
*Section 106 Update
Briefing Report*

Background

Since the last update on S106 was provided to Committee in October 2019, the Council has appointed a new S106 Officer who has commenced, as part of his duties, a reconciliation and monitoring process to ensure that the records are both accurate and up to date. This briefing note explains the work involved and relates this to the delivery of the first annual return to HM Government on Developer Contributions required for December 31st, 2020. This Infrastructure Funding Statement (IFS) will cover the first return period from 1 April 2019 to 31 March 2020 and be repeated annually in this way.

Key Issues

The existing s106 spreadsheets held by the Council have been kept accurately but under the care of several postholders over recent years. To ensure that there are no breaches in accuracy or approach the current postholder believes that the Government's new reporting requirement (explained below) should act as the catalyst for a round of monitoring and accounts reconciliation.

To achieve this task the elements set out in the table attached at **APPENDIX 1** will need to be completed over the next three months. Progress on the project will need to be reported to Members during September/October in order to gain acceptance of the submission for December 31st, 2020.

This process will count on the support of Caseworkers and Finance specialists who will be engaged on year end accounting tasks until the end of June. Over the next three months a site inspection programme will be prepared, the spreadsheet entries will be checked and the s106 Officer will need to build an understanding of the SAGE accountancy software and prepare for the reconciliation later in the process.

From the end of June, a comprehensive review of development will be commenced. This will check commencements and the completions of new homes which trigger the developer's payments set out in individual agreements. Once completed this will give rise to an update of the records and a round of invoicing and distribution.

As business as usual returns, the Section 106 officer will work with a designated Apprentice to provide them the opportunity of gaining skills relating to the handling and updating of the s106 spreadsheets. This will include the completion of billing and receipt processes within the context of a complex operating system. This will assist the Section 106 Officer and broaden the experience of a trainee within the existing human resource available for the work.

The Essex County Council and the NHS will have their own reporting process but will also have to participate in the process with MDC. Their engagement is also addressed in the timetable.

APPENDIX 2 refers to the new planning guidance and explains the need for the process.

Recommendations

1. In light of the possibility of continuing issues relating to site visits, it is suggested that the S106 officer time be given to the preparation of a Member seminar for August/September, when the “nuts and bolts “ of the process can be explored and the most up to date site information offered based on the project as it stands at that time. This would include details of the amended spreadsheet following the monitoring site visits for an up to the minute indication of progress.
2. The means of agreeing the final content of the submission for December 2020 may also be agreed with Members.

Members are asked to endorse this course of action and agree the recommendations.

APPENDIX 1

	31 st March	30 th June	30 th September	31 st December2020
S106 Monitoring				
Complete Site Visits register and clause review	→		→	
Site Visits			→	
Update core spreadsheets (from Oct 2019)			→	→
Reconciliation work with Finance			→	→
Reconciliation with ECC s106 team			→	
Reconciliation NHS update sheet?			→	
Report Progress to Members August/September			TBA → X	
Members agreement for submission on 31 st December 2020				TBA → X

1. A comprehensive review of the Council’s existing spreadsheets and the necessary monitoring visits to ensure the records are up to date.
2. Ensure these findings are reconciled with the finance department records for s106.
3. Carry out a review of the MDC business processes related to the gathering and expenditure of s106 funding
4. Improve partnership working with s106 recipient organisations to ensure, where appropriate, better collaboration and information sharing.
5. Maintain the day to day running of the process and to deal with s106 related issues as they arise.

Infrastructure Funding Statement - briefing Note for MDC Members / Corporate colleagues supporting work on Section 106 or Infrastructure funding / bidding processes.

The following briefing points are based on the government's planning guidance at:

<https://www.gov.uk/guidance/community-infrastructure-levy>
<https://www.gov.uk/guidance/planning-obligations>

What data should be in an infrastructure funding statement?

Infrastructure funding statements must set out:

a report relating to the previous financial year on the Community Infrastructure Levy;
 a report relating to the previous financial year on section 106 planning obligations;
 a report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).

The infrastructure funding statement must set out the amount of levy or planning obligation expenditure where funds have been allocated. Allocated means a decision has been made by the local authority to commit funds to a particular item of infrastructure or project.

It is recommended that authorities report on the delivery and provision of infrastructure, where they are able to do so. This will give communities a better understanding of how developer contributions have been used to deliver infrastructure in their area.

The infrastructure funding statement must also set out the amount of levy applied to repay money borrowed, applied to administrative expenses, passed to other bodies, and retained by the local authority. Local authorities will need to choose when to report money passed to other bodies in an infrastructure funding statement, depending on how the date the money was transferred on relates to the date of reporting.

