

12 March 2019		ITEM: 6
Planning, Transport, Regeneration Overview and Scrutiny		
Planning Obligations		
Wards and communities affected: All	Key Decision: N/A	
Report of: Leigh Nicholson, Strategic Lead of Development Services		
Accountable Assistant Director: Andy Millard, Assistant Director of Planning, Transportation and Public Protection		
Accountable Director: Steve Cox, Corporate Director of Place		
This report is Public		

Executive Summary

At the meeting of Full Council held on 30th January 2019, the following motion was agreed:

Full Council requests that Planning, Transport & Regeneration Overview & Scrutiny Committee, under its remit on regeneration, planning and growth look into how Section 106 money is scoped, allocated and spent. This would help ensure democratic oversight of benefits achieved and decision processes followed.

This initial report provides an overview of the mechanisms that are currently in place to secure and allocate developer contributions for infrastructure in Thurrock. Further reports on this matter will be produced for the Committee as work on the Local Plan progresses.

1. Recommendation:

1.1 To note and comment on the report.

2. Introduction and Background

2.1 Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They are focused on site specific mitigation of the impact of development. S106 agreements are often referred to as 'developer contributions'.

2.2 The common uses of planning obligations are to secure affordable housing, and to specify the type and timing of such accommodation; and to secure financial contributions to provide infrastructure.

2.3 How contributions can be sought is tightly bound in legislation, via the Community Infrastructure Levy Regulations 2010. The 3 key tests that any agreement must legally meet are as follows:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly related in scale and kind to the development

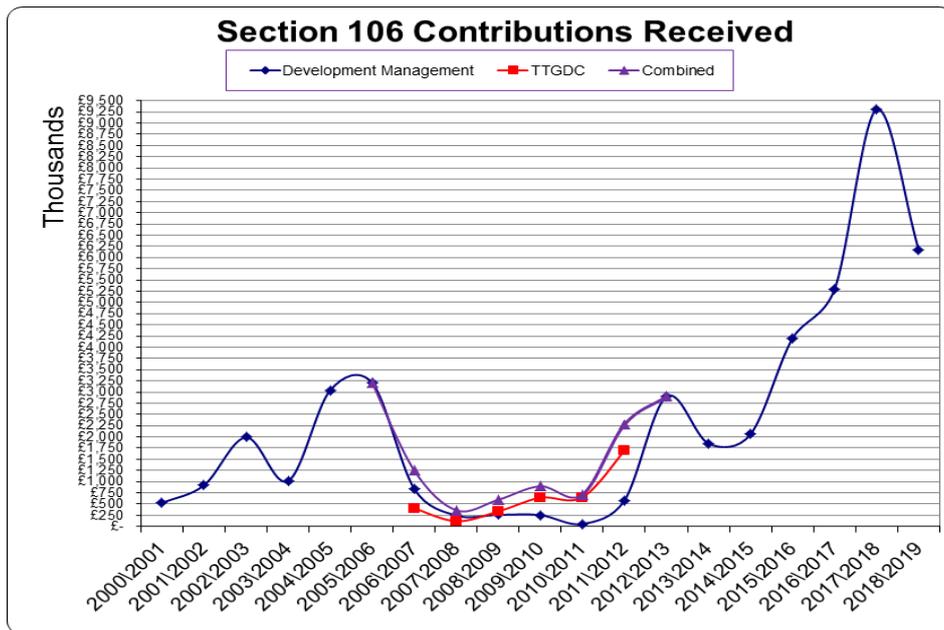
3. Issues, Options and Analysis of Options

3.1 Historically, Councils, including Thurrock, sought contributions on a tariff basis with financial sums calculated on the basis of the number of new dwellings proposed or based upon the amount of commercial floorspace proposed. In Thurrock, the Council operated a Planning Obligation Strategy (adopted in 2012) for this purpose. Contributions secured under the Planning Obligation Strategy were 'pooled' together to provide meaningful amounts which were then presented to the Council's S.106 Panel for allocation to specific infrastructure projects.

3.2 In April 2015 the Government introduced pooling restrictions upon Local Authorities. Regulation 123 of the CIL regulations prevents councils from being able to pool more than five contributions from different developments per infrastructure project. At the meeting of Cabinet on 11 March 2015 the Council agreed to abandon the Planning Obligation Strategy in favour of an Infrastructure Requirement List (IRL).

3.3 Since then and pending the preparation of a new Community Infrastructure Levy, or 'CIL' which is to be developed alongside the emerging Local Plan, developer contributions have been sought by the Council in accordance with the Core Strategy (as amended) including Policy PMD16 – Developer Contributions. The Council currently uses the IRL in the negotiation of Section 106 Agreements. The IRL provides an up to date list of physical, social and green infrastructure to support new development in Thurrock on a ward by ward basis. Communities can suggest projects that would provide improved or increased community or social infrastructure. The Council's process for handling nomination requests is set out in Appendix 1.

3.4 The IRL is regulation 123 compliant and ensures that no more than five contributions are secured against any one infrastructure project. The content of the IRL is also informed by the Council's priorities.



3.5 The graph above illustrates the amount of s.106 secured by the Council from 2000 to date.

3.6 At the time of writing, the Council is in receipt of £25,381,299 from s.106 obligations. 93% (£23,666,520) has been committed to infrastructure projects. 7% (£1,714,779) is presently pending commitment via the s.106 Panel. Members of the public can view developer contributions at: <https://www.thurrock.gov.uk/how-we-are-doing/planning-infrastructure-payments>.

3.7 Recently, expenditure has been committed to the expansion of Thurrock schools (notably Woodside Primary School, Somers Heath, Ockendon Academy and St Cleres) in addition to highway works within the Lakeside Basin and Purfleet and the Aveley Hub.

3.8 Expenditure is monitored by the Council's s.106 Panel. The Panel, which meets monthly, comprises representatives from across the Authority (including transport, education and health) who scrutinise the allocation of developer contributions and monitor trigger points within s.106 agreements to ensure developer contributions are committed and appropriate timescales are agreed to deliver infrastructure projects to mitigate the impact of new development. The process is set out in Appendix 1.

4. Reasons for Recommendation

4.1 The Council must secure planning obligations in accordance with current government legislation. The IRL provides a transparent and compliant mechanism to secure developer contributions and through robust monitoring the Council is able to ensure all contributions are committed to infrastructure projects necessary to mitigate the impact of new development. The use of the

IRL has been endorsed by Cabinet until such time that a CIL charging scheme is introduced as part of a new Local Plan.

5. Consultation (including Overview and Scrutiny, if applicable)

None.

6. Impact on corporate policies, priorities, performance and community impact

6.1 The use of s106 agreements contributes either directly or indirectly to all corporate priorities.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Management Accountant

There are no direct financial implications arising from this report.

7.2 Legal

Implications verified by: **Tim Hallam**
Deputy Head of Law and Governance
(Regeneration)

Contained in the body of the report.

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Strategic Lead, Community Development and
Equalities

There are no implications of this report which only covers the process of how Section 106 contributions are processed.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None.

9. Appendices to the report

- Appendix 1 – Section 106 process flow chart

Report Author:

Leigh Nicholson

Strategic Lead, Development Services

Planning, Transport and Public Protection