

Forest Heath & St Edmundsbury councils

**West Suffolk**  
working together

# West Suffolk S106 Developers Contributions Annual Report

July 2015

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# Introduction

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As part of a shared service 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 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 has successfully secured planning obligations for all these items of infrastructure and where on-site provision is not appropriate, financial contributions have been agreed. The County Council are responsible for contributions towards the provision of education, libraries and highways and the West Suffolk authorities are responsible for contributions towards public open space, community facilities and affordable housing.

This report then focusses on the financial contributions paid to our two councils within West Suffolk, the sums paid to us, where these have been spent and the balance of unspent monies, at the end of the 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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As mentioned previously, legally we are restricted to spending s106 contributions, on a defined purpose within each agreement or undertaking. Changes that affect how these contributions can be pooled and indeed when they can be requested, were introduced last November, but have since been removed, following a High Court decision. The two previous changes, because they did affect s106 obligations during the last financial year are detailed below for reference, but again, these are not in force now.

## **Policy update 28th 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 28th 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."*

One restriction that is in force and has been since April 6<sup>th</sup> 2015, whilst it did not affect the s106 contributions secured in the last financial year, for completeness, is detailed below.

## **Policy change under CIL Regs 2010 came into force 6th 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."*

This means we can no longer request s106 contributions that would be pooled together for general infrastructure, such as our off-site public open space contributions. We can still request these types of contributions, but they must be for specific projects, for which up to five separate obligations can be pooled together, to deliver that specific project.

# Monitoring and reporting S106 contributions

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## **S106 Monitoring**

We have two Development Implementation and s106 Monitoring Officers, each dedicated to either of our councils. These posts have been funded by new development and the officers are responsible for recording and monitoring all the s106 obligations. The figures within this report are held within our data bases and are pro actively 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 the visiting the development site, checking the progress being made and by contacting developers by email or telephone, ensuring that the triggers for payment or any other obligations are met.

We have one data base that can record and report on all s106 activity across the two councils and meet requests for information, 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 monitoring officers are also responsible for the release of these monies and monitor any time limit agreed for their expenditure.

## **S106 Annual Report**

As part of a shared service Forest Heath District Council and St.Edmundsbury Borough Council have produced this report together, but do have separate financial accountability, so consequently the figures are reported in two separate parts.

This is the first joint s106 annual report, which will hopefully provide an insight into the amount of developer contributions being received and where the monies are being spent.

The first section for each authority tables the total amounts of all s106 monies paid in and spent out for the respective councils, over the past five financial years. This could help provide information that may be requested under the Freedom of Information Act 2000 from time to time and so save time and resource costs.

The second section shows where the s106 monies have been spent and any related projects. Hopefully local communities may be able to relate any new development in their area, to a real community benefit in their vicinity.

The final section details the total balance of all s106 contributions held by the LPA, up to the end of the financial year 2014/15. Certain sums are intentionally held for future expenditure, such as the maintenance of public open space and therefore are unspent, but it is for a good reason.

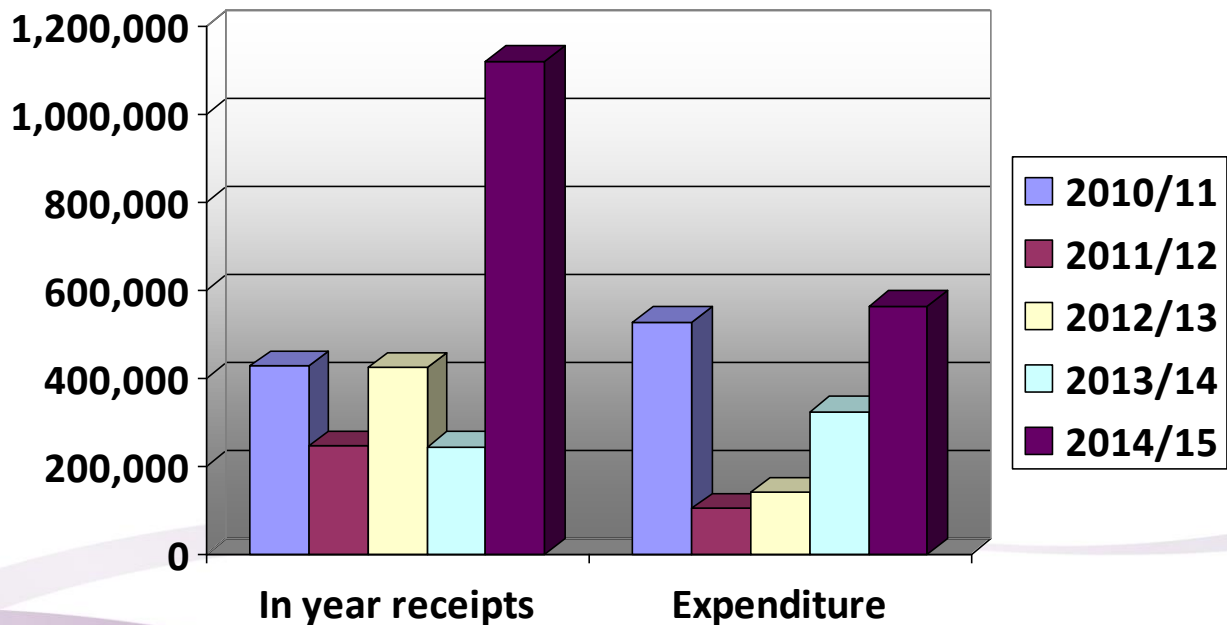
# Forest Heath DC Figures

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## All FHDC s106 transactions for the last five financial years

