

Supplement 1 to the agenda**Connected Communities Scrutiny Committee**

Tuesday 27 February 2024, 2.00 pm

Conference Room 1 - Herefordshire Council, Plough Lane Offices, Hereford, HR4 0LE

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Title of report: The policy, prioritisation and delivery of section 106 funding

Meeting: Connected Communities Scrutiny Committee

Meeting date: Tuesday 27 February 2024

Report by: Planning obligations manager

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards)

Purpose

The report sets out the policy that enables the council to secure section 106 funding, the mechanisms for identifying projects to be incorporated into the legal agreements and reports on the delivery of section 106 funded schemes since Cabinet approved the delivery model on 2 March 2023.

Recommendation(s)

That:

- a) **The scrutiny committee is asked to note the content of the report and to offer any comments or recommendations to the section 106 process.**

Alternative options

1. Section 106 of the Town and Country Planning Act 1990 (as amended) sets out the legislative framework for the council to secure section 106 contributions towards community infrastructure and affordable housing. Section 106 contributions are required to mitigate the impact of development. If the council were not to secure section 106 contributions would result in unacceptable development.
2. The council could decide to adopt a Community Infrastructure Levy which would be an alternative way of securing developer contributions towards the delivery of strategic and local infrastructure.

Key considerations

3. Section 106 agreements are legally binding obligations between Herefordshire Council as the local planning authority and developers under Section 106 of Town and Country Planning Act 1990. The purpose of planning obligations is to make development acceptable which would otherwise not be acceptable in planning terms.
4. Paragraph 55 of the National Planning Policy Framework states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition’.
5. Planning obligations can:
 - a. restrict the development or use of the land in any specified way
 - b. require specified operations or activities to be carried out in, on, under or over the land
 - c. require the land to be used in any specified way; or
 - d. require financial sum or sums to be paid to the authority on a specified date or dates or periodically.
6. Planning obligations should only be sought where they meet all of the following statutory tests as set out in section 122 of the Community Infrastructure Regulations (2010) (as amended):
 - 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
7. Herefordshire Council’s approach to Section 106 policy is set out in Policy ID1 – Infrastructure Delivery of the Herefordshire Local Plan Core Strategy and in its Planning Obligations Supplementary Planning Document (SPD) and the other relevant strategies to support the significant increase in population and employment. The Council’s approach to planning obligations is based on the key principles set out at Appendix 1. The Council’s process for securing section 106 contributions is set out at Appendix 2.
8. The Herefordshire Council Planning Obligations Supplementary Planning Document (SPD) was adopted in 2008. The SPD provides advice to developers and applicants on the use of planning obligations in the planning application process in Herefordshire. The types of community infrastructure include:
 - Accessibility, Transport and Movement
 - Affordable Housing
 - Biodiversity
 - Community Services
 - Children and Young People
 - Flood Risk Management, Water Services and Pollution Control
 - Heritage and Archaeology
 - Landscape
 - Open Space, Sports and Recreation Facilities

- Town Centres, Community Safety and
 - Public Realm Waste Reduction and Recycling
9. The SPD is based on a formulaic approach to calculating financial contributions based on a financial figure per house type. The figures have not been updated since the adoption of the SPD. If a review of the figures in the SPD were to be undertaken then this would need to be done in accordance with regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 which would require resource.
10. The council is in the process of advertising for the position of an Infrastructure Delivery Officer. This role would;
- Co-ordinate the production of the Infrastructure Delivery Plan links policy commitments to delivery on the ground through a variety of mechanisms
 - Progress the delivery of the Community Infrastructure Levy/Infrastructure Levy if the council decides to adopt
 - Revise the Planning Obligations Supplementary Planning Document
11. Members of the Connected Communities Scrutiny Committee received a briefing on section 106 on 31 January 2024. There was particular interest in how education contributions are secured. This is set out at Appendix 3.

How are draft heads of terms formulated?

12. Draft Heads of Terms set out clearly the obligations that the developer is willing to be bound by, in order to meet the needs generated by the development which are not going to be met as part of the development scheme itself. The draft heads of terms also include the agreed timing/triggers for satisfying the obligations. An example is set out at Appendix 4.
13. The draft heads of terms are produced using a number of evidence bases;

Ward members are key to identifying the infrastructure needs of their community. Part 4, section 8, paragraph 4.8.5 of the council constitution states;

- a. In the case of a major planning application the case officer will identify to the ward member whether an application triggers the need for a Section 106 agreement in accordance with the council's adopted Planning Obligations Supplementary Planning Document
- b. in the case of major applications requiring a Section 106 agreement the case officer will have a subsequent conversation/meeting with the ward member to ensure that local mitigation measures are appropriately incorporated. As part of this process officers and members will be guided by the council's adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the planning obligations manager.

There is a statutory requirement to consult the Town/Parish Council and service areas, both internally and externally, on the submission of a planning application. There is a 21 day period to respond to a planning application consultation whereby those consultees can identify the infrastructure required to mitigate the impact of the development. The consultation template provides the opportunity for anyone, including members of the public who may be commenting on an application, to suggest infrastructure requirements. Even if the consultee is minded to object to an application the council encourages the identification of those infrastructure items for consideration and application in respect of the legal tests should the LPA be minded to approve an application.

Neighbourhood planning is a key part of the Localism Act. It gives local communities greater power to shape development by having a direct role in the development of planning policies at a local level.

Producing a Neighbourhood Development Plan provides an opportunity for local communities to become directly involved in planning policy. A plan allows the local community to create a vision and planning policies for the use and development of land in a neighbourhood. For example, where new homes and businesses can be built and what they should look like. It can also identify infrastructure requirements.

To date there are 113 designated neighbourhood areas and 92 made/adopted Neighbourhood Development Plans in Herefordshire. Many Neighbourhood Development Plans contain policies in relation to community infrastructure requirements. These can be used to inform the Council's position regarding developer contributions associated with development proposals within the area and inform the heads of terms.

While identifying 'need' and discharging the spend within schemes remains the responsibility of the council, in practice, it is not unreasonable for communities to identify those areas where there are weaknesses in social and physical infrastructure to which contributions could be sought from new development. As part of this process, we maintain a community ideas database. This contains 'needs' or 'wishes' that have been formally identified by councillors, parish councils, residents' associations and other interested groups. This information is published to the council website and updated on an annual basis [Section 106 planning obligations – Herefordshire Council](#)

How do communities find information on planning obligations in Herefordshire?

14. The council website has a Planning Obligations search facility;

[Section 106 planning obligations – Herefordshire Council](#)

The search facility enables the community to see;

- The section 106 income available from a development site;
- The section 106 income due to be paid on sites that have commenced;
- The sites that are being monitored to ensure that section 106 income is received when the trigger point for payment is met.

Anyone can search for monies by ward, parish, improvement towards, improvements description, planning reference, development site details, status (monies available, monies pending, site being monitored). The information can be exported to an excel file.

15. In addition, the council has a statutory requirement for the council to publish an Annual Infrastructure Funding Statement by 31 December each year.

[Section 106 planning obligations – Herefordshire Council](#)

In summary, the report provides:

- An overview of what section 106 and section 278 highway agreements are
- Contributions that have been agreed within a signed section 106 agreement
- Contributions that have been received and allocated to specific projects, either monetary or non-monetary

- Projects that have been delivered via section 106 income
- Projects that have been delivered by section 278 highway agreements
- The delivery of affordable housing

S106 Delivery

16. In February 2021, SWAP Internal Audit Services issued a report on Section 106 Agreements. The purpose of the audit was to verify there was adequate Council oversight of funding received from developers and that Section 106 agreements were discharged as agreed. The key issues identified were:
 - a. Management Board require more comprehensive reporting to enable informed decisions to promote the expenditure and maximise the benefits to residents.
 - b. Governance not consistently applied to approve contribution expenditure.
 - c. Inconsistencies were identified between the spreadsheets recording the Section 106 information.
17. In November 2021, Cabinet approved the procurement route and implementation of new delivery proposals, processes and expenditure of up to £9.3m of S106 monies. The [report](#) sought approval of recommendations and obtained approval of a new procurement route, new delivery proposals and processes and to put in place appropriate delegation to approve the spend and resources required in connection with the delivery of the Section 106 schemes identified.
18. The PMO then established interim delivery capacity for the implementation of the new delivery proposals, processes and expenditure of up to £9.3m of Section 106 monies under a Portfolio Manager with the Project Management Office (PMO).
19. In March 2022, a further more detailed report was commissioned to Inner Circle Consulting (ICC) which highlighted systematic issues impacting S106 delivery:
 - History of poor performance on delivery by partner services
 - Lack of corporate or member visibility and so inability to provide oversight
 - Lack of visibility of how much money is available to fund infrastructure, when, with what restrictions
 - Inefficient processes for securing and allocating contributions
 - Systems for managing and monitoring developer contributions data are not fit for purpose
 - No coherent pipeline of projects to meet requirements but lots of need
 - Lack of capacity to deliver the projects to the pace and standard you need
 - No long-term strategy to plan for infrastructure linked to planned growth

ICC presented the report at Cabinet Briefing on 24 March 2022.
20. From 2019, Herefordshire Council has received £15m in S106 contributions. Drawdown over the same period is £5.61m. Highways & Transport, Education, Off-Site Play & Open Space and Sports are the largest contributors accounting for £10.56m of all monies received. Since 2019 the receipt of S106 contributions has been generally consistent however 2023 saw a significant upturn with £5.65m received. A full overview has been provided in Appendix 5 including an individual break down by contribution type.

21. During 2019-2024, the receipt of S106 contributions has significantly outweighed drawdown. However, with the adoption of new processes and delivery mechanisms, delivery has increased with a current drawdown of £1.39m in 2022/23. Spend to date is 2023/24 is £1.362m with a forecast of £2.1m at Q3 by the end of the financial year.
 22. In January 2023, the PMO appointed a new interim Programme Manager to lead on the delivery challenges faced by Herefordshire Council and implement new procedures and processes to ensure robust delivery.
 23. On Thursday 2 February 2023 all internal officers participated in a facilitated workshop run by the PMO Programme Manager to discuss relevant end-to-end processes and delivery mechanisms for S106 and make recommendations for agreement. The workshop aimed to:
 - Discuss past challenges, anticipated future challenges and provide mitigation.
 - To identify clear lines of responsibility between commissioning and delivery.
 - Define clear roles and responsibilities.
 - To provide a forum to discuss communication and governance strategies
 24. The delivery of the workshop allowed for new processes and procedures to be agreed which culminated in a formal [Cabinet Report](#) dated 2 March 2023 which sought to approval of recommendations to;
 - a. Approve the implementation of the new delivery proposals, as set out in Section 106 Delivery Proposals, including the resources required, to spend all Section 106 developer income.
 - b. The council scheme of delegation is updated to authorise the spend of Section 106 monies and to delegate all operational decisions relating to the above recommendation.
- The improvements in the process were welcomed and the need to progress spend of contributions promptly and in consultation with communities was emphasised.
25. Upon approval of the cabinet report, PMO delivery responsibility was increased to £12.8m to take into account additional S106 contributions received in the intervening period.
 26. PMO S106 delivery administers the construction / infrastructure related gain types only which includes Highways & Transport, Education, Off-Site Play & Open Space and Sports. The remaining gain types are delivered directly via the core service area or external bodies (Appendix 6).
 27. The PMO S106 delivery function implemented new commissioning and delivery processes over 2023, which established clear roles and responsibilities between the Planning Obligations Team, Service Areas and PMO S106 delivery. An example has been contained within Appendix 7. The new delivery process aims to standardise the delivery approach and ensure all objectives and statutory obligations are met.

