

MUNICIPAL YEAR 2018/2019 REPORT NO. 224

COMMITTEE:

PLANNING COMMITTEE

23.04.2019.

REPORT OF:

Executive Director Place

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AGENDA – PART 1	ITEM 9
SUBJECT - SECTION 106 AGREEMENTS – MONITORING INFORMATION, MID YEAR REPORT WARDS: ALL	

1. SUMMARY

1.1 This report provides an update on the monitoring of section 106 agreements (S106) and progress on section 106 matters during the period 1 April 2018 to 30 October 2018. It provides an overview of:

- the position regarding current S106 agreements, categorised by constituency, including the type and amount of financial obligations, progress on spend and implementation of schemes; and
- new S106 agreements agreed and signed since April 2018

1.2 This report is provided for information only. Members are invited to contact the officers named above for more information on individual schemes.

1.3 As set out in this report, there has been significant increase in the amount of S106 funds that has been collected and spent since the beginning of the last reported financial year (2017/2018). This is summarised below

Financial year	Collected	Spent
Quarters 1 and 2 (2017/2018)	373k	£62k
Quarters 1 and 2 (2018/2019)	£1 million	£260K (largely related to traffic and transportation schemes).

1.4 A further £1.2 million has been collected since quarters 1 and 2 (2018/2019) and it is expected that approximately £2.4 million will be spent before the end of 2018/2019, thus demonstrating good progress on the collection and expenditure of S106 monies and representing our most successful period since the introduction of community infrastructure levy (CIL) charging in the borough in 2016. Further details will be reported at the next planning committee over the summer period.

2. RECOMMENDATION

2.1 That Planning Committee note the contents of this report and its annexes.

3. S106 MONITORING OVERVIEW

3.1 Planning obligations (often referred to as 'S106 agreements') are legal agreements between developers and the council towards the provision of affordable housing, local training and jobs and other site-specific mitigation measures to lessen the negative impacts of development. An S106 agreement is intended to make a development 'acceptable' in planning terms which would otherwise be deemed as unacceptable. Obligations under section 106 can be either financial or non-financial in nature. The Section 106 Supplementary Planning Document (SPD) provides further information on how the obligations system operates.

3.2 At 30 September 2018, there were 86 individual S106 agreements in the active programme where monies had been received, containing approximately 231 heads of terms. Projects are currently being delivered using these funds. The position regarding the implementation of these S106 agreements at the end of the monitoring period is set out in annex 1. A copy of the spreadsheet has also been placed in the members library. An overview of the financial information contained in Annex 1 is set out in table 1 below.

Table 1: Summary of S106 funds received and expenditure programmed

Status	Total amount (£)
Opening balance at the start of 2018/19	£6,408,610.30
Total amount of S106 payments received	+ £1,005,831.39
<u>In year movements:</u>	
• Sub-total of outward in year movements	- £253,620.00
• Money moved to contingency	- £
• Total amount drawn down in 2018/19	- £260,487.59
The total amount drawn down is broken down as follows:	
• Q1 drawdown total £13,836.62	
• Q2 drawdown total £246,650.97	
Interest received to 30 September 2018	+ £19,225.17
Closing balance at 30 September 2018	£6,919,559.27

3.2 As set out above, the council has received **£1,005,831.39** for the first half of 2018/19 in S106 planning obligations; the majority of these receipts relate to education and

employment, skills and training contributions. Significant sums have been received towards education facilities (£276K from the development at Trent Park) and apprenticeships (£112K from the development at 90 to 98 and 104 Lockwood Avenue). Other receipts relate to sustainable transport measures, affordable housing contributions, community facilities and health-related outcomes.

- 3.3 As of May 2016 (National Planning Policy Guidance), a change in national policy reduced the circumstances whereby contributions can be sought from smaller developments of 10 or fewer units. Although the council can still seek contributions towards affordable housing where the floorspace of the site is at least 1,000 square metres (or greater), there has been a much reported slow-down in sales and drop in prices at the higher-end of the residential market. As such, fewer applications of 1,000 square metres and above have been submitted in comparison with previous years, and the relationship between planning and the wider economy cannot be ignored.
- 3.4 Policy H2 (Small Sites) of the draft New London Plan states boroughs wishing to apply affordable housing requirements to sites capable of delivering ten units or fewer and which have a maximum combined gross floor space of no more than 1,000 sqm should only require this through a tariff approach to off-site contributions rather than seeking on-site contributions. Boroughs are strongly encouraged to provide the flexibility for payments to be collected prior to the occupation of development, rather than prior to commencement of development.
- 3.5 Many section 106 agreements contain clauses which require the monies to be spent within either a 5-or-10-year window. Following the completion of this period, any unexpended funds - plus the accumulated interest - should be returned to the developer / landowner. Due to the length of the timeframes for spending the monies, it is not uncommon for initial project identification to take up to a year (or slightly longer), particularly where large or more complex works will be undertaken.

