

Report of the Head of Planning and Local Development and the Head of Finance**Town and Country Planning Act Section 106 – Planning Obligations****1 Purpose of report**

- 1.1 The purpose of this report is to identify the current Town & Country Planning Act Section 106 (S106) monies the Council holds and to identify the priority areas for these monies to be spent.
- 1.2 The report relates to the council's priorities for promoting high quality growth, reducing crime and anti-social behaviour, improving life chances for young people, delivering efficient and responsive services and enhancing the environment.

2 Executive summary

- 2.1 S106 developer contributions are collected as part of the contribution a development makes to mitigate its impact on its location.
- 2.2 The council, as planning authority, has a duty to ensure the money collected is properly allocated for the purpose it had been obtained. These S106 monies are held in trust and are outside of all current budgets and not included in the medium term financial plan. To this end some contributions are very specific and can only be spent in the way specified within the legal agreement. Others are of a more general nature and can be spent on projects the council feel have greatest benefit.
- 2.3 This report provides information on the current S106 monies that the Council holds for different categories of project; most of the money held is for Wellingborough Park and Open Space improvements including Sports Facilities and improvements. The other categories include general Rural Area Projects, Town Centre and Public Realm Improvements and the final category relates to contribution for "off site" Affordable Housing.

3 Appendices

Appendix 1 - S106 Contributions Unspent – July 2013

Appendix 2 - S106 Monies Spent 2012/13

Appendix 3 - S106 Spent and Committed Monies - 2013/14

Appendix 4 - S106 Proposed Spend - 2013/14

4 Proposed action:

- 4.1 **The Committee is invited to RESOLVE to agree that categories to be used to allocate the S106 monies as identified in Appendix 1 and 4, be Wellingborough Park and Open Space Improvements, Sports Changing Facilities and Pitch Improvements, Rural Projects, Town Centre Improvements and Affordable Housing.**

4.2 The Committee note that subject to 4.1 being agreed that a further report be submitted to the next Resources Committee providing projects that could be financed by using S106 monies using the above categories for the committee's approval and suggesting a monitoring process accordingly.

5 Background

- 5.1 A section 106 agreement is a legal agreement between the Planning Authority and an applicant/developer and any others that may have an interest in the land (e.g. County Council). Section 106 agreements or alternatively unilateral undertakings are types of Planning Obligation authorised by section 106 of the Town and Country Planning Act 1990 as amended by section 12 of the Planning and Compensation Act 1991.
- 5.2 Planning obligations are used following the granting of planning permission to secure community infrastructure to meet the needs of residents in new developments and to mitigate the impact of a new development upon existing community facilities. They can also be used to restrict the development or use of land in a specified way or require specific operations or activities to be carried out on the land.
- 5.3 Benefits will be secured either in kind or via financial contributions depending on what is required. The most common issues that arise are affordable housing, primary and secondary education, parks amenities and open space, highway improvements and healthcare.
- 5.4 This list is not exhaustive and any other relevant and necessary matters may be included within a Planning Obligation that cannot be secured through the normal planning process but is required in order for the development to be deemed acceptable in planning terms, which otherwise would be refused.
- 5.5 As the committee are aware, the Council has a S106 Monitoring Group with the purpose of the monitoring, collection and expenditure of S106 monies. The group meets on a monthly basis, and is made up of Officers from all council departments including Wellingborough NORSE with responsibility for receiving, recording and coordinating the allocation of section 106 planning obligation money.
- 5.6 The initial work programme of the group has been focused on ensuring funding received through S106 obligations is spent within any timeframe stipulated by the appropriate developer/applicant. Moreover, the group is now focussing on identifying those obligations where funding is uncommitted, unspecific (as to where funds can be spent) and importantly those that will expire in the foreseeable future (these are being treated as a priority). If not committed these funds would have to be returned to the respective developers.
- 5.7 At a meeting of the S106 Monitoring Group on 19th February 2013, members of the group identified a number of areas that they felt S106 monies could be allocated to. Following this meeting a further sub group met on 29th April 2013 to propose the categories to which S106 monies should be allocated to.
- 5.8 The purpose of this report is to seek an in principle agreement from members to these 'categories' and seek approval to draw up further proposals for the

allocation of available funds. These S106 monies are held in trust, are outside of all current budgets and not included in the Medium Term Financial Plan.

6 Discussion

6.1 The Council currently holds £770,519 of S106 monies which are identified in Appendix 1, 3 and 4. These S106 monies are held in trust and are outside of all current budgets and not included in the medium term financial plan.

6.2 Appendix 1 provides the committee with a description of what the various amounts of S106 money has been acquired for. It is suggested that to help with the final allocation of these funds members first agree the allocation categories.

