

Section 106 Obligations

Annual Report 2005/06

June 2006

Section 106 Monitoring Group

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Aims and Objectives

1. To implement the recommendations of the Internal Audit Report of Section 106 Agreements Feb 2004 and of the follow-up report Oct/Nov 2004.
2. To document, co-ordinate and review procedures.
3. To identify and promote efficiencies within the system.
4. To identify potential of section 106 agreements to obtain benefits in general and the potential from large development schemes in particular.
5. To monitor the realisation of the benefits secured by agreements ensuring adherence to the terms of the agreements.
6. To oversee the systems in order to identify changes and ensure probity in their use.
7. To identify topics and initiate reporting to Management Board and Members on appropriate issues and on progress in obtaining the benefits negotiated.

Section 1 – Section 106 Legal Agreements since April 2001

No.	Date	Address	Appl. No.	Description of Obligations	Status
1.	03/05/2001	Former St Lukes school site, Loughton	267/94	Community benefits package	Largely fulfilled, though one matter outstanding – see section 5.
2.	15/05/2001	Orchard Cottage, Epping Road, Roydon	1292/00	Not to implement an earlier permission	Ongoing requirement
3.	15/05/2001	Manor Farm, Mott Street, High Beach	699/00	Not to implement an earlier permission	Ongoing requirement
4.	17/05/2001	25 York Road, Loughton	515/00	Not to demolish until replacement ready to be built	Fulfilled
5.	22/01/2002	Braces Yard, High Ongar	985/00	Community benefits package	Fulfilled
6.	22/01/2002	Epping Forest Country Club	1716/01	Not to implement an earlier permission	Fulfilled
7.	25/01/2002	Land at Southend Farm, W. Abbey	1410/01	To maintain a landscaped strip alongside Old Shire Lane	Ongoing requirement (using Countrycare)
8.	01/02/2002	The Cock p.h., Sheering	1226/00	Not to implement an earlier permission	Ongoing requirement
9.	07/02/2002	Hedges, Hatfield Heath Road, Sheering	1240/01	Not to implement an earlier permission	Ongoing requirement
10.	08/02/2002	Sports Ground, Abridge Road, T. Bois	1953/00	To carry out highway works	Permission not implemented
11.	15/02/2002	Grange Farm, Chigwell	1842/99	Community benefits package	Permission not implemented
12.	28/02/2002	The Grange, Sewardstone Road, W Abbey	1410/00	Community benefits package	Fulfilled, though some highway remedials outstanding
13.	28/03/2002	Blunts Farm, Coopersale Lane, T. Bois	1283/99	To demolish redundant farmbuildings	Fulfilled
14.	04/04/2002	Greenacres, Tatsfield Ave, Nazeing	1795/98	To prevent annex being separated from main dwelling	Ongoing requirement
15.	17/04/2002	Tesco's, Sewardstone Road, W Abbey	1730/00	Community benefits package	Fulfilled – see section 4
16.	23/04/2002	Blunts Farm Coopersale Lane, T Bois	765/99	To carry out highway works	Largely fulfilled
17.	31/05/2002	Drill Hall Site, Highbridge Street, W Abbey	276/00	Highway works and footbridge at rear	Permission not implemented
18.	20/06/2002	309, High Road, Loughton	386/02	Only to implement once retail use located at no.301	Fulfilled
19.	22/08/2002	Adj. Doe's Site, Dunmow Road, Fyfield	517/01	Community benefits package	Not fulfilled – see section 5