28. A five stage delivery process has been introduced to ensure a consistent project management approach:



Figure 1: PMO S106 standardised delivery process

29. PMO S106 Project Managers have a systematic checklist of work elements that need to be completed as part of every project, regardless of size or scale. A copy has been contained within Appendix 8.

30. The PMO S106 delivery function has also implemented robust procedures in regards to governance, escalation and reporting. The process charts have been contained in Appendix 9.

31. Stakeholder engagement improvements have been made including:

- Introduction of Herefordshire Council S106 search facility
- Improved project delivery communication
- Members and Parish Briefings held (quarterly) - We hold 2 sessions each, one in the day and one in evening to ensure the widest possible availability for stakeholders.
- New Delivery focused email address for regular communication

32. The PMO has ensured that specialised resource is in place to expedite the historic backlog. The PMO S106 delivery team now consists of a Programme Manager, two Senior Project Managers and a Programme Co-ordinator.

33. The PMO S106 delivery team has historically been funded by available S106 monies remaining once works / projects have been delivered. Any remaining delivery costs are funded by PMO revenue budgets. Future S106 agreements will request additional monies to allow Herefordshire Council to cover future delivery costs, but due to the time until income is received after the houses are sold this will be a while off.

34. So far in 23/24, PMO S106 has delivered spend of £1.362m. The delivery programme is on target to exceed its projected revised forecast of £1.52m. An overview of delivered projects in 23/24 has been contained in Appendix 10 and 10a.

35. The backlog is forecast to be delivered over financial years 2024/25 and 2025/26:

Gain Type	Balance (within PMO remit)	Forecast Delivery 24/25	Forecast Delivery 25/26
Highways & Transport	£5.73m	£2.00m	£3.73m
Education	£4.44m	£2.44m	£2.00m

Off-Site Play & Open Space	£0.81m	£0.45m	£0.36m
Sports	0.59m	£0.31m	£0.28m
Total	£11.57m	£5.20m	£6.37m

N.B. Forecasts set out within this report are contingent on design and construction risks. Changes to scope or delivery parameters will ultimately have an impact on the delivery programme.

37. Across all gain types PMO S106 has £7.11m within the delivery process however, forecasts have been considered against the seasonal impacts of construction delivery. In addition, Education Projects have been forecasted taking into consideration site availability during school holidays.
38. If the council required to further expedite delivery in advance of that set out above then the following may be required;
- Additional support to service area commissioners within Education and Built & Natural Environment Service. The additional support would help to increase the rate of commissioning by service areas into formal delivery.
 - Additional support to Highways & Transport service to better scope and agree design /construction parameters.
 - Additional project management resource within PMO S106 and funding.
39. Additional programme delivery constraints include budgets. Working within a historic backlog the available funds are not always enough to deliver the set requirements. The PMO S106 delivery is mitigating this by seeking additional funds from internal & external stakeholders. However in most cases, projects are value engineered within the set budget parameters.
40. Further improvements to stakeholder engagement are planned to be introduced including:
1. Release of delivery focused newsletter – to better update internal and external stakeholders
 2. Herefordshire Council website updates – New delivery focused webpage
 3. Updates to Parish Wish Lists – Working in conjunction with the planning obligations manager letters will be issued asking for wish lists updates to better anticipate local needs.

Benchmarking section 106 matters with other Local Authorities

41. The council are in the process of implementing a Planning Improvement Plan within the planning service. The Plan includes considering revisions to the council pre-application processes and the implementation of a range of discretionary charges. As part of this process, the council is benchmarking section 106 processes with 17 benchmarked local authorities including its neighbouring counties. This work will assist in informing future decisions on section 106 processes and charges.

The Community Infrastructure Levy

42. The Community Infrastructure Levy (CIL) came into force in April 2010 and allows local authorities to raise funds from owners or developers of land undertaking new building projects in their area, to help fund infrastructure.

43. The council commenced the process of adopting the Community Infrastructure Levy. In November 2015 the government commissioned an independent review of the Community Infrastructure Levy to assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure, and to recommend changes that would improve its operation in support of the government's wider housing and growth objectives.
44. The independent review group submitted their report to ministers in October 2016.
[View the report and supporting papers on the government website](#)
45. The government responded to the publication of the review as part of its Housing White paper published in February 2017, specifically at paragraph 2.29 on page 40 the government said;
"...The Government will examine the options for reforming the system of developer contributions including ensuring direct benefit for communities, and will respond to the independent review and make an announcement at Autumn Budget 2017."
[View the White Paper on the government website \(PDF\)](#)
46. Having regard to the above, the council paused work on the Community Infrastructure Levy in October 2018.
47. The Government set out its initial proposals for the new planning levy to replace CIL to be called the Infrastructure Levy (IL) in its 2020 Housing White Paper. The Government published a technical consultation intended to inform secondary legislation to regulate IL in June 2023.
48. The framework legislation for the new IL is now contained in the Levelling Up and Regeneration Act 2024 but given the response to the 2023 consultation, the Government has confirmed its intention to undertake a further consultation in 2024 to further inform the secondary legislation for IL.
49. The council is in the process of preparing a new Local Plan with consultation on the draft regulation (18) Plan due to commence in March 2024. The Plan will be accompanied by a Viability Assessment which will include a section on future CIL charges in the county. Having regard to the current legislative position the council will need to decide in due course its approach to developer contributions.

Community impact

50. Planning obligations are the means by which a local planning authority can secure contributions, improvements or mitigation works to offset any adverse impact of new development. Whilst most new development is necessary and provides direct benefits for the communities to which they relate i.e. new and improved housing, shops or employment provision, it can sometimes place additional burdens on existing services and infrastructure as well as have adverse impacts on the local natural environment. For example, residential development can increase demand for new school places and community facilities and add to the number of people using open space and recreation facilities. New residential and commercial development will increase the number of people travelling in and around an area such as Hereford and will therefore add to congestion and pressure on public transport, car parking, air quality and public safety.
51. Section 106 monies assist in mitigating the impact of new developments on existing facilities and infrastructure and secure affordable housing which is a known need in the county.

52. The County Plan (2020-24) priorities are:

- Protect and enhance our environment and keep Herefordshire a great place to live
- Minimise waste and increase reuse, repair and recycling
- Build understanding and support for sustainable living
- Invest in low carbon projects
- Support the an economy which builds on the county's strengths and resources
- Develop environmentally sound infrastructure that attracts investment
- Support an economy which builds on the county's strengths and resources and spend public money in the local economy wherever possible.

Environmental Impact

53. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.

54. Planning obligations sought through Section 106 are an important mechanism to mitigate the impact of new developments, this includes environmental impact and sustainability.

55. Contributions for example, can assist in allowing for the needs of walking and cycling, as well as enhancements to public transport all of which can contribute to a reduction in carbon emissions and improvement in air quality. Securing phosphate credit contributions assists in mitigating the impact of development on the county's environmental river quality.

Equality duty

56. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

57. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.

Resource implications

58. There are resources within Planning Services which comprises the Planning Obligations Manager and Planning Obligations Support Officer to secure section 106 contributions within the

Development Service area and Infrastructure Delivery Officer post in the Strategic Planning Service area. Senior Development Management and Strategic Planning and Neighbourhood officers are also well versed in the legal requirements around Section 106 and CIL and, there is resource within the service areas and the Project Management Office (PMO) to support the programme of delivery.

59. Further resources and funding will need to be identified as required to support delivery if the council decides to accelerate the delivery of projects.
60. There are no direct financial implications on the council's budget arising from the recommendations.

Legal implications

61. 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. Section 106 agreements may secure financial contributions to provide infrastructure or affordable housing. However these are not the only uses for a Section 106 and an obligation may for example, restrict the development or use of the land in any specified way or require specified operations or activities to be carried out in, on, under or over the land require the land to be used in any specified way.
62. Where the Section 106 Agreement seeks to secure a financial contribution the amount of the financial contribution secured will be specified together with the purpose for which the monies are to be used in the agreement.
63. The Section 106 agreement may also specify the time period within which the Section 106 monies must be either be spent or committed by the Local Authority. If this time period expires the Local Authority may be required to return any unspent or uncommitted parts of the Section 106 monies in whole or part to the developer.
64. The role of the S106 delivery programme is to expedite delivery whilst safeguarding the use of S106 monies. In some cases, S106 monies act as a contribution to a larger project which can delivered by a third party.

Risk management

65. There is a reputational risk to the council if the Section 106 monies are not spent efficiently and effectively. This will also have a direct impact on communities and their environment as Section 106 monies mitigate the impact of new developments.
66. There is a financial risk as time constraints are written into the Section 106 agreements that if the monetary contributions are not spent within a certain period of time, then the person/company making the payment is entitled to have it repaid and in some cases with interest.