Financial Year	Opening balance	In year receipts	Expenditure	Closing balance
<b>2010/11</b>	1,126,231	427,130	527,439	1,025,922
<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

## All FHDC s106 monies in and out by financial year



# Forest Heath DC s106 2014/15 spend

Amount	Project
<b>8,680</b>	Exning parish council play area
<b>5,000</b>	Lakenheath Youth FC portable floodlighting
<b>15,345</b>	Barton Mills parish council play area
<b>11,160</b>	Freckenham parish council recreation field project
<b>60,391</b>	Red Lodge Millennium Centre Improvements including: Stage equipment Blinds and Stage curtains Kitchen upgrade Energy saving (solar & fuel tank) It equipment Stair lift
<b>15,150</b>	Affordable housing project for West Suffolk
<b>9,166</b>	Lakenheath Playing Fields Association cricket pitch
<b>142,275</b>	Newmarket Rutland Hill The Bill Tutte Memorial project in memory of the WWII code breaker Bill Tutte
<b>15,000</b>	Newmarket in Bloom planting in War memorial
<b>32,358</b>	Public open space projects in Red Lodge and Mildenhall including Parkers Island, the Red Lodge Heath Douglas park and various other play areas
<b>65,313</b>	Beck Row parish council play equipment including a Multi-Use Games Area and outside gym
<b>20,815</b>	Newmarket public open space areas including the Guarded Orchard in Hyperion Way and Greville Starkey play area
<b>77,318</b>	Newmarket Guineas car park project
<b>86,243</b>	Revenue costs spent on monitoring and play area maintenance



## Forest Heath DC S106 2014/15 balance

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Infrastructure type	Balance £
Public open space	693,164
Surface water drainage system Red Lodge	481,446
Red Lodge public art	10,919
Red Lodge village sign	5,000
Kennett & Kentford village hall	200,000
Beck Row community facility	34,157
Adult training	30,310
Long stay car parking in Newmarket	108,327
Red Lodge environmental improvements	116,932
Red Lodge infrastructure	3,285
Newmarket Town Centre marketing	52,459
Monitoring Officer post	110,518
Newmarket Town Centre improvements	65,049.00
<b>Total of s106 monies held at year end 2014/15</b>	<b>1,911.566</b>

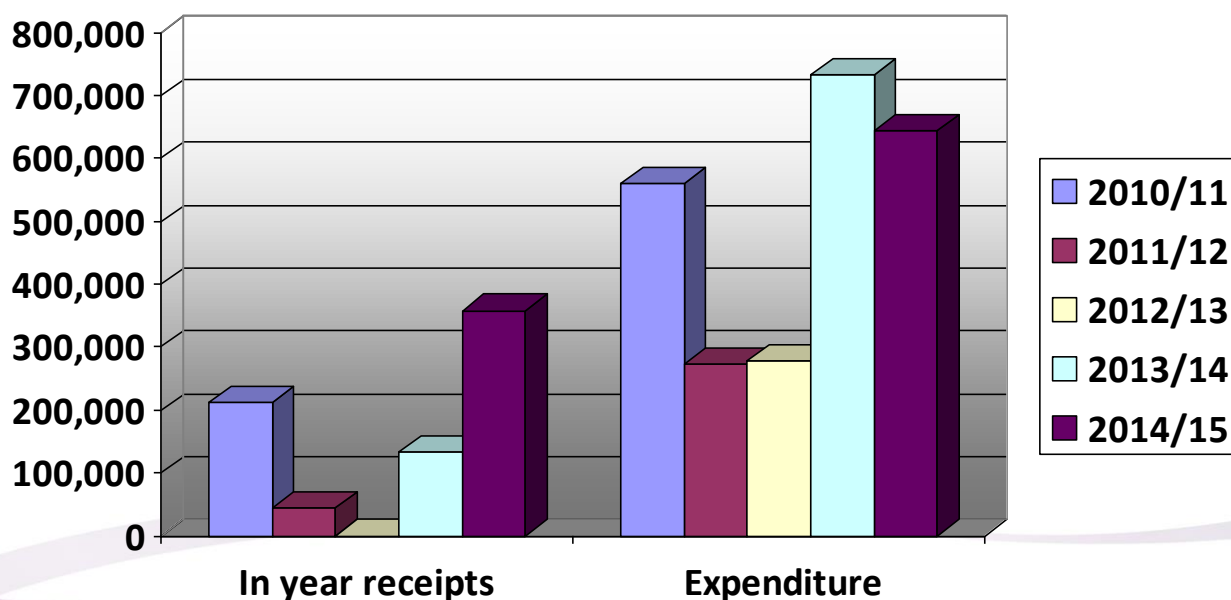
This table shows the s106 monies held by Forest Heath District Council at the end of the financial year 2014/15. Some of these some have already been allocated for spending and will be released for the related project as soon as the project requires the money.