20.	23/09/2002	Sainsbury's, Old Station Road, Loughton	400/00	Community benefits package	Largely fulfilled – see section 4
21.	24/09/2002	Marles Farm, Epping Upland	2168/01	Not to implement an earlier permission	Ongoing requirement
22.	24/09/2002	21, Hill Road, Theydon Bois	1178/01	Preventing barn from being separated from dwelling	Ongoing requirement
23.	02/10/2002	Colorado Exchange P.H., Buckhurst Hill	13/02	Affordable housing contribution	Fulfilled
24.	21/01/2003	Carlton House Stables, High Beach	1248/02	To control occupation of mobile home and to ensure removal	Ongoing requirements
25.	04/03/2003	Woolston Manor Golf Club, Chigwell	1085/02	To establish a Junior Golf Academy	Fulfilled
26.	11/03/2003	Arrow Pallets, Old Nazeing Road, Nzg.	162/02	To carry out highway works	Permission not implemented
27.	21/03/2003	Loyola School, Palmerston Road, B. Hill	1825/01	To limit the number of pupils to 214	Ongoing requirement
28.	25/03/2003	Mother Hubbard P.H., Valley Hill, Loughton	631/01	Community benefits package	Fulfilled
29.	11/07/2003	The Retreat P.H., Chigwell Row	1120/02	Community benefits package	Largely fulfilled – see section 4
30.	05/08/2003	Clifton Cottage, Epping Road, Roydon	585/02	Not to implement an earlier permission	Ongoing requirement
31.	05/08/2003	May Trees, Matching Green	2169/01	Not to implement an earlier permission	Ongoing requirement
32.	28/08/2003	Former ECC Shelley Depot, Ongar	856/01	Community benefits package	Largely fulfilled – see section 4
33.	05/09/2003	Ongar Campus, Fyfield Road, Ongar	0001/02	Community benefits package	Largely fulfilled – see section 4
34.	12/11/2003	Valley Hill Service Station, Loughton	1696/02	Community benefits package	Outstanding matters – see section 5
35.	09/12/2003	Rockhills Farm, Willingale	734/03	Extinguishing commercial use rights and controlling occupation	Ongoing requirements
36.	15/12/2003	Three Jolly Wheelers P.H., Chigwell	1465/02	Contribution for traffic orders if necessary	Traffic orders not necessary
37.	19/01/2004	Burty's P.H., Albert Road, Buckhurst Hill	1832/03	Community benefits package	Fulfilled
38.	26/01/2004	Happy Grow Garden Centre, Epping	807/01	Limits on extent of retail activity	Ongoing requirement
39.	27/02/2004	105/107, High Road, Loughton	866/03	Community benefits package	Largely fulfilled – see section 4
40.	25/03/2004	The Roebuck Hotel, Buckhurst Hill	1454/03	Community benefits package	Largely fulfilled – see section 4
41.	26/03/2004	Higgins Offices, Langston Road, Loughton	333/03	Community benefits package	Largely fulfilled – see section 4
42.	29/03/2004	Ambulance Station, Knighton Lane, B Hill	730/03	Affordable housing	Permission not

					implemented
43.	01/04/2004	13, Ely Place, Chigwell	2362/03	Not to implement an earlier permission	Ongoing requirement
44.	19/04/2004	Thatched House Hotel, High Street, Epping	1035/02	Community benefits package	Largely fulfilled – see section 4
45.	21/05/2004	Two Brewers P.H., Chigwell Row	1658/03	Community benefits package	Permission not implemented
46.	16/06/2004	RRU & Starter Units, Waltham Point	1333/03	Community benefits package	Fulfilled
47.	24/08/2004	Theydon Hall Farm, Theydon Bois	599/04	Provision of sustainable living options	Fulfilled
48.	09/09/2004	Marks & Spencers, High Road, Loughton	1750/03	Community benefits package	Fulfilled – see section 4
49.	27/09/2004	Woolston Manor Golf Club, Chigwell	1752/03	Provision of footway on Abridge Road	Permission not implemented
50.	07/10/2004	North Lodge, New Farm Drive, Abridge	1663/03	Not to implement an earlier permission	Ongoing requirement
51.	21/10/2004	Land at Bournebridge Garden Centre, Stapleford Abbots	425/03	Not to implement permission for new garden centre	Ongoing requirement
52.	22/10/2004	High Laver Hall Farm, High Laver	150/03	To demolish redundant farm buildings	Permission not implemented
53.	02/11/2004	Land at Granville Works, Epping	2130/03	To carry out landscaping on Town Council-owned land	Fulfilled
54.	02/11/2004	Land for doctors' surgery, Paynes Lane, Nazeing	1939/03	Highway works and vacating site after 3 years	Highway works fulfilled; ongoing requirement
55.	30/11/2004	St Margarets Hospital, Epping	600/04	Community benefits package	Partly fulfilled – see section 4
56.	01/02/2005	R/o 8-14, The Avenue, Loughton	2349/03	Construction of pavement across front of development site	Permission not implemented
57.	24/02/2005	Triangle Garage, Smarts Lane, Loughton	1910/04	Community benefits package	Fulfilled – see section 4
58.	15/03/2005	Land at Highbridge Street, W Abbey	1880/03	Community benefits package	Partly fulfilled – see section 4
59.	29/03/2005	258, High Road, Loughton	1494/03	Community benefits package	Permission not implemented
60.	01/04/2005	Albys Farm, Stapleford Abbots	99/03	Not to separate from rest of unit and to occupy by an agricultural worker	See section 3
61.	14/04/2005	Fr. Lorry Park, Langston Road, Loughton	1810/04	Community benefits package	“ “
62.	03/05/2005	R/o 8-14, The Avenue, Loughton	1990/04	Revision to no.56 above	“ “
63.	14/06/2005	Buckhurst Hill Reservoir, High Road, B Hill	480/04	Community benefits package	“ “
64.	28/06/2005	Norton Field Farm, Norton Heath	979/03	Securing conditions, incl. Removing mobile home & not to sever new house	“ “