Risk / opportunity	Mitigation
Insufficient section 106 funding to deliver project – Infrastructure may not be delivered	Ensure that all other funding mechanisms both internal and external are explored and secured.
Community resource – if there is insufficient resource to manage the requirements of a community led project, then the development scheme might not meet its potential.	Consider the support given from the local authority to the project.
Costs of works to deliver a project exceeds section 106 contribution available.	Ensure a contingency is planned in the delivery programme

Consultees

None

Appendices

Appendix 1 – Herefordshire Council Key Principles to Section 106

Appendix 2 – Herefordshire Council Section 106 Planning Process

Appendix 3 – Explanation of Section 106 Education Contributions

Appendix 4 – Example of Draft Heads of Terms

Appendix 5 – Overview of Section 106 Income and Spend since 2019

Appendix 6 – Breakdown of Section 106 Balances and Delivery Mechanism

Appendix 7 – Example of Project Delivery Process

Appendix 8 – Project Management Office Delivery Checklist

Appendix 9 – Governance and Communication on Delivery

Appendix 10 – Overview of Delivered Projects

Appendix 10a – Overview of Delivered Projects

Background papers

None

The Council's approach to planning obligations is based on the following key principles:

- i. The procedures will be operated in accordance with the fundamental principle that planning permission may not be bought or sold.
- ii. A planning obligation will only be sought when it is material to the planning decision on a proposal and, where a particular planning obligation is required to make a development proposal acceptable, planning permission will not be granted without it.
- iii. A planning obligation will not be sought when a planning condition may be more appropriately used.
- iv. A planning obligation will not be sought to redress existing deficiencies or lack of capacity in existing facilities, services or infrastructures.
- v. The nature of a planning obligation likely to be required will be made known as early as possible in the planning process.
- vi. The overall extent of the planning obligation sought will have regard to what is reasonable in terms of the scale of the development and its impact.
- vii. The acceptability of the development proposal will be decided on the balance of its planning merits, taking into account the planning application and whether the planning obligation, which has been negotiated as a whole, is sufficient to overcome and satisfactorily address any impact arising from that proposal.
- viii. As referred to above, a vital test of proposed planning obligations is that they must be necessary to make a proposal acceptable in land-use planning terms. They should not be sought where the connection does not exist or is too remote.

Planning application submitted	Officer report and decision making	Completion of section 106 agreement	Post legal agreement completion	Monitoring	Payment request process	Payment receipt process	Spend of monies
<ul style="list-style-type: none"> • Council Service areas are consulted when a planning application is submitted and given 21 days to respond, setting out their planning obligation requirements • Town, parish councils and those wishing to make representations to a planning application can identify the infrastructure that they wish to see delivered in their consultation response • Planning Obligations Manager collates responses to check compliance with the statutory tests set out in the Community Infrastructure Levy Regulations and prepares Draft Heads of Terms that sets out the obligations • Where issues of viability arise with regards to the contributions, the Planning Obligations Manager will commission the District Valuation Agency (an independent organisation) to undertake an assessment of the viability evidence presented by the applicant. The applicant will fund 	<ul style="list-style-type: none"> • The planning obligations are set out within either the delegated officer report or the planning committee report • In line with the council constitution, the case officer will contact the ward member to set out the planning obligations and advise that they are minded to support the application • The Draft Heads of Terms will be shared with the relevant Town/parish council • Where the planning obligation contains financial contributions, a section 106 legal agreement must be completed before issuing a decision notice. Where the obligations relate to non-financial matters such as affordable housing then a planning condition can be imposed on the decision notice requiring the completion of a section 106 agreement prior to commencement of development 	<ul style="list-style-type: none"> • The Planning Obligations Manager will complete instructions to the council legal section to prepare a section 106 agreement • The council solicitor will seek an undertaking from the applicants solicitor to pay the council legal fees whether they complete or not • Discussions and negotiations will follow between parties in agreeing the final form of the agreement • Once agreed, the Planning Obligations Manager will write a report and complete a Seal Authority to authorise the completion of the agreement. These documents are authorised by the Lead Development Manager in line with the council constitution. • These documents are sent to the council solicitor to enable the sealing and completion of the agreement. 	<ul style="list-style-type: none"> • A copy of the legal agreement is sent to the Planning Obligations Manager and the council Land Charges service • The planning decision notice is issued • The Statutory Register is updated to show the permission granted, and a copy of agreement placed on the register. The register is the online council planning application system. • The agreements and planning decisions are registered as local land charges • The agreements are registered as a charge against the land title at HM Land Registry 	<ul style="list-style-type: none"> • Details of the agreement including clauses and triggers are recorded on the database and linked to implementation and monitoring of planning permissions • The Planning Obligation Manager receives notification of the commencement of development from the council Building Control Section on a monthly basis to monitor development sites • The completion of units on development sites can be monitored through the Building Control system in Civica • The Planning Obligation Manager undertakes site visits to development sites to monitor progress and to ensure that where trigger points for payment have been met the requisite procedures are then followed 	<ul style="list-style-type: none"> • Once a trigger point for payment has been met, the Planning Obligations Officer will contact the developer advising that payment of financial contributions is due • The Planning Obligations Support Officer will calculate the index linked figure to be applied to the contribution using the RICS Community Infrastructure Levy Index. • The Planning Obligations Support Officer will request a 'FIN' code from the council finance team. Each development site has its own 'FIN' code. Each contribution type has its own 'GT' code. The monies will be held on the council overall balance sheet rather than individual service area accounts • A Payment Requisition Letter or invoice will be issued to the developer. 	<ul style="list-style-type: none"> • On receipt of payment the monies will be posted to the council overall balance sheet against the FIN and GT code that have been set up • On receipt of payment of the contribution, the payment will be recorded on the section 106 masterspreadsheet and in Civica by the Planning Obligations Support Officer. • The Planning Obligations Support Officer will send an acknowledgement letter through Civica to the developer • The Planning Obligations Support Officer issues a memo advising that payment has been received to all service areas, the ward member and town/parish council 	<ul style="list-style-type: none"> • Each service area is responsible for spend in accordance with the Financial Procedure Rules of the Council Constitution • The monies are held on the council balance sheet for draw down by the Environment & Place financial officer • An annual Infrastructure Funding Statement of service area spend is produced by the Planning Obligations Manager

Explanation of securing section 106 education contributions

Education contributions are sought from development which results in the generation of additional numbers of children in excess of that which local educational facilities can accommodate in terms of capacity or when measured against qualitative standards. Contributions to youth facilities will also be assessed from all new residential developments providing additional units.

Contributions towards schools will depend on the size of the development and the capacity of schools serving the development. It is based on the numbers of children on roll in the catchment school as collected in the most recent schools census prior to being consulted on the planning application compared to their planned admission number and takes into account the size of the housing development.

Developments have been divided into bands based on the size of the development. A contribution will be requested if the number of spare places meets the trigger point for that band in at least one year group at each of the catchment schools. The bands are:

- For a development of 30 or fewer dwellings, contributions will be sought for schools that have no spare places in at least 1-year group;
- For a development of 31-60 dwellings, contributions will be sought for schools that have 1 or no spare places in at least 1-year group;
- For a development of 61-99 dwellings, contributions will be sought for schools which have 2 or fewer spare places in at least 1-year group; and
- For developments of 100 or more dwellings, the Council will seek to negotiate with the developer.

The education contribution will vary according to the number, size and type of dwellings proposed. An analysis based on Census figures shows that actual number of pupils living in 2+ bedroom flats/apartments for example is lower than that in a standard 2+ bedroom house. Therefore, the contribution from flats/apartments will be lower. Similarly, a 4+ bedroom dwelling is assumed to have a higher number of child occupants and the contribution will be higher.

The Building Cost Multiplier is essentially a cost per pupil for building new accommodation. It is set annually by the Department for Education (DfE). The figures are based on the weighted average of two separate multipliers, one for totally new schools and one for extensions to existing schools. The figure includes an area adjustment to reflect the actual costs involved in the local area.

The Calculation for Provision for Children and Young People is as follows;

Cost per dwelling = Pupil Yield per category x Building Cost Multiplier

Schools receive capital funding from the DfE and this is for maintenance of the school estate which S106 contributions cannot be spent on. The amount of capital the school receives depends on the size of the school. I'm not sure it's possible to put a percentage figure on the S106 funding as some schools due to their low pupil numbers will be unlikely to see any S106 contributions whereas others that happen to be the catchment school for large housing development and are relatively popular could see quite a large sum.

In terms of how projects for schools are identified, any council priorities are considered in the first instance e.g. where there are programmed capital expansions or requirements for specific facilities. Where there are no council priorities, the schools are informed of the funding and invited to put forward projects that they would like to have delivered. These projects are approved by the education service prior to going into delivery by the Programme Management Office.

Denominational schools do not have their own defined catchment area. Their catchments are a larger area of the county that overlap non-denominational school catchments. Therefore to ensure there is no double counting, the proportion of children attending the school compared to the total number of children attending all schools covered by the denominational schools a notional catchment area is used (assume there are 10 children attending the denominational school and 90 other children attending schools covered by their notional catchment, a total of 100 children, the denominational school will get 10% of the S106 monies with the remainder going to the catchment school). This assumes the denominational school meets the requirements in terms of the capacity of pupil numbers.

DRAFT HEADS OF TERMS

Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

Planning Application – P253679/F

Site address:

Land to the north west of Bridge Street, Sutton on Wye, Hereford, HR1 6SD

Planning application for:

Development of 44 dwellings

Proposed scheme:

Open Market mix = 26 dwellings comprising;

16 x 3 bedroom dwellings

8 x 4 bedroom dwellings

2 x 5 bedroom dwellings

Affordable Housing mix = 18 dwellings comprising;

Affordable rented = 8 dwellings

1 x 2 bedroom bungalow

4 x 2 bedroom

3 x 3 bedroom

Shared Ownership = 5 dwellings

1 x 1 bedroom

2 x 2 bedroom

2 x 3 bedroom

First Homes = 5 dwellings

1 x 1 bedroom

2 x 2 bedroom

2 x 3 bedroom

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st April 2008, and Regulations of the Community Infrastructure Levy Regulations 2010 (as amended).

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£260,224.00 (index linked)** based on the following:

Contribution by No of Bedrooms	Pre-School	Primary	Secondary	Post 16	Youth	SEN	Total
3 bedroom open market dwelling	£432	£3,063	£2,695	£121	£850	£468	£7,629
4+ bedroom open market dwelling	£639	£5,018	£5,535	£121	£1,675	£828	£13,816

The contribution will provide enhanced educational infrastructure at Hereford Early Years, Sutton on Wye Primary School, St John's Roman Catholic Primary School, Sutton on Wye High School, Hereford Youth and Special Education Needs schools. The sum shall be paid prior to commencement of development, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£86,504.00 (index linked)** based on the following:

£2,949.00 (index linked) for a 3 bedroom open market dwelling

£3,932.00 (index linked) for a 4+ bedroom open market dwelling

The contribution will provide sustainable transport infrastructure to serve the development. The sum shall be paid prior to commencement of development, and may be pooled with other contributions if appropriate. The sum shall be paid prior to commencement of development and may be pooled with other contributions if appropriate.

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£3,520.00 (index linked)** based on £80.00 per dwelling.

