

PLANNING COMMITTEE

28 APRIL 2021

REPORT ON SECTION 106 AGREEMENTS JANUARY TO MARCH 2021

Report from: Richard Hicks, Director of Place and Deputy Chief Executive

Summary

This report informs Members on the amount of Section 106 funding received between January to March 2021 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.

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 January to March 2021 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 reasons 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 was produced and available on line at the end December 2020 and provided information on all Section 106 funding received and the projects these contributions covered, and all Section 106 spent in that 2020 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. Recommendations

That the Planning Committee consider and note the Section 106 funding received, those Section 106 agreements signed during the period January to March 2021 and Habitat Regulations contributions as set out in Appendices 1 to 3.

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Appendices

- Appendix 1 S106 funding received between January to March 2021
Appendix 2 Agreements signed between January to March 2021
Appendix 3 Habitat Regulations : bird mitigation contributions received for developments of less than 10 units

Background papers

Section 106 agreements signed between January to March 2021

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 January to March 2021

App no. MC/	Site	Ward	For	Amount £
18/2406	Former Whiffens Avenue Car park	River	Open space (1 st instalment) a. towards the programme of restoration, improvement and enhancement works to the Town Hall Gardens open space area, such programme to be submitted and approved in writing by the Council, b. any surplus monies to be used towards provision of open space facilities in relation to the White Road Site area	30,000.00
			Birds	27,555.15
97/241/GL	Dockside	River	Retail	4,513.80
17/2018	Bakersfield	Rainham Central	Nursery education : either Riverside Primary, Thames View Primary or Mierscourt Primary Schools	29,291.02
			Primary education : either Riverside Primary or Thames View Primary	53,440.28
			Secondary education : at one or more of Rainham Girls, The Howard or Rainham Grammar Schools	53,764.88
15/0098	Street Farm, Hoo	Peninsula	Primary education : new provision at 1 of either a new school or the additional nursery/primary phase at Hundred of Hoo Primary Academy (2 nd and final instalment)	62,082.71
			Secondary education : towards science facilities at Hundred of Hoo Academy	79,327.91
			Towards footpath improvements on Stoke Road and safer routes to school	9,974.01

App no. MC/	Site	Ward	For	Amount £
18/2553	White Rd Comm Centre Centre	Chatham Central	Nursery education : facilities at Greenvale Infants School	27,012.39
			Primary education : facilities at Greenvale Primary School and/or Phoenix Junior School	60,601.97
			Secondary education : facilities at Victory Academy and/or St John Fisher	36,023.48
			Health : facilities at the new Healthy Living Centre in the Chatham Central locality	12,387.13
			Waste and recycling	3,389.82
			Youth : to support creative art sessions for young people in the local area 8-19 and up to 25 years old for persons with disabilities	1,534.11
17/1820	Bakersfield Station Rd	Rainham Central	Rainham Healthy Living Centre	43,555.99
16/2837	Land south of Stoke Road Hoo	Peninsula	Nursery education (1 st of 3 instalments) : at 1 or more Chattenden Primary, Hundred of Hoo Academy Primary phase and Hoo St Werburgh Primary	61,548.39
			Primary education (1 st of 3 instalments) : at 1 or more Chattenden Primary, Hundred of Hoo Academy Primary phase and Hoo St Werburgh Primary	151,073.33
			Secondary education (1 st of 3 instalments) : Hundred of Hoo Academy	152,821.86
			Great Lines Heritage Park	8,676.33
			Pedestrian accessibility : improvements to footpath along Maian Road to improve pedestrian access to Hundred of Hoo Academy	8,676.33
			Open space : improvement of off site open spaces serving the development	360,163.57

