

CITY OF PLYMOUTH

Subject: Planning Obligations Monitoring
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Introduction

1. This report explains what planning obligations are and sets out how these are monitored. The report gives details of the planning obligation financial contributions that have been made relating to developments in Plymouth. It provides an overview of the current position relating to planning obligations across the city, and the steps being taken to manage them effectively.

Planning Obligations

Legislative Background and National Planning Policy

2. Section 106 of the Town and Country Planning Act 1990 (as amended by Section 12 of the Planning and Compensation Act 1991 and the Planning & Compulsory Purchase Act 2004) provides for developers to enter into planning agreements or unilateral undertakings in order to “make acceptable development which would otherwise be unacceptable in planning terms” (Paragraph B3, ODPM Circular 05/05). Planning obligations can be used to:
 - restrict development or use of land
 - require specific operations or activities to be carried out in relation to the land
 - require payment of sums of money to help lessen the impact of the development, help with ongoing maintenance etc
 - require land to be used in a certain way.
3. Planning obligations are secured by way of a Section 106 agreement or Unilateral Undertaking (also called a Unilateral Obligation), and are binding on the land. They are therefore enforceable against all successors in title.

4. Planning obligations are an established and valuable mechanism for securing planning matters arising from a development proposal. They are commonly used to bring development in line with the objectives of sustainable development as articulated through the relevant local, regional and national planning policies. Several Planning Policy Guidance Notes and Planning Policy Statements refer to how the use of planning obligations relate to particular forms of development. Detailed guidance on planning obligations are set out in Circular 05/05. Planning obligations are secured through negotiations with developers as part of the open, transparent and democratic decision-making process of determining planning applications in order to address infrastructure or other impacts of the proposed development. For example, new development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. Planning Obligations are the mechanism used to secure these measures.
5. Planning obligations help to ensure that new development is sustainable and can assist in meeting the objectives of the Sustainable Community Strategy and the Local Development Framework and other relevant local and national policies. Planning obligations can include, for example:
 - Affordable housing
 - Providing educational facilities and additional school places
 - Providing health facilities
 - Designing out crime (for example street lighting, CCTV)
 - Infrastructure (for example highway improvements, drains) to be provided
 - Land to be dedicated and equipped as open space or playgrounds
 - Sums to be paid for the provision of off-site infrastructure or the long term maintenance of open space
 - Creation of open spaces, public rights of way,
 - Travel plans and contributions to support public transport
 - Local employment and training strategies
 - Measures to encourage sustainability and bio-diversity
6. Planning Obligations are strictly governed by legislation. Regulation 122 of the Community Infrastructure Levy Regulations 2010 makes it unlawful for a planning obligation to constitute a reason for granting planning permission unless it meets all of three statutory tests:
 - The obligation is necessary to make the development acceptable in planning terms. This means that planning obligations should be used to make development acceptable which would be otherwise unacceptable in planning terms in accordance with published local, regional or national planning policies.
 - The obligation is directly related to the development. This means that there should be a functional or geographical link between the development and the item being provided as part of the agreement.

- The obligation is fairly and reasonably related in scale and kind to the development. This means that developers may reasonably be expected to pay for or contribute towards the cost of additional infrastructure provision which would not have been necessary but for their development. A reasonable obligation should at least seek to restore facilities, resources and amenities to a quality equivalent to that existing before the development.
7. These 3 tests replaced the original set of 5 tests set out in Circular 05/05 and are now statutory, carrying a right of legal challenge from 6th April 2010. It is therefore critical that all Planning Obligations related to planning application decisions made after this date complies with these new tests.

Types of Contribution

8. Contributions may either be in kind or in the form of a financial contribution. In the case of financial contributions, payments can be made in the form of a lump sum or an endowment, or, if beneficial to all parties and not unduly complex, as phased payments over a period of time, related to defined dates, events and triggers.
9. Where the combined impact of a number of developments creates the need for infrastructure, local planning authorities are able to pool developer contributions to allow for infrastructure to be secured in a fair and equitable way. Where a local authority wishes to pool contributions, for example towards a bigger project, or if it wishes to charge maintenance payments these need to be set out in the Local Development Framework.
10. Where contributions are secured through planning obligations towards the provision of facilities which are predominantly for the benefit of the users of the associated development, it may be appropriate for the developer to make provision for subsequent maintenance (i.e. physical upkeep). Such provision may be required in perpetuity. As a general rule, however, where an asset is intended for wider public use, the costs of subsequent maintenance and other recurrent expenditure associated with the developer's contributions should normally be borne by the body or authority in which the asset is to be vested.

