

REGENERATION, CULTURE AND ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE

8 DECEMBER 2022

S106 DEVELOPER CONTRIBUTIONS

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

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Summary

This report provides information on Section 106 (S106) legal agreements and proposes to circulate a quarterly briefing note for members on S106 activities in line with regular reporting to Planning Committee. Wider information, including annual spend, will be provided through the Medway Infrastructure Funding Statement.

1. Budget and policy framework

- 1.1. This information report is presented in response to a Member request.
- 1.2. The Council collects developer contributions in line with planning legislation and the Medway Local Plan, 2003 and the supplementary planning document, Medway Guide to Developer Contributions and Obligations, 2018, as updated 2022. The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 require the Council to prepare an Infrastructure Funding Statement.

2. Background

- 2.1. S106 agreements are legal documents which set out obligations and/or contributions to be met by developers, to mitigate the impact of a development of 10 dwellings or more.
- 2.2. The main principles governing the use of obligations are that:
 - They should only be used when planning conditions are not appropriate
 - They are intended to make development acceptable which would otherwise be unacceptable in planning terms
 - They can be used to prescribe the nature of the development (e.g. a proportion of the housing must be affordable), to compensate for loss or damage caused by the development (e.g. loss of open space) or mitigate a development's impact (e.g. increase public transport provision).

- 2.3. All S106 agreements should satisfy the following tests:
- it must be necessary to make the proposed development acceptable in planning terms,
 - it is directly related to the proposed development,
 - it is fairly and reasonably related in scale and kind to the proposed development.
- 2.4. S106 contributions are required to support appropriate infrastructure for the development. Contributions are requested by services including education, greenspaces, the health service etc., in line with the Medway Council Guide to Developer Contributions and Obligations. Contributions should not be used to meet an existing infrastructure deficiency elsewhere.
- 2.5. S106 contributions received are reported quarterly to Planning Committee. The report also includes information on those S106 agreements completed during that quarter.
- 2.6. It is proposed that this quarterly report to Planning Committee be shared as a briefing note to all Members. The briefing note would include information on contributions received and newly completed S106 agreements.
- 2.7. It should be noted that capital spend is finalised at year-end, and it is not possible to provide accurate and comprehensive information on S106 spend on a quarterly basis. This information is set out in the annual Infrastructure Funding Statement, which is reported to Cabinet and published each December. It is proposed that the Infrastructure Funding Statement is reported to the first meeting of the Regeneration, Culture and Environment Overview and Scrutiny Committee following the annual report to Cabinet in December.

3. Options

- 3.1. The proposed briefing note would provide Members with comprehensive and timely S106 information which could relate to their ward.
- 3.2. This briefing note is considered an efficient and effective mechanism to ensure Members are well informed about funding for infrastructure projects in their wards. Not to proceed with this briefing note means that Members may not be aware of funding and specific projects targeted for their wards.

4. Advice and analysis

- 4.1. Appendix 1 and Appendix 2 provide information on S106 contributions received and S106 agreements completed between July and September 2022, as reported to Planning Committee. This provides an example of the information that would be provided in the proposed quarterly briefing note. The Medway Infrastructure Funding Statement for 2021-22 will be reported to Cabinet on 13 December 2022. Following consideration by Cabinet, this document will be reported to this Overview and Scrutiny Committee. Information on the 2021 Infrastructure Funding Statement is available on the

Council's website at:

https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/5

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Lack of awareness and clear information on developer contributions.	Members may be unaware of S106 contributions for their ward and the implications for improved infrastructure there. This may exacerbate objections to development.	Circulate a quarterly briefing note to all members on S106 agreements in line with reports to Planning Committee, and report annually on the Infrastructure Funding Statement.	C3

Likelihood	Impact:
A Very high B High C Significant D Low E Very low F Almost impossible	1 Catastrophic (Showstopper) 2 Critical 3 Marginal 4 Negligible

6. Financial implications

- 6.1. The proposed briefing note and information provided in the appendices report on the value of financial contributions to Council services from developer contributions. The briefing note would be produced by officers in the Planning Service and would not require additional resources.

7. Legal implications

- 7.1. The Council collects developer contributions through S106 agreements, in accordance with the Town and Country Planning Act, 1990, and the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019. The collection of developer contributions through S106 agreements is subject to legally defined criteria. The Council collects contributions in line with the Medway Guide to Developer Contributions and Obligations, 2018, as updated 2022. This is an adopted Supplementary Planning Document, which is a material consideration in determining planning applications.

8. Recommendations

- 8.1. It is recommended that the Committee notes the contents of this report and its appendices.

