

Forest Heath & St Edmundsbury councils

**West Suffolk**  
working together

# West Suffolk s106 Developers Contributions Annual Report

September 2016

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# Introduction

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The West Suffolk Planning Service negotiates and secures planning obligations that are necessary to ensure new development within West Suffolk is sustainable and meets the policy requirements, both nationally and locally. The National Planning Policy Framework (NPPF) sets out how these planning obligations are to be considered and then they are agreed within a legally binding process, commonly referred to as Section 106 (s106). Our local policies reflect any bespoke areas of West Suffolk that may be affected by new development and our development plan policies which, together with supplementary planning documents, form the basis for any local policy requirements.

The items that form planning obligations cover infrastructure requirements including schools, highways, public open

space and affordable housing. The West Suffolk Planning Service secured planning obligations for all these items of infrastructure and where on-site provision is not appropriate, financial contributions have been agreed. Suffolk County Council is responsible for contributions towards the provision of education, libraries and highways and the West Suffolk authorities (Forest Heath District Council and St Edmundsbury Borough Council) are responsible for contributions towards public open space, community facilities and affordable housing.

This report then focuses on the financial contributions paid to the two West Suffolk councils, the sums paid, where these have been spent and the balance of unspent monies at the end of the last financial year.



# What are s106 developer contributions?

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Under section 106 of the Town & Country Planning Act 1990 (s106) a Local Planning Authority (LPA) can seek obligations, both physically on-site and contributions for off-site, when it is considered that a development will have negative impacts that can't be dealt with through conditions in the planning permission. For example, new residential developments place additional pressure on the existing social, physical and economic infrastructure in the surrounding area. Planning obligations aim to balance the extra pressure from development with improvements to the surrounding area in order that a development makes a positive contribution to the local area. s106 obligations may restrict the development or use of land, require specified operations, provisions or activities to be carried out and/or require a sum of money to be paid to the local authority.

The statutory test in the CIL 2010 legislation Reg. 122 states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is;

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

Once the s106 has been signed, it is an obligation, but it will only be realised if the planning permission is implemented and reaches the trigger point for payment such as commencement or prior to occupation. When the planning permission is granted the s106 obligation is registered as a Land Charge and obligates the land owner, staying with the land, obligating future owners until the terms are met.

Where on site provision of infrastructure is not achievable or appropriate, contributions will be sought by the LPA, for the respective district or borough. County Council contributions, for the provision of services delivered by the County, such as education, transport, highways, waste and libraries, will be collected by the LPA and passed to the County Council for spending. The obligations can be secured bilaterally through agreements or unilaterally through undertakings offered to the LPA.

If the LPA collect a contribution for infrastructure it is responsible for delivering the monies will be held by the respective authorities and ring-fenced for its specific purpose. Legally s106 sums can only be spent on the intended purpose, in accordance with the relevant planning policy or supplementary planning document. This restriction in spending is then agreed in the s106 agreement.

# How s106 contributions can be spent

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Councils are restricted to spending s106 contributions on a defined purpose within each agreement or undertaking. Changes that affect how these contributions can be pooled or requested were introduced in November 2014. Although these restrictions were lifted for a short while they were back in force in August 2015 and remain in force at the present time.

## **Policy update 28 November 2014**

*"Contributions should not be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000sqm (gross internal area)."*

## **Policy update 28 November 2014**

*"National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace."*

## **Policy change under CIL Regs 2010 which came into force 6 April 2015**

*"Now, local authorities can no longer pool more than five s106 obligations together (dating back to March 2010) to pay for a single infrastructure project or type of infrastructure."*

These restrictions mean councils should not request any s106 contributions on small scale development and cannot request s106 contributions that would be pooled together for general infrastructure, such as off-site public open space contributions. These types of contributions must be for specific projects, for which up to five separate obligations can be pooled or requested, to deliver that specific project.

# Monitoring and reporting s106 contributions

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## **s106 Monitoring**

West Suffolk has a Development Implementation and s106 Monitoring Officer dedicated to the management of planning obligations. This post is funded by new development and the officer is responsible for recording and monitoring all the s106 obligations. The figures within this report are held within the councils' databases and are proactively monitored to aid delivery of infrastructure by ensuring all obligations are met and any associated spend is in accordance with the specified infrastructure need.