The Policy Framework

11. The adopted Plymouth Core Strategy sets out the policy framework for planning obligations and affordable housing. Policy CS33 of the Core Strategy sets out the Council's overall policy on planning obligations.
12. In addition the Planning Obligations and Affordable Housing Supplementary Planning Document (SPD) sets out the City Council's detailed approach to planning obligations and affordable housing when considering planning applications for development in Plymouth. New development has a cumulative impact on infrastructure and often creates a need for additional or improved community services and facilities without which the development could have an adverse effect upon amenity, safety or the environment.

13. The objective of the SPD is to provide clarity to developers, planners, stakeholders and local residents regarding the basis on which planning obligations and affordable housing will be sought. It assists in implementing local objectives in respect of the provision of sustainable development across the city by contributing towards the delivery of the Plymouth adopted Core Strategy.
14. The SPD provides detailed guidance to supplement the Core Strategy for all those involved in the submission and determination of planning applications where planning obligations will be required. It also details the type of obligations that may be required, thresholds where appropriate and indicates the relative importance that the Council might place on the varying types of obligation in different parts of Plymouth.
15. The original Planning Obligations and Affordable Housing SPD was adopted by the City Council on 1st December 2008. It includes two main approaches to the negotiation of planning obligations:
 - a) The Plymouth Development Tariff – an indicative charge to secure pooled contributions to managing the cumulative impacts of development on the need for infrastructure.
 - b) The “Negotiated Element” – a bespoke part of a planning obligation, designed to tackle specific impacts for which a tariff-based approach is not appropriate, and to deliver affordable housing.
16. It is the City Council’s intention to limit as far as possible the need for a “Negotiated Element” and to address infrastructure implications of development, where possible, through the Tariff. Both will be implemented through standard Section 106 Agreements or Unilateral Undertakings.
17. The SPD sets out how each of its planning obligation elements has the potential to meet each of the three statutory tests, but each planning obligation will still also need to be justified on its own merits.
18. The recent review of the Planning Obligations SPD has firmed up on the Council’s policy and brought it into line with the new Regulations. The revised Planning Obligations and Affordable Housing SPD was adopted at Full Council on 2nd August 2010. What can be negotiated will be determined by the specific nature of the impact of the development. Strategic infrastructure is that which is associated with the growth of the city and includes transport, sports/leisure and green infrastructure. Local infrastructure is that which relates to the neighbourhoods or sub areas of the city, such as primary schools, libraries and local green space, but where there has to be an identifiable local need which the tariff will address. The changes are to ensure compliance with the new Regulations and offer the best prospect of maximising planning obligation contributions.

19. It needs to be remembered that the tariff is primarily gap funding, designed to supplement other sources. It is difficult to predict the level of tariff that will be available at any moment because it is dependent on financially viable developments coming forward to be able to generate the contributions, and there has been a significant decline in such developments during the economic downturn. The risks associated with tariff contributions to projects must therefore be acknowledged in project development. The Capital Delivery Board will play a key role in the governance of tariff spend, ensuring that funds are used in the most effective way and in accordance with the requirements of Planning legislation.
20. Since April 2010 local authorities have the option of introducing a Community Infrastructure Levy (CIL) which is a mandatory standard charge on development to pay for infrastructure to support development of an area. The CIL will ultimately replace tariff regimes, but it is for the City Council to still consider whether to adopt such an approach or to revert to a more bespoke approach to planning obligations. The City Council will be considering this matter during the course of 2010 and 2011, once the Coalition Government has firmed up its thoughts on the future of CIL.

Negotiating Planning Obligations

21. Planning obligations or planning agreements are negotiated between the planning authority and the developer. Negotiations are often complex and the eventual agreement is often a balance between what is needed to mitigate the impacts of a development and the viability of that development. Clearly if we seek to include too much in an agreement this can affect the viability of a development and it may not therefore go ahead. There are also complex negotiations between the different issues that need to be addressed in an agreement, for example the balance between affordable housing and green space provision.