- 8.2. It is recommended that a quarterly S106 briefing note for all members is introduced in line with information reported to Planning Committee on:
- S106 agreements completed in each quarter and the obligations/contributions included in these agreements
 - S106 contributions received in each quarter and which services the funding will support.
- 8.3. It is recommended that following the approval of the annual Medway Infrastructure Funding Statement by the Cabinet, that the document be reported to the next meeting of the Regeneration, Culture and Environment Overview and Scrutiny Committee.

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Appendices

Appendix 1 – S106 contributions received July – September 2022
Appendix 2 – S106 agreements completed July – September 2022

Background papers

Guide Developer Contributions and Obligations 2018, updated April 2022

https://www.medway.gov.uk/downloads/file/2341/guide_to_developer_contributions_and_obligations_consultation_document

Appendix 1 : S106 funding received July to September 2022

App no. MC/	Site	Ward	For	Amount £
21/2965	R/o 122 Maidstone Road, Chatham	Chatham Central	Replacement tree planting within the Chatham area and/or the wider Medway area if appropriate locations within Chatham are not suitable	35,000.00
21/2612	Land at the Hollies and Southview, Sharnal St, High Halstow	Peninsula	Bird mitigation	8,376.39
18/2448	21 Jeffery St, Gillingham	Gillingham North	Bird mitigation	6,093.02
16/2051	Otterham Quay Lane	Rainham South	Public realm : toward Rainham Town Centre improvement project	88,432.58
			Nursery education : Riverside Primary or a new free school	61,002.93
			Primary education : Riverside Primary or a new free school	149,734.47
			Secondary education : Rainham Mark Grammar school	151,443.51
			Sixth form : Rainham Mark Grammar School	39,859.87
97/0224/GL	Dockside	River	Retail	4,785.27
97/0224/GL	Dockside	River	Leisure (from 2016 – 2022)	82,223.93
19/2814	St Andrews Lake Halling	Cuxton& Halling	PROW	3,600.00
			Highway improvements at junction of Quarry Grove with Limeburner Drive and Brooks Place	20,000.00

App no. MC/	Site	Ward	For	Amount £
19/2532	The Maltings Rainham	Rainham South	Nursery education at Mierscourt Primary and/or Park Wood Infant schools	35,259.25
			Waste and recycling	5,428.80
17/4424	Stoke Rd Business Centre Hoo	Peninsula	Nursery education : Hundred of Hoo Academy (primary school) and/or Hoo St Werburgh Primary School	45,760.00
			Primary education : towards expansion to 2 form entry at Hundred of Hoo Academy (primary school)	112,320.00
			Secondary education : towards expansion of Hundred of Hoo Academy 6 th form and/or additional dining facilities and/or towards the provision of a new free school in the Hoo area	61,508.50
			Health : towards provision of local GP services at and improvements/repairs to Hoo St Werburgh Surgery	23,397.50
			Waste and recycling	7,772.00
			Community facilities towards (i) the provision of a new village community centre in the Hoo St Werburgh area and (ii) 5,145.68thereafter the provision of a new sports complex in the Hoo St Werburgh area	309,837.75
16/5009	13 Ordnance Terrace Chatham	Chatham Central	GLHP : improvements to connectivity between Chatham Town Centre and GLHP	5,145.68
			Openspace : "towards improvements to the public open space at 1 or both of Victoria Gardens or Perry Street"	14,898.28
			Community development : "towards improvements to the community facilities at White Road, Chatham"	2,815.02
			Health : "towards the refurbishment of Halfway Surgery"	9,635.73
			Waste and recycling : towards provision of communal waste bins, the maintenance of litter bin LB0850	3,200.72

Appendix 2 : agreements signed between July to September 2022

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
21/2965	R/o 122 Maidstone Road, Chatham	Chatham Central	4 bed dwelling	Replacement tree planting within the Chatham area and/or the wider Medway area if appropriate locations within Chatham are not suitable	35,000.00
21/3671	Trafalgar Centre, multi storey car park, High St, Rhode St, Whittaker St	Chatham Central	Up to 175 units, creative art studios, office space, partial demolition of Rhode St multi storey car park	<p>Contributions will be paid per phase :</p> <p>Open space ; enhance vicinity £1,258.81 per unit</p> <p>Local community infrastructure : enhance in Chatham Centre not limited to library facilities and public real £605.12 per unit</p> <p>Health : develop primary care network in locality of Chatham £653.66 per unit</p> <p>Traffic improvements : in Chatham centre £114.28 per unit</p> <p>Bird mitigation £253.83 per unit</p>	