



Haringey Council

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| Report for: | Regulatory Committee | Item Number: | |
| Title: | Section 106 Monitoring Report | | |
| Report Authorised by: | Lyn Garner, Director of Place and Sustainability | | |
| Lead Officer: | Nick Powell, Head of Carbon Management and Sustainability | | |
| Ward(s) affected: All | Report for Key/Non Key Decisions: Non Key Decision | | |

1. Describe the issue under consideration

1.1. The purpose of the report is to update on the following:

- The progress on number and type of Section 106 (s106) agreements signed and administered 2005-2013.
- The distribution of the s106 funds received by the Council;
- The amount of Section 106 (S106) contributions received from 2005-2013
- The amount of S106 contributions spent within 2005-2013
- The current financial position on what is unspent/unallocated/allocated; and
- The Mayoral Community Infrastructure Levy.

1.2. The report and its appendices provide an update on the management and administration of planning obligations and set out the progress on unspent funds. The financial year is defined from the 1st April to the 31st March. This report provides the most up to date spend information as at 31st March 2013.

2. Introduction

2.1. Planning Obligations and s106 Agreements are important in helping to support the Council's objectives and the regeneration of Haringey. Since 2005 the Council has signed 199 s106 Agreements and has to date received a total of £17,800,196 for infrastructure and public realm improvements. In addition 1,304 new affordable homes have been built to help meet housing need with more in the development pipeline.



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2.2. Officers seek not only to secure the best deal for the Council during the planning process itself, but also to identify schemes which the money can be used to fund infrastructure projects within the borough. This year the Council has collected £187,789 of the contributions that have been triggered, that is to say when the developer has become obliged to pay them. This figure is considerably less than the last year when we collected £4.2m. This was due to receiving contributions from a number of major schemes which were triggered for payment.

2.3. This report provides an update on the management and administration of the Council's planning obligation responsibilities.

3. Recommendations

3.1. It is recommended that this report be forwarded to the Regulatory Committee for their information.

4. Executive Summary

4.1. As at 31st March 2013, 199 S106 planning agreements have been agreed in Haringey. These placed a financial obligation on developers to the total value of **£39,735,714**. In addition: -

- 59 agreements required the specific provision of on-site affordable housing.
- 50 agreements placed specific restriction on development to safeguard the development and surrounding area (i.e. restriction of use class, residents parking restrictions, health care restrictions and hostel/homeless restrictions).

4.2. *Financial Obligations* - Planning Obligations (Section 106 Agreements) support the objectives and delivery of Haringey spatial and regeneration plans, the Sustainable Community Strategy and a number of related strategies and plans including transport, parks and leisure, education and community facilities. To date:

- **£39million** S106 funds have been negotiated 2005-2012;
- **£17million** has been received;
- **£12million** has been spent;
- **£5million** remains to be spent with project plans in plan for their use; and
- The Council has collected **£94k** towards the Mayoral CIL and received **£3k** in monitoring costs.

4.3. *Affordable Housing* - since 2005, a total of **1,304** affordable housing units have been delivered exclusively through S106 planning agreements.

4.4. The Council's programme managing of s106 is delivering on target. £17m has been received, £12m has been spent and £5m remaining to be allocated for spend. The contribution of £1m from the New River Village Development has been committed for spend with £317k remaining to be spent. At present, there is some uncertainty on the implementation of a number of planning permissions due to the economic downturn with schemes now being unviable. This will have an impact on the level of S106 collected from previously negotiated agreements.

4.5. Of the £39million negotiated £1.8million will not be received due to Agreements expiring.



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- 4.6. Where there is non-compliance from developers, the Council follows a procedure for legal action. Over the last year, our cases were pursued by Legal for non-compliance and phased payment plans have now been negotiated. The amount triggered but not paid which the Council is pursuing through legal services has decreased from £137,000 as at November 2011 (the previous report) to £50,000 this year.
- 4.7. There is less s106 funding available to pool than in previous years. This is where funds can be spent anywhere within the borough and are not legally specific to the development site. The main categories that can be pooled are education and employment. These categories contribute towards supporting local people and improving opportunities/facilities within the borough.
- 4.8. Planning staff are in regular contact with all lead officers from other Services with regards to allocating/spending S106 contributions. Officers have to ensure that the spending of these contributions is programmed within their work programmes, ensure that funds will be spent where legally obliged and to ensure that the Council does not have to return these funds back to the developer if not spent before the expiry date. Due to budget cuts within the Council and some departments being downsized, it has taken some officers with reduced staffing levels longer to commit/submit project plans for spend especially when they have other work priorities to implement.