The contribution will provide 1x waste and 1x recycling bin for each dwelling. The sum shall be paid prior to commencement of development.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£5,578.00 (index linked)** based on the following;

£198.00 (index linked) for a 3 bedroom open market dwelling

£241.00 (index linked) for a 4+ bedroom open market dwelling

The contribution will provide for improved library infrastructure at Hereford library. The sum shall be paid prior to the commencement of the development, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£48,430.00 (index linked)** based on the following;

£1,640.00 (index linked) for a 3 bedroom open market dwelling

£2,219.00 (index linked) for a 4+ bedroom open market dwelling

The contribution will provide for improved infrastructure at the existing play area in the village at the village hall recreation ground. The sum shall be paid prior to the commencement of the development, and may be pooled with other contributions if appropriate.

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£24,000.00 (index linked)** to provide new and additional premises or infrastructure, extension to existing premises or improved digital infrastructure and telehealth facilities at Hereford Primary Care Networks. The sum shall be paid prior to the commencement of the development, and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council to provide on-site green infrastructure comprising;
 - 0.04ha (400sqm) of Public Open Space
8. The maintenance of any on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council and/or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.
9. The developer covenants with Herefordshire Council to provide 40% on site affordable housing.
10. The developer covenants with Herefordshire Council that the Affordable Housing Units shall be for the following affordable housing tenures First Homes, Affordable Rented and Shared Ownership.
11. All the affordable housing units shall be completed and made available for occupation in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
12. The Affordable Housing Units must be allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons in affordable housing need one of who has:-
 - 12.1 a local connection with the parish of Sutton on Wye;
 - 12.2 in the event there being no person with a local connection to the parish of Sutton on Wye any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies.
13. For the purposes of sub-paragraph 12.1 & 12.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 13.1 is or in the past was normally resident there; or
 - 13.2 is employed there; or
 - 13.3 has a family association there; or

- 13.4 a proven need to give support to or receive support from family members; or
13.4 because of special circumstances

14. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4, 5, and 6 above for the purposes specified in the agreement within 10 years of the date of payment, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

15. The sums referred to in paragraphs 1, 2, 3, 4, 5, and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.

16. The developer covenants with Herefordshire Council to pay no more than 2% of the total sum of contributions detailed in this Heads of Terms towards the monitoring and enforcement of the obligations and 5% of the total sum of contributions towards the project management of the delivery of the infrastructure required to mitigate the development. The contributions shall be paid on or before the commencement of the development.

17. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

The proposed planning obligations which includes the delivery of community infrastructure towards transport, education, open space, play, waste and recycling, libraries and healthcare and the delivery of affordable housing will achieve the following ambitions and success measures of the County Plan 2020-2024;

Environment

- Minimise waste and increase reuse, repair and recycle
- Improve and extend active travel options throughout the county
- Improve resident's access to green space in Herefordshire

Community

- Ensure all children are healthy, safe and inspired to achieve
- Building publicly owned sustainable and affordable houses
- Improve Herefordshire's house affordability ratio, making accommodation more affordable to local people
- Reduce the number of people admitted to hospital for unplanned events

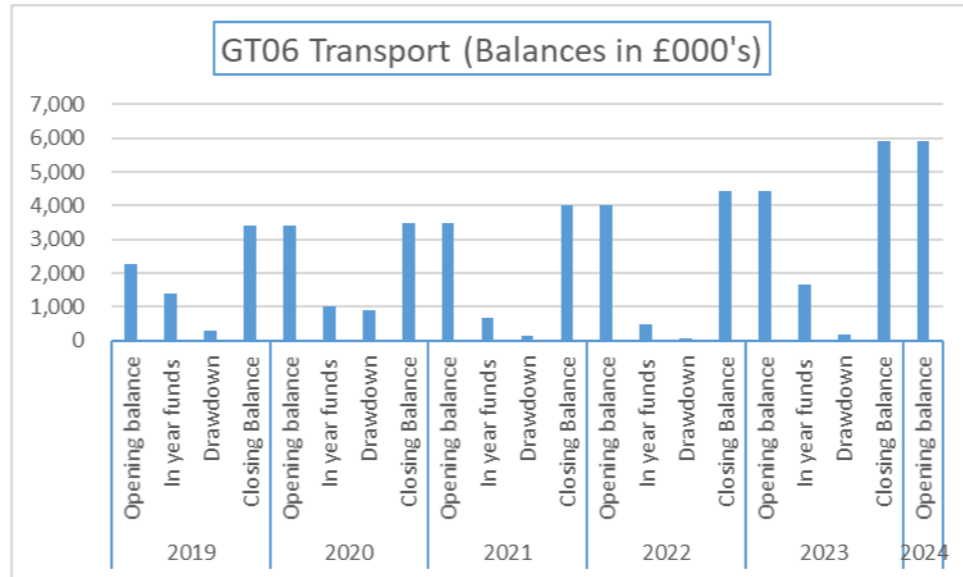
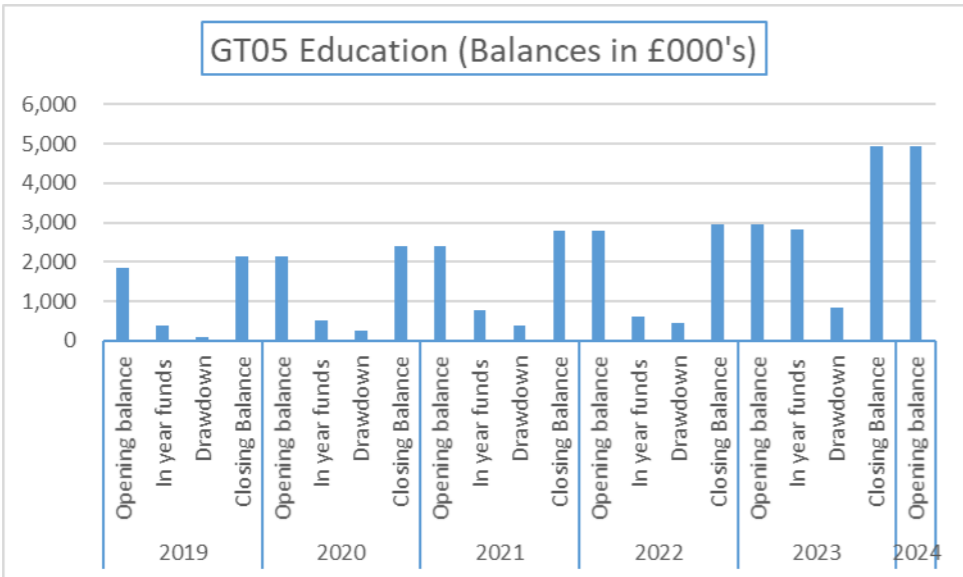
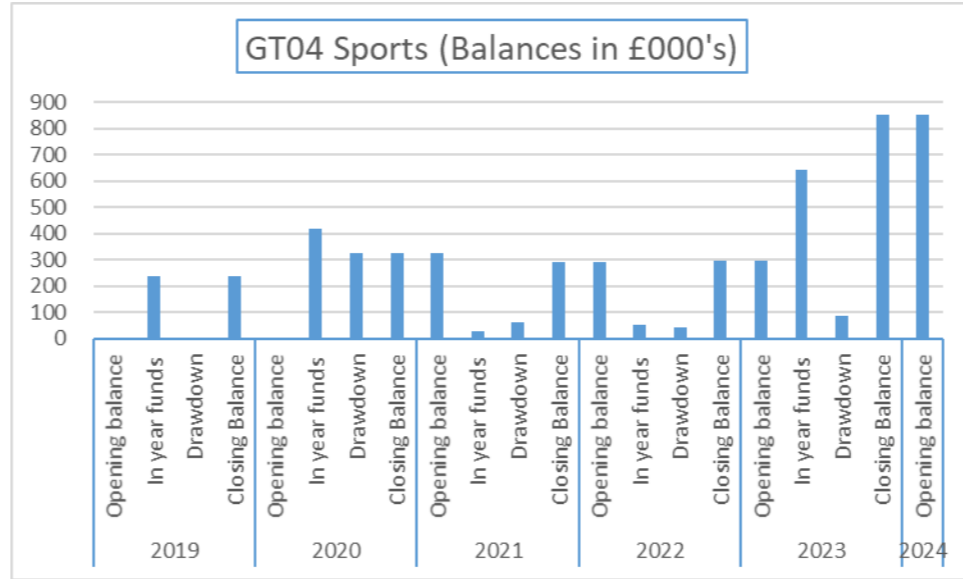
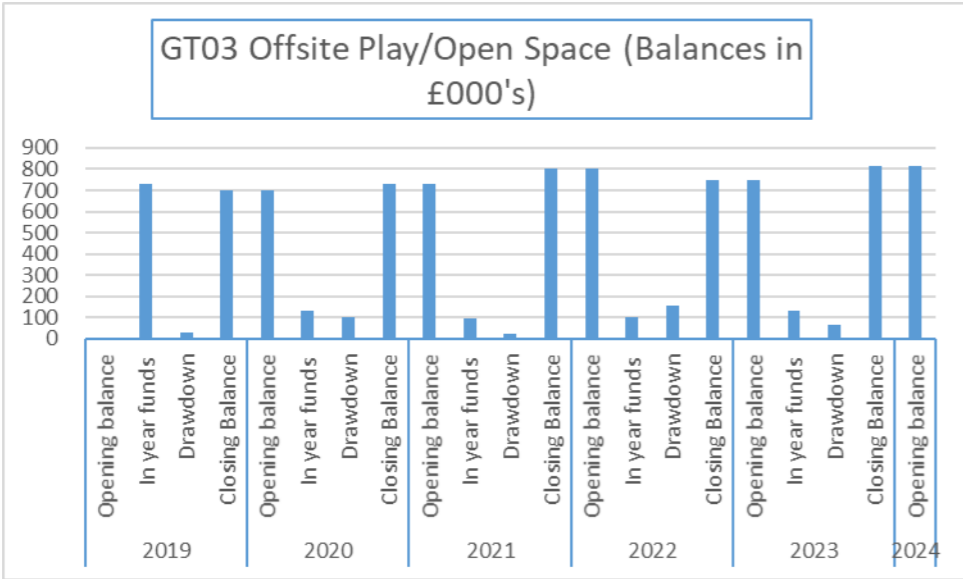
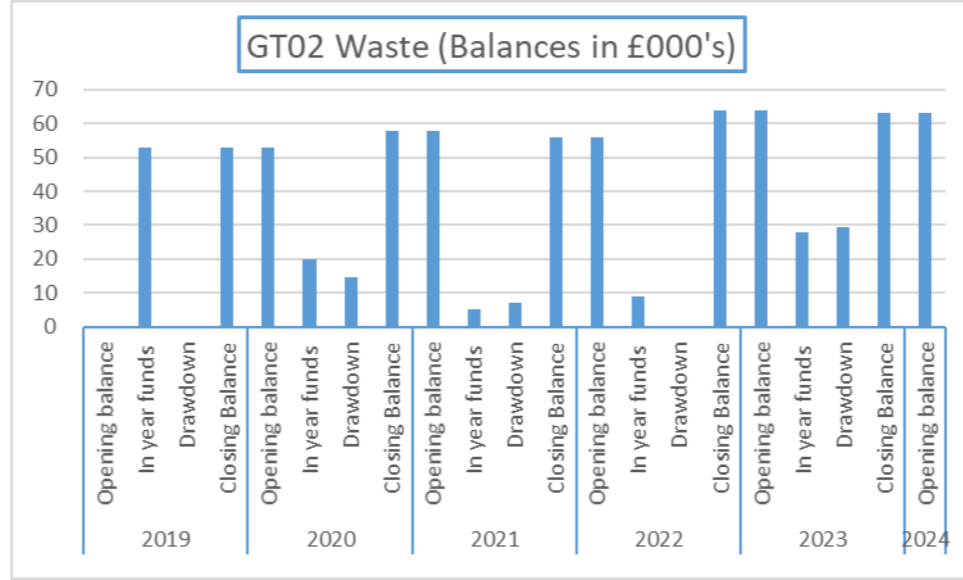
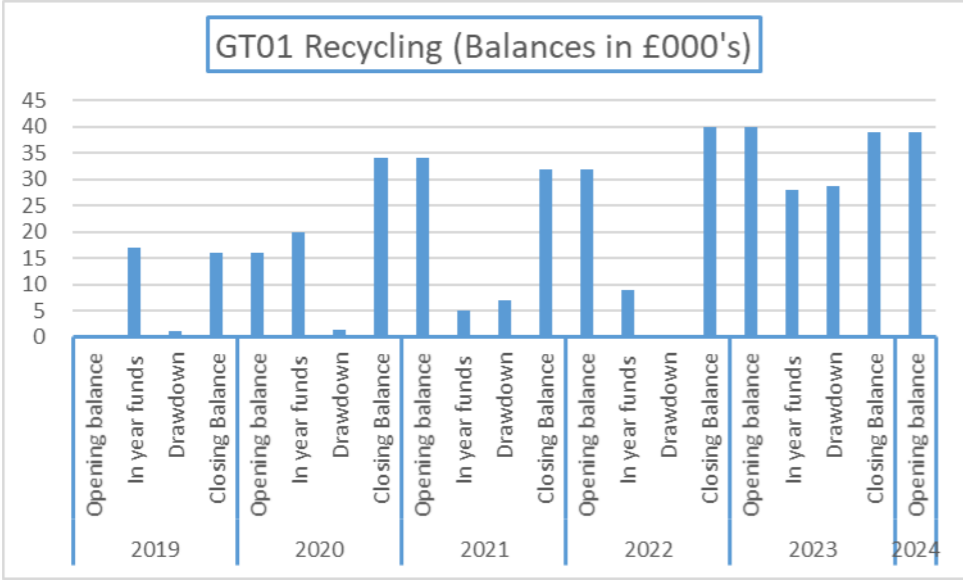
Economy