# St.Edmundsbury BC Figures

## All SEBC s106 transactions for the last five financial years

Financial Year	Opening balance	In year receipts	Expenditure	Closing balance
<b>2010/11</b>	2,624,465	212,324	559,548	2,277,241
<b>2011/12</b>	2,277,241	43,756	273,720	2,047,277
<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	644,740	882,525

## All SEBC s106 monies in and out by financial year



## St.Edmundsbury BC s106 2014/15 spend

Amount	Project
<b>7,500</b>	Business Festival 2014
<b>3,000</b>	Websites Project 2014
<b>40,200</b>	Business Support Grant which match funds up to a maximum of £1500 per grant to new businesses
<b>4,788</b>	Business Support Packages; information packs for businesses signposting to relevant information across West Suffolk
<b>20,000</b>	CCTV at Westgate Street Bury St Edmunds
<b>213,478</b>	34 Lake Avenue to become a house of multiple occupation for the homeless
<b>132,324</b>	Play provision at Acorn Park, St James Park Heldhaw Road, landscaping and new access between Appledown Drive and Abbotsford Park
<b>2,089</b>	Street Food Festival Bury St Edmunds September 2014
<b>3,000</b>	Love your Local Market Day Bury St Edmunds May 2014
<b>2,000</b>	Family Fun Day, Bury St Edmunds July 2014
<b>5,000</b>	Crossing improvements Mustow Street Bury St Edmunds
<b>2,389</b>	Cradle Swings for Gainsborough Recreation Ground Bury St Edmunds
<b>3,373</b>	Refurbishment of the play area in Quendon Place Haverhill
<b>44,407</b>	Play equipment at the Haverhill Recreation Ground
<b>48,407</b>	Removal of the glasshouse infrastructure and provision of new tennis courts at Eastgate Nursery
<b>2,389</b>	New Interpretation signage and infrastructure for Tayfen Meadows
<b>2,700</b>	New footpath from Whepstead village (Old School Road) to the footpath network to the south and southwest of the village
<b>14,898</b>	New play area and landscaping works on Haverhill Recreation ground
<b>13,938</b>	Extension to play provision at Severn Road Play Area, Bury St Edmunds

## St.Edmundsbury BC S106 2014/15 balance

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<b>Infrastructure type</b>	<b>Balance £</b>
Affordable housing	44,492
Cycle stands	5,230
Employment initiatives	479,112
Community facilities and sports provision	24,553
Health	29,566
Open space and play provision	115,796
Public art	3,134
Public realm & town centre marketing	106,470
Bulk contributions	74,173
<b>Total SEBC s106 monies held at year end 2014/15</b>	<b>£882,526</b>

This table shows the s106 monies held by St.Edmundsbury Borough Council at the end of the financial year 2014/15. Some of these some 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" referees to payments made in part, collected from a large development, where the s106 agreement has agreed payment of different types of infrastructure and once the full payment has been made the individual sums will be transferred into the appropriate places (education, highways, public open space etc.).

# The future, what is CIL?

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The current way we ensure development is sustainable, through section 106 obligations, will remain, but may be restricted to only deal with on-site infrastructure, such as a new school, public open space, play areas and affordable housing. The new way of collecting financial contributions from new developments is called the Community Infrastructure Levy or 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 have 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 reviewing this report and will then publish a draft charging schedule. Once the public consultation process has been completed our CIL charge will be brought before the Planning Inspectorate for approval.

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

# The County Council requirements

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As we now have one planning service within West Suffolk, we are aligning our processes and forming one single way of working. The Development Implementation and S106 Monitoring Officer at Forest Heath District Council has negotiated, drafted and monitored the s106 agreements for the past nine years. Since the s106 agreement is attached to the planning permission the local authority grants, it has been the practice at Forest Heath DC, to monitor the entire s106 agreement.

We fully monitor then and collect the County Council requirements also. This has proved to be successful in securing obligations for the County Council and passing payments on to them, having been monitored and

requested by the district council. Being able to draft the agreements and ensure common trigger points, this has not been any extra resource for Forest Heath DC, but has kept developers in line, with all obligations. This approach has been acknowledged by the County Council as the best practice model for Suffolk.

Extending this practice in the future, to achieve a consistent approach across West Suffolk, we will include all County Council S106 contributions in the next S106 Annual Report.

The following County Council requirements have been monitored and collected on behalf of the County Council by Forest Heath DC in the last financial year.

Type of Infrastructure	Amount	Collected for
Highways	<b>£353,573</b>	<b>Highway improvements within FHDC</b>
Education	<b>£43,332</b>	<b>New primary school places within FHDC</b>

This hopefully gives a fuller picture when understanding the contributions secured and collected under s106 agreements and the how effective negotiation, drafting and monitoring, is key to securing the correct level of infrastructure, required for ensuring the sustainable growth of our new communities.