Appendix 2 : agreements signed between January to March 2021

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
20/0559	Whiffens Avenue car park	River	24 flats	Bird mitigation	5,893.44
				Open space : 1.improvements at Gillingham Park 2. to Kent Wildlife Trust for conservation management of Darland Banks	29,087.10 29,087.10
				Great Lines Heritage Park	3,061.00
				Waste and recycling	4,153.20
				Nursery education : at Greenvale Infants and/or Phoenix Junior and/or New Road Primary and/or St Thomas of Canterbury schools	9,026.05
				Primary education : at Greenvale Infants and/or Phoenix Junior and/or New Road Primary and/or St Thomas of Canterbury schools	7,736.60
				Secondary education : at Brompton Academy and/or Victory Academy and/or Chatham Grammar School for Girls and/or Robert Napier School	19,744.94
				Sixth form education : at Brompton Academy and/or Victory Academy and/or Chatham Grammar School for Girls and/or Robert Napier School	1,452.26
				Youth : in the Gillingham area	1,879.68
				Community facilities: enhancements to community facilities in the vicinity of the site	4,397.76
				Libraries : enhance facilities at Luton Library	3,963.60
				Health : improvements at Balmoral Healthy Living Centre	15,176.64

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
20/0559	Former NHS walk in centre 547-553 Canterbury St	Gillingham South	24 flats	Bird mitigation	5,893.44
				Open space : towards improvements at Gillingham Park	29,087.10
				Darland Banks conservation/management by Kent Wildlife Trust	29,087.10
				Great Lines Heritage Park	3,061.00
				Nursery education : Greenvale Infants School and/or Phoenix Junior School and/or New Road Primary School and/or St Thomas of Canterbury School	9,026.05
				Primary education : Greenvale Infants School and/or Phoenix Junior School and/or New Road Primary School and/or St Thomas of Canterbury School	7,736.60
				Secondary education : Brompton Academy and/or Victory Academy and/or Chatham Grammar School for Girls and/or Robert Napier School	19,744.94
				Sixth form education : Brompton Academy and/or Victory Academy and/or Chatham Grammar School for Girls and/or Robert Napier School	1,452.26
				Youth : youth facilities	1,879.68
				Community facilities in the vicinity of the site	4,397.76
				Libraries : enhancement of library facilities at Luton Library	3,963.60
				Health : improvements at Balmoral Healthy Living Centre	15,176.64

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
19/2446	97-111 Rainham Rd	Gillingham South	12 units	Bird mitigation	2,946.72
				Waste and recycling : by way of household containers for collection of recycling and use once bags	2,076.60
				Nursery education : facilities at Greenvale Infants School and/or Phoenix Junior School and/or New Road Primary School and/or St Thomas of Canterbury School.	4,513.03
				Primary education : facilities at Greenvale Infants School and/or Phoenix Junior School and/or New Road Primary School and/or St Thomas of Canterbury School.	4,255.13
				Secondary education : facilities at Brompton Academy and/or Victory Academy and/or Chatham Grammar School for Girls and/or the Robert Napier School	9,872.47
				Sixth form education : facilities at Brompton Academy and/or Victory Academy and/or Chatham Grammar School for Girls and/or the Robert Napier School	726.13
				Open space : improvements to facilities within the vicinity of the site including Gillingham Park and/or Great Lines Heritage Park and/or Balmoral Gardens	31,219.56
19/0287	Land at Town Road Cliffe Woods	Strood Rural	225 units	traffic survey to assess whether 20mpg required on B2000 through Cliffe Woods village cycle network improvements locally	5,000.00
				cycle network improvements locally	35,000.00
				shuttle bus service (+ obligation to provide occupiers with £50 Arriva bus service credit + welcome pack)	574,692.00

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
19/0287	Land at Town Road Cliffe Woods cont.			seating and real time info board at Chatham bound side of southern end of View Road Cliffe Woods	10,000.00
				safer routes to school : initiatives in Cliffe Woods and updating the school travel plan	5,000.00
				PROW : mitigation/signage to network in Cliffe Wood inc measures to reduce illegal use of PROW in Bingham Boughs, Ratly Hill and Chattenden Woods	8,900.00
				Waste and recycling.....	37,993.50
				youth facilities in Cliffe Woods	17,194.50
				Nursery education : Cliffe Woods independent pre-school and/or Temple Mill primary	302,757.75
				Primary education : Cliffe Woods and/or St Helens primary	743,132.25
				Secondary education : Hundred of Hoo and/or free school in the area	471,047.40
				Open space : improvements to open space facilities within the vicinity of the site inc Cliffe Woods Recreation Ground	217,692.40
				Open space obligations inc provision of allotments and amenity open space	
				Great Lines Heritage Park	11,452.76
				Health : towards a community healthy living centre within Hoo/Isle of Grain area	138,836.25