The legal obligations secured under the s106 agreement are monitored by visiting the development site, checking the progress being made and by contacting developers to ensure that the triggers for payment, or any other obligations, are met.

Our databases record and report on all s106 activity across the two councils and are used to answer requests for information, including those submitted under the Freedom of Information Act 2000.

Once contributions have been received, they are recorded and paid into ring-fenced accounts, such that the money can only be spent on the legally binding purpose agreed within the s106 agreement. The Development Implementation and s106 Monitoring Officer is responsible for the release of

these monies and monitors any time limit agreed for their expenditure.

## **s106 Annual Report**

As Forest Heath and St Edmundsbury work in partnership this is a shared annual report but as both councils have separate financial accountability the figures are reported separately.

This is the second joint s106 annual report, which sets out the developer contributions received and where the monies are spent. Having an annual s106 report makes information easily accessible to the public, through the West Suffolk website, which reduces the resources required to answer Freedom of Information requests.

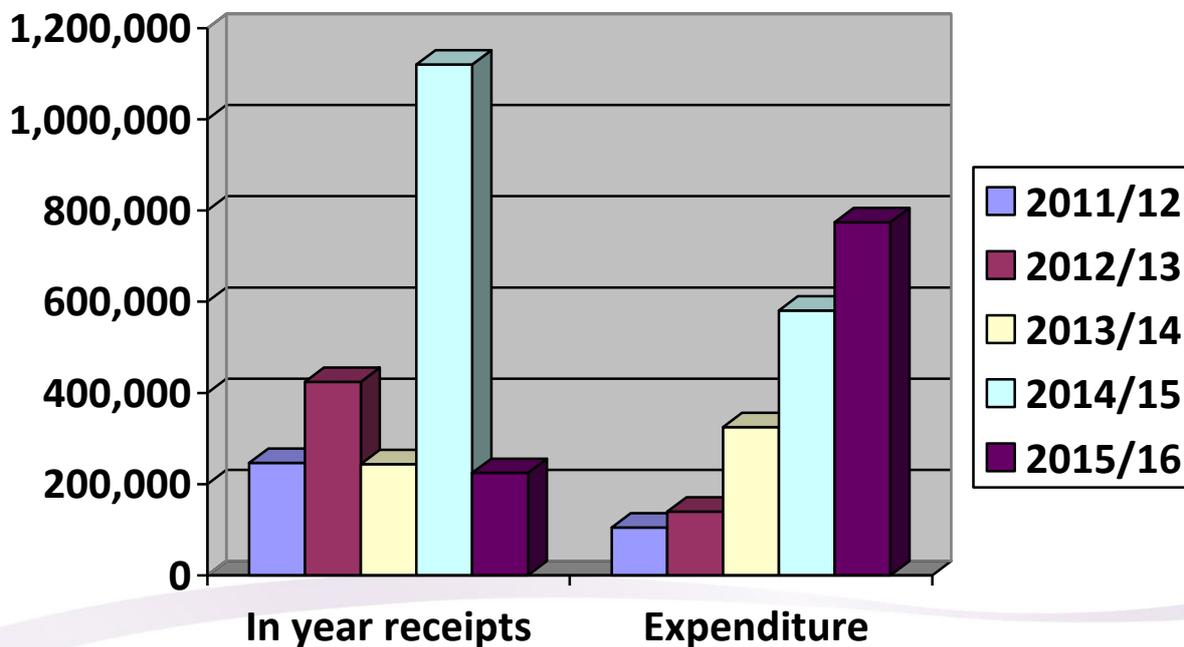
The first section for each authority tables the total amounts of all s106 monies paid in and spent for the respective councils over the past five financial years. The second section shows where the s106 monies have been spent and any related projects. The final section details the total balance of all s106 contributions held by the LPA up to the end of the financial year 2015/16. Certain sums are intentionally held for future expenditure, such as the maintenance of public open space and therefore are currently unspent.

