

## **PLANNING COMMITTEE**

**2 AUGUST 2023**

### **REPORT ON SECTION 106 AGREEMENTS APRIL TO JUNE 2023**

Report from: Dee O'Rourke, Assistant Director, Culture & Community  
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#### **Summary**

This report informs Members on the amount of Section 106 funding received between April to June 2023 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 April to June 2023 and itemises the obligations covered by these agreements.
- 1.2 Information relating to S106 expenditure for 2022/23 will be included in a future update of this report when final accounts have been confirmed for that period.

#### **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. The Guide is updated on 1 April annually to reflect the increase in costs based on the retail price index.

### 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 CIL Regulations require all planning authorities to publish an Infrastructure Funding Statement (IFS) annually. The IFS provides information on all S106 contributions agreed, received and spent, including the infrastructure/projects these contributions cover.

### 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 (4% 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 Recommendation

9.1 The Committee is asked to consider and note the Section 106 funding received, those Section 106 agreements signed during the period April to June 2023 and Habitat Regulations contributions as set out in Appendices 1 to 4.

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### Appendices

Appendix 1 S106 funding received between April to June 2023

Appendix 2 Agreements signed between April to June 2023

Appendix 3 Habitat Regulations : bird mitigation contributions received for developments of less than 10 units between April to June 2023

## Background papers

Section 106 agreements signed between Section 106 agreements signed between April to June 2023

Medway Guide to Developer Contributions and Obligations May 2018 updated April 2023

[https://www.medway.gov.uk/downloads/file/2341/guide\\_to\\_developer\\_contributions\\_and\\_obligations\\_consultation\\_document](https://www.medway.gov.uk/downloads/file/2341/guide_to_developer_contributions_and_obligations_consultation_document)

**Appendix 1 : S106 funding received April to June 2023**

<b>App no. MC/</b>	<b>Site</b>	<b>Ward</b>	<b>For</b>	<b>Amount £</b>
17/4424	Stoke Road Business Centre	Hoo St Werburgh & High Halstow	Health : towards provision of local GP services at and improvements/repairs to Hoo St Werburgh surgery	23,397.50
			Nursery education : Nursery facilities at the Hundred of Hoo Academy (primary) and/or Hoo St Werburgh primary	45,760.00
			Primary education : expansion to 2 form entry at Hundred of Hoo Academy primary	112,320.00
			Sixth form facilities: expansion of Hundred of Hoo Academy sixth form and/or additional dining facilities, and/or towards the provision of a new free school in the Hoo area	61,508.00
			Towards the provision of waste and recycling facilities	15,544.00
			Community development : towards (i) in the first instance the provision of a new village community centre in the Hoo St Werburgh area, and (ii) thereafter the provision of a new sports complex in the Hoo St Werburgh area	619,675.50
19/0886	Redvers Centre, Glencoe Rd	Chatham Central & Brompton	Bird mitigation	465.35
			Health : towards improvements to GP services at 1 or more of Bryant Street Surgery, Kings Family Practice and the Halfway Surgery	1,118.25
			Open space : towards all or any of : improvements to open space at Chalk Pit Park, MRSG Maidstone Road Chatham and Luton Millennium Park	4,932.49
			Nursery education : towards nursery education at Phoenix Junior Academy and/or Greenvale Infants school	1,202.05

<b>App no. MC/</b>	<b>Site</b>	<b>Ward</b>	<b>For</b>	<b>Amount £</b>
19/0886	Redvers continued		Primary education : towards nursery education at Phoenix Junior Academy and/or Greenvale Infants school	2,315.81
			Waste : towards 1 or all of household containers (brown garden bins, recycling sacks and bags), the maintenance of street waste and recycling facilities in Chatham High Street and leaflet production for waste service information	371.45
			Community facilities : towards improvements at the Magpie Centre	439.77
19/2532	The Maltings	Rainham South East	Sports : towards sports facilities at Splashes	8,049.07
			Public Rights improvements to GB12 and provision of mitigation measures at local PROWs inc GB13 and GB16	5,927.97
			Provision of youth facilities in the local area	2,589.24
			Health : development of the primary care network in the Rainham area	20,905.70
			Improvements to facilities/equipment at Rainham Library	5,459.83
			Improvements at Farthing Corner Community Hall	6,057.88

