

Report to	Trowbridge Area Board
Date of Meeting	17 November 2011
Title of Report	Section 106 Agreements 2004 to date for Trowbridge Community Area

Purpose of Report

To provide the Area Board with an update on the last 7 years of Section 106 agreements in the Trowbridge Community Area.

The report details the following:

1. What is a Section 106 agreement and how are they agreed
2. Summary of money received, money spent and money outstanding
3. How to access funding if there is funding available

1. Background

- 1.1. A request was made by Trowbridge Area Board for an update on the money secured through Section 106 agreements in the Trowbridge Community Area over the last 7 years.
- 1.2. An exercise is currently being carried out to capture all Section 106 agreements in Wiltshire. A Scrutiny Task Group was set up to help monitor the progress made on this work so that the same information can be given to every Area Board. This report provides all the details captured in the Trowbridge Community Area Board.

2. Main Considerations

2.1. What is a Section 106 Agreement?

- 2.1.1. The definition of a Section 106 Agreement is :

“Section 106 (S106 of the Town and Country Planning Act 1990) allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement.

- 2.1.2. These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms. They are increasingly used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing”.
- 2.1.3. The Council needs to have robust mechanisms in place to secure funding from developers towards the cost of infrastructure. These mechanisms must be supported by a comprehensive infrastructure planning evidence base, which shows what infrastructure is needed, how much it costs, how it will be funded, and when and how it will be delivered. Presently, the Council uses Section 106 agreements to negotiate developer contributions towards infrastructure from each separate development.
- 2.1.4. The Council will examine each development proposal for its need to contribute to the community infrastructure requirements and negotiate to secure planning obligations or by means of other appropriate methods to secure the requirements identified. These contributions are in accordance with the relevant Local Plan policy. For the Western Area, the West Wiltshire District Plan - Policy : I1– Implementation, is the relevant policy for securing contributions. However, since the publication of the Leisure & Recreation Development Plan Document in March 2009, several District Plan Policies (R numbers were deleted) and largely replaced by Policies LP1-LP5, and OS1-OS2 (all of which are

listed in the Leisure & Recreation DPD). In addition to this, the West Wilts area has an adopted SPG covering Open space provision for new housing) published in Aug 2004).

- 2.1.5. It is unlawful for the Council to spend Section 106 money on anything which is not in accordance with how it is set out in the specific agreement.
- 2.1.6. Within each agreement there are trigger points for when the money/contribution has to be paid to the beneficiary Services. These triggers are often different for each development and are negotiated with the applicants before the agreements are signed. Examples of trigger points could include “payment on completion of the 10th house”, “payment prior to first occupation”, “payment on commencement of development”.
- 2.1.7. These trigger points are recorded by the s106 Monitoring Officer and actively monitored by the beneficiary services

2.2. Future policy

The latest Government legislation makes it clear that it intends to revise the current system with the introduction of Community Infrastructure Levy (CIL). This will be a new charge based on the principle of providing infrastructure to support development. In other words, it is a system of pooled contributions that can be spent on infrastructure across a wider area, whereas Section 106 contributions will in future be limited to site specific infrastructure and affordable housing. In time, the current use of Section 106 agreements to collect pooled contributions will be limited because CIL is the Government’s preferred mechanism in this regard. Last communication stated CIL will be mandatory as from April 2014.

3. **Section 106 Agreements in the Trowbridge Community Area**

- 3.1 Appendix 1 sets out all of the Section 106 Agreements in the Trowbridge Community Area secured in the last 7 years.
- 3.2 The table shows all of the agreements which have secured financial obligations along with the details of where the funding has been sought, how much has been negotiated for each beneficiary area and whether we have received money.
- 3.3 The ‘total received’ column on the appendix shows all the contributions that have been received by the Council. This money may have already been spent on the allocated projects as specified in the Section 106 agreement.
- 3.4 The update position/comment shows some more details about the current situation. Members will note that there are a large amount of

agreements where the money is not due yet because trigger points have not been reached or the work has not commenced.

