

Forest Heath & St Edmundsbury councils

**West Suffolk**  
working together

# West Suffolk s106 Developers Contributions Annual Report

September 2017

# Contents

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Introduction	2
What are s106 developer contributions?	3
How s106 contributions can be spent	4
Monitoring and reporting s106 contributions	5
Forest Heath DC figures	6
Forest Heath DC s106 2016/17 spend	7
Forest Heath DC s106 2016/17 balance	8
St Edmundsbury BC figures	9
St Edmundsbury BC s106 2016/17 spend	10
St Edmundsbury BC s106 2016/17 balance	11
The future, what is CIL?	12
Current sites paying s106 contributions	13
The s106 obligations secured in 2016/17	15

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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 third 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.

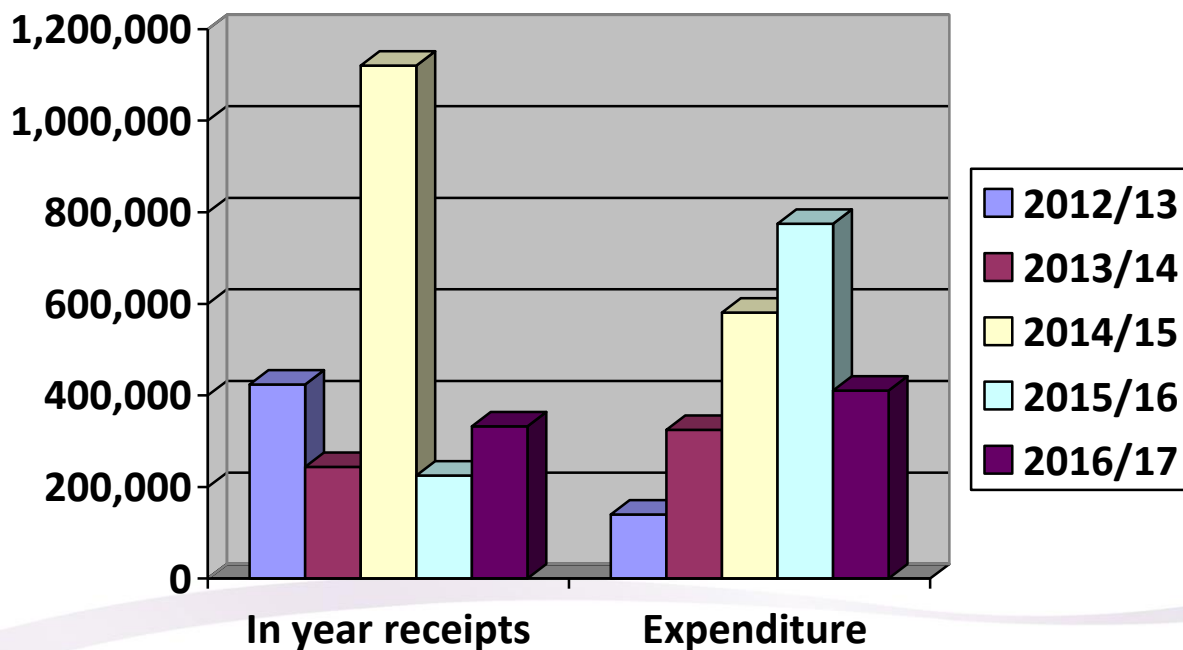
The first section for each authority tables the total amounts of all s106 monies paid in and spent for the respective councils over the past five financial years. The second section shows where the s106 monies have been spent and any related projects. The final section details the total balance of all s106 contributions held by the LPA up to the end of the financial year 2016/17. 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
2012/13	1,167,774	424,131	139,659	1,452,246
2013/14	1,452,246	243,959	324,615	1,371,590
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

## FHDC s106 monies in and out by financial year



## Forest Heath DC s106 2016/17 spend

Amount (£)	Project
<b>34,157</b>	Beck Row Parish Council for football changing rooms.
<b>6,262</b>	Towards a new Kennett & Kentford village hall.
<b>65,563</b>	Rous Road lighting improvements.
<b>52,459</b>	Elephant Wi-Fi for Newmarket town Centre.
<b>28,810</b>	Improvements to Market Cross surgery Mildenhall.
<b>2,589</b>	Exning Parish Council for Recreation Ground project.
<b>25,110</b>	West Row Village Hall & Playing Fields Association for tennis courts.
<b>1,950</b>	Red Lodge Conservation Group for lawnmower for SSSI.
<b>82,565</b>	Beck Row Parish Council for football changing rooms.
<b>10,530</b>	FHDC for Lady Wolverton associated works at play area Newmarket.
<b>11,375</b>	FHDC Wildlife Audit.
<b>5,268</b>	New Children's Swing, Heatherset Way.
<b>3,900</b>	Table Tennis Tables, Heatherset Way and Sports Pavilion.
<b>2,311</b>	4 Way Bounce about Ride, Orchid Drive.
<b>1,374</b>	Red Lodge FC for new goal posts.
<b>1,988</b>	Red Lodge PC Heatherset Way play area surfacing.
<b>3,963</b>	Preventative measures to protect special areas of open space.
<b>71,057</b>	Play areas in Red Lodge Newmarket and Brandon.