				from holding	
65.	23/08/2005	Queens Head P.H., High Road, N Weald	365/04	Securing new section of pavement and landscaping on highway	See section 3
66.	01/09/2005	Land at Bumbles Green, Nazeing	2107/04	Community benefits package	“ “
67.	10/11/2005	Ashlings Farm Blackmore Road, H Ongar	71/05	Imposing agricultural occupancy condition on original dwelling	“ “
68.	22/12/2005	Monkhams Service Station, Buckhurst Hill	1730/03	Community benefits package	“ “
69.	09/02/2006	Wynters Grange, Hastingwood	822/05	Not to implement an earlier permission	“ “
70.	17/02/2006	113, Bell Common, Epping	848/04	To secure parking spaces at adj site (Forest Gate ph) for use by this use	“ “
71.	22/03/2006	North Weald Golf Club, Rayley Lane	1996/04	To secure phased completion, source and control of imported materials and lorry routeing	“ “

Section 2 - Section 106 Legal Agreements prior to April 2001 with Outstanding Obligations

1. Hanbury Park, off Roding Road, Loughton – application EPF/643/91 – agreement dated 31/05/1994

This agreement had a number of obligations including the provision of affordable housing, maintenance of the public footpath across the site, financial contribution towards an all-weather pitch, highway works, the provision and transfer of open space to the Council and a financial contribution for future maintenance.

All the obligations have been met with the exception of the transfer of open space with maintenance sum. This has been held up while the provision of a formal play area was reconsidered and removed, which thus required a review of future maintenance costs. This outstanding matter is expected to reach closure very soon.

2. Land off Sheering Mill Lane (Luxford Place), Sheering – application EPF/1382/96 - agreement dated 24/03/2998

This agreement had a package of community benefits including the provision of affordable housing, financial sum for traffic calming and the provision and transfer of public open space with a sum for future maintenance.

All the obligations had been met with the exception of the transfer to the Council of the public open space with commuted sum for maintenance. There had been significant delays since the land to be transferred had no provision for public access. However, after much negotiation this matter is nearing a satisfactory conclusion.

Section 3 – Section 106 Agreements Concluded between April 2005 and March 2006

There have been 12 agreements completed within the past year (nos.60-71 in section 1):

1. **Albys Farm, Stapleford Abbots** – Detached house – Restrict development for occupation by an agricultural worker only and to ensure that the new dwelling is not be separated from the unit as a whole – *this permission has not yet been implemented;*
2. **Former Lorry Park Site, Langston Road, Loughton** – Offices and car showroom – Community benefits securing land dedicated for a cycle lane, a financial sum for highway works, off-site landscaping alongside showroom site, public art provision, and partnering opportunities in local schools and college - *This development is under construction – land has been set aside for the cycleway though not yet dedicated to the County Council, the sum of £125,000 for highway works has been paid but not allocated, landscaping in relation to car showrooms completed, the developer is working with the Council's Arts Officer in relation to the public art, and the trigger for the education partnering is when Keirs are in occupation, which has yet to occur.*
3. **Land rear of 8-14, The Avenue, Loughton** – New dwellings - Construction of pavement across front of development site – *under construction: the s106 works will be at end of construction phase;*
4. **Buckhurst Hill Reservoir Site, High Road, Buckhurst Hill** – Erection of 67 flats – Community benefits securing affordable housing, education contribution to ECC and sum for highways works - *The development is proceeding, the education contribution of £58,000 has been paid, the affordable housing (17 flats) is under construction and the highways sum is payable only prior to first occupation;*
5. **Norton Field Farm, Norton Heath** – Detached dwelling – restricting development to ensure removal of mobile home and not to separate the dwelling from the holding as a whole – *permission not yet implemented;*
6. **Queens Head Public House, High Road, North Weald** – 11 dwellings – securing short section of new pavement and landscaping on highway land - *The development has commenced: the s106 works will be at end of construction phase;*
7. **Land at Bumbles Green, Nazeing** – Conversion of former youth centre to 3 dwellings – Community benefit securing up to £80,000 towards cost of new community hall - *A start on this development has recently been made; the obligation to pay the financial contribution is dependant upon a new community hall site being found and construction commencing: 50% of the contribution is payable when the building work on a new community hall commences and 50% when roof covering work commences;*
8. **Ashlings Farm, Blackmore Road, High Ongar** – Removal of agricultural occupancy condition – swapping the agricultural occupancy restriction to another dwelling on the site – *this permission has yet to be implemented;*