6.3 Once the committee agree with the principal allocation within the categories mentioned in 6.6, the group will conduct further research to provide a comprehensive list of suggested projects reflecting the priorities of the council and the needs of the various communities around the borough.

6.4 In addition Appendix 2 provides information about the works the council has undertaken using S106 monies over the last 12 months.

6.5 Appendix 3 identifies the commuted sums, monitoring fees or projects that are committed to or are seeking approval. This includes four projects which have completed capital programme forms and are included in the Capital Programme Monitoring report before this item on the 17 July Resources Committee, these are:

- 1) Irchester Play Equipment
- 2) Croyland Park Footpaths
- 3) Pitch Improvements
- 4) Croyland Park Adult Play Equipment

These are schemes that need to be undertaken as urgent improvements for reasons such as health and safety, submitted for consideration by the Parish Council or are restricted by seasonal deadlines etc

6.6 Going forward each project will need to complete a capital programme form and would be scored in a similar way as capital programme bids. A review will also be taken to identify if any of the S106 monies in Appendix 1 and 4 could be used for the approved Capital Programme projects and the results of this will be reported to a future meeting of this committee. Once this work has been completed, a holistic approach to capital spending will be developed going forward to allow S106 monies to be considered as part of the capital programme.

6.7 It is important that the opportunity is taken to improve community facilities throughout the Borough and therefore members are asked to approve the following five improvement categories :

- 1) Wellingborough Park and Open Space Improvements
- 2) Sports Changing Facilities and Playing Pitch Improvements
- 3) Town Centre Improvements
- 4) Rural Projects
- 5) Affordable Housing Projects

6.8 The first category **Wellingborough Park and Open Space Improvements**

encompasses S106 contributions from developers for the express purpose of improving recreation, open space and community projects/facilities within the vicinity of the town centre. This could include upgrades and improvements to children's play equipment, facilities for young people and fitness equipment for a wide range of ages.

- 6.8.1 Within these parks and open spaces the council would also look to enhance the environment by improvements to the quality of the landscape and the condition of the footpaths. The parks that would be eligible are; Castle Fields, Eastfield Park, Croyland Park, Swanspool Gardens and Bassetts Park along with any other areas of eligible open space within the vicinity.
- 6.9 The second category is **Sport Changing Facilities and Playing Pitch Improvements**. Research by the Sports Development Officer, Northamptonshire Sport indicates that those facilities most in need of investment are Bassetts Park, Castle Fields, Croyland Park, Eastfield Park and Glamis Hall.
- 6.10 The third category is for **Town Centre Improvements** which encompasses projects that improve the town centre for both commerce and enjoyment as well as Public Realm projects which have an environmental impact and encourage both walking and cycling in the area.
- 6.11 The fourth category is **Rural Projects**. Currently, only Finedon has S106 funds designated to be spent within its area. However there are other contributions that can be spent throughout the Borough that may be used by the other parishes. Information has been requested from all Parish Councils regarding any projects or needs within their communities. They have also been asked to prioritise their projects to help allocate future funds accordingly. Once received these requirements will be matched against the respective S106 agreements. These then will be submitted to Committee for consideration.
- 6.12 Finally, the last category is for any outstanding **Affordable Housing Projects** that either have not yet been completed or commenced. The projects tend to be quite specific to a location and previous examples include the provision of a disabled lift in a house at Eskdale Close and installation of solar panels on social homes in Little Irchester.
- 6.13 Assuming members agree with these recommended categories, an analysis of the information we hold about specific projects together with any recommended projects from the Parishes will be collated and reported to the Resources Committee. Implementation of the projects once approved will be programmed and prioritised subject to officer capacity. The programme will be regularly reported to this committee in the same way the capital programme is reported.

7 Legal powers

- 7.1 Section 106 of the **Town & Country Planning Act**, in conjunction with Department of Environment Circular 5/05, allows for Local Planning Authorities and persons interested in land to agree contributions, arrangements and restrictions as Planning Agreements or Planning Obligations. Applicants can offer such agreements unilaterally or negotiate and agree them as support for their application to make it accord with local planning requirements, but without some of the rigorous controls of Planning Conditions under s 70(1).

- 7.2 It can also relate to monies paid by developers to Local Planning Authorities in order to offset the costs of the external effects of development. A Section 106 agreement is part of the granting of planning permission.
- 7.3 Section 106 arrangements are currently being reviewed with it being changed and supplemented by a Community Infrastructure levy.
- 7.4 Section 1 of the **Localism Act 2011** gives the Council a general power of competence. The general power gives local authorities the same power to act that an individual generally has, including the power to do things for a commercial purpose subject to certain constraints set out in sections 2-4 of the Act.