# Forest Heath DC figures

## FHDC s106 transactions for the last five financial years

Financial year	Opening balance	In year receipts	Expenditure	Closing balance
<b>2011/12</b>	1,025,922	246,299	104,447	1,167,774
<b>2012/13</b>	1,167,774	424,131	139,659	1,452,246
<b>2013/14</b>	1,452,246	243,959	324,615	1,371,590
<b>2014/15</b>	1,371,590	1,120,483	580,507	1,911.566
<b>2015/16</b>	1,911.566	224,608	783,707	1,352,467

## FHDC s106 monies in and out by financial year



## Forest Heath DC s106 2015/16 spend

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Amount (£)	Project
<b>3420</b>	To Kennett & Kentford Playing Field Association for new village hall project.
<b>5645</b>	Adult training for staff at local businesses.
<b>3285</b>	To Red Lodge Parish Council for cricket pitch improvements.
<b>3661</b>	Trees at Yellow Brick Road, Newmarket.
<b>73,530</b>	Play park at Hodgkins Yard and for the Lady Wolverton play area, Newmarket.
<b>16,630</b>	To Exning Parish Council for a play area.
<b>1800</b>	To Lakenheath Playing Fields Association for football pitch improvements.
<b>1165</b>	To Red Lodge Parish Council for cricket pitch improvements.
<b>5000</b>	To Lakenheath Playing Fields Association for football pitch floodlights.
<b>13,000</b>	To Mildenhall Parish Council for a play area.
<b>481,446</b>	Allocated for the long term maintenance of the Sustainable Urban Drainage System (SUDS) at Red Lodge (owned by Forest Heath District Council) for future maintenance and repair.
<b>72,622</b>	Allocated for the long term maintenance of Waltons Way, Brandon, and Station Road, Lakenheath, play areas.

# Forest Heath DC s106 2015/16 balance

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<b>Infrastructure type</b>	<b>Balance £</b>
Public open space and play provision.	678,750
Red Lodge public art.	10,919
Kennett & Kentford village hall.	196,580
Beck Row community facility.	34,157
Adult training.	24,665
Car parking in Newmarket.	108,327
Red Lodge environmental.	116,932
Newmarket town marketing.	52,459
Newmarket town improvements.	65,049
Affordable housing.	12,162
NHS health.	52,467
<b>Total of s106 monies held at year end 2015/16</b>	<b>£1,352,467</b>

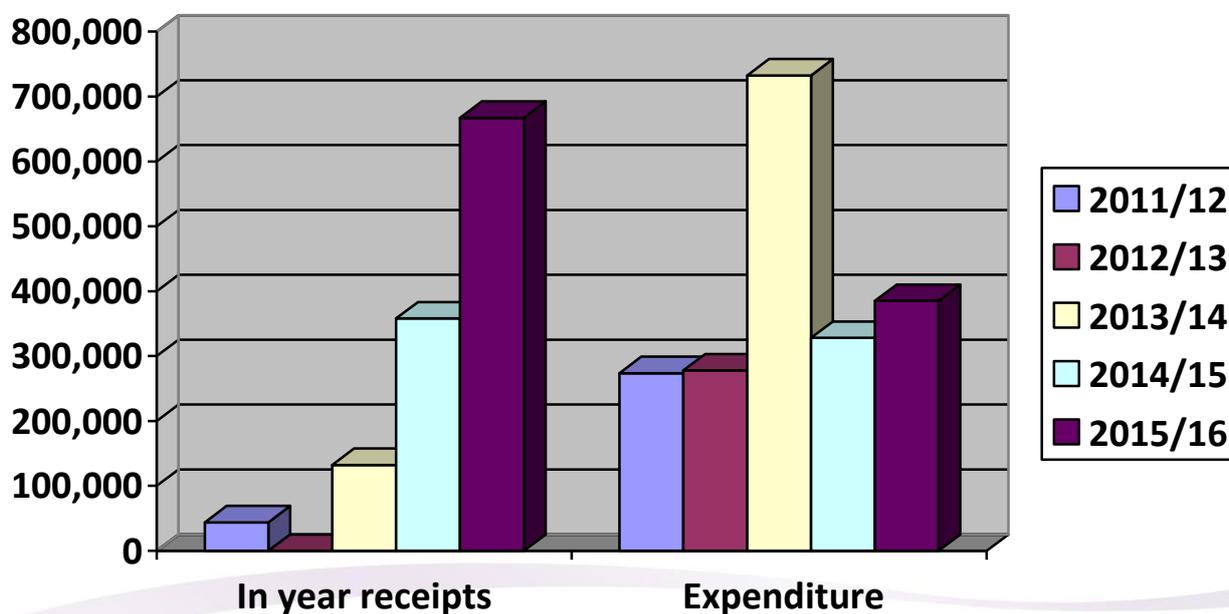
This table shows the s106 monies held by Forest Heath District Council at the end of the financial year 2015/16. Some of these sums have already been allocated for spending and will be released for the related project as soon as the project requires the money.

