



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

## FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

SCRUTINY COMMISSION                      24 APRIL 2017

WARDS AFFECTED: ALL WARDS

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### **S106 CONTRIBUTIONS UPDATE**

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#### **Report of Director (Environment and Planning)**

##### **1.     PURPOSE OF REPORT**

- 1.1     To update Scrutiny Commission on S106 contributions currently held in the 2016 calendar year.
- 1.2     To update members in relation to work that has been taken place to reconcile financial records relating to historic S106 agreements.

##### **2.     RECOMMENDATION**

- 2.1     That the report be noted.

##### **3.     BACKGROUND TO THE REPORT**

- 3.1     When implementing certain types of planning permissions (most notably major residential schemes), developers can be required to make financial contributions towards providing or improving local infrastructure provided the requested contributions meet the three statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. These contributions are used to off-set the impact of the development on local community facilities and can be requested where set out by planning policies. Examples of Borough Council contributions include the improvement of local parks (play and open space), police & health facilities. Table 1, below, sets out a summary of the financial contributions secured by planning permissions during 2016. Table 2 provides a summary of the total financial contributions that have been received and are available to spend on relevant projects, in accordance with relevant S106 agreements.

**Table 1: Value of s106 contributions secured by planning permissions issued during 2016**

Off site open space (capital and maintenance)	£ 575,264.20
On site open space (maintenance)	£ 145,824.00
Off site affordable housing commuted sums	£ 543,000.00
Health facilities	£ 75,702.56
Police infrastructure	£ 71,044.91
Car parking (residents' parking scheme)	£ 10,500.00
<b>Total</b>	<b>£1,421,335.67</b>

**Table 2: Total contributions held and available to currently spend**

Total for play and open space (on and off site) Note: Amount already committed - £1,065,205.90	£2,819,690.66
Off-site affordable housing commuted sums (Committed £365,000 Martinshaw Lane Project)	£ 575,008.26
Health facilities	£ 590,604.63
Police infrastructure	£ 93,582.95
Town centre infrastructure	£ 282,624.88
Canal & river trust	£ 51,673.30
County council (Sketchley Brook highway works)	£ 21,067.62
<b>Total</b>	<b>£4,434,252.30</b>

- 3.2 While Table 2, above, shows that over £4.4 million has been received and available to spend, a significant portion has been committed towards projects. Other contributions are held while projects are being finalised. Officers are in regular discussion with infrastructure providers, such as the police and the health authority to ensure that these contributions are spent on relevant projects within the terms of the relevant agreement.
- 3.3 Throughout the past 18 months, improvements have been made to processes for monitoring and spending of contributions. This includes:
- i) Regular S106 reconciliation with finance
  - ii) Early liaison with developers prior to trigger points for payments
  - iii) Invoicing for all contributions owed and monitoring payments received to enable a more efficient monitoring system between service areas
  - iv) Working closely with other council services to identify where payments are due
  - v) Update of how S106 data is recorded to enable better tracking of contributions that are due, received and spent
  - vi) Clawback dates are now included on the quarterly S106 reports to each Parish council
  - vii) Provision of regular information and updates to the Parish Forum
  - viii) Providing Members with information about payments secured and expenditure
- 3.4 Some S106 agreements require the Council to pay back monies that remain unspent after a certain period of time (typically 5 years). All contributions should be spent in accordance with the details in the relevant S106 agreement. Improvements made as set out above make sure that pro-active work takes place with the relevant bodies to ensure this occurs. Discussions also take place with local communities to identify projects in their area to ensure that contributions are spent promptly.

- 3.5 Following the 2014 internal audit, work has continued to reconcile financial information relating to S106 contributions. This has identified an additional £124,384 in indexation which has now been received from developers. An additional £94,061 was received from developers which is due to be released to the PCC and the NHS when requested.
- 3.6 These investigations have also revealed that contributions of £130,599 were received in relation to S106 agreements dating back over ten years. This comprised £91,742 for play and open space and £38,857 for transportation and parking. Work has now been undertaken to attribute the former sum to works undertaken previously and transfer to appropriate bodies for the play and open spaces element, leaving a small amount to be confirmed for transportation and parking. Work on this is continuing.
- 3.7 Table 3, below shows the following contributions have approximately two years left to be spent. Relevant organisations have been informed of the timescales as part of quarterly updates.

**Table 3: S106 Contributions to be spent by 2019**

Organisation	Site	Contribution	5 year date
Stoke Golding	Mar City Developments, Stoke Golding	£17,256.20	17/4/2018
Bagworth	12/00127/FUL Land South of Maynard	£69,630.17	15/05/2019
Burbage	Henton Engineering 10/00883/FUL	£10,407.23	10/01/2019
Burbage	Land South of Britannia Road 10/01079/FUL	£ 8,019.62	16/12/2019

#### 4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

- 4.1 This report is to be taken in open session.

#### 5. FINANCIAL IMPLICATIONS [AW]

- 5.1 Contained within the body of the report.

#### 6. LEGAL IMPLICATIONS [MR]

- 6.1 The section 106 agreements will typically have a clause which provides for the repayment of contribution monies which have not been spent by HBBC (or the relevant parish council although HBBC will continue to be responsible under the repayment obligation) within the agreed time period within the agreement.

6.2 Such repayments are usually payable on demand by the payer (usually the developer) but whether or not the developer can lawfully reclaim the contributions will depend on the date when the repayment obligation kicks in, and the provisions of the Limitation Act 1980, and these factors will need to be considered in each case in the matters raised in 3.6.

## 7. CORPORATE PLAN IMPLICATIONS

- 7.1 This report contributes to Aim 1 of the Corporate Plan – Creating a vibrant place to work and live.

## 8. CONSULTATION

- 8.1 None required.

## 9. RISK IMPLICATIONS

- 9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. Since the issues were first identified, a significant amount of time has been spent by Officers across the Council in reconciling different databases and reporting systems so that they are now aligned.
- 9.3 Measures are in place to ensure resilience of the processes going forward which include;
- monthly meetings between compliance and monitoring and finance officers
  - the investigation of producing a joint database to record all transactions
  - monthly internal meetings between relevant officers to monitor S106 income and expenditure.

The risks associated with work have been identified, assessed and that controls are in place to manage them effectively.

- 9.5 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	Ensure that processes are in place to mitigate any risks	Nic Thomas

## 10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 10.1 The effective monitoring of S106 contributions and engagement with Parish Council's and Neighbourhood Plan Groups allows local communities to identify and prioritise improvements to local facilities and infrastructure.

## 11. CORPORATE IMPLICATIONS

- 11.1 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
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Background papers: None

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