

Report to the District Development Management Committee

Report Reference: DEV-002-2017/18
Date of meeting: 10 July 2017



**Epping Forest
District Council**

Subject: Section 106 Legal Agreements – Annual Report 2016/17.

Responsible Officer: Nigel Richardson (01992 564110)

Democratic Services: Gary Woodhall (01992 564470)

Recommendation:

(1) To note the progress with completion and implementation of the provisions of Section 106 agreements from April 2016 to March 2017;

Report Detail:

1. A register is held by the Council covering all Section 106 Agreements since 2001 and is monitored by Nigel Richardson, Assistant Director of Governance (Development Management). Every year, an annual report is prepared for members setting out the year's record of progress in the completion of agreements and in securing the benefits negotiated. The details of this are set out at the end in Part 1 and Part 2 of this report. In recent years it has been reported to Governance Select Committee, but as it is an end of year report, it was decided that future annual reports will instead be made to the District Development Management Committee.

What are Planning Obligations?

2. Section 106 of the Town and Country Planning Act 1990 allows a local planning authority to enter into a legally-binding agreement or planning obligation with a land owner/developer over a related issue in association with the granting of planning permission. The planning obligation is often termed simply as a 'Section 106 Agreement' (other common terms used are developer contributions, planning contributions or planning agreements).

3. These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms and sought when planning conditions are inappropriate. Over the years they have increasingly been used to support the provision of services and infrastructure, such as education, health and affordable housing, including a financial contribution from the developer towards their provision. They are binding on the land to which the Permission relates and whoever owns it, so they pass from owner to owner if the land is sold.

What do they do?

4. Section 106 Agreements are designed to:

- (a) ease the impact of a new development on the local community;

(b) compensate the local community for any impact caused by a development, for example, if open space is lost, or there is an identified need to improve the highway network; and

(c) help shape the new development, for example to ensure that a certain proportion of houses on the development are provided as affordable housing.

When Can They be Used?

5. They are not to be used simply to take a share of the developers' profits into the public purse for that can result in the accusation that the Council is 'selling' planning permissions, nor are they to be used to gain a benefit that is unrelated to the development. Local Authorities should ensure that the combined total impact of such requests for contributions does not threaten the viability of the site and scale of development and that no more than 5 contributions can be used for a single infrastructure or community project.

6. The eligibility criteria for Section 106 contributions secured through the planning system are defined by legislation and set out in the Community Infrastructure Levy Regulations 2010 and National Planning Policy Framework (NPPF). Paras 203-205 of the NPPF state that Section 106 planning obligations should meet the following three tests:

- (a) be necessary to make the development acceptable in planning terms;
- (b) be directly related to the proposed development; and
- (c) be fairly and reasonably related in scale and kind to the proposed development.

7. Planning obligations should always be relevant to and proportionate to the scale and kind of the development in question. Unrelated or unnecessary planning obligations are not a means of securing planning permission for unacceptable development, as case law has established. A formal assessment of Section 106 contributions is made on a case-by-case basis, but having clear planning policies and evidence on what is required helps to reduce uncertainty.

Performance for the Year 2016/17

8. The Appendix to this commentary is divided into two parts:

(a)) Part 1 lists all those agreements (or obligations) entered during the past year, there are 6 in total; and

(b)) Part 2 provides a list of benefits actually realised through the year, including monies received where work has commenced on site, there are 11 in total.

9. Benefits negotiated through the year (**from Part 1 below**) will provide:

- a total of at least £5,352,758 to be received into the public purse, including among others;
- transfer of land to Epping Forest District Council and open space;
- affordable housing contribution; and

- funding for a local bus service for Chigwell.
10. Benefits actually realised through the year (**Part 2 below**) have provided:
- a total of £2,834,014 received into the public purse.

