

TITLE OF REPORT: SECTION 106 DEVELOPER CONTRIBUTIONS

REPORT OF THE HIGHWAYS DEVELOPMENT CONTROL SERVICES MANAGER

1. PURPOSE OF REPORT

- 1.1 To inform the Panel of the use of the Section 106 process to secure highway funding and use of that funding.

2. BACKGROUND

- 2.1 In its role as the local Highway Authority the County Council has statutory duties under the Highways Act to maintain the highway network and promote safety for all users. As a statutory consultee under the Town and Country Planning Act on planning applications that affect publicly maintained highways, HCC must consider planning applications in terms of their impact on the highway to ensure that development proposals will not have a detrimental impact for users of the highway.
- 2.2 Planning obligations (or S106 agreements) are private agreements negotiated between local planning authorities (LPAs) and persons having an interest in land. The statutory provisions for planning obligations are set out in Section 106 of the Town and Country Planning Act 1990. Planning obligations are intended to make acceptable developments which would otherwise be unacceptable in planning terms.
- 2.3 Obligations must only be sought where they meet all of the following tests as set out in the ODPM Circular 05/05:
- relevant to planning;
 - necessary to make the proposed development acceptable in planning terms;
 - directly related to the proposed development;
 - fairly and reasonably related in scale and kind to the proposed development; and reasonable in all other aspects.
- 2.4 Planning obligations of most relevance to the Joint Member Panel will be in respect of highways and transportation. However they can cover every aspect of community infrastructure under local authority control. Money is therefore also sought in these areas: education, libraries, youth, childcare, fire and adult care. In special circumstances, obligations can also be sought to cover archaeology, biodiversity, minerals and waste management. Since the S106 agreements are made by the Local Planning Authority, the District Council is also entitled to seek

obligations in respect of the services and/ or infrastructure under its control that would be adversely affected by development.

- 2.5 The HCC Highways Development Control Planning Team is part of the Transport Planning & Policy Unit (TPPU) based at County Hall. It is responsible for the assessment of development plans, responding to consultations from LPAs on planning applications, assessing the transportation implications and negotiating any planning obligations. The team deals with about 6000 planning applications every year.
- 2.6 The team is overseen by the Highways Development Control Service Manager and four Area Managers are responsible for the comments on planning applications, S106 agreements, and planning policy consultations in their respective areas. The areas have been split to mirror the four quadrants of Hertfordshire Highways to give ease of contact to Members and colleagues within the partner organisation.
- 2.7 Each Area Manager is responsible for a team of Development Control Engineers and Transport Engineers which varies in size depending on the area covered and number of applications generally received. Manjinder Sehmi is the Area Development Control Manager for North Hertfordshire /Stevenage District Area and Roger Taylor is the Development Control Engineer for North Herts District and supported by Rosemary Chatindo.
- 2.8 The unit has a Transport Planner specialising in S106 legal agreements, providing support (as required) to the Highways Development Control Service Manager on planning applications across the County. This officer prepares the S106 contributions listings that are to be presented to the Joint Member Panels. He also attends the quarterly area steering group meetings with District and County officers, where the listings are reviewed in detail and competing uses of funds are debated for that particular district.

3. ISSUES

Negotiating Planning Obligations

- 3.1 The County Council has recently approved specific guidance for officers and developers regarding the S106 process. The toolkit sets out a standard charge for highways and sustainable transport based on the number of dwellings or vehicle trips associated with a proposed development.
- 3.2 The development of this guidance is in line with best practice to speed up the planning process and give more certainty to developers of what may be required from them. It extends the range of developments from which S106 contributions are received and provides a general guide on how to deal with larger developments which are still negotiated on an individual basis.
- 3.3 The majority of S106 negotiations across the County are for small developments and the approved document and scales of fees are used. County members are consulted on larger developments. Representatives from Hertfordshire

Highways, Passenger Transport Unit and Rights of Way Unit are also consulted and are invited to list measures that they may desire the developer should provide to mitigate the impact of the development. Officers from these units are at the front line of the service and will be aware of local issues, needs, and priorities; they also have regular contact with Members and the community.

