

PLANNING COMMITTEE

3 FEBRUARY 2021

REPORT ON SECTION 106 AGREEMENTS OCTOBER TO DECEMBER 2020

Report from: Richard Hicks, Director of Place and Deputy Chief Executive
Report Author: Dave Harris, Head of Planning

Summary

This report informs Members on the amount of Section 106 funding received between October to December 2020 and sets out what the contributions must be spent on according to the Section 106 agreements. This report is submitted for information to assist the Committee in monitoring the contributions which developers have agreed to as part of new development schemes. Also included is an item on the Infrastructure Funding Statement 2019/2020.

1. Budget and policy framework

1.1 The Cabinet has adopted the Supplementary Planning Document 'Medway Council Guide to Developer Contributions and Obligations 2018', which sets out the Council's S106 requirements for developments of 10 dwellings and above. This report and accompanying appendices list the Section 106 agreements which have been signed in the period October to December 2020 and itemises the obligations covered by these agreements.

2. Background

2.1 Section 106 of the Town & Country Planning Act 1990 provides that anyone with an interest in land may enter into a planning obligation, which is enforceable by a local planning authority. An obligation may be created by agreement or by the party with an interest in the land making a unilateral undertaking.

2.2 Obligations may:

- Restrict the development or use of land
- Require operations to be carried out in, on, under or over the land
- Require the land to be used in any specified way; or
- Require payments to be made to the local planning authority, either in a single sum or periodically.

- 2.3 A planning obligation may only constitute reason for granting planning permission if it is
- Necessary to make the development acceptable in planning terms.
 - Directly related to the development.
 - Fairly and reasonable related in scale and kind to the development.
- 2.4 The S106 Officer's responsibilities include:
- Monitoring agreements and their trigger dates to ensure that obligations are adhered to
 - Working with developers and internal services/partners to ensure a coordinated approach
 - Being first point of contact once an agreement is signed.
- 2.5 The Medway Guide to Developer Contributions and Obligations 2018 was approved at Cabinet on 8 May 2018 for adoption as a Supplementary Planning Document. This Guide sets out Medway Council's S106 requirements for developments of 10 dwellings and above.

3. Options

- 3.1. Not applicable.

4. Advice and analysis

- 4.1 Although an agreement is signed, it is not a guarantee that the obligations will be delivered; on occasions the approved development is not implemented, and therefore no obligations would be delivered.
- 4.2 On 1 September 2019 updated CIL Regulations were introduced which included the deletion of the pooling restriction. (The pooling restriction meant that only 5 contributions for each infrastructure project could be requested from April 2010). As the restriction has been removed it enables services and the NHS to request S106 funding for a single project as often as appropriate to support the required infrastructure/project.
- 4.3 The updated CIL Regulations require all planning authorities to publish an Infrastructure Funding Statement (IFS) annually, The first IFS must be available on line by end December 2020 and provide information on all Section 106 funding received and the projects these contributions cover, and all Section 106 spent in that year including what infrastructure/project the expenditure covered.

5. Risk management

- 5.1. The Section 106 Officer's responsibilities include monitoring developments to ensure that all obligations, including financial contributions, are met. Failure to pay contributions results in benefits to the community being lost. These

benefits include meeting the needs of the new residents regarding educational facilities, open space and play equipment, etc.

- 5.2 Contributions received must also be closely monitored to ensure that contributions are spent within the timescale specified by the agreement. Failure to meet payment deadlines will result in the contribution being returned to the developer/owner with interest at a specified rate (e.g. 2% over base rate).

6. Consultation

- 6.1. Not applicable.

7. Financial implications

- 7.1 Many of the obligations are financial contributions to services which will support the new development to provide the infrastructure required, for example education, open space, transport, etc.
- 7.2 Service planning can be problematic for say education, where a contribution is expected and school expansion plans are produced, but if the development does not go ahead it can have repercussions to provision in an area where several expected developments would, between them, fund a new school.

8. Legal implications

- 8.1 Section 106 agreements are legal documents. Developers are expected to adhere to the obligations but failure to do so can result in enforcement action being taken.

