



**FINANCIAL CONTRIBUTIONS TOWARDS PLAY AND OPEN SPACE
REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)**

WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

1.1 To update Members of the Scrutiny Commission of the following relating to play and open space contributions secured by S106 planning obligations:

- a) New planning obligations and payments secured during 2014;
- b) Payments received during 2014;
- c) Payments outstanding as at 31 December 2014;
- d) Enforcement update relating to unpaid play and open space contributions.

2. RECOMMENDATION

2.1 That Scrutiny Commission notes the report.

3. BACKGROUND TO THE REPORT

3.1 3.1 Developers can be requested to provide financial contributions towards infrastructure to mitigate against the impact of a development. Examples of infrastructure are providing a new school, improving a local park or providing a new road junction to mitigate against the impact of a new housing development. The contribution may only be requested if it meets statutory tests.

3.2 On 16 January 2014, a report was brought to Scrutiny Commission to update Members of expenditure received and spent during the preceding 10 year period. That report stated that during the 10 years to December 2013, the council had secured just over £4.5 million towards play and open space.

3.3 During 2014, new procedures have been introduced to improve the processes for recording and monitoring S106 data. A dedicated officer engages with developers and Parish Councils on a regular basis to monitor payment 'trigger' points. Regular information is now sent to Parish Councils to update them with details of what money is available and how it can be spent.

3.4 The total amount of S106 public open space money held by the council, which is available to spend by Parish Councils (and the Borough Council in the case of Hinckley), is £995,000. This includes payments received this year and payments received before 2014 that have not yet been spent. A proportion of this money is to be used to provide new or improved facilities while the remainder relates to the maintenance of these works. A further £783,000 could be received if and when extant planning permissions are implemented and relevant trigger points are reached.

3.5 The amount of money negotiated by the council in 2014 as part of S106 agreements amounted to £336,000. This was split across 43 S106 agreements and undertakings. Of this, £18,000 has so far been received. The remainder is not due because trigger points have not been yet been reached. This money will be collected and available to spend once each development reaches the appropriate stage.

Obligations Nearing Claw-back Date

- 3.6 As part of the 16 January 2014 report, Scrutiny Commission was updated about contributions that had not been spent which were near to the date at which the payments needed to be returned to the developer (5-year claw back period). Three S106 agreements were identified, which cumulatively amounted to £100,000, had been due to be returned if not spent. Two of these payments have now been spent and therefore did not need to be returned to the developer. There is one payment that needs to be spent during 2015:

Parish	Site	Contribution	5 Year Claw-back Date
Carlton	83 Main Street	£11,867.90	15 June 2015

- 3.7 This off-site open space contribution comprises £7,979.40 in respect of the provision and/or improvement of off-site public open space and £3,888.50 for maintenance. Discussions are underway with the Parish Council to allocate this contribution to the Carlton Jubilee Orchard site with is currently being cultivated and planted by the Carlton Gardening group. The fact that only one contribution is nearing its 5-year claw back date is reflective of the pro-active work that is now taking place to ensure that Parish Councils identify suitable projects to spend money as soon as it becomes available.

Enforcement Cases

- 3.8 As part of new procedures introduced in 2014, improvements have been made to the monitoring of planning permissions to identify when triggers have been reached and payments are due. This has involved reviewing historic planning permissions and carrying out site visits across the borough. The work involved in reviewing and historic decisions and chasing developers for payments is extensive and time consuming, but has so far recovered a significant amount of money for both public open space and other infrastructure.
- 3.9 There are presently two unresolved enforcement cases relating to historic planning applications that have been implemented, but public open space contributions have not been paid. The first relates to Outwoods Timber Yard, Burbage (£13,448.57 due). That was a proposal for six houses and the payment has been outstanding since 2005. The second case relates to the King William IV PH, 35 Station Road Market Bosworth (£1,299 due). This was a proposal to convert the public house into four town houses. The payment has been outstanding since 2011. In both cases attempts to recover the payments by sending invoices and other correspondence has proven unsuccessful. Both cases are with the council's solicitors to consider whether it would be appropriate to take legal action to recover the funds.

4. FINANCIAL IMPLICATIONS (SJE)

- 4.1 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.
- 4.2 As at the 31st March 2014, the amounts that the Council holds in respect of contributions from developers are:
- | | |
|--------------------|---------|
| S106 | £782k |
| Play & Open Spaces | £1,635k |

5. LEGAL IMPLICATIONS (MR)

- 5.1 None.

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
If monies are paid within the timescale but not used for the purpose identified or not used at all, then these may be clawed back by the developer / applicant.	Monitoring of database Monthly reports to all Parish Councils highlighting contributions at risk of being clawed back in the near future	Nic Thomas / Andrew Thompson

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

9.1 The report provides an update to Scrutiny Commission relating to S106 play and open space contributions. This includes payments made to local communities to improve local facilities. The justification for the requirement for financial contributions and how they are spent are determined through the consideration of individual reports to Planning Committee.

9.2 As this report does not propose any amendment to a service or policy, an Equality Impact Assessment is not relevant.

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
 - Human Resources implications
 - Planning Implications
 - Voluntary Sector
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Background papers: Section 106 Database

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