- 3.4 A key issue in relation to S106 obligations is that the process is a negotiation with the developer and will be dependant on their willingness to provide the obligation. It also requires the support of the LPA. Where possible Development Control Engineers may seek to maximise the utility of planning obligations with wide descriptions of use and long or even open ended timescale for use. However each developer will have its own views on obligations and hence there are variations in style of agreement. Planning obligations are always index-linked to protect their value over time.

Expenditure of Planning Obligations

- 3.5 In order to identify schemes to be funded from S106 money, officers consider requirements of the legal agreement, appropriate schemes and priorities, and consult Members for guidance. In number of Districts the S106 Development Control Engineer updates the A3 sized table and attends quarterly meetings with officers from Hertfordshire Highways and District/ Council. The table is reviewed in detail and competing uses of funds are debated. Emphasis is put on ensuring that obligations nearing their end date are committed to avoid their having to be passed back to the developer.
- 3.6 Possible schemes are then reported to Members through the Highways Joint Member Panels and final approval of expenditure is determined through the process agreed by HCC Cabinet in November 2006. This requires the agreement of the County Secretary, the Finance Director and the Executive Member for Performance & Resources.

5. LEGAL IMPLICATIONS

- 5.1 The expenditure of S106 funding must be fully in accordance with the terms of the relevant legal agreement.

6. FINANCIAL AND HUMAN RESOURCE IMPLICATIONS

- 6.1 The expenditure of S106 finance has been scrutinised by HCC and is regularly audited. A total of £3.2million has been signed off County wide for expenditure in the current financial year. Improvements to record-keeping systems are in hand to give total spends in each district in future financial years.
- 6.2 No human resource implications arise from this report.

7. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

7.1 HCC members are consulted as part of the negotiation process for the development, as outlined above.

7.2 Possible schemes are reported to the JMP as part of the regular programme of reports.

8. RECOMMENDATIONS

8.1 That Members note the process for the negotiation and expenditure of planning obligations and make any comments or recommendations on it to the District Manager.

9. REASONS FOR RECOMMENDATIONS

9.1 To enhance members' awareness of the process for the negotiation and expenditure of planning obligations.

9.2 To enable the Panel to make comments or recommendations regarding the existing process.

10. APPENDICES

10.1 Appendix A: List of S.106 developer highway contributions currently held by HCC applicable to the North Hertfordshire District area.