- Improve educational attainment and widen further and higher education opportunities
- Increase the number of short distance trips being done by sustainable modes of travel – walking, cycling and public transport
- Increase road safety in the county and improve the overall condition of the road network

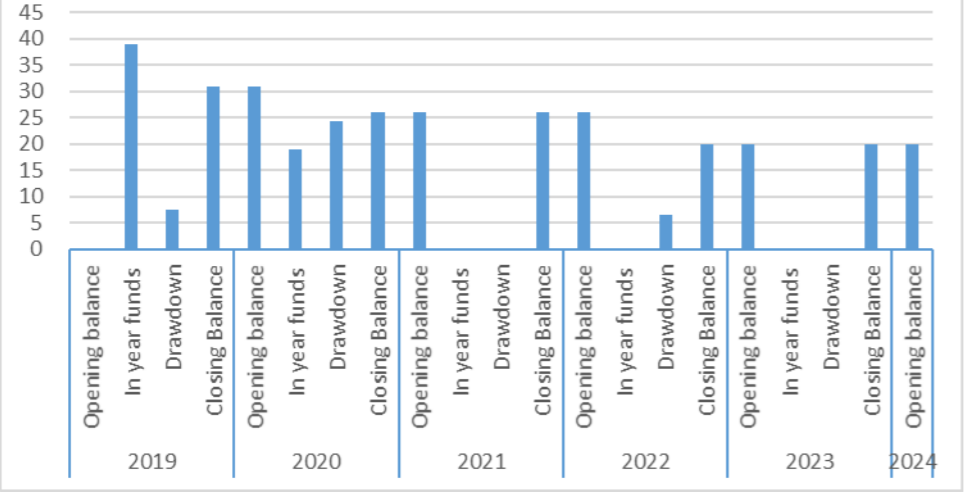
Signed: Yvonne Coleman

Date: 19 January 2024

S106 Balances £000's		2019				2020				2021				2022				2023				2024
Analysis	Analysis (T)	Opening balance	In year funds	Drawdown	Closing Balance	Opening balance	In year funds	Drawdown	Closing Balance	Opening balance	In year funds	Drawdown	Closing Balance	Opening balance	In year funds	Drawdown	Closing Balance	Opening balance	In year funds	Drawdown	Closing Balance	Opening balance
GT01	Recycling	0	-17	1	-16	-16	-20	1	-34	-34	-5	7	-32	-32	-9	0	-40	-40	-28	29	-39	-39
GT02	Waste	0	-53	0	-53	-53	-20	15	-58	-58	-5	7	-56	-56	-9	0	-64	-64	-28	29	-63	-63
GT03	Offsite Play/Open Space	0	-732	31	-701	-701	-130	103	-728	-728	-94	22	-800	-800	-102	155	-747	-747	-133	65	-816	-816
GT04	Sports	0	-237	0	-237	-237	-417	328	-325	-325	-28	64	-290	-290	-51	43	-298	-298	-643	88	-852	-852
GT05	Education	-1,841	-393	81	-2,153	-2,153	-510	266	-2,396	-2,396	-786	395	-2,788	-2,788	-609	436	-2,960	-2,960	-2,809	841	-4,928	-4,928
GT06	Transport	-2,268	-1,416	288	-3,395	-3,395	-1,010	920	-3,484	-3,484	-685	158	-4,011	-4,011	-489	69	-4,431	-4,431	-1,664	176	-5,919	-5,919
GT07	Libraries	0	-39	7	-31	-31	-19	24	-26	-26	0	0	-26	-26	-0	7	-20	-20	0	0	-20	-20
GT08	Monitoring	0	-3	0	-3	-3	-49	10	-42	-42	4	1	-38	-38	0	38	0	0	-4	0	-4	-4
GT09	CCTV	-28	0	0	-28	-28	0	15	-13	-13	0	-15	-28	-28	0	0	-28	-28	0	28	0	0
GT10	Public Realm	-114	0	4	-110	-110	0	0	-110	-110	0	0	-110	-110	0	0	-110	-110	0	21	-89	-89
GT11	Primary Care - CCG	0	-41	0	-41	-41	0	15	-26	-26	-113	0	-138	-138	0	0	-138	-138	-185	0	-324	-315
GT12	Wye Valley Trust	0	0	0	0	0	-122	122	0	0	-11	0	-11	-11	-34	6	-39	-39	-95	112	-23	-31
GT13	Flood	0	-532	25	-508	-508	0	170	-337	-337	0	245	-93	-93	-0	93	0	0	0	0	0	0
GT14	Public Art	0	-71	54	-17	-17	0	4	-14	-14	0	0	-14	-14	0	1	-13	-13	0	0	-13	-13
GT16	Biodiversity	-5	0	0	-5	-5	0	0	-5	-5	0	0	-5	-5	0	0	-5	-5	0	5	0	0
GT17	Affordable Housing	0	0	0	0	0	0	0	0	0	0	0	0	0	-498	0	-498	-498	0	0	-498	-498
GT18	Graveyard	0	0	0	0	0	0	0	0	0	0	0	0	0	-15	0	-15	-15	0	0	-15	-15
GT19	Phosphate credit fee	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	-64	0	-64	-64
		-4,255	-3,533	491	-7,297	-7,297	-2,296	1,994	-7,599	-7,599	-1,724	883	-8,440	-8,440	-1,816	848	-9,407	-9,407	-5,653	1,395	-13,666	-13,666



GT07 Libraries (Balances in £000's)



Balance of Section 106 funding and delivery mechanism

Financial Obligation / Gain Type	Current Total Remaining Balance January 2024 Period 10
Service area delivery with the assistance of the Project Management Office	
Highways & Transport	5,933,568.54
Education	4,730,320.42
Offsite Play & Open Space	834,913.05
Sports	617,157.55
Service area delivery	
Recycling	52,614.51
Waste	76,294.49
Libraries	14,710.25
Affordable Housing	497,722.30
Graveyard	15,000.00
Phosphate Credit	566,100.00
External service delivery	
Primary Care – Integrated Care Board	323,721.72
Health Care - Wye Valley Trust	8,487.80
Total S106 Balance	13,670,610.63

S106 Monies for Offsite Play and Open Space – Project Delivery

In support of the planning system, following these steps and processes for the delivery of the s.106 contribution towards a project will ensure that it meets the needs as set out in the relevant Heads of Terms, benefits the local community as identified in the relevant evidence base for open space and play and is considered robust and fair in being compliant with planning obligation regulations as set out in the National Planning Policy Framework. As part of the audit process for s.106 contributions, the council’s Planning Obligations Manager will require assurance that these steps have been followed including details for each s.106 spend on project delivery for every relevant approved Planning Permission.

