To ensure appropriate implementation of all S.106 Agreements.
- To ensure compliance with Obligations.
- To ensure that S.106 projects are managed in accordance with known standards and regulatory frameworks.

- To be instrumental in ensuring that Senior Officers and Members are kept advised of S.106 issues as appropriate.
- To manage the database of all S.106 Agreements, contributions and schemes.

### **2.3 Use of S.106 Agreements**

There are many benefits that can be derived by a community from development schemes that are brought about through negotiated S.106 Agreements. These can include

- Social/Affordable Housing
- Leisure and Community facilities
- Employment related benefits - funding for employment /business initiatives
- Environmental Improvements and Management
- Highway/Transportation related improvements

### **3. The Planning Process**

The Head of Planning has the primary responsibility for all planning matters and hence, he is the Lead Officer for the Council's Planning Obligations.

### **4. Income/Grant Process and Financial Monitoring**

Currently, the Council manages S.106 monies from three financial groups, depending on whether the agreement falls into Housing, Regeneration or other (specified) categories. The Steering Group has agreed to centralise the accounts, to be held by the Programme Management Services.

### **5. Project Management and Control**

#### **5.1 Managing S.106 Procedures, Identifying Projects and Allocating Resources**

S.106 Agreements often specify which projects/schemes contributions are to be used for. Where the Agreement does not specify any benefit, there is flexibility over how the contribution may be applied. In these circumstances, the Steering Group can liaise with relevant groups to examine how the contribution can be best utilised.

It is important that the S.106 opportunities are identified at an early stage, enabling projects to be realised, developed and costed. Such project proposals should be brought to the attention of the Officer Overview Group as soon as practicable (even at pre application stage).

All S.106 Agreement heads must be listed in the report to the relevant Planning Committee along with the reasons why the Obligation is considered necessary, taking account of Circular advice.

Immediately following the Committee resolution to grant planning permission, the Head of Planning must provide detailed instructions to the Head of Law, clarifying the details of the obligations required (including the level of financial contribution as appropriate) and the range of triggers that would be necessary to control the delivery of the S.106 benefits.

Following the completion of the S.106 Agreement, the Head of Law will produce a S.106 Report Sheet, outlining the various obligations contained within the S.106 Agreement and the various triggers in place.

Non compliance with planning obligations would need to be the responsibility of the Head of Planning, in consultation with the Head of Law.

## 5.2 Project Initiation Document

This Steering Group must discuss the relevance, legality, funding and deliverability of all S.106 projects before their inception.

The Project Inception Document (PID) is the document that explains the rationale, the plan, deliverability and resourcing of projects. All S.106 projects above £20,000 must have appropriate PIDs before being allowed to proceed.

All projects **above £20,000** must submit their PIDs for consideration to this Group. Once agreed, the PID is then passed onto the Chair of the Group to the Project Sponsor for authorisation.

Projects **below £20,000** may be exempt from preparing PIDs but they must be required to submit a bidding form (Application form for funding) for the Group to consider. Once agreed the form must be signed off by the Chair of the Steering Group.

Expenditure codes shall not be set up for projects that do not comply with the above requirements.

## 5.3 Treatment of Expenditure

It is Council policy that project expenditure should not be incurred unless the project has approved budget, approved PID and appropriate capital;/revenue cost codes

### Capital Expenditure

When the Steering Group considers \and agrees a project the budget and funding for the project must be clearly defined and agreed. Thereafter, the Project Manager can set a budget and approach Central Capital and Treasury to request for a cost code to be set up for the project. For codes to be set up there must be the approved PID, a set budget and funding source. In this case, the appropriate S.106 personal account and amount will be identified so that the appropriate expenditure incurred shall be duly financed at the end of the financial year. Incomes cannot be directly transferred into a capital cost code.

#### Revenue Expenditure

The requirement for securing a Revenue Cost Centre is the same as explained under Capital Expenditure. The only difference is that Project Managers approach their Directorate Finance Officer to ask for a code to be set up. Another technical difference is that the Fund can be transferred like an income into the Revenue Income codes as and when agreed by the S.106 Officer Steering Group.

### **5.4 Project Implementation**

Project Managers shall have overall responsibility for the day to day management of their approved project.

### **5.5 Risk Log and Monitoring Report**

All S.106 Project Managers shall provide a regular monitoring report and risk log to the Officer Steering Group and may be asked to attend any of the Group's meetings and make personal presentations. The PMS Section will co-ordinate the monitoring information for this Group.

### **5.6 Project Closure**

In compliance with good practice and relevant standards, all projects need to be closed in a structured manner. All project closure documents must include a Client Acceptance Sign Off Form and a report reviewing the project management process with any lessons to be learnt.

**All project management related documents and forms can be obtained from the Programme Management Services, Room 14, Ground Floor Town Hall Chambers**

## LONDON BOROUGH OF LEWISHAM

MINUTES of that part of the meeting of the MAYOR AND CABINET, which was open to the press and public, held on TUESDAY, 21 OCTOBER 2003 at LEWISHAM TOWN HALL, CATFORD, SE6 4RU at 6.20 p.m.

### Present

Councillor Moore (Acting Mayor)(in the Chair); Councillors Best, Donnelly and McGarrigle.

Apologies for absence were received from Councillors Holder, Whiting and Wise and the Mayor (Steve Bullock).