## Appendix 2 : agreements signed between April to June 2023

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
22/1191	Land at 3 New Road, Chatham	Chatham Central & Brompton	50 apartments	Libraries : improvements to facilities and equipment at Chatham Library	9,277.50
				Nursery ed : enhancements to/expansion of nursery school provision at mainstream primary schools within 2 miles of the site and/or Special Educational Needs facilities within the Medway area	7,605.61
				Secondary ed : enhancements to/expansion of secondary school provision at mainstream secondary schools within 2 miles of the site and/or Special Educational Needs facilities within the Medway area	17,127.04
				Sixth form ed : enhancements to/expansion of sixth form school provision at mainstream sixth form schools within 2 miles of the site and/or Special Educational Needs facilities within the Medway area	1,223.72
				Heritage : improved interpretation for the Old Brook Pumping Station	15,992.50
				Public realm : provision of public realm works to improve the appearance of Chatham town centre	17,640.00
				Waste and recycling : towards the provision, improvement and promotion of waste and recycling services in the vicinity of the site and within the development	9,721.00
				Open space : towards the provision of enhancements of open space facilities within the vicinity of the site	136,163.50
				GLHP : towards the provision of enhancements of open space facilities within the GLHP	7,166.50

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
				Health :to support the foundation and development of the primary care network within the locality of Chatham	35,523.00
				Sustainable transport : towards the provision, improvement and promotion of sustainable transport infrastructure to encourage modal shift from private motor vehicle within the local vicinity of the site	25,000.00
				Community facilities : towards the provision of enhancements to and/or expansion of community facilities which will serve the new residents of the development	10,293.50
				Bird mitigation	13,794.00
22/1863	421 Walderslade Rd	Lordswood & Walderslade	18 apartments	Waste : towards provision, improvement and promotion of waste and recycling services in the vicinity of the site and within the development	3,499.56
				Open space : enhancements of open space facilities within the vicinity of the site	49,019.54
				GLHP : enhancements of open space facilities within the GLHP	2,759.98
				Health : to support the foundation and development of the primary care network within Gillingham South and the Medway area	12,788.28
				Public realm : towards improvements to Chatham town centre and its gateways	4,410.00
				Libraries : towards the provision of improvements to the facilities and equipment at Walderslade Village Library	3,339.90
				Youth : towards provision of youth facilities by the Medway Youth Services team in the Chatham area inc provision of access, supplies, equipment, programme delivery and/or instructors for young persons	1,583.82

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
22/1713	Land south of View Road	Strood Rural	50 retirement homes	Health : creation of additional capacity in primary care	35,523.00
				Public realm : improvements to civic space and gateways to Strood town centre (greening projects, bollards and signage)	12,250.00
				Libraries : towards improvements to library provision in the area and the mobile library visiting the vicinity of the site	9,277.50
				Waste and recycling	9,721.00
				Community facilities for enhancement and/or expansion of community facilities which serve the new residents	10,293.50
				Bird mitigation	13,794.00
				Highways: pay reasonable costs to make the TRO towards the provision of yellow lines and signage for waiting restrictions on View Road	
22/2207	Purvilles, 221 Lordswood Lane	Princes Park	24 units	Open space enhancement of open space facilities within the vicinity of the site <i>in consultation with ward councillors</i>	54,466.16
				GLHP : enhancements of open space facilities	
				Nursery education : enhancements to/expansion of nursery school provision within 2 miles of the site and/or provision of special educational needs education within the Medway area	30,985.80
				Primary education : enhancements to/expansion of primary school provision within 2 miles of the site and/or provision of special educational needs education within the Medway area	26,076.34