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

Application no. MC/	Site address	Ward	For	Amount received £
20/3246	Land adj 97 Grange Road, Gillingham	Gillingham North	1 unit	250.39
20/2925	31 Gerrard Avenue, Rochester	Rochester South and Horsted	1 unit	250.39
20/2783	22 & 24 St Marys Road, Rochester	Strood North	6 units	1,502.34
20/3053	235 Frindsbury Road, Wainscott	Strood Rural	1 unit	250.39
20/3029	31 Balmoral Road, Gillingham	Gillingham South	1 unit	250.39
20/3287	120 High Street, Chatham	River		43.12
20/3268	122 High Street, Chatham	River		43.12
20/2699	226 Hempstead Road, Gillingham	Hempstead and Wigmore	4 units	1,001.56
19/1369	55 Marlborough Road, Gillingham	Gillingham South	31 units	7,612.36

20/2629	Willington House, Ratcliffe Highway	Peninsula	1 unit	250.39
20/3169	2 North Street, Strood	Strood North	5 units	1,251.95
20/3146	8 Salisbury Avenue, Rainham	Rainham Central	1 unit	250.39
20/3102	Land adj 425 High Street, Chatham	River	9 units	2253.51
20/3208	36 Kingswood Road, Rainham	Gillingham North	2 units	500.78
20/3048	Land r/o Northbourne Road	Twydall	8 units	2,003.12
20/3318	42 New Road, Chatham	Chatham Central	1 unit	250.39
19/3040	87b Brompton Lane, Strood	Strood North	1 unit	250.39
20/3168	Land north of Grain Road, Isle of Grain	Peninsula	2 units	500.78
20/2550	3 Malta Avenue, Wayfield	Luton & Wayfield	2 units	500.78
20/2885	15-17 Doddington Road, Twydall	Twydall	4 units	1,001.56

21/0088	142 Napier Road, Gillingham	Gillingham South	2 units	500.78
20/2214	696 Maidstone Road, Rainham	Hempstead and Wigmore	unit	500.78
20/3227	5 Castle Road, Chatham	Luton and Wayfield	1 unit	250.39
20/2920	Land corner of Ingram Road and Railway Street, Gillingham	Gillingham North	2 units	500.78
21/0300	Land adjacent to Hoath Lodge, Chattenden Lane, Rochester	Strood Rural	1 unit	250.39
20/3226	19 Railway Street, Chatham	River	6 units	1,502.34
17/3539	Cookham Farm, Hill Road, Borstal	Rochester West	1 unit	232.50
21/0036	87 Rock Avenue, Gillingham	Gillingham South	6 units	1,502.34
21/0164	178 High Street, Chatham	River	2 units	500.78
18/1411	193 Princes Avenue	Princes Park	1 unit	251.44
21/0192	Former White Horse PH, The Street, Stoke	Peninsula	4 units	1,001.56

21/0167	5 Farmdale Avenue, Rochester	Rochester West	1 unit	250.39
20/2861	Garden Service Station, Frindsbury Hill, Strood	Strood North	6 units	1,502.34
21/0350	295 High Street, Rainham	Rainham South	6 units	1,502.34
21/0403	Land south of 49 Beacon Road, Chatham	Luton and Wayfield	1 unit	250.39
21/0386	Land adj 89 Hollywood Lane, Wainscott	Strood Rural	1 unit	250.39
21/0085	55 Medway Road, Gillingham	Gillingham North	6 units	1,502.34
21/0445	Buddy's View, Perry Hill, Cliffe Woods	Strood Rural	3 units	751.17