

SCRUTINY COMMISSION – 21 JANUARY 2016

S106 CONTRIBUTIONS TOWARDS OFF-SITE PLAY AND OPEN SPACE REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)



Hinckley & Bosworth
Borough Council

A Borough to be proud of

WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

1.1 To update Scrutiny Commission on the following, relating to off-site play and open space S106 contributions:

- Recent legislation changes affecting S106 contributions
- New planning obligations and payments secured during 2015
- Payments received and unspent to date
- Payments outstanding to date.

2. RECOMMENDATION

2.1 The Corporate Operations Board endorses the report for presentation to Scrutiny Commission.

3. BACKGROUND TO THE REPORT

3.1 As part of the consideration of planning applications, developers can be requested to make financial contributions towards infrastructure to mitigate the impact of a development. These contributions off-set the impact of the development on local community facilities and can be requested where set out by policies. Examples of infrastructure are the improvement of local parks (play and open space), highway improvements, education facilities, health facilities and civic amenities.

3.2 Legislation Changes

Regulation 122 of the CIL Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:

- a) Necessary to make the development acceptable in planning terms, and
- b) Directly related to the development, and
- c) Fairly and reasonably related in scale and kind to the development.

i) From 6 April 2015 HBBC have not been able to require obligations towards any infrastructure project or type of infrastructure for which they have already been five or more obligations. This takes into account all obligations since 6 April 2010 and is known as “pooling”.

ii) From 28 November 2014, no financial contributions could be sought for developments of 10 units or less. On 31 July 2015 this changed and contributions can be requested for developments proposing 10 units or less.

3.3 The amount of contributions for off-site play and open space negotiated by the Council in 2015, as part of S106 agreements amounts to £219,557.00. This is split across eight S106 agreements and undertakings. This amount would be collected and available to spend once each development reaches the appropriate stage.

3.4 The total amount of contributions for off-site play and open space facilities held by the Council, which is available to spend by the Parish Councils as of 31.03.2015, is £576,843. A further £515,638 could be received if and when planning permissions are implemented and relevant trigger points are reached.

3.5 Since the last report, improvements to the system have included:

- i) Ensuring the income is not lost by approving more than five contributions to any POS project
- ii) Monthly cross-service meetings, to ensure pursuit of contributions and avoiding of 'claw-back'.
- iii) Training of Parish Councils on expenditure requirements, to avoid 'claw-back' by developers.

3.6 There are no unspent contributions which are near to the date at which the payment needs to be returned to the developer due to the five year claw back period. The fact that no contribution are nearing its 5-year claw back date reflects the pro-active work that is now taking place to ensure that Parish Councils identify suitable projects to spend money on as soon as it becomes available.

4. FINANCIAL IMPLICATIONS (TF)

The finance aspects are covered in the main body of the report, and there are no additional financial implications arising as a result of this report.

5. LEGAL IMPLICATIONS (MR)

5.1 Set out in the report.

6. CORPORATE PLAN IMPLICATIONS

6.1 This document contributes to Aim 1 of the Corporate Plan – Creating a vibrant place to work and live.

7. CONSULTATION

7.1 None.

8. RISK IMPLICATIONS

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
DLS 38 – Enforcement and performance successes	System in place to monitor and enforce non-payment of S106 contributions and for working with Parish Councils	Nic Thomas

	to ensure payments are spent on time.	
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9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

9.1 The effective monitoring of S106 contributions and engagement with Parish Councils allows local communities to identify and prioritise improvements to local play and open space facilities

10. CORPORATE IMPLICATIONS

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector.

Background papers: None

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