Market Recovery Measures

22. Between 14th October 2009 – 31st December 2010 a Market Recovery Action Plan sought to encourage developers to put forward sites to secure flexibilities in relation to planning obligation and section 106 matters. In this period 37 sites were put forward and 16 were accepted under the initiative. 10 sites have been granted planning permission, with one currently on site. All the Market Recovery Action Plan sites have benefited from shorter 2 year consents reflecting the agreement by Planning Committee of a wide range of flexibilities to stimulate development activity in response to the recession. These sites continue to be monitored through the Planning Services Strategic Development Panel and further progress will be included as part of the 2010 Annual Monitoring Report, which will be reported to this Overview and Scrutiny Panel in early 2011. Because of the success of the Market Recovery Action Plan it was decided to “mainstream” market recovery measures as part of the revision of the SPD. Where there is robust evidence of market failure in relation to delivery of development, the City Council may introduce temporary measures to stimulate the market's recovery. The City Council will select the most appropriate measures from the ‘menu’ set out in Appendix 1 of the SPD. The measures will be enacted by resolution of the Council’s Cabinet and clearly publicised at the time.

Section 106 Financial Contributions

Managing Section 106 Financial Contributions

23. Planning Services is legally responsible for the management of all Section 106 agreements. This is done through the Planning Delivery Team. Since January 2006 a Section 106 database has been established, along with a tracking model to enable the proper monitoring and recording of all the clauses in all the Section 106 agreements, going back to 1970. These will run into hundreds of clauses in hundreds of agreements. Since June 2006 developers have been encouraged to use a more standard Section 106 template to speed up the validation of their applications, with at least heads of terms being submitted with the planning application, and the production of signed Section 106 agreements as soon after Planning Committee have resolved to grant planning permission within a set timeframe, otherwise delegated authority is given to refuse the application. Both these robust approaches have addressed what was the most significant factor affecting planning application performance prior to the substantial performance improvements seen since 2006. The receipt of Section 106 contributions is contingent on works starting on site (sometimes a development may not proceed and the Section 106 obligations are then not required to be contributed). Payment of financial contributions, or compliance with providing in-kind obligations, will be triggered by a certain phase of the development being implemented, such as commencement, occupation, or completion.
24. Normally the City Council will invoice the developer when the appropriate trigger point is reached. When payment is received it is logged onto a database and the appropriate spending department informed. The spending department then puts together a project plan and applies for a spending certificate so that approval can be sought from the Capital Delivery Board.
25. The Section 106 database has been designed in-house and enables Planning Services to track all the signed Section 106 agreements thereby ensuring that a proactive approach is taken to tracking the receipt of all monies collected, thus ensuring it is spent appropriately and in accordance with the original agreements.
26. Sometimes the Section 106 contribution is only part of the funding required for a particular project, and sometimes other approvals need to be sought before a project can be implemented. This means that often there is a time delay before the expenditure occurs. For example, the spending service cannot work on a project until the contribution has actually been received, otherwise any preparation work will be "at risk". Sometimes projects are complex and the Section 106 funding will be only part of the funding package. Therefore preparation does not start until all funding is in place. This is in accordance with financial regulations. Many projects require a number of stages such as preliminary design, detailed costing, public consultation, stakeholder input, refinement of design, planning permission. Therefore this can take many months (and sometimes years) to get to project completion. The result of this sensible and structured project management is that at any one time there will be Section 106 funds "in the bank" but not yet spent, as further project development work progresses.

27. By their nature, all Section 106 contributions collected by the City Council have an agreed purpose. For each development, the Section 106 agreement will specify, often quite precisely, how the monies are to be spent. Sometimes the project required by the agreement turns out to not be required after all, for a variety of reasons. Following established case law, most agreements set a time limit of 5 years, and if the contribution is not spent within this time frame the contribution may have to be repaid to the developer. Inevitably, there will be occasions where contributions will have to be repaid, for example where circumstances have changed since the signing of the agreement, or where public consultation on the project that was originally envisaged to address the impact of the development determines that a modified or reduced scheme is required. Because the legal provisions of the relevant Section 106 clause must take precedence, there are only very limited opportunities for the reallocation of funds to another project. In these cases sometimes money could be returned but again, the Section 106 database enables Planning Services to minimise these occurrences.