4. KEY PROJECTS FUNDED USING SECTION 106 CONTRIBUTIONS

Spend during Q1 and Q2

- 4.1 Spend during Q1 and Q2 partially funded various small-scale highways and traffic and transportation projects, including part of the Ponders End Cycle Enfield route, addressing aquatic issues at Mossops Creek, widening works at Gilbert Street, landscaping at Pymmes Park and a pelican crossing at Bramley Road. Draw down for capital schemes (for example, primary school expansion schemes) and for the provision of affordable housing in the borough is not until the end of the financial year; this is when the most significant expenditure is expected to take place.

Affordable housing

- 4.2 The London Plan (Greater London Authority, 2016) requires developments to make the maximum reasonable provision for affordable housing. Affordable housing should be provided on-site in the first instance, although this can be provided off-site or through an in-lieu payment in exceptional circumstances. Affordable housing development is covered by capital spending. The contributions are used to replenish such budgets. Section 106 funds are drawn down and the various contributions are allocated to projects as part of the draw down process at the end of each financial year.

- 4.3 Following on from the Grenfell fire incident, significant work needed to be done to re-prioritise housing schemes and so all S106 contributions from 2017/18 year were rolled forward to fund works in the last financial year. Major works which contributions were applied in 2018-19 include the council's housing renewal schemes at Small Sites 1, Newstead House, New Avenue and Upton and Raynham.

Business, employment & skills

- 4.4 The Build Enfield Programme is being developed to enable Enfield's residents to access jobs being created through developments, particularly with the onset of the Meridian Water development.
- 4.5 £283,825 of the employment & skills S106 monies has been matched with the GLA's European Social Fund, creating a total fund of £525,076. This is being used to commission a service to support developers and applicants in the design and delivery of employment and skills plans (ESPs) to meet their S106 and social value [in procurement] obligations in Enfield. The commissioning and contract management is being managed by London Councils.
- 4.6 The Build Enfield website is being redesigned to create customer journeys for residents seeking careers in construction, local businesses to be included in supply chains also obligated in S106 agreements, and information for developers to successfully include business, employment and skills S106 conditions in a planning application.
- 4.7 £90,000 of funding from the Alma Estate S106 agreement ringfenced for job-brokerage is being used to commission a job brokerage service to post job, apprenticeship and training opportunities on the Build Enfield website and engage residents to these opportunities.
- 4.8 Officers are working with neighbouring boroughs and major housing and infrastructure leads to create a partnership to co-ordinate longer placements with shared developers long enough for higher apprenticeships.
- 4.9 An application is being made to the Department for Work and Pensions for Community Budget funding to support young offenders affected by gang crime to be supported to access S106 construction jobs and training. This is being matched by the GLA's New Homes Bonus funding for job outcomes.
- 4.10 The above five elements are being packaged as the Build Enfield Programme which will be promoted via the Communications Team.
- 4.11 Moving forward, the business process for S106 clauses negotiations is being analysed as to how and when business, employment and skills conditions are agreed when the council considers a planning application or supports a pre-application to ensure maximised benefits are being secured.

Traffic & transportation

- 4.12 The focus of the service has been to commit and spend any backlog of dedicated traffic & transportation (T&T) s106 monies, which has been successfully achieved. Meetings with lead officers have now moved towards identifying schemes for the top ten highest balances relating to traffic and transportation heads of terms. These schemes are expected to be formally allocated by the end of the first quarter of 2019/20 and potentially include a new pedestrian crossing at Lavender Hill, a PERS

audit and improvements to greenways links at Station Road, junction improvements at Hastings Road/A406, a roundabout study at Cat Hill Road and improvements to bus stops around Enfield College.

4.13 Key T&T projects funded through S106 in 2018/19 are:

- Cycle Enfield A105;
- A1010 South;
- Ponders End Majors Scheme;
- widening works at Gilbert Street;
- junction improvement works at Parsonage Lane,
- new pedestrian crossing at Cat Hill; Toucan crossing on Queensway to accommodate the additional pedestrian movements between the eastern access point and Tesco car park;
- footway improvements at Chelmsford Road;
- bus stop improvements at Chase Farm Hospital; and
- highways safety improvement scheme at Hadley Road.

Education

4.14 Education is covered by capital spending. Section 106 contributions are allocated to projects and funds are drawn down at the end of each financial year in accordance with the schemes identified in the approved School Expansion Programme (SEP) up to 2021/22. These schemes will be reported on in more detail alongside other successfully delivered S106 funded schemes in October 2019.