Service Area and Officer Key	
BNES Service Manager	
BNES Service Lead Officer	
PMO S106 Programme Manager	
PMO S106 Senior Project Manager	
PMO S106 Programme Coordinator	

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Project Scoping			
Step	Service Area and Officer	Task	Notes
1.	BNES Service Lead Officer	<p>Engagement with Third Party / Facility Owner</p> <p>Project Initiation – Initial Email Contact</p> <ul style="list-style-type: none"> Set out parameters of S106 as agreed in the Heads of Terms Set out the amount of S106 available Set out parameters of project (if known) Provide copy of PMO Procurement and Governance check list and hi-light appropriate areas relevant to project type and S106 amount <p><u>Documents:</u></p> <ul style="list-style-type: none"> 2023_Delivery Information External PMO Direct Commission 2023_Delivery Information Third Party Assurance <ul style="list-style-type: none"> Copy in Talk Community Development Officer and Local Ward Member to relevant emails Seeks confirmation of Talk Community Development Officer for the project location 	<p>Local Ward Member:</p> <ul style="list-style-type: none"> Does not need to be involved unless they have requested to be <p>Facility Owners:</p> <ul style="list-style-type: none"> Sports and recreation grounds can be owned (freehold or leasehold) by a variety of organisations responsible for the ongoing running and maintenance of them. These include: <ul style="list-style-type: none"> Herefordshire Council : Parks Commissioning Manager and Balfour Beatty HC Grounds Maintenance Contractor

Appendix 7 – Example of Project Delivery Process

				<ul style="list-style-type: none"> - Town And Parish Councils - Community Trusts / Associations - CICs – Community Investment Companies - Housing Associations - Sports Clubs <ul style="list-style-type: none"> • Approval / consent is required from the Facility Owners. This is commonly referred to as 'landlord consent' <p>Talk Community:</p> <ul style="list-style-type: none"> • Will support with community engagement and consultation and external funding if needed
2.	<p>BNES Service Lead Officer</p>	<p>Engagement with Third Party / Facility Owner</p> <p>Site Visit, Follow Ups and Actions</p>	<ul style="list-style-type: none"> • Setup a site visit to the facility with the Third Party / Facility Owner • Agree what the S106 can contribute to in accordance with the S106 Heads of Terms and the community objectives e.g. Parish Council priorities • Take 'before' photos • Follow up Key Actions to include: <ul style="list-style-type: none"> - Request details of how the project will meet the objectives of community consultation if undertaken - If no community consultation – agree process for undertaking community consultation - Details of project proposal e.g. play equipment, landscaping, etc. - Process of seeking contractors, suppliers, etc. - Statutory requirements e.g. Planning Permission - Confirmation of PMO procurement requirements – see documents above - Engagement with Talk Community Lead Officer, if support with community engagement and/or grant funding required. • Monitor progress and check in with Third Party / Facility Owner regularly 	<p>Local Ward Member:</p> <ul style="list-style-type: none"> • Does not need to be involved unless they have requested to be <p>Funding Opportunities:</p> <ul style="list-style-type: none"> • Talk Community web page and potential external funding options

Appendix 7 – Example of Project Delivery Process

3.	BNES Service Lead Officer	<p>Supporting Information for Project Commissioning Brief Checklist</p>	<ul style="list-style-type: none"> • Project Details: <ul style="list-style-type: none"> - As agreed with the Third Party / Facility Owner - Parameters as detailed in the Heads of Terms • Details of Third Party / Facility Owner • Details of Key Stakeholders • Community Benefits: <ul style="list-style-type: none"> - Community consultation - Details of project proposal e.g. play equipment. Landscaping etc. • Statutory Requirements: <ul style="list-style-type: none"> - Planning Approval / Planning Permission sought - Community Asset Transfer - Building Regs etc. • Best Value (PMO): <ul style="list-style-type: none"> - Estimated costs provided - Evidence of quotes - Tender process required • Funding: <ul style="list-style-type: none"> - S106 total award - Grants sought / approved via Talk Community (Awards for All etc.) 	<p>Planning Permission:</p> <ul style="list-style-type: none"> • Check with HC DM Officers if not sure <p>Community Asset Transfer:</p> <ul style="list-style-type: none"> • Liaise with HC Estates Team if required
4.	BNES Service Lead Officer	<p>Project Request Form (PMO Commission)</p>	<ul style="list-style-type: none"> • Prepare Project Commissioning Brief and supporting information once project fully scoped – date and sign • Pass to BNES Service Manager to date and sign 	<p>S106 Monies:</p> <ul style="list-style-type: none"> • BNES Service Manager; <ul style="list-style-type: none"> - Will pass to Service Director Highways and Transport, if value of S106 £50k or more • PMO Programme Manager: <ul style="list-style-type: none"> - To prepare RoOD for S106 value of £50k or more

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Project Scoping – If Project Brief Commission requests PMO to undertake Scoping – *Not all Project Briefs will require this.*

Appendix 7 – Example of Project Delivery Process

Step	Service Area and Officer	Task		Notes
1.	PMO S106 Senior Project Manager	Engagement with Third Party / Facility Owner Follow BNES Service Lead Steps 1-3	<ul style="list-style-type: none"> • As set out above • Monitor all steps with BNES Service Lead Officer 	PMO Introduction Date: <ul style="list-style-type: none"> • Within 1 working week of confirmation date. PMO Senior Project Manager: <ul style="list-style-type: none"> • May be asked to “Scope” a simple project with the Third Party / Facility Owner to help speed up Delivery of S106 monies where BNES Service Lead has identified via the Project Commissioning Brief
2.	PMO S106 Senior Project Manager	Project Proposal / Design Agree Project Proposal / Design	<ul style="list-style-type: none"> • Agree Project Proposal / Design with: <ul style="list-style-type: none"> - Third Party / Facility Owner - BNES Service Lead • Provide evidence of: <ul style="list-style-type: none"> - Community engagement / consultation - Funding package - Statutory consents (Planning Permission) - Suppliers and quotes / procurement • Preferred design, materials, planting etc. 	BNES Service: <ul style="list-style-type: none"> • Will need to ensure it meets the agreed Heads of Terms / requirements for the community, and that it can be delivered

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Project Commissioning				
Step	Service Area and Officer	Task		Notes
1.	BNES Service Manager	Project Request Form Commissioning Brief (PRF) PMO Commission	<ul style="list-style-type: none"> • Emails signed and dated PRF and supporting information to PMO S106 Senior Project Manager and PMO S106 Programme Coordinator 	Commission Request Date: <ul style="list-style-type: none"> • Usually the same date as the signed PRF Brief

Appendix 7 – Example of Project Delivery Process

2.	PMO S106 Programme Coordinator	Project Request Form Processed and Commission Started	<ul style="list-style-type: none"> • Logs and numbers PRF • Emails confirmation of receipt and logged details to BNES Service Manager, BNES Service Lead, Planning Obligation Manager and Planning Support Officer • Emails confirmation of receipt and logged details to PMO S106 Senior Project Manager 	Logged Date: <ul style="list-style-type: none"> • Within 2-3 working days request submission from BNES Service Manager • Starts the clock for PMO S106 Project Delivery
3.	BNES Service Lead Officer	PRF Commission Notifications	<ul style="list-style-type: none"> • Notifies Local Ward Member of PRF and date of commission and copies in PMO S106 Senior Project Manager • Notifies Talk Community Development Manager and Talk Community Development Officer of PRF • Notifies Third Parties / Facility Owners of PRF and date of commission • Copies in PMO S106 Senior Project Manager to all notifications 	Notification Date: <ul style="list-style-type: none"> • Within 2-3 working days of PRF Date
4.	PMO S106 Senior Project Manager	PRF Commission Review / Data – Information Check	<ul style="list-style-type: none"> • Review PRF and supporting Information documents • Confirm with BNES Service Lead if any outstanding information required such as consents as necessary • Identify any queries on supplied information and agree any changes with BNES Service Lead such as planning requirements • Confirm with BNES Service Lead if there is anything that is not clear 	Review Date: <ul style="list-style-type: none"> • Within 1 working week of confirmation date and seek confirmation of anything from BNES Service Lead <ul style="list-style-type: none"> - <i>This step in the process will act as useful checks</i> Statutory consents: <ul style="list-style-type: none"> • If seeking confirmation, check with PMO Programme Manager, BNES Service Lead Officer or HC Parks Commissioning Manager

Appendix 7 – Example of Project Delivery Process


Project Delivery			
Step	Service Area and Officer	Task	Notes
1	PMO S106 Senior Project Manager	<p>Engagement with Third Party / Facility Owner / Sports Club</p> <p>PMO S106 Senior Project Manager Introduction</p> <ul style="list-style-type: none"> Email Introduction to confirm with Third Party / Facility Owner that PMO will be supporting them with the delivery and S106 spend on their project Copy in BNES Service Lead Copy in Talk Community Development Officer for the project area if appropriate Notify Local Ward Member 	<p>PMO Introduction Date:</p> <ul style="list-style-type: none"> Within 1 working week of confirmation date
2	PMO S106 Senior Project Manager	<p>Engagement with Third Party / Facility Owner / Sports Club</p> <p>Site Visit, Follow Ups and Actions</p> <ul style="list-style-type: none"> Agree a date with the Third Party / Facility Owner and other key stakeholders if required to visit the project site. The PRF will include the names and contact details of all Hold formal inception meeting either on-site or via MS Teams, covering the following items: <ul style="list-style-type: none"> Introduction – you and your role in delivery Give overview of PRF and S106 monies allocated Project discussion / development advice including procurement / statutory requirements H&S considerations – CDM and Asbestos Management Identify if any additional PMO support or external advice is required e.g. if expert guidance is needed to seek out the best solutions for improvements to the fabric of buildings etc. Outline a clear list of actions / next steps If any changes are required to the project, please confirm this in writing via the BNES Service Lead Officer Monitor progress and check in with Third Party / Facility Owner / Key Stakeholders regularly 	<p>Key Stakeholders:</p> <ul style="list-style-type: none"> Third Party / Facility Owner / Local Members / Parish Councillors / Talk Community PRF will include details of which ones need to be involved in the project. <p>Community Relationship:</p> <ul style="list-style-type: none"> PMO should be familiar with project and community they are working with. A site visit will help to build a good understanding of both. <i>Teams meetings can also be helpful but there is nothing quite like going out on-site and understanding the location / project</i>

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Appendix 7 – Example of Project Delivery Process