9. Infrastructure Funding Statement 2019/2020

- 9.1 The government requires all local authorities to publish an Infrastructure Funding Statement (IFS). The first IFS (see Appendix 4) covers the financial year 2019/2020 and was approved at Cabinet in December 2020. The IFS will be published annually.
- 9.2 The IFS includes details of
- all S106 contributions received
 - expenditure of contributions
 - proposals for future infrastructure provision to be funded by S106 contributions.

10. Recommendations

That the Planning Committee consider and note the Section 106 funding received, those Section 106 agreements signed during the period October to December 2020, Habitat Regulations contributions and the Infrastructure Funding Statement 2019/2020 as set out in Appendices 1 to 4.

Lead officer contact

Dave Harris, Head of Planning
Gun Wharf
Telephone: 01634 331575
Email: dave.harris@medway.gov.uk

Appendices

- Appendix 1 S106 funding received between October to December 2020
- Appendix 2 Agreements signed between October to December 2020
- Appendix 3 Habitat Regulations : bird mitigation contributions received for developments of less than 10 units
- Appendix 4 Infrastructure Funding Statement 2019/2020
https://www.medway.gov.uk/downloads/download/610/infrastructure_funding_statement

Background papers

Section 106 agreements signed between October to December 2020
Medway Guide to Developer Contributions and Obligations May 2018

https://www.medway.gov.uk/downloads/file/2746/medway_guide_to_developer_contributions_and_obligations_2018

Appendix 1 : S106 funding received October to December 2020

App no. MC/	Site	Ward	For	Amount £
14/3631	Colonial House	River	Nursery education (2 nd and final instalment): St Mary's Island	85,000.85
			Primary education (2 nd and final instalment): : St Mary's Island	214,431.91
			Secondary education (2 nd and final instalment): : Thomas Aveling, Greenacre and/or Walderslade Girls School	215,218.77
			Sixth form education (2 nd and final instalment):: Thomas Aveling, Greenacre and/or Walderslade Girls School	45,182.71
			Great Lines Heritage Park (2 nd and final instalment):: access improvements	38,016.71
			Openspace : improvements to the Strand, specifically towards junior play provision and management	52,054.55
			Health (2 nd and final instalment):: at one or more of Sunlight Centre, Railway St Surgery S Mary's Island Surgery, Rainside Surgery	60,282.20
97/2441/GL	Dockside	River	Retail	8,926.38
17/2333	Rochester Riverside	River	Birds due on next phase	35,804.77
19/3328	Land at Hillcrest, Hoo	Peninsula	Birds	5,156.76
16/2051	Land at Otterham Quay Lane, Rainham	Rainham North	Birds	70,981.22
17/4057	1 Old Rd, Chatham		GLHP : towards repair/maintenance of footpath at Chatham Naval Memorial	3,543.92
			Nursery education : Greenvale Infants school	2,023.01
			Primary education : Greenvale Infants school	6,069.03

App no. MC/	Site	Ward	For	Amount £
17/4057	1 Old Rd cont.		Secondary education : Victory Academy	7,755.07
			Health : improvement at Bryant St Surgery	6,637.29

Appendix 2 : agreements signed between October to December 2020

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
19/2709	St Bartholomews Hospital	River	155 units	Bird mitigation	38,061.80
				Waterworks renovation works to be carried out by the owner to the cost of £594,754	
				Garden of Reflection enhancement works to be carried out by the owner to the cost of £200,000	
20/1816	100 Solomons Rd	River	Hot food take-away	Towards healthy breakfast club at New Road School	1,335.15
20/1222	Plot 2A Culpepper Close, Medway City Estate			Obligation : change of use of land to form B1 workspace inc installation of shipping containers to form a part 2 storey part 3 storey high construction + car park	
19/2532	Land at the Maltings	Rainham South	29 units	Birds	7,121.40
				Waste and recycling	5,018.45
				Nursery education : Mierscourt Primary and/or Park wood Infants schools	37,594.07
				Primary education : Mierscourt Primary and/or Park Wood Infants and/or Park Wood Junior Schools	41,777.61
				Secondary education : Rainham Girls and/or the Howard and/or Rainham Mark Grammar schools	65,046.21
				Open space : enhance to open spaces in the vicinity	60,977.60
				Highways : improvements to A2/Mierscourt junction	24,556.00
				Sport : towards refurbishment of Splashes	7,060.63
				PROW : improvements to public rights of way inc GB12, GB13 and GB16	5,200.00
				Youth : provision of facilities inc creative art sessions	2,271.28

