

S106 Monies Spend by Dates

Final Decision-Maker	Strategic Planning and Infrastructure Committee
Lead Head of Service	Rob Jarman
Lead Officer and Report Author	Rob Jarman and Carole Williams
Classification	Public
Wards affected	All

Executive Summary

In response to the Strategic Planning and Infrastructure Committee meeting held on 7 December 2021, a report identifying S.106 agreements where monies held by MBC towards infrastructure projects with a spend by date expiring before May 2023, is set out in the Appendix.

This report makes the following recommendations to this Committee:

1. That the report is noted.

Timetable

Meeting	Date
Strategic Planning and Infrastructure	11 January 2022

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1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>• We do not expect the recommendation will by itself materially affect achievement of corporate priorities. However, it will support the Council's overall achievement of its aim of enabling infrastructure by providing a position statement.</p>	Rob Jarman Head of Planning & Development
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report supports these.</p>	Rob Jarman Head of Planning & Development
Risk Management	The report reduces risk by focusing on 'spend by' dates.	Rob Jarman Head of Planning & Development
Financial	<ul style="list-style-type: none"> • The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation. 	Mark Green Section 151 Officer & Finance Team
Staffing	<ul style="list-style-type: none"> • We will deliver the recommendation with our current staffing. 	Rob Jarman

		Head of Planning & Development
Legal	<ul style="list-style-type: none"> S.106 sums are secured to mitigate the impacts of development under provisions in the Town and Country Planning Act 1990 (as amended). In many cases the legal agreements will contain provisions enabling the original payer of the contribution to claim back unspent sums at a given date where these have not been spent. There is therefore a risk in relation to sums not expended by the 'spend by' date. S.106 contributions are also required to meet the tests of being necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development in Reg 22 of the CIL regulations 2010 as amended. For these reasons any expenditure should be in strict adherence to the terms set out in the original S.106 agreement. 	Cheryl Parks Mid Kent Legal Services (Planning)
Privacy and Data Protection	<ul style="list-style-type: none"> Accepting the recommendation will increase the volume of data held by the Council. We will hold that data in line with our retention schedules. 	Policy and Information Team
Equalities	<ul style="list-style-type: none"> The recommendation does not propose a change in service therefore will not require an equalities impact assessment. 	Policy & Information Manager
Public Health	<ul style="list-style-type: none"> We recognise that the recommendation will have a positive impact on population health or that of individuals. 	Public Health Officer
Crime and Disorder	There are no crime and disorder implications.	Rob Jarman Head of Planning & Development
Procurement	There are no procurement implications.	Rob Jarman Head of Planning & Development & Section 151 Officer

Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and there are no direct implications on biodiversity and climate change. However, all new infrastructure, investment and budget allocation should align with action(s) of the Biodiversity and Climate Change Action Plan.	James Wilderspin Biodiversity and Climate Change Manager
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2. INTRODUCTION AND BACKGROUND

- 2.1 The Council monitors the spending allocation of the S.106 money.
- 2.2 The Appendix sets out S.106 agreements where monies are required to be spent before May 2023 on infrastructure projects. The project status column was updated in September 2021.
- 2.3 The S.106 monitoring team will prioritise discussions with infrastructure partners in relation to those sums secured which have spend dates of on or before the end of the spring 2022 since these are at most risk of any payback provision. This is particularly the case where projects are yet to be identified.
- 2.4 The team intend to commence quarterly meetings with infrastructure partners NHS, KCC and Parks/Open Spaces in the first quarter of 2022 to discuss spending S.106 monies held including those without a spend by date. For example, monies identified as NHS England (CCG) funds with no projects identified, can be reviewed, and updated from the meetings.

3. AVAILABLE OPTIONS

- 3.1 This report is for information only.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 N/A

5. RISK

- 5.1 The report reduces the risk of monies not being spent.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 N/A

7. REPORT APPENDICES

The following document is to be published with this report and form part of the report:

Appendix 1: S.106 Spend by Dates to May 2023