Current Section 106 Financial Resources

28. Table 1 provides a summary of the financial contributions that have been received by the City Council up to July 2010. It identifies:
- the broad purposes for which these financial contributions have been collected
 - the total sum that has been negotiated
 - the amounts received by the council to date, bearing in mind that we normally only receive monies when construction commences or is completed, and not all of the money negotiated will be realised because some planning permissions lapse and do not get built, for a variety of reasons)
 - the contributions which have been spent up to the end of the last financial year
 - The contributions that have been committed by the spending department but not yet spent, ie specific detailed projects have been identified
 - The balance that remains, ie that no specific proposals have yet been put forward by the spending department

Table 1: Section 106 Contributions – Overall summary

Contribution	Total Negotiated	Total Received	Actual Expenditure	Committed Expenditure	Remaining Balance
Affordable Housing	£5,331,057.00	£2,024,267.00	£1,407,690.51	£616,576.49	£0.00
CCTV	£75,000.00	£76,687.00	£56,687.00	£0.00	£20,000.00
Public Realm	£1,292,473.00	£545,466.60	£276,469.80	£198,579.80	£70,417.00
Community Facilities	£1,171,989.00	£697,573.98	£400,785.49	£144,214.51	£152,573.98
Education					
Infrastructure	£5,598,743.85	£1,763,596.32	£590,964.57	£1,154,631.75	£18,000.00
Health	£405,000.00	£0.00	£0.00	£0.00	£0.00
Highways					
Infrastructure	£7,366,772.38	3,461,110.70	1,609,583.05	£838,932.92	1,012,594.73
Nature Conservation	£158,150.00	£103,280.00	£98,280.00	£0.00	£5,000.00
Play	£2,305,297.10	£1,416,865.63	£1,041,831.66	£196,939.00	£178,094.97
Public Open Space	£1,219,831.00	£841,684.00	£715,271.97	£69,012.03	£57,400.00
Public Transport	£6,799,506.42	£2,540,648.01	£1,512,791.39	£26,538.00	£1,001,318.62
Sport and Recreation	£1,004,385.00	£611,000.00	£213,415.99	£76,000.00	£321,584.01
Other	£4,202,674.00	£1,163,099.50	£1,015,853.00	£0.00	£147,246.50
Total	£36,930,878.75	£15,245,278.74	£8,939,624.43	£3,321,424.50	£2,984,229.81

29. Table 1 provides a snapshot of the agreements that have been negotiated to date. Clearly the position changes daily as expenditure is incurred and obligations discharged, or when new payments are triggered and received: or when old agreements are replaced by new agreements as schemes are re-designed and the Section 106 agreements associated with them are re-negotiated. Table 1 shows that Planning Services have negotiated a total of £36.9 million in contributions. £15.2 million of this has so far been received. The remaining £21.7 relates to some developments that have not yet commenced or reached the relevant trigger point. Some of these developments of course may not happen at all, and therefore the Section 106 payments listed in Table 1 will never materialise. To date £8.9 million has already been spent and there are commitments from spending departments amounting to a further £3.3 million. This leaves a remaining balance of received but not yet spent sum of £2.9 million.
30. Table 2 below shows the tariff contributions received so far, apportioned to the different tariff “categories” in accordance with the original version of the Planning Obligations and Affordable Housing SPD. Planning Services are currently working to amend the “categories” to bring them into line with the recently reviewed version of the SPD so that the difference between strategic and local infrastructure is recognised. The first column shows the different “categories”, the second gives a total amount so far negotiated and the third column the amounts so far received.

Table 2: Tariff Contributions

Contribution	Negotiated (£)	Received (£)
Education		16,209.50
Health		3,241.00
Libraries		1,656.00
Open Space & Children's Play space		19,031.50
Recreation & Sport		29,301.00
Strategic Natural Environment		807.50
Transport		67,223.21
Total	£1,318,494.00	137,469.71

