



ENVIRONMENT COMMISSION 31 July 2006

Report of the Director of Regeneration & Community

Section 106 Agreements and Public Art

RECOMMENDATION

1. To note the report.

SUPPORTING INFORMATION

- 2.1 Section 106 Agreements (S106s) are legal agreements made with landowners through planning applications. A wide range of infrastructure and community facilities are secured through S106s.
- 2.2 Policy E30 of the City of Derby Local Plan Review sets out the context for securing public art on developments. It states that:

'The Council will encourage the incorporation of environmental art where it will contribute to the quality and appearance of new developments or to the general townscape.'

'Where appropriate, the City Council will seek to enter into an obligation under Section 106 of the 1990 Act to provide voluntary commission of work or works of art with the developers of major commercial, industrial, leisure and residential schemes.'

We are seeking to implement this policy on major commercial, industrial, leisure and residential schemes of 100 dwellings or over. Where public art is secured, the policy anticipates that public art is incorporated into the development, rather than as a financial contribution that can be spent by the Council.

- 2.3 As policy E30 indicates, the emphasis is placed on the developer being responsible for commissioning and installing the public art. This is to ensure that the public art is more integrated within the development in order to improve the quality and appearance of the development and area. Integration with the overall public realm of the City will be facilitated when Cityscape's Public Realm Strategy is finalised and published after a consultation this summer. A Guide for Developers on

public art in new developments has also been prepared to help with this process. A Public Art Co-ordination Group and a Public Art Steering Group have been set up to help to take forward public art projects. These are made up of Council Officers, Members and Cityscape.

- 2.4 Details of all past and current S106s which have secured public art are shown in appendix 2. Members will note that most of these S106s, including those being negotiated now are art works incorporated into the scheme. There are only a small number of cases where money has been secured for the Council to spend.
- 2.5 The major S106 that has secured public art in recent years is the one associated with the redevelopment of the Eagle Centre. This specifically secured a £200,000 scheme for art within the new centre itself. This S106 also secured £1.5million for 'regeneration purposes', although there is some flexibility within the agreement to spend up to £3million in total on this. The objective behind this agreement is to ensure that other quarters of the City can be enhanced in ways which will counteract the potential dominance of the new Eagle Centre in relation to shoppers and visitors. £1.27million of this has already been allocated for various projects, with £50,000 for public art. This is to be spent on public art on Victoria Street and the Strand. The remaining money is to be allocated once the impacts of the Eagle Centre are known.
- 2.6 Most S106s are drafted to ensure that the developer is responsible for submitting a scheme for art to the Council for approval. The scheme will be considered by the Built Environment Team in Regeneration and Community and where appropriate presented to the new Public Art Co-ordination Group chaired by the Assistant Director - Culture (Council and Cityscape officers) and the Public Art Steering Group, Chaired by Cllr Graves as Cabinet-nominated Champion for Public Art. A value for the scheme for art is established in the S106. The reasoned justification for Policy E30 includes a target of 1% of the cost of the new development. It is not always possible to secure this, as there are many competing requirements to be secured through S106. Care must be taken to ensure that S106 requirements do not undermine the economic viability of the development.
- 2.7 There are unlikely to be many financial contributions for public art that can be channelled, by the Council, into works of art that are independent of developments. We may however be seeking contributions in the future towards public realm in the city centre, which could be used towards public art. This is an issue that will be dealt with through the S106 Supplementary Planning Document which is being prepared.

- 2.8 Where there are financial contributions for public art then Members will have the opportunity to be involved through the monitoring procedures that have been established by Planning Control Committee. A quarterly monitoring report is sent round to all Members which lists all money that has been received from S106s. It also gives officer recommendations for how pots of money will be spent. It therefore gives members an opportunity to influence how contributions are spent.

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Background papers:

List of appendices:

Appendix 1 – Implications

Appendix 2 – Public art contributions secured through S106s 2001-2006

IMPLICATIONS

Financial

1. None arising from this report.

Legal

2. Government guidance on Planning Obligations is set out in Circular 05/05. Obligations can only be secured that serve a planning purpose.

Personnel

3. None arising from this report.

Equalities impact

4. Effective scrutiny is to the benefit of all Derby people.

Corporate Priorities

5. This report has the potential to link with the Council's priority to 'Deliver excellent services, performance and value for money'.