Authorities can also report on contributions (monetary or direct provision) received through section 278 highways agreements in infrastructure funding statements, to further improve transparency for communities.

It is recommended that authorities report on estimated future income from developer contributions, where they are able to do so. This will give communities a better understanding of how infrastructure may be funded in the future.

It is acknowledged that data on developer contributions is imperfect, represents estimates at a given point in time, and can be subject to change (see regulation 121A and Schedule 2). However, the data published should be the most robust available at the time.

Paragraph: 033 Reference ID: 23b-033-20190901 Revision date: 01 09 2019

What should an infrastructure funding statement say about future spending priorities?

The infrastructure funding statement should set out future spending priorities on infrastructure and affordable housing in line with up-to-date or emerging plan policies.

This should provide clarity and transparency for communities and developers on the infrastructure and affordable housing that is expected to be delivered. Infrastructure funding statements should set out the infrastructure projects or types of infrastructure that the authority intends to fund, either wholly or partly, by the levy or planning obligations.

This will not dictate how funds must be spent but will set out the local authority's intentions.

This should be in the form of a written narrative that demonstrates how developer contributions will be used to deliver relevant strategic policies in the plan, including any infrastructure projects or types of infrastructure that will be delivered, when, and where.
 Paragraph: 034 Reference ID: 23b-034-20190901 Revision date: 01 09 2019

How is infrastructure defined for the purpose of reporting developer contributions?

For any information reported on developer contributions, infrastructure should be categorised as follows:

Affordable housing	Transport and travel
Education	Open space and leisure
-Primary	Community facilities
-Secondary	Digital infrastructure
-Post-16	Green infrastructure
-Other	Flood and water management
Health	Economic development
Highways	Land
Section 106 monitoring fees	Bonds (held or repaid to developers)
Other - Neighbourhood CIL	

Comment: These are generic headings and other types of infrastructure can “nest” within these terms.

How should developer contributions be reported?

For the financial year 2019/2020 onwards, any local authority that has received developer contributions (section 106 planning obligations or Community Infrastructure Levy) must publish online an infrastructure funding statement by 31 December 2020 and by the 31 December each year thereafter. Infrastructure funding statements must cover the previous financial year from 1 April to 31 March.

Local authorities can publish updated data and infrastructure funding statements more frequently if they wish. More frequent reporting would help to further increase transparency and accountability and improve the quality of data available. Infrastructure funding statements can be a useful tool for wider engagement, for example with infrastructure providers, and can inform Statements of Common Ground. Local authorities can also report this information in authority monitoring reports but the authority monitoring report is not a substitute for the infrastructure funding statement.

For information on what an infrastructure funding statement must contain see ‘What data should be in an infrastructure funding statement?’ (– please see above.)

Paragraph: 032 Reference ID: 23b-032-20190901 Revision date: 01 09 2019

Comments for Members / Corporate colleagues

Though related, there are two separate pieces of work that the Council is currently completing. The s106 Officer’s work relates broadly to the Infrastructure funding statement (IFS) while the Infrastructure Delivery Plan (IDP) will be reviewed in support of the process of adoption for the Community Infrastructure Levy and the Local Plan Review.

Infrastructure funding statement (IFS)	Infrastructure Delivery Plan (IDP)
A report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).	An important element of the evidence base which will inform the delivery of the Council's Community Infrastructure Levy. The Infrastructure Delivery Plan is needed to demonstrate that there is an infrastructure funding gap and a need to introduce a CIL in accordance with the guidance set out in Planning Policy Guidance
The document is for reporting purposes only and is not the subject of examination.	The evidence base will be tested at inquiry – i.e. examination before an Inspector who will need to confirm that CIL is not going to disrupt the viability of development in the District.
Any evidence base material will be needed for the purposes of MDC Members discussion and e.g. scheme assessment and or prioritisation.	Evidence base will be needed and may become the subject of rigorous cross examination at Inquiry.
The subject of cross border partnership working/duty to cooperate. Others will need to see what we are doing. Coordination and collaboration.	The IDP will be the subject of formal consultation with other Authorities and Agencies.
The s106 Officer will be seeking support for the preparation of the IFS between June and September. Officers should start to coordinate future projects.	2014 evidence base is being reviewed and updated – NB. The IDP review contractor will be asking for updated requirements During March/April 2020.
Can be more focussed on the Council's aims but other agencies may assist. E.g. PCC, Sports Council.	Must be shared with ECC NHS and other partner organisations

Stephen Andrews
s106 Officer
June 2020