PART 1

Section 106 Agreements concluded between April 2016 and March 2017

- 1. EPF/1891/15 – 8 Houses** granted 30/06/2016
The Paddocks, Grove Lane, Chigwell
Benefit – £50,000 for Chigwell PC to maintain public open space.
- 2. EPF/1862/15 – 43 Houses** granted 01/08/16
Grange Farm, High Road, Chigwell
Benefit – Accessway commuted sum - £104,377, Open Space Commuted Sum - £395,141, Plant defect sum - £13,419, Sports pavilion & interpretation Centre - £898,901, Chigwell Bus Contribution - £100,000, Affordable Housing contribution - £440,344 (plus a possible deferred contribution of £779,655 prior to occupation of last 3 units, subject to viability review).
- 3. EPF/2969/15 – Replacement house** granted 31/08/16
Debden Hall, Debden Lane, Loughton
Benefits – Maintenance Contribution to Home Mead Nature Reserve of £33,180, Transfer 1.38ha "Yellow Land" to EFDC & use as public amenity.
- 4. EPF/3257/16 – Refurbishment of Chigwell Primary Academy and 32 houses enabling development** granted 30/03/17
Chigwell County School, High Road, Chigwell
Benefits - £2,000,000 Affordable Housing Contribution, £800,000 Chigwell Bus Contribution.
- 5. EPF/220716 – Outline application for Health Centre building; 60 Independent Living Older Persons Apartments (min 40% rented affordable housing), Leisure Centre and Swimming Pool Building** granted 21/03/17
Hillhouse Community Centre and Open Space, Waltham Abbey
Benefits - Health Centre Contribution - £36,910, Independent Living Contribution - £166,090.
- 6. EPF/1162/15 - 79 residential units (63 of which are affordable) and associated Children's Day Nursery** granted 14/04/16
Knollys Nursery, Pick Hill, Waltham Abbey.
Benefits - £25,920 NHS Healthcare contribution, £288,476 Primary School contribution.

PART 2

Benefits Carried Out or received between April 2016 and March 2017

1. **EPF/1730/00** agreement concluded 17/02/2002
Pan Brittanica Site, Sewardstone Road, Waltham Abbey
£10,000 spent on Waltham Abbey museum garden and £9,000 on Mosaic for the Meridian Line in Sun Street.
2. **EPF/2439/10** agreement concluded 16/08/2011
Loughton Sports Centre, Rectory Lane, Loughton – 72 Bed care Home
£64,500 to NHS England - Primary Care Health Contribution.
3. **EPF/2534/14** agreement dated 02/06/2015
Barnfields, Epping Road, Roydon – 23 houses (11 affordable)
£74,748 Secondary education contribution and £17,492 Secondary transport contribution.
4. **EPF/2163/13** agreement dated 28/03/2014
Sir Winston Churchill PH, The Broadway, Loughton – 64 flats
£96,008 Education Contribution and £14,000 Health Care Contribution.
5. **EPF/1007/15** agreement concluded 11/09/2015
Land at Burton Road, Loughton – 51 Affordable Homes
£16,720 Local Healthcare Contribution.
6. **EPF/1103/15** agreement concluded 12/11/2015
Former Tennis Courts, Alderton Hill, Loughton – 38 Elderly Retirement Apartments
£358,500 off-site Affordable Housing Contribution.
7. **EPF/1162/15** agreement concluded 14/04/2016
Knollys Nursery, Pick Hill, Waltham Abbey
£145,598 (Half) Primary School Contribution received.
8. **EPF/1862/15** agreement concluded 01/08/2016
Grange Farm, High Road, Chigwell – 43 Houses
£100,000 Chigwell Bus contribution and transferred to Chigwell PC, £440,344 Affordable Housing contribution, £764,746 of Sports pavilion & interpretation centre received and transferred to Grange Farm Trust, £294,133 (part) to Access Way Commuted Sum, Open Space Commuted Sum and Plant defect sum.
9. **EPF/1349/15** agreement concluded 13/05/2016
Stone Hall Farm, Downhall Road, Matching Green – 9 Houses
£70,000 Affordable Housing Contribution and £10,000 community safety infrastructure contribution.
10. **EPF/2696/13** agreement concluded 20/03/14
Former Substation Site, Station Way, Buckhurst Hill – 11 Flats
£32,504 Education Contribution.
11. **EPF/0853/14** agreement concluded 26/03/2015
Former Spurs Training Ground and Land at Luxborough Lane, Chigwell

£72,823 Early Year & child education, £30,006 Secondary School Education,
£212,892 Primary school contribution.