3	PMO S106 Senior Project Manager	Engagement with Third Party / Facility Owner / Sports Club Procurement and Governance Process	<ul style="list-style-type: none"> • Identify and issue a clear project plan including Third Party requirements, giving consideration to: <ul style="list-style-type: none"> - Technical aspects of proposed works - Consider the Management Contract – JCT / NEC / FMB. Regardless of the project type, a project must have a formal contract in place between the client and supplier - Procurement / tendering requirements based on CPR Rules, NB – if formal tendering is required submit <u>‘Procurement Support Form’</u> via intranet - Building contract preparation – if building contract required issue requirements to legal: <u>PracticeManagement@herefordshire.gov.uk</u> - Issue relevant PMO Procurement and Governance information as necessary - Include clear responsibility matrix i.e. who is responsible for what - Provide outline programme information for overall delivery (make assessment of potential seasonal impacts) • Monitor progress and check in with Third Party / Facility Owner regularly • Update PMO Project Management System (Verto) • Copy in BNES Service Lead where appropriate 	Third Party / Facility Owners / Sports Clubs / Key Stakeholders <ul style="list-style-type: none"> • Communication is KEY to successful delivery. • Confirm with stakeholders understand what is required especially in regards to best value, quotes and tender requirements (based on the value of the S106 monies). • Make sure this is agreed early on to maintain good relationships / communication • Procurement advice is available from Commercial Services
4	PMO S106 Senior Project Manager	Prepare Tender	<ul style="list-style-type: none"> • If the S106 value exceed £25k and the project is funded entirely by S106 contributions, a formal tendering process is required • Prepare tender documents to include: <ul style="list-style-type: none"> - ITT – Invitation to Tender - Specification - Drawings & Location Plan - Pre-Construction information (PCI) - Draft Contract • Tender pack submission via HCC e-portal to agreed contractors • Update Third Party Stakeholders and BNES Service Lead Officer of return timescales • Please allow 2 weeks after return date for formal evaluation process 	<ul style="list-style-type: none"> • Procurement advice is available from Commercial Services • Legal advice on contract preparation is available from: <u>PracticeManagement@herefordshire.gov.uk</u> <p>Contract Procedure Rules:</p> <ul style="list-style-type: none"> • <u>Commercial and Procurement Toolkit</u> • Less than <£25k – best value. Aiming for 4 quotes and good levels of cost comparison • Value £25k > £75k – E-Portal Tender. Must go out to four contractors. Aiming for 4 quote return if possible

Appendix 7 – Example of Project Delivery Process

				<ul style="list-style-type: none"> Value £75 > E-Portal Tender. Open Tendering
5	PMO S106 Senior Project Manager	Contract Administration	<ul style="list-style-type: none"> Notify Third Party / Facility Owner / Sports Club / BNES Service Lead Officer of evaluation outcomes & intention to award to nominated contractor Notify Procurement / Legal of intention to award and seek advice on contract preparation. Notify Local Ward Member Notify Planning Obligations Manager and Planning Obligations Support Officer Submit RoOD if necessary and relevant sealing authority for contract. All approvals and publication to be arranged via PMO S106 Programme Coordinator 	
6	PMO S106 Senior Project Manager	Delivery Management	<ul style="list-style-type: none"> Arrange formal pre-start meeting with contractor including relevant Third Party / Facility Owner / Sports Club The purpose of a pre-start meeting is to ensure that everyone is clear on expectations and requirements Prior to starting on-site S106 PMO will require: <ul style="list-style-type: none"> - Copy of contractor insurances - RAMS (Risk Assessment & Method Statement) - Delivery Programme - Construction H&S Plan - Signed building contract Update BNES Service Lead Officer of proposed commencement date and planned programme, via Working Groups, programme Projects Boards, and facilitate regular meetings. Update PMO Project Management System (Verto) Attend relevant Progress Meetings and on-site inspections as necessary 	<p>Pre-Start Meeting:</p>  <p>Pre Start_Meeting_Temp</p> <p>Contracts register</p> <ul style="list-style-type: none"> Any let contracts must be added to HCC's Contract Register

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Appendix 7 – Example of Project Delivery Process

			<ul style="list-style-type: none"> • Manage on-site variations and all project communications • Management of technical queries, workmanship and quality control • Update BNES Service Lead Officer / Local Ward Member/Talk Community Development Officer as necessary 	
7	PMO S106 Senior Project Manager	S106 Delivery of Spend	<ul style="list-style-type: none"> • Manage the delivery of approved spend • Review and approve invoices received and arrange payments via PMO s.106 Programme Coordinator • Keep financial records and payment log • Manage cost variation through change control 	Payment Log – Example:  Payment Log_Ross Rugby Club 1109202
8	PMO S106 Programme Coordinator	Engagement with Third Party / Facility Owner / Sports Club S106 Payments	<ul style="list-style-type: none"> • Process Payments • Notifies Third Party / Facility Owner / Key Stakeholders • Notify BNES Service Lead of S106 spend (all payments) • Notify Planning Obligations Manager and Planning Obligations Support Officer of S106 spend (all payments) • Updates PMO S106 Verto • Updates PMO Delivery Logs 	Working Group <ul style="list-style-type: none"> • BNES Service Lead will monitor payments and delivery

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Project Issues and Escalation			
Step	Service Area and Officer	Task	Notes
1.	PMO S106 Senior Project Manager	Project Issues <ul style="list-style-type: none"> • Alert BNES Service Lead Officer via Working Groups • Escalate to programme Projects Boards as necessary if resolution required. • Escalate to planning Delivery Board as necessary if resolution required. 	

Project Monitoring				
Step	Service Area and Officer	Task		Notes
1.	PMO S106 Senior Project Manager	<p>Working Groups</p> <p>Programme Projects Boards</p>	<p>Working Group</p> <ul style="list-style-type: none"> PMO S106 Senior Project Manager: <ul style="list-style-type: none"> Working Group PMO S106 Programme Coordinator: <ul style="list-style-type: none"> Prepares notes/actions to be agreed by all Report progress of individual projects based on agreed timelines for: <ul style="list-style-type: none"> Project introduction to Third Party / Facility Owner / Club / Key Stakeholders Site Visit and follow up – Agreed action / timelines and monitoring progress Confirmation of procurement / specification / tender requirements Scheduled delivery of S106 spend (including part payments) Payment of S106 spend Project completion Discuss any issues you have and seek support where necessary <p>Programme Projects Board</p> <ul style="list-style-type: none"> PMO S106 Senior Project Manager reports to the Programme Projects Board (Chaired by Service Manager) PMO S106 Programme Coordinator: <ul style="list-style-type: none"> Prepares notes/actions to be agreed by all Monitors delivery progress and raises any issues Agrees if any issues require intervention and escalation to the Planning Delivery Board or S106 Programme Manager (Delivery) 	<p>Working Group:</p> <ul style="list-style-type: none"> BNES Service Lead, Parks Commissioning Manager <p>Programme Project Board:</p> <ul style="list-style-type: none"> BNES Service Manager and Head of Highways and Traffic <p>RAG rating:</p> <ul style="list-style-type: none"> Update Verto as programme develops PMO S106 Senior Project Manager to report using RAG (RED, AMBER, GREEN) rating based on the reporting steps and agreed timelines
2.	PMO S106 Senior Project Manager	Notification updates	<ul style="list-style-type: none"> Provide updates of progress where appropriate to: <ul style="list-style-type: none"> Local Ward Members Talk Community Key Stakeholders 	<p>Communications:</p> <ul style="list-style-type: none"> Will help those on the ground and supporting the local community to be kept up to date

Project Completion				
Step	Service Area and Officer	Task		Notes
1.	PMO S106 Senior Project Manager	Project Sign Off	<ul style="list-style-type: none"> Undertake final site visit and prepare snagging list (if required) Take completion photos Notify BNES Service Manager and Service Lead of Project Completion Notify Planning Obligations Manager of Project Completion Updates PMO S106 Programme Coordinator 	
2.	PMO S106 Programme Manager	Communications	<ul style="list-style-type: none"> Prepare Comms report (standard template) Consult with BNES Service Manager and Service Lead Officer and agree report before publishing 	Partnership Acknowledgement <ul style="list-style-type: none"> Ensure that the Comms report acknowledges that the delivery of the S106 project spend has been undertaken by a partnership of Herefordshire Council Officers and the Third Party / Facility Owner

Appendix 8 – PMO Delivery Checklist

Checklists to be completed by S106 PMO Project Manager

PROJECT ASSESSMENT AND DELIVERY INITIATION *(Completed by PMO)*

0. Commissioning Summary

Checklist	Information	Completion Date
Project Manager		
Project Title		
Project Location		
Project Allocation Number (HC-S106-XXX)		
PRF Review Undertaken		
Project Proposal		
S106 Contribution		
FIN Code		
Alignment to S106 Agreement	Does the project proposal match the gain description from the master spreadsheet?	
Date of Approved Commission		
Early Engagement – Internal & External	Email or Initial Contact	

1. Options and Feasibility

Checklist	Information	Completion Date
Client Engagement Meeting	<p>Agenda Example</p> <ul style="list-style-type: none"> • Introduction – you and your role in delivery • Overview of PRF and S106 £ allocated • H&S considerations • Project Discussion / Development including procurement advice • Next Steps 	
Site Visit Required?	Please use Site Visit Note Template	
Are any Statutory Approvals Required for the project to proceed?	<p>Do any of the below apply?</p> <ul style="list-style-type: none"> • Planning Consent • Building Regulations • Listed Building Consent • Landlord Approval 	

Appendix 8 – PMO Delivery Checklist

H&S Implications / Asbestos Management	<ul style="list-style-type: none"> • CDM Regulations • Notification to the HSE will only be required for projects last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project; or. • Exceed 500 person days. • Asbestos Management Plan? Is one available • NOTE: Building built post 2000 are unlikely to contain asbestos, but that is not certain. • How intrusive are the works? Will we be drilling into walls or potential disturbing ACM's (Voids) • Is an R&D Type 2 required? 	
Estimated Timescale	Estimate a rough timescale to the delivery of the project	
Projected Programme added to Verto?	Update on Verto	
Relevant Documentation Uploads to Verto?	Upload	
Sign-off Consultation with Ward / Parish / Organisation / Client	Ensure fluid communication both internally and externally.	

2. Planning & Design

Checklist	Information	Completion Date
Has Procurement Exercise & Tender Report with available budget analysed	<p>Requirements:</p> <ul style="list-style-type: none"> • Less than <£25k – best value. Aiming for 3 quotes and good levels of cost comparison • Value £25k > £75k – E-Portal Tender. Must go out to four contractors. Aiming for 4 quote return if possible • Value £75 > E-Portal Tender. Open Tendering 	
Check compliance with CPR's	Contract Procedure Rules	
Completion of RoOD (If required)	Only applicable to projects over >£50k	

Appendix 8 – PMO Delivery Checklist

Issue RoOD to Programme Co-Ordinator for approval process		
Added to RoOD tracker and upload documents to Verto	LR Action	
Publication	LR Action	
Sign-off Consultation (to all stakeholders)	PM Action - Ensure fluid communication both internally and externally.	