11. CONTACT OFFICERS

11.1 Manjinder Sehmi, HCC Area Development Control Manager 01992 556128

12. BACKGROUND PAPERS

12.1 None.

S106 Contributions - North Herts

Appendix A

Site	Available 2008/09 (As at 1/4/08)	Use* (*all contributions must be spent on services that will meet needs arising from the relevant developments)	Refund Criteria	Status	Possible Schemes (see note)
Orchard Way Knebworth	£865	Highway improvements that reduce the impact of the development on the highway network in the vicinity of the development.	Within 28 days of written request half of funds only (With County Secretaries)	S106 funding allocated and approved (CS99 raised and authorities received) OR No refund date OR 5 years or more remaining before contribution due for refund	
Sainsbury's, Avenue 3, Letchworth	£14,607	Cycle schemes set out in North Herts Towns Cycle Route Network Survey or any cycle track in the vicinity of the development	30/06/2010	S106 funding not allocated AND / OR less than 3 years remaining before refund date	Measures as defined in the Letchworth and Baldock Transport Plan (SDM)
Land at Broadway Letchworth	£1,507	The resurfacing of the footway on Broadway forming part of the development	None		Measures as defined in the Letchworth and Baldock Transport Plan (SDM)
Fourth Avenue Letchworth	£7,570	The design and construction of a new bus stop facility on Fourth Avenue in the vicinity of the Development and the progression of Letchworth Cycle Route No. 2	01/10/2006	S106 funding not allocated AND / OR less than 3 years remaining before refund date	Awaiting PTU response
Unit 1, Royston Business Park, Royston	£26,606	a) Towards improvements to the existing bus stop and/or the provision of a bus shelter on Orchard road, in the vicinity of the land, b) Improvements to the existing pedestrian/cycle routes to the Royston Industrial area, c) Implementation and promotion of a traffic regulation scheme to restrict on-street parking in the vicinity of the Land should the County Council observe any overflow parking from the Land onto the local highway	5th anniversary of the date of notification of completion		
Orchard Road, Royston	£31,117	Two bus shelters and associated works in Old North Road Royston.	19/04/2007		Bus stop improvements (PTU)
Unit 4, Bilton Road, Cadwell Lane Industrial Estate Hitchin	£26,623	Upgrading of the Cadwell Lane/Grove Road light controlled junction	None		Light Controlled junction and junction improvements (SDM)
Johnson Matthey Site, Orchard Road, Royston	£23,238	Transportation works set out in the North Hertfordshire Transportation Plan	02/02/2015		
Unit 2, Business Park, Greenfield, Royston	£25,198	Highways Contribution towards (a) improvement to the existing bus stop and/or the provision of a bus shelter on Orchard road, Royston in the vicinity of the land, (b) improvements to the existing pedestrian/cycle routes to the Royston Industrial area, (c) the implementation and promotion of a traffic regulation scheme to restrict on-street parking in the vicinity of the Land should the County Council observe any overflow parking from the Land onto the local highway network.	5th anniversary of the date of notification of completion		
Land to the West Side of Old North Road, Royston	£86,340	£15000 towards design and construction of highway improvement works, traffic management schemes, traffic studies, improvements to public transport or other such measures as will encourage users of the development to travel to and from the development by means of transport other than the private car which will contribute to the improvement of highway conditions on parts of the network affected by traffic associated with the development £55,000 towards the improvement of the Royston cycle Network	10th anniversary of receipt As above		
William Ransome Site, Whinbush Road, Hitchin	£74,966	Sustainable transport measures in the locality of the development	18/10/2015	0809/NHDC/12 - £74966 - Hitchin Station Interchange improvements (Approved)	Possible use towards station interchange, hitchin (PTU)
Land at Cooks Way, Hitchin (former A & B Glassworks)	£66,520	sustainable transport in the area.	14/11/2017	0809/NHDC/12 - £66520 - Hitchin Station Interchange improvements (Approved)	Possible use towards station interchange, hitchin (PTU)
18-20 Stevenage Road, Hitchin	£7,854	Sustainable transport	None		Recently Received
Hillgate, Wilbury Way, Hitchin (Note - individual split of values for each strand to follow. Contact TPP for more details in the interim)	£32,236	Towards the implementation of a traffic regulation scheme to restrict on street parking in the vicinity of the Land should the County Council observe any overflow parking from the Land onto the local highway. Towards the cost of improving access to the Wilbury Way industrial area by cyclists to and from Hitchin town centre.	5th anniversary of the date of notification of completion		
88 Walsworth Road, Hitchin	£11,800	sustainable transport measures in the vicinity of the property	5 years from implementation of second permission	0809/NHDC/12 - £11800 - Hitchin Station Interchange improvements (Approved)	Possible use towards station interchange, hitchin (PTU)
Crown and Sceptre House, Bridge Street, Hitchin	£12,252	Provision of sustainable transport measures within the locality of the development	10th anniversary of completion		Recently received
Total	£449,301				

- 1) 'Possible Schemes' are those identified by HCC as appropriate to the expenditure of the contribution, however these may be subject to change
- 2) All allocations are subject to a formal application in accordance with HCC Cabinet resolution 20/11/06 "prior to committing S106 monies to specific projects the relevant service Chief Officer shall consult the County Secretary, the Finance Director and the Executive Member for Performance and Resources"
- 3) CS99's once approved are valid for the financial year within which they are raised. A new CS99 is required for each new financial year within which the funds are requested or if additional funding is required to that already approved
- 4) All use of S106 monies MUST be in accordance with that specified within the 'Use' column i.e. the definition as per the S106 legal agreement