



**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

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**to  
OVERVIEW AND SCRUTINY COMMITTEE  
31 OCTOBER 2019**

**SECTION 106 AGREEMENTS - QUARTERLY UPDATE (JULY - SEPTEMBER 2019)**

**1. PURPOSE OF THE REPORT**

- 1.1 This report provides an update on the status of the current day to day operational activities of Section 106 (S106). As this is the first formal quarterly update on S106 operational activities since February 2019, the report includes all updates since 1 April 2019.

**2. RECOMMENDATIONS**

- (i) That the progress on S106 operational activities for the period April to September 2019 is noted;
- (ii) That Members note this will be the last report of this type, as only for information, subject to identification of any specific item of scrutiny by the Committee.

**3. SUMMARY OF KEY ISSUES**

- 3.1 The aim of the report is to update the Committee on the Council's Section 106 progress made since the report on 5 September 2019 to the Planning and Licensing Committee (P&L). The update covers the following key matters:
- On-going work relating to Section 106 (S106) Monitoring;
  - Summary of financial sums received and spent;
  - Update and summary of S106 programme of works.
- 3.2 Planning agreements under Section 106 of the Town and Country Planning Act 1990 (the Act), are generally used to mitigate harm and to make a development acceptable in planning terms. These contributions are negotiated as part of the planning application process. The Act allows for the Council and developers to negotiate a range of obligations such as financial and non-financial contributions.
- 3.3 The strategic sites will be the main sources of income from planning contributions in accordance with the Local Development Plan (LDP) to 2029. The table below provides an update on the monitoring and status of Maldon District Council (MDC)

expenditure and income over the last quarter (July to September 2019). Also, **APPENDIX 1** gives an update on the status of the strategic sites and allocation of S106 contributions.

**Total S106 Expenditure (Q3 - 2019) = £2,200.00**

<i>S106 Expenditure Breakdown</i>		
Fenn Wright (Chelmsford)	17/07/2019	£750.00
Fenn Wright (Chelmsford)	17/07/2019	£1,450.00
	<b>TOTAL</b>	<b>£2,200.00</b>

**Total S106 Contributions Collected (Q3 - 2019) = £182,103.33**

<i>S106 Income Breakdown</i>			
<b>Planning Application / Site</b>	<b>S106 Contribution</b>	<b>Agreement</b>	<b>Amount Due</b>
FUL/MAL/14/00356 - S2(i) Land Between Chandlers and Creeksea Lane Maldon Road Burnham-On-Crouch Essex	Health	£40,480.00	£42,109.00
	<b>TOTAL</b>		<b>£42,109.00</b>
<b>Planning Application / Site</b>	<b>S106 Contribution</b>	<b>Agreement</b>	<b>Amount Due</b>
FUL/MAL/16/00093 - S2(j) Land south of Green Lane and north of Maldon Road, Burnham-on-Crouch	Allotments	£8,000.00	£8,000.00
	Monitoring	£4,630.00	£4,630.00
	Health	£15,623.58	£15,623.58
	<b>TOTAL</b>		<b>£28,253.58</b>
<b>Planning Application / Site</b>	<b>2<sup>nd</sup> and 3<sup>rd</sup> Payment (Final Amount)</b>	<b>Agreement</b>	<b>Amount Due</b>
FUL/MAL/15/00885 - S2(f) Land West of Broad Street Green Road Heybridge Essex	Health Care Facility Contribution	£31,972.40	£36,264.00
	Neighbourhood Equipped Areas for Play (NEAPs) / Local Equipped Areas for Play (LEAPs)	£11,191.68	£12,693.92
	North Heybridge Allotments Contribution	£4,640.61	£5,263.51
	Heybridge Youth and Teen Facilities (£522 per dwelling)	£50,712.30	£57,519.32
	<b>TOTAL</b>		<b>£111,740.75</b>

#### 4. CONCLUSION

- 4.1 The Maldon District Council is well prepared in terms of monitoring S106s, forecasting S106 income and preparing PID (Project Initiation Document) for its existing projects. Regular meetings and communication are in place with all MDC service managers to share the latest information on S106 income and discuss possible

funding for identified projects. The Council has set up a communication channel to the NHS England and the Essex County Council (ECC) to ensure that all relevant information on S106 income is provided as soon as possible.

- 4.2 The requirement for all charging authorities to keep their charging schedules under review is emphasised in para. 2.2.6.3 of the Community Infrastructure Levy (CIL) Guidance, February 2014. Therefore, should the Council choose to implement its charging schedule, it will need to demonstrate that the 2014 “levy charges remain appropriate over time”.

## 5. IMPACT ON STRATEGIC THEMES

- 5.1 The use of Section 106 agreements to prescribe, compensate and mitigate the impacts of development enables the Council to enhance services to meet new local demands, which supports the Strategic Theme of Place as set out in the Corporate Plan for sustainable growth and new infrastructure.

## 6. IMPLICATIONS

- (i) **Impact on Customers** – Plans to work in partnership with ECC and NHS England to ensure the delivery of key infrastructure within the Maldon District Council for the benefit of residents.
- (ii) **Impact on Equalities** – S106 projects are delivered to all sectors of the community in the District. All projects will go through the consultation of the local community and will be subject to an Equality Impact Assessment.
- (iii) **Impact on Risk** – The Maldon District Council needs to ensure that all contributions from S106 agreements are spent as per the specification in the legal agreement. It is important that the Council delivers key infrastructure, in a timely manner, to sustain the level of growth within the District.

Most S106 agreements are time limited by the developer in terms of allocating and spending the contribution. If a developer pays a contribution and the Council fails to allocate within the time period specified, the Council runs the risk that the developer might seek to clawback the contribution. The nearest clawback periods run until 2021 and programming has started to ensure that the risk of clawback is minimised.

Delays in getting projects underway as soon as possible after the contributions are received lead to additional risks. Once the S106 contributions have been received they are not protected against cost inflation, which can result in insufficient funding to provide facilities in full. Therefore, the programme of works needs to be closely aligned to the receipt of the contributions. All Maldon District Council’s projects need to be delivered on time to minimise the Council’s potential financial exposure.

- (iv) **Impact on Resources (financial and human)** – The negotiation of Section 106 agreements remains part of the planning services core budget. Also, the

developer pays for the Council's costs in drafting and completing the agreements.

Regular monitoring of S106 is essential to enable the delivery of infrastructure and new S106 / CIL regulations will introduce a monitoring fee. This new fee will provide an additional source of funding for monitoring more complex S106 applications. Particularly, where triggers for the obligations might be phased over long periods.

- (v) **Impact on the Environment** – Agreements can seek to compensate and mitigate for the impacts of development on the local environment. Infrastructure design and concept should respect the future social, environment and economic aspects of sustainable development. Infrastructure Delivery Programme will enable the Council to endorse sustainable development and safeguard the local environment.

Background Papers: None.

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