Parks

4.15 Enfield has an extensive range and diverse network of open spaces including parks, playing fields, allotments, cemeteries, green corridors and waterways. An audit of the borough's open space will form part of the review of the Local Plan.

4.16 S106 monies have been allocated towards the following schemes to be delivered over the next two financial years:

- Tree planting at Montagu Recreation Ground.
- Landscaping works and a bandstand at Hillyfields Park.
- Playground equipment at Bush Hill Park.
- Renovation and restorations to the historical ice house at Oakwood Park.
- A new notice board at Elsing Park.

Health

4.16 The Section 106 Supplementary Planning Document states that developments of 50 or more dwellings must make contributions towards the provision of health facilities in the borough.

4.17 As part of the Local Plan review, an Infrastructure Delivery Plan will be produced incorporating a comprehensive assessment of health infrastructure requirements and identifying potential projects that can be funded through S106 contributions.

5 S106 FUNDS AGREED BUT NOT YET RECEIVED

5.1 In addition to the agreements where monies have been received, there are a further

set of agreements where contributions have been agreed and planning consents granted - but funds have not yet been received. These agreements are shown in annex 2.

- 5.2 In these cases, the payments have not been received as the relevant 'trigger points' (i.e. stages of development) have not yet been reached. Typical 'trigger points' for receipt of payments are the commencement of development works on site, or the first occupation of the development.
- 5.3 Attention should, however, also be drawn to the fact that not all financial contributions agreed via signed S106 agreements will ultimately be received. While section 106 of the Town and Country Planning Act 1990 allows the local planning authority to require and enforce the payment and infrastructure obligations, it also contains a provision which entitles the other parties to apply to the council to vary or delete any obligations contained in their agreement. Potential variation of the S106 can happen at any point in the process between the signing of the initial S106 agreement and completion of the development. Variation may reduce the value of or strike out any previously agreed contributions.
- 5.4 Additionally, monies in a completed S106 agreement would not become due if the landowner/developer simply decides not to progress development after permission has been granted. In cases where a planning permission expires after its 3-year lifespan, new planning application(s) and S106 agreement(s) may supersede an earlier agreement. National policy changes can also impact on receipts, as was the case following the Court of Appeal ruling on small sites (May 2016), which resulted in contributions no longer being sought for residential proposals providing 10 or fewer units where the gross floorspace of the site does not exceed 1000 square metres.
- 5.5 An additional 10 agreements were completed during the first half of 2018/19. These are:
- Maldon Road Car Park Newstead House (Section 106 signed 12.04.18)
 - Rear of 48 Gresham Close (Section 106 signed 13.04.18)
 - Land Adjacent to 842 Hertford Road (Section 106 signed 02.05.18)
 - 23 Camlet Way (Section 106 signed 05.05.18)
 - New Avenue Estate (Section 106 signed 21.05.18)
 - The Fox Public House (Section 106 signed 18.06.18)
 - Brimsdown Sports Club at Goldsdown Road (Section 106 signed 20.06.18)
 - Premier Inn 4 Solar Way (Section 106 signed 15.07.18)
 - 465-469 Green Lanes (Section 106 signed 13.08.18)
 - Tottenham Hotspur Football Club Western Field (Section 106 signed 21.12.08)

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

Financial implications

- 6.1 The financial position as described in the report has been discussed with finance staff and reflects the position as reported in the S106 monitor (as of 30 September 2018).

Annex 1 contains proposals for the allocation of approved S106 monies to specific work programmes. Approvals of individual schemes within the proposed programme are subject to separate reports and full financial appraisal. Expenditure incurred on these schemes will be reported as part of the regular monitoring process and drawn down from available S106 funds at year-end. Amounts committed to projects including the nature of potential expenditure have been updated following advice from officers leading on individual schemes.

Legal implications

- 6.2 By virtue of Section 106 of the Town and Country Planning Act (as amended), the council may secure planning obligations to make development acceptable which would otherwise not be acceptable in planning terms. Obligations must be secured in line with the Section 106 Supplementary Planning Document. Where financial contributions are required, the terms of the obligation dictate the way in which any financial obligation held by the council may be spent and must be spent before the applicable deadline. Following expiry of a spend deadline, any funds which remain unspent should be returned to a developer.

Background papers

- 6.3 None.

Annex 1: Total monies received

Hard copies will be placed in the Members library. If these are not legible, electronic copies of the spreadsheet are available from Governance Services.

Annex 2: Agreements signed where payments have not yet been received

Hard copies will be placed in the Members library. If these are not legible, electronic copies of the spreadsheet are available from Governance Services.