9. **Monkhams Service Station, Buckhurst Hill** – 20 flats – Community benefit securing financial sum for improvement of local bus stops – *This permission is not being implemented and in fact a revised application has been approved with an enhanced package of benefits;*
10. **Wynters Grange, Hastingwood** – Pool enclosure – restrict development by not implementing an earlier alternative permission;
11. **113, Bell Common, Epping** – Use as bed-and-breakfast accommodation – securing 4 parking spaces on the adjacent site, the Forest Gate p.h. which is in the same ownership – *no commencement has been made;*
12. **North Weald Golf Club** – Recontouring of the course – securing phased completion, source and control of imported materials and lorry routeing - *This development has not yet commenced , conditions are still being satisfied.*

Section 4 – Progress with Securing Community Benefits on Agreements Completed Prior to April 2005

The following is a list of those developments where some progress was made during the year to secure the community benefit provisions of s106 agreements:

1. **Tesco's, Waltham Abbey** – this development was completed in 2005 with all requirements of the s106 being fulfilled – contribution of £110,000 for HERS scheme, routing arrangements for construction traffic and servicing lorries, signage to and from the store, highway works and transportation contribution.
2. **Sainsbury's, Loughton** – the ongoing requirements of the s106 have continued to be secured, including a further year's sponsorship of the Town Centre Manager's post and the financing of Phase 1 of the Loughton Town Centre Enhancement of over £1 million. A proportion (£50,000) of the sum secured for public transport improvements throughout the district has been spent on a further year's subsidy to route 252 in Waltham Abbey and the remainder, £38,000, on bus stop and general public transport improvements within Loughton.
3. **The Retreat, Chigwell Row** – the affordable housing (8 flats) has been completed and a sum (£5,000) for highway improvements in Retreat Way has been obtained but the Highway Authority has not identified how the money can meaningfully be spent to date.
4. **Former Highways Depot, Shelley** – the affordable housing has been completed (though for the short term it has had to be let at market rents) and the financial contribution (£35,000) for highway enhancements has been received and is being held by Essex County Council.
5. **Former Burty's P.H., Albert Road, Buckhurst Hill** – dropped kerbs and bus stop improvements have been completed, and an education contribution of £21,072 has been received.
6. **105/107, High Road, Loughton** – a sum of £10,000 has been received for environmental improvements (street tree planting) close to the site – however the money is not yet committed.
7. **Former Roebuck Hotel, Buckhurst Hill** – highway works have been carried out, an education contribution of £20,000 has been received and a community contribution for the Parish Council of £20,000 has been received. The Parish Council has asked that the money be held by this Council until a scheme is identified.

8. **Higgins Offices, Langston Road, Loughton** – development completed with all requirements of s106 fulfilled, including receipt of a sum of £175,000 for highway works (held by the County Council) and the completion of public ‘work of art’ in June 2005 (subdued coloured lighting of building during evenings).
9. **Land rear of Thatched House, Epping** – sum of £20,000 received for town centre improvements. Although a small proportion has been identified for street tree maintenance in Epping High Street, the bulk of the contribution remains unallocated.
10. **Marks & Spencers, Loughton** – development completed with all requirements of s106 fulfilled including £100,000 towards phase 1 of town centre enhancement works.
11. **St Margarets Hospital, Epping** – the agreement required a redesigned refuse facility to be constructed, which has been completed. Other works – to the bus stop and to promote the use of public transport – will follow once the construction of the new hospital building is completed.
12. **Triangle Garage site, Smarts Lane, Loughton** – work recently commenced on this site and sum of £5,000 towards the town centre enhancement works was received and spent.
13. **Land at Highbridge Street, Waltham Abbey** – affordable housing (13 flats) under construction and bridge between site and car park at rear has been constructed. Some minor highway works on the roundabout have yet to be carried out.
14. **Ongar Campus** – development nearing completion and the reprovision of the youth centre, adult education centre and Enterprise Centre has been carried. Affordable housing has also been provided. Agreement has been secured to providing a playground elsewhere within Shelley rather than on the Campus site.

