

What are s106 developer contributions?

Under section 106 of the Town and 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:

- necessary to make the development acceptable in planning terms
- directly related to the development
- 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

Councils are restricted to spending s106 contributions on a defined purpose within each agreement or undertaking. Collecting more than one contribution and "Pooling" them together allows us to meet the cost of larger infrastructure projects, by utilising many smaller contributions from different developments. However in April 2015 the government brought in legislation that restricted such pooling, limiting up to five separate contributions for the same infrastructure project.

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

"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 are now expected to be removed but at the time of writing this report they are still in force. The restriction applies when requesting a contribution, therefore we have to consider what the contribution is going to be spent on and ensure we have not secured more than four other contributions, in separate s106's for the same project.

Monitoring and reporting s106 contributions

s106 Monitoring

West Suffolk has a planning obligations officer dedicated to the management of planning obligations. This post has been 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 planning obligations officer is responsible for the release of these monies and monitors any time limit agreed for their expenditure.

s106 Annual Report

Forest Heath and St Edmundsbury worked in partnership during 2018/19 so this is a shared annual report but as both councils had separate financial accountability the figures are reported separately.

This is the fifth 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.

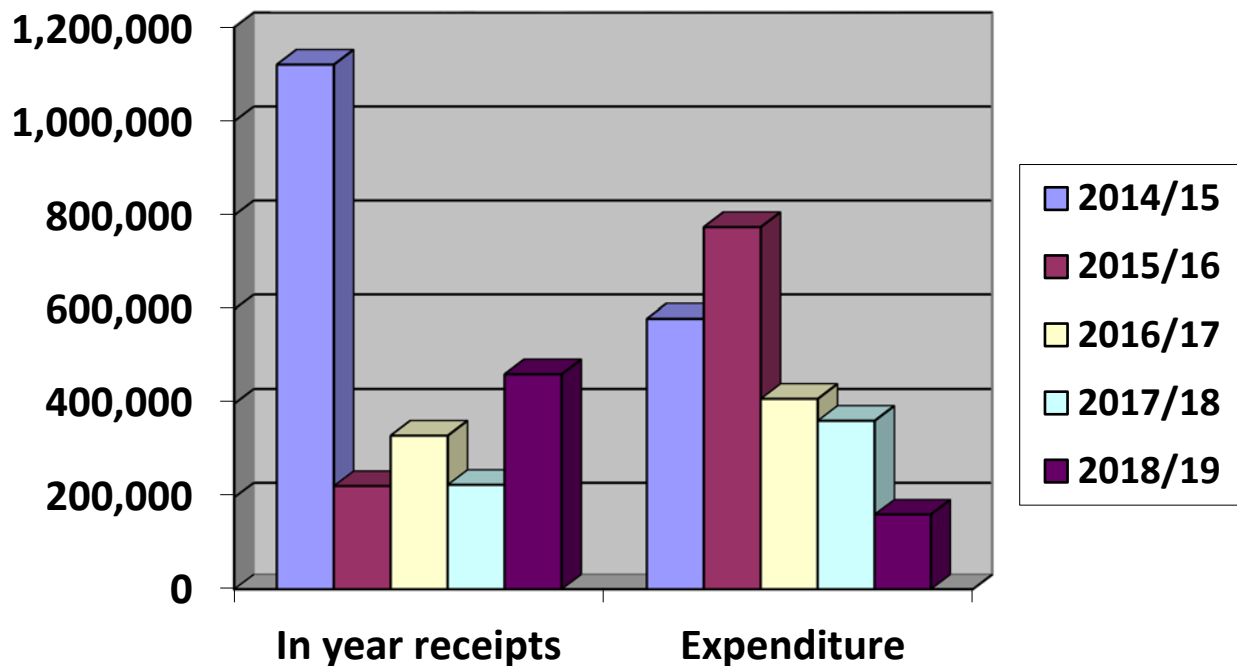
The first section for each authority tables the total amounts of all s106 monies paid in and spent for the respective councils over the past five financial years. The second section shows where the s106 monies have been spent and any related projects. The final section details the total balance of all s106 contributions held by the LPA up to the end of the financial year 2017/18. 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
2014/15	1,371,590	1,120,483	580,507	1,911,566
2015/16	1,911,566	224,608	786,707	1,349,467
2016/17	1,349,467	332,038	410,389	1,271,116
2017/18	1,271,116	227,135	363,725	1,134,526
2018/19	1,314,526	462,707	162,814	1,434,419