3. Delivery

Checklist	Information	Completion Date
Pre-Start Meeting (if Required)	Please Use Pre Start Meeting Template	
Confirm relevant contracts in place between parties	<ul style="list-style-type: none"> Regardless of the project type, a project will have a formal contract in place between the client and supplier If any issues occur on-site, it is imperative there is a contractual relationship between the two parties. This safeguards from poor workmanship and other disputes. What is the proposed contract? MoB / T&C's/ JCT / NEC 	
<i>Update Delivery Dates on Verto</i>	<i>Update your Verto Programme following Pre-start meeting with exact delivery dates</i>	
Contractor Risk Assessments & Method Statements (RAMS)	<ul style="list-style-type: none"> You must have received a copy of the contractors RAMS prior to commencing on-site On larger projects a further request will be made for a H&S file 	
Risk Matrix Evaluation	Using the Matrix – give your project a score on Verto with relevant commentary	
Site Visits – Delivery Management	Decide from the outset your delivery management site visit frequency. You need to ensure the contractor is doing what is programmed and make quality inspections	
Arrange Stage Payments	<ul style="list-style-type: none"> Arrange payments as agreed. Payments can only be made based on invoice receipt and approval by PM. Please ensure a payment log is created. Contact LR if any queries on the process 	

Appendix 8 – PMO Delivery Checklist

Stakeholder Engagement	Send progress Update email with photos for internal / external stakeholders	
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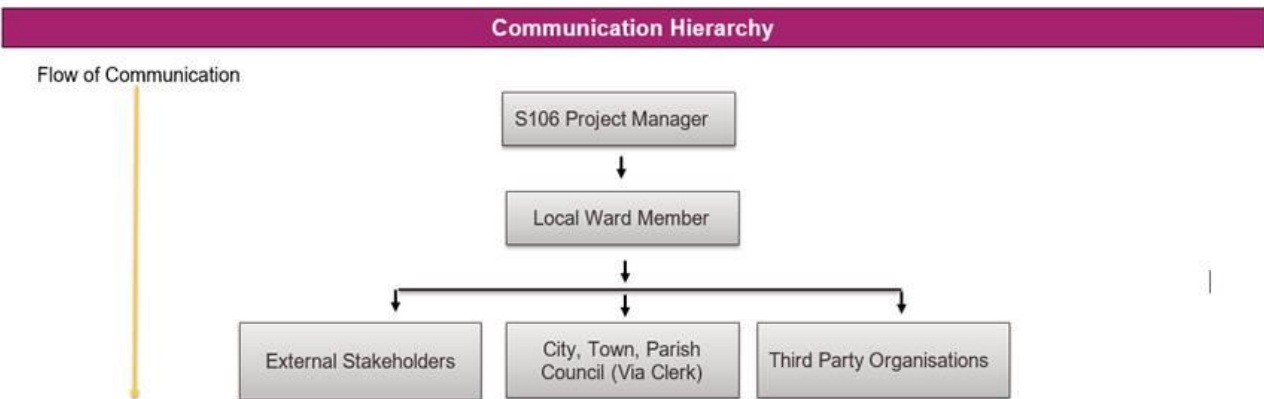
4. Handover & Project Closure

Checklist	Information	Completion Date
Budget Spent (Zero Confirmation)	Check finance reports to ensure spend made.	
Update Verto / Programme Information	Make relevant updates to Verto including Programme Information	
Upload O&M / relevant documents	Make request from contractor for any applicable O&M manuals or H&S file.	
PMO Comms Completion	Please use PMO Comms Template	
Comms issued to Programme Manager	Issue to Programme Manager for Approval	
Project moved to delivered tab	LR Action – PM to advise LR	
Project Review (Within Delivery Team Meetings)	Advise of completion within Delivery Team Meetings	
Final Comms / Stakeholder Engagement	Final email confirming completion of the project and closure	

Appendix 9 – Governance of Delivery (Highways & Transport Example)



Communication Hierarchy



Appendix 10 Overview of Projects Delivered - 23/24

Gain Type

FY 23/24

Little Dewchurch - Traffic Calming	Highways	Nov-23
Autism Hub Creation at Broadlands Cottage (Broadlands CE Primary School)	Education	Sep-23
Autism Hub Creation at Aylestone High School	Education	Sep-23
Autism Hub Creation at Leominster Primary School	Education	Sep-23
Autism Hub Creation at St Weonards Primary School	Education	Sep-23
Autism Hub Creation at Widemarsh Childrens Centre	Education	Oct-23
Weobley Rose Gardens Installation	Off-Site Play & Open Space	Aug-23
St Peters primary School - Installation of Nursery Tower / Outdoor Play Provision	Education	Apr-23
St Peters primary School - Library & Sensory Room Extension	Education	Apr-23
Kingsland CE Primary School - Canopy & Outdoor Storage Shed	Education	Aug-23
Cleghonger Primary School - Demolition of mobile classroom and installation of new Outdoor Classroom	Education	Jan-24
Quarry Park Gates - Installation of Ornate Gates into Tupsley Park	Off-Site Play & Open Space	Jan-24
Belmont & Haywood Country Park - Completion of Story Book Trail	Off-Site Play & Open Space	Aug-23
Millenium Parks Recreational space - Flags and banners installation	Off-Site Play & Open Space	Mar-23
Bromyard Bowmen Archery Club - Roofing Works	Sports	Mar-24
Ross Rugby Club - Extension to Clubhouse and Changing Rooms	Sports	Oct-23
Orleton Pre-School - Enhancement and Extension to Outdoor Play Area of Pre-School	Education	Nov-23
Colwall Railway Station - Improvements and additions to existing bicycle parking and storage facilities at Colwall Railway Station	Highways	Mar-24
Ashfield Park Primary School - Refurbishment of existing Nursery to accommodate 2-year olds	Education	Oct-23
Ross Rowing Club - New Riverside Access Steps	Sports	Feb-24
Ross Sports Centre - Petanque Court and Football Pitch Facility Improvements	Sports	Nov-24
Goodrich Village - Gate Replacement for Children's Play Area	Off-Site Play & Open Space	Mar-24
Herefordshire Cricket Centre - Female Shower Refurbishment	Sports	Jan-24
Hereford Leisure Centre - Changing room facilities for Cycle Hub (Phase 2)	Sports	Aug-23
Bridge Street Sports Centre - Indoor Cricket Facility Improvements	Sports	Dec-23
Busy Bees nursery and Pre-School (Clifford) - Improvements to Outdoor Play Equipment	Education	Oct-23
John Masefield High School - Redevelopment of Sixth Form Common Room	Education	Dec-23
Lea C of E Primary School - Improvements to Outdoor Area	Education	Mar-24
Ashperton Primary Academy - Installation of Bollards to School Entrance	Education	Mar-24
Holmer CofE Academy - New Music Room Facility	Education	Mar-24
Bosbury - Installation of SIDS	Highways	Dec-23
Kington Pollinators - Installation of Nature Equipment	Off-Site Play & Open Space	Feb-24
Equipment to Improve the Severn Site Sports Facility	Sports	Apr-23
Goodrich Primary School - Conversion of a storage room into additional toilet facilities	Education	Apr-23
Whitecross High School (Academy) - supply and Installation of New Canopy Structure	Education	Apr-23
Brockhampton Primary School - Sensory garden installation	Education	Jul-23
Installation of Security Fencing at Victoria Park	Sports	Mar-23
Holmer C E Academy - First Floor Extension to the Williams Building	Education	Jul-23
Ledbury Feasibility Study - Weight Limits Signage Review	Highways	Mar-24
Hereford Parish - Bin Replacement Scheme 2021 (Retrospective) *Linked to Quarry Park Gates	Off-Site Play & Open Space	Jan-24
Tarrington - The Implementation of Traffic Regulation Order (TRO) and Apply and Installation of 2 speed Indicator Devices	Highways	Apr-23

Delivery in 23/24 - Overview



Ross Rugby Club – Extension to Clubhouse



Burley Gate Primary School – Single Story Extension to the front of the school (new Library / Reception Area)



Clehonger CE Primary School – Demolition of mobile Classroom and installation of new outdoor classroom



S106 Project Completions



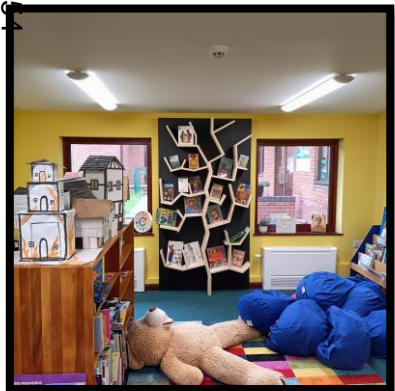
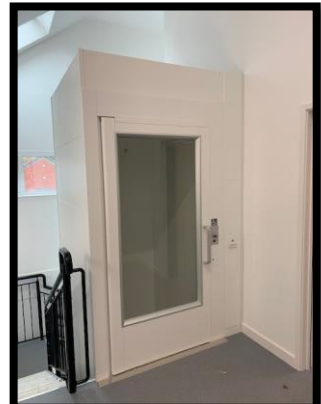
RNC – New Audio Media Facility



Whitecross Academy – Installation of New Canopy Structure



Holmer CE Academy – First Floor Extension inc New Classrooms and Lift



St Peter's Primary School – Library and Sensory Room Extension



St Peter's Primary School – New Outdoor Play Equipment



Weobley High School – Outdoor Eating / Recreational Space



Lugwardine Primary School – Hall and Staff Room Extension

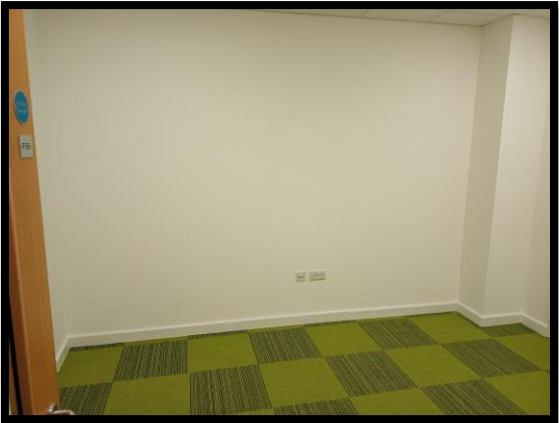
S106 Project Completions



Broadlands CE Primary – SEN Autism Hub



Aylestone – SEN Autism Hub



Leominster Primary School – SEN Autism Hub



Widemarsh Children's Centre – SEN Autism Hub

S106 Project Completions – Offsite Play and Open Space



Weobley – Rose Garden



Belmont and Haywood Country Park – Story Book Trail



Canon Pyon – Play Equipment

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Tupsley Quarry Park –
Installation of Ornate Gates
into Tupsley Park

S106 Project Completions – Sports



HALO – Hereford Cycle Track



HALO – Hereford Cycle Track, Changing Rooms



United in the Community – Security Fencing



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Ross Sports Centre – Flood Damage Reinstatement and Refurbishment



Ross Ruby Club – Extension to the Clubhouse



Ross Sports Centre - Petanque Court and Football Facility Improvements