Making Effective Use of Section 106 Funds

31. The Section 106 database is critical to the effective management of the contributions. Each agreement is logged and then tracked to ensure that invoices are sent at the right times, income is recorded, and expiry times monitored to ensure that contributions are spent within time and on the right things.
32. The management of the overall Section 106 process is the responsibility of Planning Services. However it is the spending departments who actually deliver the projects. It is therefore important that effective communications channels exist and to this end a Planning Obligations Forum has been established, attended by each spending department with Planning Services. It meets quarterly to enable effective communication and discussion of key issues.
33. Regular meetings have now been established with individual spending services to explore the actions that need to be taken to ensure that the Section 106 money that is coming to the end of its expenditure time limit can be spent. Some spending departments, such as transport, have a well established forward planning process. These discussions with other services ensure that future expenditure plans are put in place by all spending departments to make certain that when tariff funds become available there is a robust plan in place that will highlight where they will need to use tariff funding, and provide an audit trail of where this expenditure has occurred on the ground. There have also been steps put in place to achieve better control of financial information ensuring officers are all working with the latest versions and the correct financial information. This has included a large reconciliation project has been undertaken with Finance to ensure that all financial records within the budget ledger are the same as the records shown on the Section 106 database. Work is currently being undertaken to ensure that records continue to stay accurate and up to date, including looking into upgrading the Section 106 database system so that it incorporates automatic synchronisation and real time information on financial changes.
34. Finance has also been brought more closely into the approval process, and the Section 106 "application to spend" certificate has been altered to include an initial approval by Finance that the money being sought is available.

35. The Capital Delivery Board gives approval for projects that need to be included in the City Council's Capital Programme. Where these projects require Section 106 contributions as part of their funding package, there are additional checks now in place to ensure that the spend is in accordance with the relevant Section 106 Agreement, the contribution has been received, and that the spend is also in accordance with the prevailing CIL Regulations. The remainder of this report now focuses on the actions being taken by spending departments with respect to the remaining balance as shown in Table 1.

Spending Summary

36. The following section takes a look at each spending department, and gives an overview of the outstanding balance and the actions taken so far to secure spending. Tables 3 – 15 show the outstanding balance available to each spending department, taken from Table 1.

37. The outstanding balance is then broken down into three categories:

- **Expires After 2012:** Where the funding expires after 2012, no immediate action is necessary by spending departments but preparatory work on projects will be being undertaken where the contribution relates to a larger project, and Planning Services monitors these clauses on a quarterly basis.
- **Being Actioned:** Where funding is close to expiring, a number of urgent actions are being taken by spending departments to ensure that projects are completed within the time limit. This category also includes contributions that were spent many years ago and where the records are still being verified.
- **Required to be Spent by 2012:** This category is where the funding is required to be spent by 2012 and spending departments have been prioritising the development of appropriate projects before the expiry deadline.

Affordable Housing

Table 3: Outstanding Balance - Affordable Housing

	Number of Obligations		
Outstanding Balance		£0.00	
Expires after 2012	0		£0.00
Being Actioned	0		£0.00
Required to be spent by 2012	0		£0.00

38. The percentage of affordable housing funding received already spent or committed is 100%. There are therefore no unspent sums in relation to affordable housing. Affordable housing contributions are usually from developments where it is not possible to provide affordable units on site and so a commuted sum enables the affordable homes to be provided elsewhere within the city. Strategic Housing work very closely with Planning Services and has a well developed pipeline of projects to ensure that these Section 106 funds are used alongside funding from the Homes and Communities Agency and other grants to maximise the number of units being delivered in the city. Affordable housing targets have continued to be met over the last 3 years and last year 76% of homes built were affordable (amounting to 555 units in 2009/2010).

CCTV

Table 4: Outstanding Balance - CCTV

	Number of Obligations		
Outstanding Balance		£20,000.00	
Expires after 2012	0		£0.00
Being Actioned	0		£0.00
Required to be spent by 2012	1		£20,000.00

39. The percentage of CCTV funding received already spent or committed is 74%. Contributions towards the provision of CCTV are rare and are made when there are particular community or highway safety issues related to a proposed development. The remaining £20,000 needs to be spent by August 2011 towards CCTV surveillance of the traffic signals junction on Plymouth Road and Woodford Avenue.

Public Realm

Table 5: Outstanding Balance – Public Realm

	Number of Obligations		
Outstanding Balance		£70,417.00	
Expires after 2012	3		£30,000.00
Being Actioned	2		£19,417.00
Required to be spent by 2012	1		£21,000.00

40. The percentage of public realm funding received already spent or committed is 87%. Two contributions are currently being investigated by Transport & Highways totaling £19,417. A further contribution expires before 2012 relating to the provision of public realm enhancements around Sutton Harbour, in connection with the Sutton Harbour Heritage Trail.

