

Report to	Calne Area Board Report
Date of Meeting	5th February 2013
Title of Report	Community Benefits achieved through the Planning Process

Purpose of Report

To provide the Area Board with an update on the last 7 years of Section 106 agreements in the Calne 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
4. Emerging policy on funding infrastructure requirements

1. Background

- 1.1. A request was made by Calne Area Board for an update on the money secured through Section 106 agreements in the Calne Community Area over the last 7 years.
- 1.2. An exercise has recently been 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 Calne Community Area.

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 North Wiltshire Local Plan 2011 has a Core Policy on Community Infrastructure. This sets out how the provision for the **directly related** community infrastructure costs of development proposals, appropriate to the scale of that development, will be sought.

- 2.1.5. The Council will examine each development proposal for its need to contribute to the following community infrastructure requirements and negotiate to secure planning obligations or by means of other appropriate methods to secure the requirements identified. The community infrastructure requirements are:

- Affordable housing
- Education, skill training provision and libraries
- Travel and transport infrastructure
- Community buildings and facilities
- Health care provision and social services
- New or improved open spaces
- Leisure, sport and recreation provision
- Waste management and recycling
- Environmental protection and enhancement
- Information Communication Technology infrastructure
- Art in the community

2.1.6. 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.

2.1.7. Within each agreement there are trigger points for when the money 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”.

2.1.8. These trigger points are recorded by the s106 Monitoring Officer and actively monitored by the beneficiary services

2.2. Emerging policy - role of Section 106 Agreements in the future

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. From April 2014, in line with legislation, local authorities will be restricted on the amount of pooled contributions they can collect through Section 106 Agreements, as such Wiltshire Council intends to become a CIL Charging Authority before this point.

2.3 The Council’s approach to delivering infrastructure in the future is set out in Core Policy 3 of the draft Wiltshire Core Strategy (Wiltshire Core Strategy Pre-Submission Document, February 2012). Core

Policy 3 states that “*Upon adoption of the CIL Charging Schedule, CIL will be used to pool developer contributions towards a wide range of new and improved infrastructure necessary to deliver new development*”. The policy also recognises that Section 106 Agreements may still play a role in securing contributions directly related to specific developments, although there can be no double charging for infrastructure through both CIL and Section 106 Agreements.

- 1.1.2 An Infrastructure Delivery Plan has been prepared alongside the Core Strategy to inform the infrastructure requirements of new development planned for Wiltshire. This forms the basis on which Wiltshire Council can move forward on the preparation of CIL.

However, in response to the latest government guidance relating to the process of preparing a CIL, the Council is in the process of gathering further detailed evidence on viability; as well as building its policies in relation to the future application of Section 106 and CIL to support the consultation on the Draft Charging Schedule, which will now be published in July 2014. Although this additional work has led to a delay, a legally compliant and robust Wiltshire CIL will be in place by February 2014 and thereby closely tied to the adoption of the Wiltshire Core Strategy. While the CIL is being developed Section 106 Agreements will continue to be used.

3. Section 106 Agreements in the Calne Community Area

- 3.1 Appendix 1 sets out all of the Section 106 Agreements in the Calne 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 £3,664,185 has been secured via a Section 106 legal agreement since 2004. Of this amount, £667,435 has already been received by the Council, leaving £2,996,750 outstanding.

4.2 Of the £2,996,750, £2,970,240 is not yet due to be paid as the development has not commenced or the appropriate trigger points have not been reached.

4.3 Therefore the Council is actively investigating/chasing £20,100 of outstanding Section 106 obligations.

5 Access to funding

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

5.2 Funding for Affordable Housing is ring fenced for the provision of affordable homes to meet demonstrable need. However, in some instances, there has been a need to review some of the Section 106 obligations on affordable housing due to market conditions and scheme viability issues. In these cases it is likely that any financial contribution could be negated.

5.3 Education contributions are discussed and agreed with all parties throughout the planning process and any funding will have been set for specified projects relating to the development.

5.4 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.

5.5 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 will be fed into the budgets for ongoing maintenance of sites.

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 Calne Community Area.
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No unpublished documents have been relied upon in the preparation of this report.

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