



REPORT of DIRECTOR OF PLANNING AND REGULATORY SERVICES

**to
OVERVIEW AND SCRUTINY COMMITTEE
14 FEBRUARY 2018**

SECTION 106 AGREEMENTS

1. PURPOSE OF THE REPORT

- 1.1 This is the 6 monthly report to provide Members with a summary of work undertaken so far on the monitoring of Section 106 Agreements and sets out the intended programme for review of the current procedures used by this Council in the monitoring of Section 106 Agreements.

2. RECOMMENDATIONS

Members are asked to give their views and comments on the information in this report.

3. SUMMARY OF KEY ISSUES

- 3.1 The aim of this report is to update the Committee on the Council's Section 106 progress made from last report on 30 August 2017 (Minutes 2017/354). Update on the following key issues –
- Action taken since the 30 August 2017 report to Scrutiny
 - On-going work relating to Section 106 (S106) Monitoring
 - Summary of financial sums received, spent and current balance
- 3.2 Planning agreements under Section 106 of the Town and Country Planning Act 1990 (the Act), are generally used to mitigate harm that may be caused by a development and 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 **Development Since the last report**
- 3.3.1 In September 2017 the new S106 officer started in post with a view to maintain and develop the S106 systems. To date this has included:
- Developed the comprehensive database to maintain accurate record of S106 clauses as well as monitoring projects funded through S106

- Created various templates to comply with S106 Agreements such as acknowledgment of payment receipt, Compliance Letter and Demand Notices for outstanding payments
- Created individual agreements folder, consisting of calculation of financial payments, received amount, outstanding amount and triggers for financial and non-financial contributions, as it makes it easier to monitor efficiently.
- To date, 260 S106 Agreements with 390 schedules are captured on the database for the monitoring of agreements from 1990 to Jan 2018
- In addition, 44 (out of 134) Section 52 Agreements (Town and Country Planning Act 1971) have been captured on the database for monitoring
- Regular audit of S106 is carried out to establish outstanding financial and non-financial contributions.

3.3.2 The database stores information on site details; clawback periods; purpose of the contribution; financial and non-financial contributions; commencement of the development; trigger and triggered date; financial data; indexation and S106 funded project details. It's able to run report on number of payments due, which helps to issue demand notices to request developers for the outstanding payment.

3.4 **Forthcoming S106 monitoring work**

3.4.1 Further additions to the system include:

- Remaining 90 Section 52 Agreements to be captured on the database
- 15, Section 13 (Town and Country Planning Act 1947) to be captured on the database
- Discharge individual S106 obligation from the recent agreements i.e. strategic sites
- Identify historic agreements already discharged
- Identify historic financial obligations and its spending
- Discharge historic Section 106, Section 52 and Section 13 Agreements, if not already discharged
- Identify projects related to S106 Agreements and allocate funds accordingly
- Set up monitoring systems and its viability for projects delivered via S106
- Set up criteria for infrastructure projects based on the purpose of financial contribution
- Run regular report on S106 clawback period to inform respective project manager of the implications
- Set up a process with Essex County Council to discharge S106 obligations such as Education, Highways and Travel Plan

3.5 **S106 Account Balance**

3.5.1 As of January 2018 there is a balance of £631,914 (See **APPENDIX A** for details) in S106 funds in the Council's account, all respective managers are informed to fund

relevant projects from the balance. The Council has not commissioned any projects since August 2017 concerning S106 contributions, except Pedestrian Linkage in Southminster (Which is in the process of being commissioned via Essex County Council (ECC)). Please see below the breakdown of S106 balance in the Council's account:

Breakdown of S106 Income

Type of Contribution	Amount	Organisation/Department
Health	£107,958	NHS England
Monitoring Fee	£11,073	MDC/Planning Policy
Youth Facilities	£34,628	Leisure - MDC
Pedestrian Linkage	£16,000	Parks - MDC
Affordable Housing Commuted Sum	£406,425	Housing - MDC
Travel Plan	£3,000	Essex County Council
Open Space	£52,830	Leisure - MDC
Total	£631,914	

3.5.2 Seven strategic sites with planning permission and signed S106 Agreements will generate approximately **£23,970,169**. This contribution would be collected by Maldon District Council and Essex County Council (See **APPENDIX B** for details).