Community Facilities

Table 6: Outstanding Balance – Community Facilities

	Number of Obligations		
Outstanding Balance		£152,573.98	
Expires after 2012	0		£0.00
Being Actioned	0		£0.00
Required to be spent by 2012	1		£152,573.98

41. The percentage of community facility funding received already spent or committed is 78%. There is one contribution that expires before 2012. This contribution is to be used towards changing facilities at the Manadon Football Centre and is being actioned by Leisure Services.

Education Infrastructure

Table 7: Outstanding Balance – Education infrastructure

	Number of Obligations		
Outstanding Balance		£18,000.00	
Expires after 2012	0		£0.00
Being Actioned	1		£18,000.00
Required to be spent by 2012	0		£0.00

42. The percentage of education infrastructure funding received already spent or committed is 99%. Children's Services is one of the largest beneficiaries of Section 106 contributions and works closely with Planning Services to ensure that spatial planning and school place planning is coordinated so that when future Section 106 financial contributions are made they can be used alongside other capital resources speedily. There is one contribution of £18,000 being actioned and none required to be spent by 2012.

Health

Table 8: Outstanding Balance - Health

	Number of Obligations		
Outstanding Balance		£0.00	
Expires after 2012	0		£0.00
Being Actioned	0		£0.00
Required to be spent by 2012	0		£0.00

43. No contributions have so far been received for health projects, because the developments at Millbay, from which contributions are due, have yet to commence.

Highways Infrastructure

Table 9: Outstanding Balance – Highways Infrastructure

	Number of Obligations		
Outstanding Balance		£1,012,594.73	
Expires after 2012	18		£389,435.65
Being Actioned	10		£446,073.10
Required to be spent by 2012	6		£177,085.98

44. The percentage of highway infrastructure funding received already spent or committed is 71%. Transport & Highways is one of the largest receivers of Section 106 contributions. It is also one of the most complex in terms of financing, because the use of funds secured as a result of very varied development impacts reflected in Section 106 clauses are often used alongside Local Transport Plan capital funds to achieve outcomes on the ground. Often a number of different funding sources will be used to facilitate a project and therefore delivery of the project is sometimes not immediate. The six obligations required to be spent by 2012 are all due to be approved as part of the Capital Expenditure Programme in November 2010 and breakdown as follows:

- £20,000 towards implementation of a resident's car parking scheme on Albert Road
- £1,000 towards improvements roundabout at Old Laira Road
- £13,000 for the further provision of refuge islands on Henderson Place and Melville Road
- £64,944.08 towards pedestrian crossings on North Hill and North Road East
- £60,141.90 for further highway infrastructure
- £18,000 which is split as £15,000 for real time bus information and £3,000 for traffic modelling work in Millbay.

Nature Conservation

Table 10: Outstanding Balance – Nature Conservation

	Number of Obligations		
Outstanding Balance		£5,000.00	
Expires after 2012	1		£5,000.00
Being Actioned	0		£0.00
Required to be spent by 2012	0		£0.00

45. The percentage of nature conservation funding received already spent or committed is 95%. There are no outstanding issues with the nature conservation contributions, managed by Planning Services. The only remaining sum does not expire until after 2012.

Play

Table 11: Outstanding Balance - Play

	Number of Obligations		
Outstanding Balance		£178,094.97	
Expires after 2012	9		£124,760.82
Being Actioned	0		£0.00
Required to be spent by 2012	2		£53,334.15

46. The percentage of play funding received already spent or committed is 87%. Two contributions expire before 2012. One of them is a £40,141.04 contribution that is in relation to a skateboard ramp in the Egguckland area. Street Services have confirmed that this facility is no longer needed by the local community and alternative projects are currently being investigated. The remaining £13,193.11 is in relation to the provision of play equipment outside a development site at Cumberland Road. Street Services have been advised about the time limits in relation to these two remaining obligations.

Public Open Space

Table 12: Outstanding Balance – Public Open Space

	Number of Obligations		
Outstanding Balance		£57,400.00	
Expires after 2012	3		£57,400.00
Being Actioned	0		£0.00
Required to be spent by 2012	0		£0.00

47. The percentage of public open space funding received already spent or committed is 93%. The 3 contributions relating to open space that are still outstanding all expire after 2012.