FHDC s106 monies in and out by financial year



Forest Heath DC s106 2018/19 spend

Amount (£)	Project
19,612	For car park improvements at the Guineas Newmarket
1,500	For MENTA Tyges Services Ltd Brandon helping startup businesses
5,350	For gazebos at FHDC markets helping startup businesses
5,958	For FHDC market training and helping startup businesses
36,686	For Exning Parish Council play area on the recreation ground
10,000	For Exning Parish Council for a path to the play area on recreation ground
3,582	For Red Lodge Millennium Centre for their outside planting and boarding
35,000	For Newmarket Town Council for their Memorial Gardens project
10,000	For highways works near Mill Park Gardens Mildenhall
9,400	For FHDC for a mower and trailer for meadow management
22,014	For FHDC Warden in various open space areas
1,174	For Red Lodge Parish Council for new goal posts
2,538	For Newmarket town improvements design brief

Forest Heath DC s106 2018/19 balance

Infrastructure type	Balance £
Public open space and play provision	569,554
Adult training	8,857
Car parking in Newmarket	23,153
Red Lodge environmental	116,932
Newmarket town improvements	140,862
Affordable housing	323,222
NHS health	203,993
Exning allotments	47,846
Total of s106 monies held at year end 2018/19	1,434,419

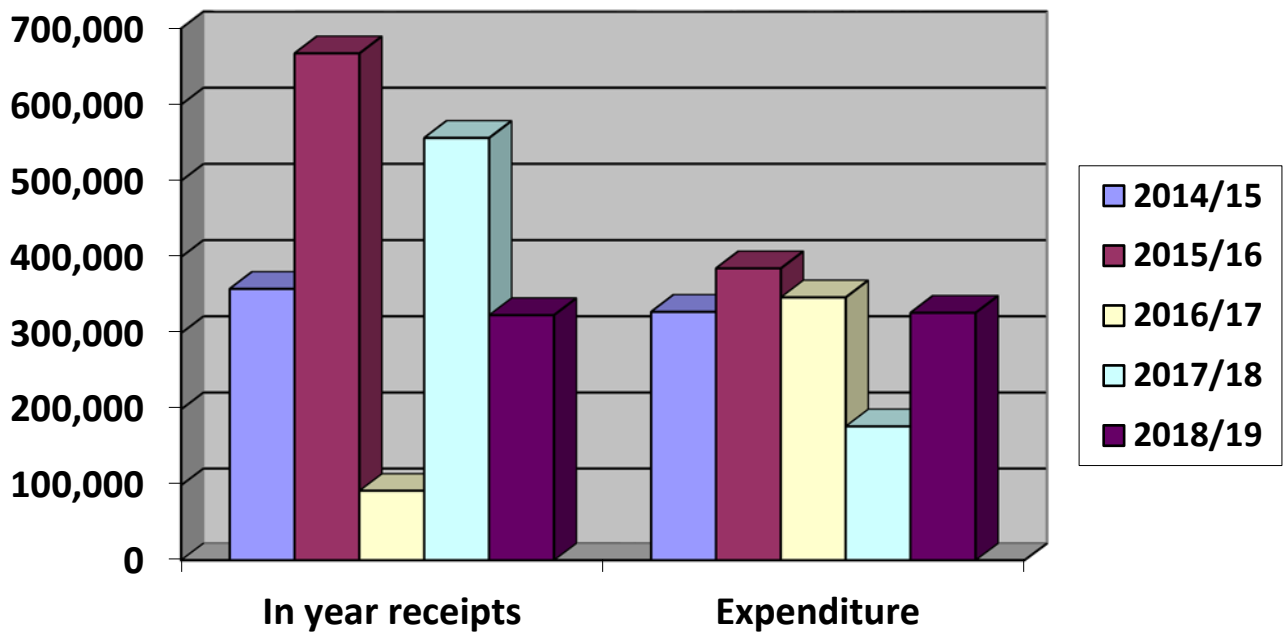
This table shows the s106 monies held by Forest Heath District Council at the end of the financial year 2018/19. Some of these sums have already been allocated for spending and will be released for the related project as soon as the project requires the money.

St Edmundsbury BC figures

SEBC s106 transactions for the last five financial years

Financial year	Opening balance	In year receipts	Expenditure	Closing balance
2014/15	1,169,164	358,101	327,949	1,199,316
2015/16	1,199,316	667,197	385,050	1,438,595
2016/17	1,438,595	92,513	346,925	1,184,183
2017/18	1,184,183	556,231	177,612	1,562,802
2018/19	1,562,802	323,607	326,723	1,559,686