5. Background information

- 5.1. Under Section 106 of the Town and Country Planning Act 1990, Planning Agreements have generally been used to mitigate harm that may be caused by a development. They are negotiated as part of the planning application process. The Act allows Local Planning Authorities and developers to negotiate a range of obligations under such agreement. These obligations, known as s106 Planning Obligations, have either:
 - Established a financial obligation which the developer must make;
 - Required specific works or actions to take place (e.g. to provide affordable housing);
or
 - Been restrictive in nature (prevented a developer from doing something)
- 5.2. Planning Obligations (Section 106 Agreements) are legally binding agreements entered into between a local authority and the owners or developers of schemes granted planning permission. s106 Agreements negotiate both physical and financial obligations which the Council is required monitor. Supplementary Planning Guidance 10a “The Negotiation, Management and Monitoring of Planning Obligations”, sets out Haringey’s approach and strategy for planning obligations.
- 5.3. The appendices to the report provide a full update on the following areas:
 - A Budget Breakdown which shows the flow of funds during 2005-2013 and a further breakdown of contributions not received.
 - A further breakdown showing contributions available to spend by infrastructure type.
 - Maps showing location of development sites benefitting from s106 funding.
 - Progress of unspent s106 funding
 - Status of s106 Agreements which shows the current position of Agreements not implemented and implemented (not spent).
 - SPG 10a – Negotiation, Management and Monitoring of Planning Obligations.

6. Current financial position on what s106 is unspent/unallocated/allocated



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- 6.1. The current financial position on the **£5million** that remains to be spent is provided in Appendix 4 and 5 to the report.
- 6.2. **Appendix 4** shows the progress on the funds we've collected but not yet spent, with the departments responsible for implementing the agreed s106 actions. It shows:
 - A breakdown indicating how much s106 contributions are unspent;
 - How many agreements make up the total amount not allocated;
 - Whether the contribution can be pooled or not;
 - Whether project plans have been identified; and
 - When the contribution has to be spent by. It also informs who the lead officer for spend is within each Service.
- 6.3. Many contributions received have to be spent within 5/7 years of receipt from a Developer. If contributions are not spent by its expiry date Developers can request their contribution to be reimbursed. The Council has not had to repay any contributions received from Developers to date.
- 6.4. **Appendix 5** shows the current status of Agreements implemented (commenced on-site) with remaining contributions not spent. It shows funds committed for spend (projects identified – shaded **red**) and those which are not (projects not identified – shaded **green**).
- 6.5. It also shows the current status of Agreements not implemented (not commenced on-site) from which notionally the Council could receive another **£15.6 million**. Please note, however, that the signing of a legal agreement does not always lead to the receipt of a financial contribution. An applicant has 3 years with which to implement the planning permission. Some planning permissions are never implemented and expire, with the obligations never triggered. Since 2005 £1.8million has expired. Other agreements may be superseded by new applications for the same sites with new s106 agreements being signed. The total of £10.5million has been superseded. The Council undertakes sites visits to ascertain whether planning permissions have been implemented, as some applicants/developers do not inform the Council of commencement.
- 6.6. A more detailed update is provided below on s106 Agreements for Major Sites and on s106 Spend by Category.

7. Update on s106 Agreements for Major Sites

- 7.1. **New River Village** – The Council held £1m from the New River Village Agreement which was to be spent within the Haringey Heartlands Development Framework Area. This contribution received approval from Cabinet Committee in December 2011 to commit the spending of £1m secured in respect of the development. The Council has spent £682k on improvements in and around the Haringey Heartlands Regeneration area on educational purposes, access and playing field improvements and Hornsey High Street lighting improvements in 2012. Of the remaining amount £100k will be spent this financial year 2013-2014 on Campsbourne environmental and community streets works with a further £220k scheduled to be within Alexandra Palace.
- 7.2. **Hale Village** – Planning permission was granted for the development at Hale Village in 2007/8 with total s106 contributions of £7.8m. Although the development had commenced on site, the amount had not been recovered as the developers were experiencing financial difficulties. The Agreement was re-negotiated in 2011-12 with a potential total s106 contribution of £10m. A total of £3.1m was triggered and has been received for Transport



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infrastructure. £438k has been spent on highway works within the immediate vicinity of the development site, with the remaining contribution to be spent on the Tottenham Gyratory.

- 7.3. **Wards Corner** - The s106 Agreement for Wards Corner which negotiated contributions of £406,650 was signed in 2008-2009, however, the planning permission was quashed by a Judicial Review. The new Agreement signed 2012-13 for a large mixed residential and commercial development, negotiated s106 contributions of £304,150. The planning permission for the new agreement has not been implemented as they are subject to a possible Judicial Review.
- 7.4. **Tottenham Hotspur Football Stadium** - An application was received for the demolition and comprehensive redevelopment of a stadium with hotel, retail, museum, offices and housing, together with associated facilities including the construction of new and altered roads, footways, public and private open spaces, landscaping and related works. The planning application was granted at Committee on the 30th September 2010. The s106 Agreement was signed at the end of Sept 2011, (potential £16m). A subsequent planning permission was granted in March 2012 with a revised s106 Agreement, which replaced the original Agreement. The report went to Planning Committee on the 13th February 2012 recommending a reduction of the potential £16m s106 obligations as the previous scheme was not financially viable. It was agreed that the Council will receive £1,390,000 in respect of highway works and design/implementation of the CPZ, if the letting of the Stadium Contract had not occurred by the 1st September 2018.
- 7.5. **Coronation Sidings** – Planning permission was granted and the s106 Agreement has been signed for the development at Coronation Sidings and the Stabling Site west of the Hornsey Light Maintenance Depot on the 5th December 2011. This Agreement negotiated £300k of S106 contributions of which all has been received. Economic Regeneration and the Housing, Design and Major Projects Teams are currently working on plans to spend this contribution.
- 7.6. **Clarendon Square & Haringey Heartlands** – The outline planning application for a mixed use development was granted with the S106 Agreement being signed on the 21st March 2012. This Agreement negotiated £8m which will be paid to the Council in phased stages of the development.