<b>Plan app MC/</b>	<b>Location</b>	<b>Ward</b>	<b>Proposal</b>	<b>Towards</b>	<b>Amount £</b>
22/2207	Purvilles continued			Secondary education : enhancements to/expansion of mainstream secondary school provision within 2 miles of the site and/or provision of special educational needs education within the Medway area	60,261.80
				Sixth form education : enhancements to/expansion of mainstream sixth form school provision within 2 miles of the site and/or provision of special educational needs education within the Medway area	3,399.21
				Health : support foundation and development of the primary care network within the locality of Chatham	15,687.84
				Waste and recycling : provision, improvement and promotion of waste and recycling services in the vicinity of the site and within the development	3,888.40
				Youth : towards the provision of youth facilities in the Chatham area	1,759.80
				Community facilities : provision of enhancements/upgrading the community facilities within the vicinity of the site	4,117.40
				Libraries : improvements to facilities and equipment at library facilities within the vicinity of the site	3,711.00
				Sports : towards provision of enhancements/upgrading sports facilities within the vicinity of the site	5,471.00
				Public realm : provision of public realm improvements within the vicinity of the site in consultation with ward councillors	4,900.00
				Highways : improvements to the highway within the vicinity of the site inc but not limited to include provision of anti skid surfacing at junction of Swift Crescent and Lordswood Lane	10,000.00
				Bird mitigation	5,241.72

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
22/1500	Land at 17 New Road Ave Chatham	Chatham Central & Brompton	Part demolition/ 12 units	Bird mitigation	3,310.56
				Library : improvements to Chatham Library	2,266.60
				Public realm improvement within the vicinity of the site	2,940.00
				Health : to support primary care network in Chatham	8,525.52
				Waste and recycling	2,333.04
				Open space : enhancement of open space facilities within the vicinity of the site	32,679.84
				GLHP : enhancement to facilities within GLHP	1,719.84
				Youth : provision of youth facilities in the Rainham area	1,055.88
21/3125	Land north of Moor St Rainham	Rainham North	66 units	Bird mitigation	16,752.78
				Travel : towards uncontrolled pedestrian refuge island crossing on A2 Moor St between junction with Meresborough Rd and Seymour Rd – will be reduced if Esquire development at Seymour Rd has commenced	25,000
				Waste and recycling	11,806.08
				PROW : improve footpath connections into and around the site	3,630.00
				Community facilities : towards improvements in the Rainham area	12,501.06.
				Open space improvements	82,684.06
				GLHP	4,351.79
				Nursery education	91,227.52
				Primary education	19,193.25
				Secondary education	172,351.63
				Sixth form education	13,343.82

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
				Health : towards development of Rainham Local Primary Care network	43,141.56
21/3125	Land north of Moor St Rainham, cont.			Rainham Library improvements	11,266.86
				Sports :towards provision of sports facilities in the local area	16,610.88
				Youth : provision of youth facilities by the Medway Youth services team	5,342.70
21/2225	Land east of Seymour Rd and north of London Rd Rainham	Rainham North	48 units	Bird mitigation	12,183.84
				Travel : towards uncontrolled pedestrian refuge island crossing on A2 Moor St between junction with development at Seymour Rd – will be reduced if Esquire development at Seymour Rd has commenced	25,000.00
				Waste and recycling	8,586.24
				PROW : improve footpath connections in the vicinity of the site	2,640.00
				Community facilities : towards improvements in the Rainham area	9,091.68
				Open space improvements	69,498.33
				GLHP	3,657.81
				Nursery education	68,420.64
				Primary education	14,394.94
				Secondary education	133,065.60
				Sixth form education	7,505.89
				Health : towards development of Rainham Local Primary Care network	31,375.68
				Rainham Library improvements	8,194.08

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
				Sports :towards provision of sports facilities in particular Splashes but also Medway Park	12,080.64
21/2225	Land east of Seymour Rd and north of London Rd Rainham cont.			Youth : provision of youth facilities by the Medway Youth services team	3,885.60
				Public realm : enhancement new civic square and/or civic space within Rainham precinct shopping centre and improvements to the precinct gateway located near the car park and High Street	11,760.00
21/2063	Former Cuxton Pit no 2 Roman Way Strood	Cuxton, Halling & Riverside	Lidl Retail Store	Habitat enhancement : towards offsite habitat enhancement projects for habitat creation/enhancement inc but not limited to Open Mosaic habitat, grassland and/or grassland/scrub mix within the vicinity of the land	28,000.00