Section 5 – Obligations Proving Difficult to Secure

1. Former St Lukes School site, Borders Lane, Loughton (no.1 on section 1 schedule)

This agreement sought the provision of a public footpath along Borders Lane from the site to Traps Hill and highway works at the entrance into the site to adopted standards. Both these obligations have been met.

However, the agreement also sought the provision and transfer with a commuted sum for maintenance of areas of public open space. Whilst these areas have been laid out within the new housing area, the open space is to be maintained by the developer to a satisfactory standard before being transferred to the Council. The Council has been unable to date, however, to confirm satisfactory maintenance and the transfer is now well overdue. Efforts will be made require that satisfactory maintenance is carried out and that the transfer then occurs.

2. Former Council Depot, land adjacent to Doe's, Dunmow Road, Fyfield (no.19 on section 1 schedule)

This agreement requires that a sum equivalent to 25% of the sale price of 4 small cottages constructed as part of this development be given to the Council for affordable housing. This would equate to approximately £215,000. However, the developer and his financial backers have refused to pay.

The terms of the agreement were identified by the, then, committee chairman without officer support, though the site did not qualify for an affordable housing requirement because of its small size and the number of dwellings being below the necessary threshold. There was then no legal basis for making this requirement, though the applicant signed the agreement on a voluntary basis. The Council's legal advice is that there would be only a very small chance of success from legal action to try to secure the sum. However, officers are continuing to negotiate with the developer over a contribution.

3. Valley Hill Service Station, Valley Hill, Loughton (no.34 on section 1 schedule)

The developer has complied with his obligation to provide a sum of £10,000 for environmental improvements in the vicinity of the site. It has been identified that the first use of the sum should be for improvements to the pavement outside the site removing old crossovers and levelling the footpath. An order for this work was made in March 2006 with the County Council overseeing the order and quality of work. However, work has yet to commence.

Section 6 – Agreements Yet to be Completed

There are committee resolutions requiring the completion of a s106 legal agreement prior to the grant of permission relating to 16 applications that are still outstanding for various reasons:

1. Ongar Lorry Park site – draft yet to be agreed by ECC and ownership title yet to be confirmed;
2. Arrow Yard, Old Nazeing Road, Nazeing – draft yet to be agreed by ECC;
3. 1, Albert Road, Buckhurst Hill – draft yet to be agreed by ECC, but now superseded by permission for an alternative scheme;
4. St Margarets Hospital Site – awaiting Secretary of State as owner to agree wording of affordable housing requirements;
5. The Moat House, Nazeing – developer trying to persuade a third party landowner to be party to the agreement;
6. St Margarets Hospital Site (duplicate application) – as (v) above;
7. London Underground Substation site, Epping – completion expected imminently;
8. Land Between Brookmeadow Wood and Fernhall Wood, Upshire – land ownership delays;
9. Land adj. 49, Ruskin Avenue, Waltham Abbey – applicants delaying completion;
10. 1, Middle Street, Nazeing – landowner out of the country;
11. Epping Forest College – applicants negotiating with ECC over highway works;
12. Land adj. To River Lee, Green Lane, Nazeing – revised draft with applicants;
13. Land off Langston Road – awaiting agreement to Travel Plan, expected to be completed imminently;
14. Epping Forest College – applicants and prospective developers/ purchasers discussing the way forward with particular relation to Loughton Hall;
15. Land adj. To 21, Albion Terrace, Waltham Abbey – clearance from Go-East to this Council determining application just received;

16. Grange Farm, Chigwell – negotiations proceeding on revised terms.

In addition to resolutions to complete s106 agreements prior to the grant of permission, there have been some permissions granted with conditions that require community benefits to be secured prior to any work commencing. This change in procedure has come about in order to avoid the need for prior agreements which inevitably result in applications exceeding their target dates for decision. This change is being operated by many councils for this reason.

Applications approved with a requirement for specific community benefits are:

- (i) EPF/760/05 – 20 flats at Smiths Brasserie Site, Fyfield Road, Ongar;
- (ii) EPF/1860/05 – 20 dwellings at former Blacksmiths Arms, Thornwood
- (iii) EPF/1900/05 – Woodland burial site at Roughtalleys Wood, North Weald

All three conditions relate to securing necessary highway works before the development commences.