# St Edmundsbury BC figures

## SEBC s106 transactions for the last five financial years

Financial year	Opening balance	In year receipts	Expenditure	Closing balance
2011/12	2,277,241	43,756	273,720	2,047,277
2012/13	2,047,277	0	277,802	1,769,475
2013/14	1,769,475	132,347	732,658	1,169,164
2014/15	1,169,164	358,101	327,949	1,199,316
2015/16	1,199,316	667,197	385,050	1,438,595

## SEBC s106 monies in and out by financial year



## St Edmundsbury BC s106 2015/16 spend

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Amount	Project
<b>20,913</b>	Allocation to a Bury St Edmunds house to convert it to a house of multiple occupation for people who are homeless, resulting in significant savings from the need to provide temporary accommodation.
<b>4164</b>	Marketing and promotional materials for the 2015 Business Festival.
<b>236,895</b>	Moreton Hall Park open space project.
<b>17,640</b>	To Barrow Cum Denham Parish Council for improved community facilities.
<b>25,000</b>	Quendon Place play area (also known as Aeroplane Park) in Haverhill.
<b>62,346</b>	Priors Avenue play area Bury St Edmunds.
<b>14,676</b>	Off-road cycle track in Great Barton.

## St Edmundsbury BC s106 2015/16 balance

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Infrastructure type	Balance £
Affordable housing.	24,579
Cycle stands.	5230
Employment initiatives.	535,160
Community facilities and sports provision.	84,973
NHS health.	52,410
Public open space and play provision.	578,315
Public art.	3134
Public realm & town centre marketing.	53,384
Bulk contributions.	101,410
<b>Total SEBC s106 monies held at year end 2015/16</b>	<b>£1,438,595</b>

This table shows the s106 monies held by St Edmundsbury Borough Council at the end of the financial year 2015/16. Some of these sums have already been allocated for spending and will be released for the related project as soon as the project requires the money.

The term "Bulk contributions" refers to payments made in part, collected from a large development, where the s106 agreement has agreed payment for different types of infrastructure. Once the full payment has been made the individual sums will be transferred into the appropriate places (such as education, highways, public open space).

# The future, what is CIL?

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The current way we ensure development is sustainable, through s106 obligations, will remain but may be restricted to deal only with on-site infrastructure, such as a new school, public open space, play areas and affordable housing. A new way of collecting financial contributions from new developments is called the Community Infrastructure Levy (CIL).

The idea of CIL is to assess the potential for new development within the district or borough of a local planning authority, to pay for the infrastructure required to make the bulk of strategic sites sustainable. The assessment allows for a developer to provide the local affordable housing policy target, (30% here in West Suffolk) and thereafter pay a standard charge, known up front, to meet all other infrastructure requirements for their development.

The local planning authorities within Suffolk worked together and jointly commissioned Peter Brett Associates (PBA) to undertake the initial CIL assessment.

This initial assessment tested the viability of potential development across West Suffolk. The second stage saw the two West Suffolk authorities move forward with PBA to produce a report, indicating the possible rates that could be charged within West Suffolk.

We are currently preparing policy documents such as the Infrastructure Delivery Plan and an update to the Open Space Sport and Recreation Facilities Supplementary Planning Document. Once completed these will

inform and support a Draft Charging Schedule, which sets out any charges for the CIL. Once the Charging Schedule is taken through a public consultation process, our CIL charge will be brought before the Planning Inspectorate for approval.

The new CIL charges will then be brought before our councillors for formal adoption. After that time the councils will use both s106 and CIL, where applicable, to continue to ensure development within West Suffolk is sustainable and meeting the national and local planning policies which help create vibrant and sustainable communities.

The new CIL will not fully replace s106 obligations but will be an alternative to the way in which the councils secure obligations currently. s106 will still be the preferred method for securing all on-site infrastructure and for all obligations on larger sites.