<u>Minute No.</u>	<u>Action</u>
1	<u>MINUTES</u> (page RESOLVED that the Minutes of that part of the meeting of the Mayor and Cabinet held on 1 October 2003, which was open to the press and public, be confirmed and signed.
2	<u>DECLARATIONS OF INTERESTS</u> (page None was declared.
3	<u>EXCLUSION OF THE PRESS AND PUBLIC</u> (page RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 7, 8 and 9 of Part 1 of Schedule 12(A) of the Act:-  101 Minutes
4	<u>APPOINTMENT OF MEMBER TO SERVE ON THE NEW DEAL FOR COMMUNITIES</u> (page RESOLVED that Councillor Maslin be appointed to serve on the New Deal for Communities Board for the period up to 31 December 2003.



5 CROFTON SECONDARY SCHOOL - DETERMINATION OF PROPOSAL TO INCREASE THE ADMISSION NUMBER (page

RESOLVED that

(i) in accordance with the powers set out in Schedule 6 to the School Standards and Framework Act 1998, the Authority does determine to implement the proposals for Crofton Secondary School, as set out in the Public Notice issued on 7 May 2003 and attached as an appendix to the report; and

ED E & C

(ii) in accordance with the powers set out in Schedule 6 to the School Standards and Framework Act 1998, the School Organisation Committee for Lewisham be informed of the decision to determine the proposals.

6 EXTERNALISATION OF THE CREATIVE LEWISHAM AGENCY (page and Appendices page

RESOLVED that

(i) the Creative Lewisham Agency be externalised from the Council from 1 April 2004. The externalised agency be established as a company limited by guarantee with charitable status (as per the memorandum and articles of association included as an appendix to this report);

ED E & C

(ii) the strategic aim proposed for the new organisation be endorsed;

(iii) the transfer of staff currently employed by the London Borough of Lewisham to the new organisation (under TUPE conditions), following consultation with the affected employees in accordance with the Council's HR Policies and Procedures, be agreed; and

(iv) as a desired policy outcome the Council supports the externalised Agency, but that the final decisions on this be made in the round with other competing priorities in the forthcoming 2004/05 budget round. (There will be an application for continuously reduced once-off support to the Agency in the coming 4 financial years).

7 FORMALISATION OF SECTION 106 PROCEDURES (page and Appendices page

The Chair stated that the regular six month monitoring reports to be submitted to the Public Accounts Select Committee on Section 106 funds and balances was not solely a matter for the Select Committee to be concerned with but also one which the Mayor and Cabinet should consider.

RESOLVED that

- (i) progress made in the implementation of recommendations made in the audit review be noted;
- (ii) the terms of reference of the officer working group as a basis for overseeing S.106 obligations and ensuring effective project management (Appendix 3) be endorsed;
- (iii) the S.106 protocol "Project Control Environment for S.106 Schemes" (Appendix 4) be endorsed;
- (iv) the creation of a dedicated S.106 officer post within the Regeneration Directorate, reporting to Head of Planning be agreed; and
- (v) the Public Accounts Select Committee and the Mayor and Cabinet receive regular 6 month monitoring reports on S.106 funds and balances.

ED  
Regen.

Minute No.

Action

8 SILWOOD SRB DELEGATED DECISIONS (page and Appendix page

RESOLVED that the decisions taken by officers under delegated authority in respect of Silwood SRB, set out in the Appendix to the report, be noted.

ED Regen.

9 MEDIUM AND LONG TERM STRATEGIES FOR PROJECT MANAGEMENT OF CAPITAL SCHEMES AND ASSET MANAGEMENT (page

It was reported that the interim partnering arrangement with an external consultant would be for one year with a potential for extension by up to 2 years.

RESOLVED that

(i) the proposed review of the Council's arrangements for asset management and delivery of capital projects be noted, and the scope of the review as set out in the report be endorsed; and

ED Res.

(ii) that an interim partnering arrangement with an external consultant for one year (with a potential for extension by up to two years) be entered into to provide project management services for the delivery of non-housing capital schemes; and that procurement of these services be undertaken in accordance with the European procurement regulations.

10 COUNCILWIDE BUDGET MONITORING REPORT 2003/04 (page

Appendix 1 to the report was circulated at the meeting (copy attached at page

RESOLVED that

(i) the Council plans its end of year revenue monitoring position on the basis that the SC & H net overspend of £1.044m

All Directors

(ix) the current projected overspend for 2003/04 is £2.061m after the allocation of £2m of corporate working balances be noted;

(x) the present directorates' overspends requiring attention by Executive Directors before the next budget monitoring report are Education & Culture £768k, Regeneration £421k and Social Care & Health £3.044m be noted; and

(xi) the levels of internal control within SC & H currently to manage the budgets, particularly in the areas of both Adults and Children's placement budgets be noted.

11 CAPITAL PROGRAMME 2003/04 2<sup>ND</sup> QUARTER MONITORING (OSCP & HIP) (page

RESOLVED that

**HIP**

(i) the HIP schedules as shown in Appendix A be agreed;

ED Res.

(ii) the proposed contract variations/additional requests as detailed in sections 7 and 8 of the report, be agreed;

(iii) officers work up a further schedule of Decent Homes Schemes, up to £15m for possible inclusion within the capital programme as detailed in paragraph 8.38 of the report;

**OSCP**

(iv) the allocation of £833k to the Hither Green School Scheme, paragraph 3.9 of the report, be agreed;