8 Financial and value for money implications

- 8.1 There are some significant S106 contributions (as detailed in Appendix 1), which will make notable upgrades to both urban and rural areas in need of improvements in the Borough. These S106 monies have been reviewed against the current financial pressures of the Medium Term Financial Plan and can not help to mitigate these. As previously stated in 6.4 a review will be undertaken to identify if any of these S106 monies can be used to support approved Capital Programme schemes and once completed a more holistic approach to capital spending will be developed incorporating S106 into the capital programme.
- 8.2 Should these S106 monies remain unspent or uncommitted after the prescribed time limit, they would need to be returned to the developers.

9 Risk analysis

- 9.1 As there are time limits within which the money held has to be spent, unless criteria for expenditure are agreed, there is a risk that money will have to be returned. Without an effective strategy there is a risk that the Council's assets will not be used efficiently.

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
Do nothing - S106 monies remain unspent and therefore reach their deadline for spending	Contributions returned to developer Poor use of resources Loss of reputation	Low	S106 monitoring group continue to suggest and agree to projects and spending S106 monitoring group continue to review agreed projects and ensure they are progressing efficiently Effective project management

10 Implications for resources

- 10.1 Officers' time would be required to manage any projects and oversee any improvements works. Legitimate costs incurred by the council in delivering projects will be met out of S106 monies.

11 Implications for stronger and safer communities

- 11.1 Any improvements to facilities will stimulate social pride and reduce the impact of anti-social behaviour around the borough as well as promote value in the area, and therefore encourage social cohesion.

12 Implications for equalities

- 12.1 None directly arising from this report, however an Equalities Impact Assessment (EqIA) will be completed on each project as they progress.

13 Author and contact officer

Victoria Phillipson, Principal Policy and Regeneration Manager

14 Consultees

Terry Wright, Director of Services
Steven Wood, Head of Planning and Local Development
Liz Elliot, Head of Finance
Nina Taylor, Project Coordinator
Quintin Allen, Sports Development Officer, Northamptonshire Sport
Paul Burnett, Principal Property and Facilities Manager
Mike Kilpin, Principal Development Control Officer
Gill Chapman, Principal Community Support Manager
Tracey Cave, Service Accountant
Carol Wilson, S106 Officer/Technical Officer
Jennifer Bell, Project Coordinator
Amanda Johnson, Project Coordinator
Felicity Webber, Landscape Officer
Nicola Holden, General Manager, Norse
Vicki Jessop, Principal Housing Manager

15 Background papers

Appendix 1 - S106 Contributions Unspent - July 2013

Planning Application Ref:	Amount available:	S106 Agreement use:
WP/2000/0051/FM Land East of Wilby Way (Windsor Way/Hampton Brook Cycle Way)	£27,200	Cycleway at Windsor Road - further report to be provided on this.
WP/2000/0051/FM Land East of Wilby Way	£3,200	Affordable Housing
WP/2003/0796 The Pyghtles, 12 Briarwood Way, Wollaston	£6,000	Affordable Housing - Wollaston
WP/2005/0177/F Wellingborough Road, Finedon	£853	Play Facilities - Finedon
WP/2005/0782/F Cromer Court, Cromer Road, Finedon	£5,260	Play/Youth Facilities - Finedon
WP/2007/0744/F Biscay Close & Station Road, Irchester	£52,727	Affordable Housing - Irchester
WP/2008/0186/F Tower Boot Co Lte, Finedon	£25,000	Open Space (enhancing nearby play equipment) - Finedon
WP/2009/0013/F John Lea Site	£268,658	Community Projects and Facilities - Borough wide
WP/2009/0013/F John Lea Site	£91,139	Community Projects and Facilities - Borough wide
WP/2009/0447/FM 11+13 Castle Street	£87	Community and Amenity Facilities
WP/2010/0372/FM Nest Lane (Kingfisher Close)	£10,147	Open Space - Boroughwide
WP/2011/0354/FM Calendar Pub, Swinburne Road	£12,336	Community Projects and Facilities - Borough wide
WP/2012/0208/FM 2 Avon House, Tithes Barn Road	£5,000	Town Centre Improvements
WP/2012/0208/FM 2 Avon House, Tithes Barn Road	£9,000	Town Centre Environmental Impact
Total	£516,607	