## Forest Heath DC s106 2016/17 balance

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Infrastructure type	Balance £
Public open space and play provision.	676,503
Red Lodge public art.	10,919
Kennett & Kentford village hall.	190,318
Adult training.	21,665
Car parking in Newmarket.	42,763
Red Lodge environmental.	116,932
Newmarket town improvements.	127,049
Affordable housing.	13,464
NHS health.	23,657
Exning Allotments.	47,846
<b>Total of s106 monies held at year end 2016/17</b>	<b>£1,271,116</b>

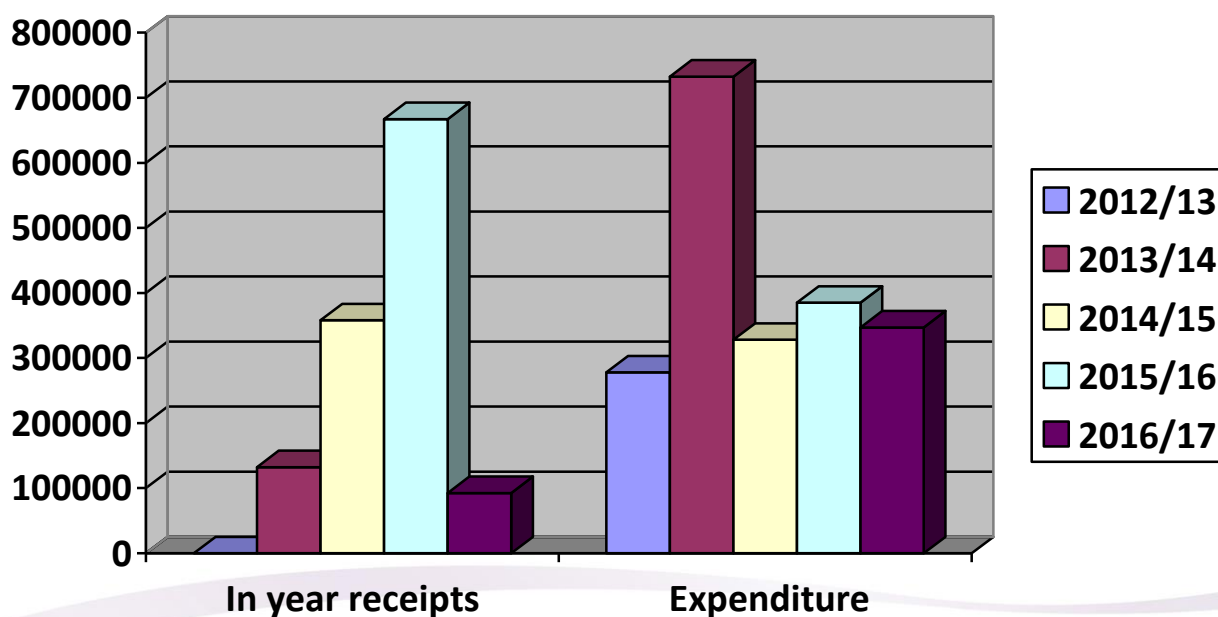
This table shows the s106 monies held by Forest Heath District Council at the end of the financial year 2016/17. Some of these sums have already been allocated for spending and will be released for the related project as soon as the project requires the money.

# St Edmundsbury BC figures

## SEBC s106 transactions for the last five financial years

Financial year	Opening balance	In year receipts	Expenditure	Closing balance
<b>2012/13</b>	2,047,277	0	277,802	1,769,475
<b>2013/14</b>	1,769,475	132,347	732,658	1,169,164
<b>2014/15</b>	1,169,164	358,101	327,949	1,199,316
<b>2015/16</b>	1,199,316	667,197	385,050	1,438,595
<b>2016/17</b>	1,438,595	92,513	346,925	1,184,183

## SEBC s106 monies in and out by financial year



## St Edmundsbury BC s106 2016/17 spend

Amount £	Project
<b>18,032</b>	For Moreton Hall Park.
<b>2,150</b>	Barrow Cum Denham PC for new cooker and bus shelter.
<b>10,000</b>	Barrow Cum Denham PC for Estates Rooms.
<b>1,206</b>	Suffolk Constabulary contribution in Haverhill.
<b>61,579</b>	61,579.79 Suffolk County Council for education, highways, libraries.
<b>13,938</b>	For acoustic fence at Oakes Road Public Open Space.
<b>60,026</b>	Barningham parish council for new play area.
<b>23,409</b>	Kedington PC for play equipment.
<b>81,722</b>	Second contribution to Kedington PC for play equipment.
<b>11,375</b>	Wildlife Audits.
<b>6,772</b>	Bardwell PC for open space project.
<b>23,000</b>	Towards two affordable homes at Upthorpe Road Stanton.

## St Edmundsbury BC s106 2016/17 balance

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Infrastructure type	Balance £
Affordable housing.	46,481
Cycle stands.	5230
Employment initiatives.	535,160
Community facilities and sports provision.	54,292
NHS health.	84,162
Public open space and play provision.	401,122
Public art.	3,134
Public realm & town centre marketing.	53,073
Held for SCC Street Lamp removal.	1,529
<b>Total of s106 monies held at year end 2016/17</b>	<b>£1,184,183</b>

This table shows the s106 monies held by St Edmundsbury Borough Council at the end of the financial year 2016/17. 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?

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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.

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

# Current sites paying s106 contributions

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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 began last year for 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 already delivered the first ten new homes and have paid £1,693,739 in s106 payments.



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



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 already delivered fifty new homes and has paid £485,805.00 in s106 payments.



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



# The s106 obligations secured in 2016/17

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There were 9 s106 obligations signed for Forest Heath District Council in 2016/17, 2 of which, are variations to previous agreements. The 9 obligations secured a total of 461 new homes, of which 132 are affordable homes, to be provided by a registered housing provider.

There were 21 s106 obligations signed for St.Edmundsbury Borough Council in 2016/17, 5 of which, are variations to previous agreements. The 21 obligations secured a total of 275 new homes, of which 68 are affordable homes, to be provided by a registered housing provider.

<b>Forest Heath DC 2016/17</b>		<b>St.Edmundsbury BC 2016/17</b>	
Number of s106	9	Number of s106	21
Related new homes	461	Related new homes	275
Related affordable homes	132	Related affordable homes	68