SEBC s106 monies in and out by financial year



St Edmundsbury BC s106 2018/19 spend

Amount (£)	Project
9,834	For Barrow Cum Denham Parish Council for a path to their play area
8,829	For Moreton Hall Community Centre for sliding doors and outside furniture
30,216	For Moreton Hall Community Centre for flooring
8,417	For Moreton Hall Community Centre for painting boarding
36,550	For Moreton Hall Community Centre for lighting
19,419	For Moreton Hall Community Centre for furniture
1,396	For Moreton Hall Community Centre for CCTV
5,813	For Moreton Hall Community Centre for curtains
2,821	For the MENTA project initial design and pp costs
18,207	For our temporary accommodation at Abbots House 2 Newmarket Road, Bury St Edmunds
14,550	For NHS Suffolk GP Fed CIC for Clements Health Centre Haverhill
94	For Barningham Parish Council for new seats for their swings
45,707	For Risby Village Hall Trustees for their MUGA
180	For Hepworth Parish Council for their tree planting project
13,969	For Kedington Parish Council for their skate park project
44,000	For easy access paths to Saints Walk Risbridge Meadow
19,396	For the Maintenance for Risbridge Meadow Kedington
43,322	This money paid back SCC for highways works in Bury St Edmunds
4,000	For new pond aeration equipment at Castle Playing Fields Haverhill

St Edmundsbury BC s106 2018/19 balance

Infrastructure type	Balance £
Affordable housing	151,219
Cycle stands	5,230
Employment initiatives	499,207
Community facilities and sports provision	227,379
NHS health	126,397
Public open space and play provision	495,652
Public realm and town centre marketing	53,073
Held for SCC street lamp removal	1,529
Total of s106 monies held at year end 2017/18	1,559,686

This table shows the s106 monies held by St Edmundsbury Borough Council at the end of the financial year 2018/19. 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 future, what is CIL?

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 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 replace s106 obligations but is designed to complement the way in which the councils secure obligations currently. S106 will still be the preferred method for securing all on-site infrastructure, affordable housing and all planning obligations on larger sites.

At the time of writing this report, the Government is considering further changes to CIL and they are expected to be published this year. Any implementation of CIL will respect these changes and the new West Suffolk Members representing the new West Suffolk Council will ultimately decide whether a CIL is to be adopted in due course.

Current sites paying s106 contributions

Here are two examples of large West Suffolk developments, currently under construction and paying s106 contributions.

In 2016 a s106 was signed between St Edmundsbury Borough Council and Taylor Wimpey. The development will deliver 500 new homes, a local center with retail units and public open space at Moreton Hall in Bury St Edmunds. The s106 agreement secured the following:

- 150 affordable homes to be provided through a registered housing provider
- On-site public open space including a play area
- £313,512.00 for maintenance of public open space.
- £360,577.00 for outdoor sports provision
- £90,000.00 for play provision
- £174,200.00 for the GP surgery enhancement
- £268,000.00 for additional early years places
- £1,449,539.00 for primary school education
- £1,577,617.00 for secondary school education
- £532,000.00 for public transport
- £648,678.00 for travel planning (encouraging alternatives to using cars)
- £30,000.00 for cycle way improvements
- £290,597.00 for highway junction improvements
- £2,500.00 for skylarks (plots of land)
- £108,000.00 for provision of a new satellite library.

To date the development has delivered the first 100 new homes and has paid £2,385,905 in s106 payments.



New homes built in the development at Moreton Hall Bury St Edmunds.

In Red Lodge, Crest Nicholson also started building in 2016, a development that has a s106 agreement with Forest Heath District Council. The development at Kings Warren includes 374 new homes, retail units and public open space. The s106 agreement secured the following:

- 112 affordable homes to be provided through a registered housing provider
- On-site public open space including a play area
- Land for temporary primary school places
- Land for Sky Lark mitigation
- £437,107.00 for maintenance of public open space
- £130,000.00 for the GP surgery enhancement
- £225,367.00 for additional early years places
- £1,508,416.00 for primary school education
- £10,000.00 for travel planning (encouraging alternatives to using cars)
- £45,000.00 for highway junction improvements
- £80,136.00 for new library provision.

To date the development has delivered 196 new homes and has paid £1,443,192 in s106 payments.



New homes built in the development at Kings Warren Red Lodge.



The s106 obligations secured in 2018/19

There were 17 s106 obligations signed for Forest Heath District Council in 2018/19, five of which, are variations to previous agreements. The 17 obligations secured a total of 460 new homes, of which 134 are affordable homes, to be provided by a registered housing provider.

There were 13 s106 obligations signed for St Edmundsbury Borough Council in 2018/19, five of which, are variations to previous agreements. The 13 obligations secured a total of 2,625 new homes, of which 776 are affordable homes, to be provided by a registered housing provider.

Forest Heath DC 2017/18		St Edmundsbury BC 2017/18	
Number of s106	17	Number of s106	13
Related new homes	460	Related new homes	1,849
Related affordable homes	134	Related affordable homes	776