Appendix 2 - S106 Monies Spent - 12/13

Monies Spent or Committed		
Planning Application Ref:	Amount	Spent on:
WP/1995/0396 Doddington Road Croudacre	£8,862	Open Space - spent on planting bulbs on Doddington Road.
WP/2005/0177/F Wellingborough Road, Finedon	£4,147	Play Facilities - spent on improvements to Play Facilities in Finedon.
WP/2006/0048/FM Land adjacent to The Lindens, Midland Road, Wellingborough	£19,516	Open Space - Castlefields Bandstand
WP/2006/0053/FM Burrows Bush, Land off Finedon Road, Wellingborough	£50,000	Open Space - Castlefields Bandstand
WP/2007/0494 Arthur Street 1-3	£540	Open Space - spent on planting bulbs on Harvey Road.
WP/2007/0744/F Biscay Close & Station Road, Irchester	£10,300	Open Space/Play Facilities - spent on Basket Ball Fencing for Irchester.
WP/2009/0176/FM Wellingborough School	£7,264	Tree maintenance on London Road
WP/2009/0176/FM Wellingborough School	£375	S106 database training
WP/2009/0338/FM Shelton's yard, Wollaston	£25	S106 database training
WP/2009/0447/FM Castle Cottage 11-13 Castle Street	£5,096	Communities and Amenities - spent on planting at Castlefields
WP/2011/0354/FM Calendar Pub, Swinburne Road	£1,664	Community Projects and Facilities - spent on planting
Total	£107,789	

Appendix 3 - S106 Spent or Committed Monies - 13/14

Monies Spent or Committed			
WP/2003/0780 Road, Wellingborough	Stanley	£1,262	Improvement in recreation and open space provision in the area to be spent on Croyland Park footpath improvements (subject to Section 7 of the Capital Programme July 2013 Resources Committee approval)
WP/2005/0422/F Park Street & Park Road (flats)	Great	£15,950	Open Space - Within the vicinity of the development to be spent on Croyland Park footpath improvements (subject to Section 7 of the Capital Programme July 2013 Resources Committee approval)
WP/2005/0444 Newcomen Road	1-9	£15,030	To encourage cycling/walking in the area to be spent on Croyland Park footpath improvements (subject to Section 7 of the Capital Programme July 2013 Resources Committee approval)
WP/2006/0048/FM adjacent to The Lindens, Midland Road, Wellingborough	Land	£13,834	Open Space - Castlefields Bandstand (provision for electricity supply approved at 19 September 2012 Resources Committee).
WP/2006/0510/FM Park Street (adjacent)	8 Great	£5,600	Open Space - demolition of bus shelter at Eastfield Park.
WP/2006/0510/FM Park Street (adjacent)	8 Great	£19,900	Open Space - Football Pitch Improvements (subject of an Urgent Action 27 June 2013)
WP/2007/0744/F Close & Station Road, Irchester	Biscay	£30,587	Open Space/Play Facilities - Borough wide (subject to Capital Programme July 2013 Resources Committee approval)
WP/2008/0023/FM Croyland Road (land adjacent)	101	£7,165	Commuted Maintenance Sum (10 yrs) linked to spend on open space.
WP/2008/0023/FM Croyland Road (land adjacent)	101	£3,264	Open Space - Committed to adult gym (£3264) in Croyland Park (Subject of an Urgent Action 27 June 2013)
WP/2008/0050/FM Road	Eastfield	£10,000	Monitoring fee.
WP/2009/0338/FM yard, Wollaston	Shelton's	£834	Monitoring fee.
WP/2009/0338/FM yard, Wollaston	Shelton's	£74	Open Space - Within the vicinity of the development
WP/2009/0447/FM Castle Street	11+13	£778	Monitoring fee.
WP/2010/0265/FM Mills, London Road	Victoria	£85,000	Environmental Improvements - cycleway from Little Irchester to Summer Leys study.
WP/2010/0372/FM Lane (Kingfisher Close)	Nest	£12,225	Commuted Management Sum.
WP/2012/0065/FM adjacent to Northampton Road	Land	£3,768	Management and Supervision fee.
WP/2012/0065/FM Northampton Road (land adjacent)	199	£4,106	£894 spent on Glamis Local Nature Reserve to compensate for the loss of unimproved grassland. The remaining sum committed for future work.
Total		£229,376	

Appendix 4 - S106 Proposed Spend - 13/14

S106 Proposed Spend 13/14 - to be submitted for approval			
Planning Application Ref:		Amount	Spent on:
WP/1995/0396/0 Doddinton Road, Croudacre		£11,138	Open Space - improvements at Butterfields.
WP/2004/0416 Grant Road	4	£13,398	Recreation/Open Space - Allotment improvements.
WP/2008/0023/FM Croyland Road (land adjacent)	101	£7,986	Open Space - Swanspool tennis court renovations
Total		£24,536	

Note: the projects in Appendix 4 would be subject to approval through the Capital Programme process.