3.5.3 Funds secured from 7 Strategic Sites (Signed S106 Agreements) are as follows:

Strategic Sites	Planning Ref/Date of Agreement	Financial Contributions
Strategic Site 2a - South of Limebrook Way	14/01103/out 01-Dec-2016	£16,115,546
Strategic Site 2c - Land East Of Wycke Hill Maldon	13/00763/out 20-Oct-2014	£1,302,850
Strategic Site 2e - Land North of Holloway Road, Heybridge	14/00990/out 27-Apr-2017	£1,905,445
Strategic Site 2f - Land West Of Broad Street Green Road Heybridge Essex	15/00885/ful 16-May-2017	£2,445,020
Strategic Site 2g - Land off Park Drive Maldon Essex	14/00581/ful 04-Oct-2016	£588,604
Strategic Site 2i - Land Between Chandlers And Creeksea Lane Maldon Road Burnham-On-Crouch	14/00356/ful 11-Aug-2017	£766,189
Strategic Site 2j - Land south of Green Lane and north of Maldon Road, Burnham-on-Crouch	16/00093/ful 05-May-2017	£846,515
Total		£23,970,169

Breakdown of Funds Secured from 7 Strategic Sites (Signed S106 Agreements)		
Type of Contribution	Amount	Lead Organisation
Travel Plan	£6,000	Essex County Council
Youth Facilities	£907,147	MDC
Education	£12,554,729	Essex County Council
Health	£601,430	NHS- England
Monitoring Fee	£31,740	MDC/Planning Policy
Open Space	£99,600	MDC
Highways	£8,919,523	Essex County Council
Public Transport	£850,000	Operators/ECC
Total	£23,970,169	

- 3.5.4 Heads of Terms agreed for Strategic Site 2b Wycke Hill North and Site 2d North of Heybridge.

Heads of Terms Completed - 2 Strategic Sites (S106 Has not been signed)		
Strategic Sites	Planning Ref	Financial Contributions
Strategic Site 2b Wycke Hill North	15/01327/out	£5,687,919
Strategic Site 2d North of Heybridge.	15/00419/out	£23,935,754
Total		£29,623,673

Breakdown of Heads of Terms Completed - 2 Strategic Sites (S106 Has not been signed)		
Type of Contribution	Amount	Lead Organisation
Highways	£12,822,091	Essex County Council
Public Transport	£3,100,500	Operators/ECC
Education	£11,032,767	Essex County Council
Youth Facilities	£723,125	MDC
Sports	£1,266,000	MDC
Open Space	£217,872	MDC
Health	£461,318	NHS England
Total	£29,623,673	

3.5.5 Breakdown of all secured S106 funds **Excluding Strategic Sites** are as follows –

Breakdown of all secured S106 Funds (Excluding Strategic Sites)		
Type of Contribution	Amount	Lead Organisation
Travel Plan	£12,000	Essex County Council
Education	£853,890	Essex County Council
Health	£157,636	NHS England
Open Space	£218,400	MDC
Affordable Housing Commuted Sum	£483,000	MDC
Highways	£273,810	Essex County Council
Total	£1,998,736	

3.5.6 Total S106 funds secured for all sites including strategic sites, as shown below –

Total Strategic site funds	
Heads of Terms completed (S106 has not been signed)	£29,623,673
Strategic Sites (S106 Agreement Signed)	£23,970,169
Sub-total	£53,593,842
Secured S106 Funds Excluding Strategic Sites	£1,998,736
Grand Total	£55,592,578

3.5.7 Total allocation and collection of all S106 funds are as follows -

Lead Organisation	Amount	To be collected and monitored by
Essex County Council	£46,474,810	ECC
Operators/ECC	£3,950,500	ECC
Maldon District Council	£3,946,884	MDC
NHS England	£1,220,384	MDC
Total	£55,592,578	

4. CONCLUSION

- 4.1 A robust monitoring system is in place which addresses the concern raised in previous reports. S106 Agreements are being regularly monitored and infrastructure funding is being received and will be spent in due time before clawback period. Significant progress has already been made on our S106 review but it is work in progress. More

work is needed to fully streamline the S106 process. This work has been programmed and is being progressed.

5. IMPACT ON CORPORATE GOALS

- 5.1 The Work of the Overview and Scrutiny Committee supports the corporate goal of “Delivering good quality, cost effective and valued service”.

6. IMPLICATIONS

- (i) **Impact on Customers** - Scrutiny work may aid in improvements to service to the public by the Council and external authorities.
- (ii) **Impact on Equalities** – On and off site infrastructures will be provided through S106 to meet known national standard and available to all communities.
- (iii) **Impact on Risk** – Recommendations arising from scrutiny could assist in mitigating corporate risk.
- (iv) **Impact on Resources and (Financial and human)** - The negotiation of S106 Agreements is part of the planning services core budget. The developer pays the Council’s costs in drafting and completing the agreement.
- (v) **Impact on the Environment** –S106 Agreements are our current method for securing developer contributions to compensate and mitigate the impacts of development on the local environment

Background Papers: None.

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