

Appendix D

Briefing Note

To:	Budget and Performance Panel
From:	Head of Regeneration and Planning
Date Requested:	17 July 2012
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Subject:	Section 106 Monies

INTRODUCTION TO S106 AGREEMENTS

Section 106 (S106) of the Town and Country Planning Act 1990 allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement.

These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms that cannot be secured through planning conditions. They have been increasingly used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing.

The use of planning obligations has more recently been subject to additional control through Community Infrastructure Levy Regulations 2010 introduced on 6 April of that year. Furthermore, whilst Local Authorities are not compelled to adopt CIL, from 6 April 2014 they will be further limited by CIL Regulation 123 from using planning obligations to leverage general contributions from new development for community infrastructure. Nevertheless, Section 106 may continue to be used for affordable housing and for anything required to make developments acceptable in planning terms.

The Council has commissioned consultants GVA and Aecom to undertake economic viability testing and determine the borough's future infrastructure needs. This will enable the Council to make an informed decision as to whether to adopt CIL. Irrespective of whether the Council adopts CIL, planning obligations will continue to play a role in mitigating the impacts of development, as CIL can only be adopted if it is economically viable.

Whereas CIL is a non-negotiable charge on development, S106 planning obligations are subject to negotiation based upon an assessment of the impacts of development. It is important to note that not all planning obligations involve monetary contributions. Some agreements are entered into purely to secure appropriate control over developments, (such as caravan and holiday accommodation or agricultural worker dwellings). Furthermore, whilst collected CIL monies are not linked directly to the impacts of development and consequently may be spent on unrelated infrastructure projects; monies collected through S106 planning obligations are linked directly to the impacts of development s and must be used strictly in accordance with the terms of the agreements entered into.

It is also a requirement of many s106 obligations that unspent monies should be refunded. Refund clauses typically give local planning authorities 5 years from date of receipt to spend contributions for the purposes for which they were collected. A recent example of

this related to an under spend of collected monies by Lancashire County Council on road improvements relating to development at Ocean Edge Caravan Park at Heysham.

The Council has more recently used a form of planning obligation called a Unilateral Undertaking (UU) to secure contributions from small residential developments which are designed to grow funds to contribute to the delivery of affordable housing in the Borough. These UUs are not subject to repayment clauses.

SECTION 106 MONIES – POSITION AS AT 31ST MARCH 2012

For the financial year 2011/12 a balance of £1,786,378.00 was held as at 31st March 2012. Total spend since 2007 was £662,250.00 on total receipts of £2,437,809.00 between 2007 and March 2012.

A breakdown of S106 income received since 2007 together with subsequent expenditure is set out below:

PROPOSED USE	SUM (£)	YEAR RECEIVED	SPEND	BALANCE
CAPITAL				
Poulton Pedestrian Route	127,000	2007	0	127,000
Ffrances Passage	72,824	2011	66,375	6,449

Sub total	199,824		66,375	133,449

REVENUE RESERVE				
Historic Building Grants	153,000	2007	153,000	0
	30,000	2007	27,036	2,964
Moneyclose Lane Highway Imps	25,000	2008	14,181	10,819
Highway Imps White Lund	76,292	2009	76,292	0
PROPOSED USE				
Landscape Imps Canal side	20,000	2009	0	20,000
Westgate Highway Imps	44,259	2009	44,259	0
	24,741	2010	24,741	0
	8,379	2010	0	8,379
Toucan Crossing King Street	60,000	2010	57,214	2,786
Cyclepath Spring Garden St	10,000	2010	0	10,000

Conservation Area Imps	25,000	2011	0	25,000
20mph zone, Chapel Street, Galgate	2,000	2010	0	2,000
Foot/cyclepath to Greenway	55,000	2010	0	55,000
Traffic Calming £50,000 Bulington/Lathom	50,000	2010	0	50,000
MUGA & Footpath To Charles/Hope St	140,000	2010	48,333	91,667
Tree planting Contribution	43,257	2012	0	43,257
Bus service, Cyclepaths & 20mph limits	500,000	2012	0	500,000
----- Sub total	1,291,903		445,056	846,847

AFFORDABLE HOUSING RESERVE

Affordable Housing & ETIS	£390,390 £390,390	2009 2010	0 0	£390,390 £390,390
Affordable Housing	£140,000	2009	£140,000	0
Affordable Housing	£1,808	2011	0	£1,808
Affordable Housing	£3,853	2011	0	£3,853
PROPOSED USE	SUM	YEAR RECEIVED	SPEND	BALANCE
Affordable Housing	£4,036	2011	0	£4,036
Affordable Housing	£2,952	2012	0	£2,952
Affordable Housing	£5,106	2012	0	£5,106
Affordable Housing	£1,064	2012	0	£1,064
Affordable Housing	£6,483	2012	0	£6,483
----- Sub Total	£946,082		£140,000	£806,082
TOTAL	£2,437,809		£651,431	£1,786,378

COMMUTED SUMS FOR GROUNDS MAINTENANCE

In addition to the above, the Council receive commuted sums specifically for grounds maintenance works which is administered by Environmental Services. A detailed breakdown of income and expenditure is shown on the attached spreadsheet.

ANDREW DOBSON
HEAD OF REGENERATION & PLANNING SERVICE
August 2012