Public Transport

Table 13: Outstanding Balance – Public Transport

	Number of Obligations		
Outstanding Balance		£1,001,318.62	
Expires after 2012	17		£925,403.00
Being Actioned	2		£34,671.00
Required to be spent by 2012	6		£41,274.62

48. The percentage of public transport funding received already spent or committed is 61%. By securing contributions to support bus services, public transport obligations can help developments be more sustainable and be more accessible to all. Whilst new homes or employment uses can in theory create the demand for a bus service, a financial contribution can help ensure that a bus service is viable, especially in the early days before full occupation of a development, and can even contribute to a better quality and frequency of service. Financial contributions can enable the purchase of an additional vehicle to provide a better service to all on the route including the residents of any new development.
49. The 6 obligations that are required to be spent before 2012, all expire in 2011. Three obligations (£10,000, £5,000 and £4,000) are all in relation to providing real time bus information boards throughout the city. The other three are contributions of £7,000, £10,774.62 and £4,500 are towards the provision of bus borders in Henderson Place, North Hill and Tamerton Foliot Road respectively. The six obligations required to be spent by 2012 are all due to be approved as part of the Capital Expenditure Programme in November 2010.

Sport and Recreation

Table 14: Outstanding Balance – Sport and Recreation

	Number of Obligations		
Outstanding Balance		£321,584.01	
Expires after 2012	3		£250,000.00
Being Actioned	1		£71,584.01
Required to be spent by 2012	0		£0.00

50. The percentage of public transport funding received already spent or committed is 47%. The contribution being actioned is currently undergoing public consultation to assist in the detailed design of the project, and there are no obligations that are required to be spent by 2012.

Other

Table 15: Outstanding Balance – Other Miscellaneous

	Number of Obligations		
Outstanding Balance		£147,246.50	
Expires after 2012	4		£147,246.50
Being Actioned	0		£0.00
Required to be spent by 2012	0		£0.00

51. The percentage of other funding received already spent or committed is 88%. The one outstanding contribution expires after 2012.

Contributions Repaid

52. So far only two contributions have had to be returned. The first was in relation to providing a speed camera on Elburton Road. The reason the contribution was returned was due to the decision that providing a speed camera on Elburton Road was inappropriate due to the changes in management associated with speed enforcement cameras.
53. St Budeaux Controlled Parking Zone is the other project where Section 106 contributions will be repaid. Money was secured through the development process for design, consultation and for delivery of a parking scheme arising from a local food retailer scheme. However through the design and consultation process it was rejected by the local residents and the funds secured are being repaid.

Conclusions

54. It is a tremendous achievement that £8.9 million of contributions have delivered significant projects throughout the city, improving the quality of life and making real differences to communities, and that a further £3.3 million of investment to benefit local communities is in the course of being delivered. This is really good news for the city and there is more to come with several further projects in the pipeline being worked on by officers in several spending departments.
55. Of the £36.9 million negotiated by Planning Services 41.2% (£15.2 million) has already been received, despite the impact of the recession on development activity nationally. 80.4% of this funding has already been spent or committed. Of the remaining balance of £2.9 million only £465,268.73 (or 15.6%) is required to be spent by 2012. An additional £0.6 million of contributions (or less than 3% of the total negotiated) are currently being actioned by spending departments.
56. The establishment of the Section 106 database in 2006 has enabled over 600 agreements each containing multiple clauses (many of which relate to financial contributions) to have been proactively monitored. The database has been brought up to date and reconciled to the budget ledger to improve still further monitoring arrangements. Governance arrangements have also been improved. It has been an immense task to ensure that the database is complete, contains all historical records, as well as ensuring that it is continually up to date with the latest agreements. Planning Services continues to work closely with spending departments to proactively manage the spending of Section 106 funds and further improvements to the database are being implemented during 2010/2011 as part of the Planning Services Business Plan and Service Improvement Plan.

Background papers:

Town and Country Planning Act 1990
Planning and Compensation Act 1991
Planning and Compulsory Purchase Act 2004
ODPM, Circular 05/2005, July 2005
LDF Local Development Scheme
LDF Core Strategy, adopted April 2007
LDF Planning Obligations & Affordable Housing SPD, adopted December 2008
Market Recovery Action Plan, December 2008
LDF and Planning Obligations & Affordable Housing SPD evidence base documents
LDF: Annual Review of Planning Obligations and Affordable Housing SPD report to Cabinet 15th December 2009
Planning Obligations and Affordable Housing SPD First Review, report to Cabinet 13th July 2010
Department of Communities and Local Government, New Policy Document for Planning Obligations, March 2010
Community Infrastructure Regulations 2010