4 Financial update

- 4.1 In total £8,971,750.37 has been secured via a Section 106 legal agreement since 2004. Of this amount, £2,333,372.62 has already been received by the Council, leaving £6,638,377.75 outstanding.
- 4.2 Of the £6,638,377.62, £6,400,169.75 is not yet due to be paid due to the development not having been commenced or the appropriate trigger points being reached.
- 4.3 Trigger points have, however, been reached on a number of these developments and the Council has contacted, or is in the process of contacting the developers concerned. The following section sets out the developments concerned and the action being taken.

Highways

£24,500 – 04/00095 Land at Blue Hills - Highways contacted developer for payment

£40,000 – 04/01063 Land East Southview Farm – first trigger request sent to developer

£15,000 – 05/00807 Land rear 95 – 133 Frome Road - Contribution due - Highways requested Section 106 Officer to invoice. Section 106 Officer to invoice week commencing 07/11/2011

Education

£67,500 – 04/01063 Land East Southview Farm – first trigger requests for payment sent by Education on 18/7/2011 & 23/8/2011. Section 106 Officer due to chase week commencing 07/11/2011

£41,787 – 05/00807 Land rear 95 – 133 Frome Road – Contribution fell due in September. Education requested Section 106 Officer to invoice. Section 106 Officer to invoice week commencing 07/11/2011

Land Adoptions

£9,734 – 05/00807 95 – 133 Frome Road – S106 officer to invoice w/c 7/11/2011

£16,687 – 07/01911 Former Bottling Plant – S106 officer to invoice w/c 7/11/2011

£4,000 – 08/01990 9A Frome Road – S106 officer to invoice w/c 7/11/2011

£4,000 – 09/03751 9A Frome Road - S106 officer to invoice w/c 7/11/2011

Recycling / Waste

£5,000 – 04/02105 Green Lane East Trowbridge

Other

£10,000 – 07/02106 Land East Acheson & Meridian Business Park
- Yarnbrook Pumping Station Works

5 Access to funding

- 5.1 All Section 106 Agreements specifies how the financial contributions should be spent.

Funding for Affordable Housing for example is ring fenced for the provision of affordable homes to meet demonstrable need.

- 5.2 The standard policy S106 term for education payments allows 10 years from receipt in which the funds may be spent. This allows the Authority to combine contributions received in localities and designated school areas to plan and create a budget for a larger capital project to expand / enhance provision at a school/s, rather than adopting a piecemeal approach where individual sums received are relatively small.

- 5.3 The majority of highways contributions are very specific and funding is allocated to particular projects. In some cases, contributions are secured towards outcomes where the project(s) are less well defined, and which offer the Council some limited discretion over how the contribution may be spent. These are normally in towns where overarching transport strategies already exist and it is intended to involve the Community Area Transport Groups (CATG) in helping to decide priorities.

- 5.4 The Land Adoptions team, who are responsible for the allocation of Section 106 money obtained specifically for public open space, are in the process of contacting all Town and Parish Councils to notify them of any unspent money. Any enquiries relating to this should be sent to landadoptions@wiltshire.gov.uk or contact Stuart Harper from the Land Adoptions team on 01380 734682. Funding secured via a commuted sum where Wiltshire Council has adopted the land is fed into the budgets for ongoing maintenance of sites. This money is not available to Parish Councils.

Background documents used in the preparation of this report	
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6 Environmental & Community Implications

- 6.1 There are no Environmental and Community Implications

7 Financial Implications

- 7.1 Section 106 money must be spent in line with Section 106

Agreement and cannot be used for other projects not related to the development.

8 Legal Implications

8.1 There are no specific Legal implications related to this report.

9 HR Implications

9.1 There are no specific HR implications related to this report.

10 Equality and Inclusion Implications

10.1 There are no specific Equality and Inclusion implications.

11 Officer Recommendations

11.1 There are no officer recommendations.

Appendices	Appendix 1 – Summary of Section 106 Agreements in the Trowbridge Community Area.
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No unpublished documents have been relied upon in the preparation of this report.

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