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
19/2532	The Maltings cont.			Health : towards development of primary care network	18,338.44
				Libraries : improve facilities/equipment Rainham Library	4,789.35
				Community facilities : improvements at Farthing Corner Community Hall	5,313.96
19/2898	Land west of Station Road	Rainham North	Up to 76 units	Nursery education : either Riverside, Thames View or Mierscourt Primary Schools	82,327.36
				Primary education : at one or more Riverside, Thames View or Mierscourt Primary Schools	202,474.22
				Secondary education : at one or more Rainham Girls, the Howard or Rainham Mark Grammar schools	129,169.37
				Open space : EITHER £193,914 towards enhancement of open space facilities within the vicinity of the development inc 5% towards Great Line Heritage Park + £72,364.67 towards Splashes redevelopment programme OR submit for approval a scheme for provision of 0.74 hectares of on site open space and a contribution of £72,364.67 towards Splashes redevelopment programme	
				Youth services in Rainham	5,952.32
				Maintenance of riverside section of Saxon Shore Way	3,800.00
				Waste and recycling	12,833.74
				Sustainable transport infrastructure	31,092.43
				Health : development of Rainham locality primary care network, supporting infrastructure, IT, training and equipment	49,324.08
				Bird mitigation	18,662.56

Appendix 3 : Habitat Regulations : bird mitigation contributions received for developments of less than 10 units

Application no. MC/	Site address	Ward	For	Amount received £
20/2186	4 Love Lane, Rochester	Rochester West	1 unit	250.39
20/2035	Land adj 62 Commissioners Road, Strood	Strood North	1 unit	250.39
16/2860	Land between 142 and 152 Luton Road, Chatham	Luton and Wayfield	14 units	3,389.33
20/1397	9 View Road, Cliffe Woods	Strood Rural	1 unit	250.39
20/2482	The Westcourt Arms, 172 Canterbury Street, Gillingham	Gillingham South	2 units	500.78
20/2225	10 Franklin Road, Gillingham	Gillingham South	2 units	500.78
20/2029	33 Canterbury Street, Gillingham	Gillingham South	1 unit	250.39
20/0846	Land north of Clarendon Drive, Strood	Strood North	6 units	1,502.34
20/2246	33a Frindsbury Road, Strood	Strood North	1 unit	250.39
20/2585	36 New Road, Chatham	Chatham Central	1 unit	250.39
20/2316	Boyce's Bakery, 62 High Street, Gillingham	Gillingham North	2 units	500.78
20/2180	18 St Paul's Close, Strood	Strood South	1 unit	250.39
20/2359	97 Bryant Road, Strood	Strood North	1 unit	250.39
20/2315	141 Nelson Road, Gillingham	Gillingham South	1 unit	250.39

20/2399	52 Delce Road, Rochester	Rochester East	1 unit	250.39
20/2819	98 Frindsbury Road, Strood	Strood North	1 unit	250.39
17/3402	Former Pump House, Childs Farm, Cooling	Peninsula	1 unit	238.37
20/2365	17 St Albans Road, Strood	Strood South	1 unit	250.39
20/2815	1-4 Eastgate Court, Rochester	Rochester West	6 units	1,502.34
20/2662	86 Woodside, Rainham	Rainham Central	1 unit	250.39
20/2495	Homeleigh, 218 Main Road, Hoo	Strood Rural	7 units	1,752.73
20/2098	16 Pump Lane, Rainham	Twydall	1 unit	250.30
20/2525	50 Delce Road, Rochester	Rochester East	1 unit	250.39
20/0932	St Clements House, Rochester	Rochester West	44 units	5,758.97
20/2993	52, 54 & 54A Green Street, Gillingham	Gillingham South	6 units	1,502.34
20/3166	Charwood, 239 Walderslade Road, Walderslade	Walderslade	7 units	1,752.33
20/2884	Port Werburgh, Vicarage Lane, Hoo	Peninsula	6 units	1,502.34