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

Application no. MC/	Site address	Ward	For	Amount received £
22/2965	Avenue Tennis Club, Glebe Road, Gillingham	Watling	1 unit	275.88
23/0726	34 Trevale Road, Rochester	Rochester West & Borstal	1 unit	275.88
22/2815	Durland House, 160 High Street, Rainham	Rainham South West	5 units	1,379.40
23/0703	6a Luton Road, Chatham	Luton	1 unit	275.88
23/0217	8 St James Close, Isle of Grain	All Saints	1 unit	275.88
23/0376	Pear Tree House, 68 West Street, Gillingham	Gillingham South	4 units	1,103.52
23/0387	Pear Tree House, 68 West Street, Gillingham	Gillingham South	12 units	3,310.56
23/0568	Land on west side of Newlands Farm Road, St Mary Hoo	All Saints	4 units	1,256.20
23/0300	Land between 17 and 21 Grove Road, Strood	Strood North & Frindsbury	4 units	1,256.20
23/0400	42 North Street, Strood	Strood North & Frindsbury	7 units	2,198.35
23/0576	23 Railway Street, Gillingham	Gillingham South	4 units	1,256.20

Application no. MC/	Site address	Ward	For	Amount received £
23/0745	13 Marshall Road, Gillingham	Rainham South West	1 unit	314.05
23/0631	Lingley House, Elm Avenue, Chattenden	Hoo St Werburgh & High Halstow	1 unit	314.05
23/0798	Land r/o 151-157 Gillingham Road, Gillingham	Gillingham South	2 units	628.10
23/0213	Land between 46-52 Cliffe Road, Rochester	Strood North & Frindsbury	4 units	1,256.20
23/0907	638 Mierscourt Road, Rainham	Rainham South East	1 unit	314.05
23/0944	6 Lyle Close, Strood	Strood North & Frindsbury	1 unit	314.05
23/0702	Park Lodge, 362 Canterbury Street, Gillingham	Watling	1 unit	314.05
23/0156	88 Borstal Road, Rochester	Rochester West & Borstal	1 unit	314.05
22/2813	Fleet House, Upnor Road, Upnor	Strood Rural	2 units	628.10
23/0891	Toilers Croft, Sharnal Street, High Halstow	Hoo St Werburgh & High Halstow	3 units	942.15
23/0782	53-55 Luton High Street, Chatham	Luton	3 units	942.15

Application no. MC/	Site address	Ward	For	Amount received £
23/0853	266 High Street, Chatham	Chatham Central & Brompton	2 units	628.10
23/0079	62 High Street, Chatham	Fort Pitt	1 unit	314.05
23/0563	95 Bryant Road, Strood	Strood North & Frindsbury	1 unit	314.05
23/0929	23 London Road, Strood	Strood West	8 rooms	2,512.40
23/1230	76 Canterbury Street, Gillingham	Gillingham South	1 unit	314.05
23/0802	Cooks Cottage, 343 High Street, Rochester	Fort Pitt	1 unit	314.05
23/0707	40 Birling Avenue, Rainham	Rainham North	1 unit	314.05
23/1095	Land adjacent to 326 Pump Lane, Rainham	Rainham North	2 units	628.10
23/0962	Moorcroft, Capstone Road, Lordswood	Hempstead and Wigmore	3 units	942.15
23/0973	Land adjoining 142 Marshall Road and to rear of 189 Edwin Road, Rainham	Rainham South West	1 unit	314.05
23/0686	4 Batchelor Street, Chatham	Chatham Central & Brompton	2 units	628.10

<b>Application no. MC/</b>	<b>Site address</b>	<b>Ward</b>	<b>For</b>	<b>Amount received £</b>
23/1381	Flats 1-3 Connaught Road, Gillingham	Gillingham South	8 units	2,512.40
23/0138	Land rear of 30-38 Iden Road, Wainscott	Strood Rural	3 units	942.15