8. Update on s106 Spend by Category

- 8.1. **Sustainable Transport** – The Council currently holds **£1.5m** contributions for highway, traffic calming schemes, cycling works and general transport infrastructure projects. The Council will be working with Transport for London (TfL) to spend £1.08m of this contribution received from the Hale Village s106 Agreement on works to the Tottenham Gyratory. Other project plans are in place to spend the remaining funds in 2013-15.
- 8.2. **Affordable Housing** – The negotiation of contributions for the provision of off-site affordable housing is an exception. However, the Council currently hold **£222k** to provide affordable housing in the western part of the borough. The Housing, Design & Major Projects Team plan to expend the contribution 2013-14.
- 8.3. **Recreation** - There is **£73k** specified for open space improvements in the Wood Green area. Recreation Services have drawn up proposals to spend this contribution within Wood Green Common, Nightingale Gardens and Barratt Avenue. Details of the proposed scheme are being finalised for expenditure in early 2013-14.



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- 8.4. **Car-free Development** – The Council currently holds **£5k** for amending the Traffic Management Order and updating the Council's parking database.
- 8.5. **Environment/Other Site Specific** – The Council holds **£2m** of environmental improvements contributions. These funds have to be spent within the vicinity of the development in accordance with the agreements. £1.5m will be spent in conjunction with TfL on the Tottenham Gyrotory. Action plans for these sums are in place and is likely to be spent by 2013-15.
- 8.6. **Education Pool** – There is currently **£511k** held for education. These funds are specified for capital works on providing educational facilities and equipment for schools throughout the Borough. This sum is expected to be spent by 2015-16.
- 8.7. **Employment/Local Labour** – The Council is in receipt of **£267k** towards employment/local labour initiatives. These funds are to be used towards securing training and supporting local employment opportunities as part of the Jobs for Haringey Scheme. The scheme is a programme jointly funded by the Council and the Mayor of London to support unemployed local people into sustainable employment. The Economic Regeneration Team plan to expend the contribution during 2013-14.

9. The Mayors Community Infrastructure Levy (CIL) – Collection

- 9.1. The Mayor has approved a new charge/levy that will be paid by most new developments as of the 1st April 2012. The levy is calculated according to the amount of additional floorspace a new development will produce. Haringey's rate is £35 per square metre. The money raised will go towards London's share of the Crossrail funding package agreed by the Government. The levy is collected by the Council once development commences. Since the introduction of CIL, 31 developments from April 2012 to the end of March 2013 are liable totalling **£688,400**. Commencement Notices have been received from 10 developments with payment received from 9. The Council has collected **£94,642** towards the Mayoral CIL. This includes **£3,785** which is 4% of the overall total collected which remains within the Service.

10. Financial Comments

- 10.1. Section 106 monies represent a significant source of funding for the Council, supporting both the Councils Capital programme and wider priorities. Thus it is important that funding from this source is maximised where possible and that robust monitoring procedures are in place to ensure that all monies due are received promptly. As the Community Infrastructure Levy largely replaces s106 in coming years, the Council needs to ensure that the future infrastructure funding needs are fully taken account of in any Levy setting process.
- 10.2. Developers are also required to contribute a cost of up to 5% of all monies agreed, for the cost of monitoring and administrating s106 funding. It is expected that around £300,000 will be held from this source at year end, these monies fund relevant posts within Planning, Regeneration and Economy.

11. Head of Legal Services and Legal Implications

- 11.1. N/A

12. Equalities and Community Cohesion Comments



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12.1. N/A

13. Head of Procurement Comments

N/A

14. Policy Implications

14.1. Planning Obligation and s106 Agreements support all elements of the Haringey Unitary Development Plan, the Haringey Sustainable Community Strategy and a number of related Strategies and plans including transport, parks and leisure, education and community facilities.

14.2. Haringey's Supplementary Planning Guidance SPG 10a on Planning Obligations is attached as Appendix 6. The SPG sets out the framework for negotiating planning obligation (s106 contribution) from developments. The Planning Committee decides on how s106 funds will be spent according to national and local Planning Policy.

15. Use of Appendices

- **Appendix 1** - The Budget Breakdown which shows the flow of funds during 2005-2013 and a further breakdown of contributions not received.
- **Appendix 2** - The overall Budget Summary by infrastructure type.
- **Appendix 3** - Maps showing location of development sites benefitting from s106 funding.
- **Appendix 4** – Progress of unspent s106 funding
- **Appendix 5** – Status of s106 Agreements which shows the current position of Agreements not implemented and implemented (not spent).
- **Appendix 6** - SPG 10a – Negotiation, Management and Monitoring of Planning Obligations.

16. Local Government (Access to Information) Act 1985