

Manchester City Council Report for Information

Report to: Resources and Governance Scrutiny Committee - 7 December 2021

Subject: Annual S106 Monitoring Report

Report of: Strategic Director, Growth and Development

Summary

The purpose of the report is to update the Committee on the Council's Section 106 (s106) activity for the municipal years 2019/20, 2020/21 and 2021/22 (to date), together with the appendices it provides an update on the management and administration of planning obligations and sets out the progress on unspent funds.

Arising from the discussions at the meeting on 5 November 2019 the Committee has also requested:

- An updated report following Internal Audit's review of the new S106 governance arrangements
- An indication of affordable housing being provided from S106 contributions
- How Developers are encouraged to mitigate any harm from their developments
- Best practice and comparison of S106 arrangements with other GM local authorities; and
- The S106 triggers for planning applications within the Deansgate Ward (Land Bounded by Chester Road, Mancunian Way and Former Bridgewater Canal Offices and Land Bounded by Jackson Row, Bootle Street, Southmill Street and 201 Deansgate.

Recommendations

To note the report.

Wards Affected: All

Environmental Impact Assessment - the impact of the issues addressed in this report on achieving the zero-carbon target for the city

The planning process seeks to deliver key Council objectives and address its zero carbon agenda in the built environment.

Manchester Strategy outcomes	Summary of how this report aligns to the OMS
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	The planning system plays a key role in the delivery of outcomes to support economic growth and sustainable neighbourhoods. This includes the use of S106 obligations.

A highly skilled city: world class and home grown talent sustaining the city's economic success	See above
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	Through supporting growth and new homes, the planning process seeks to provide opportunities for Manchester residents to raise individual and collective aspirations
A liveable and low carbon city: a destination of choice to live, visit, work	The planning system strives to deliver environments and development that responds to the Councils climate change and quality agenda.
A connected city: world class infrastructure and connectivity to drive growth	See above

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Background documents (available for public inspection): None

1.0 Introduction

- 1.1. The planning process in Manchester supports the delivery of key City Council objectives and focusses on securing outcomes through the legislative framework. Planning Obligations, which are part of this process are included within s106 Agreements to seek to mitigate impact of a proposal where this cannot be done by condition. Such agreements are legally binding and are entered into between a local planning authority and the owners and developers of land on which planning permission is granted. Such agreements may include obligations to undertake work and/or obligations to make a payment. The Council monitor compliance with the obligations.
- 1.2. The planning process delivers significant environmental and other benefits which are not reliant on a s106 agreement as these are embedded within the planning permission and requirements of conditions. There are many examples of this across the city and include: the work that has started on Mayfield Park; a significant number of trees, landscaped squares and on-site affordable housing on the former Manox site (Miles Platting and Newton Heath). At Pollards Yard, there will be a new bridge, open space and access to the canal. The Reneker schemes at Great Jacksons Street will provide space for a medical facility and a school and a scheme at Gould Street will include new open space. Both the monetary value and uplift to the city is substantial.
- 1.3. The timing and triggers for the receipt of any associated financial contribution are a key part of an agreement. An obligation is only required if a planning consent is implemented and when a trigger is met (this is picked up further in 3.2.). The signing of an agreement does not guarantee a related financial contribution as a proportion of expected contributions will naturally fall away as a planning permission lapses. Where development does proceed, it may be several years before obligations are triggered.
- 1.4. As a recap from previous reports, it will be necessary for any obligation to meet the following tests:
 - 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
- 1.5. Agreements should be specific on the planning purpose for the contribution at the date of planning consent; and any obligation must provide direct and appropriate mitigation for the impacts of the development that cannot be addressed through conditions of the planning permission.
- 1.6. A wide range of benefits are delivered through such obligation's dependent on the nature of the application and required mitigation. Such agreements can also:
 - Restrict the development or use of the land in any specified way
 - 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; or
 - Require a sum or sums to be paid to the Authority

It is the land itself, rather than the owner/developer that is bound by a Section 106 Agreement. This is important for any future owner would be bound by it also.

1.7. Planning Obligations are used for three purposes:

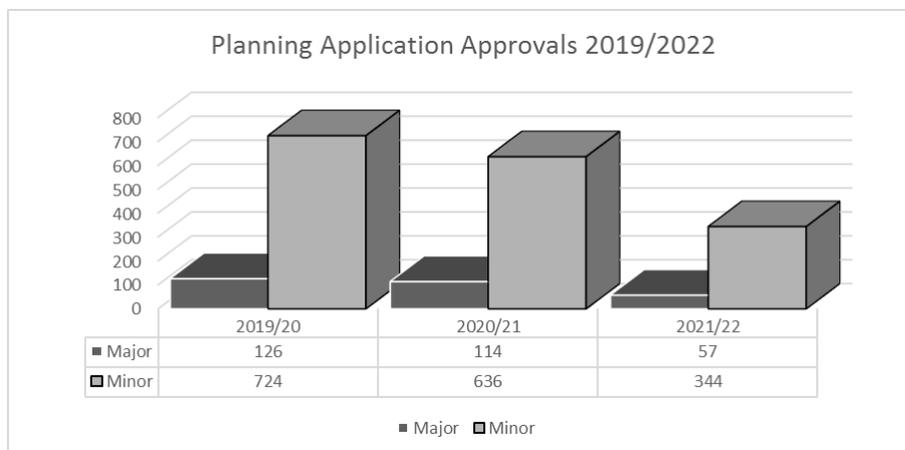
1. Prescribe the nature of development (for example, requiring a given portion of housing is affordable)
2. Compensate for loss or damage created by a development (for example, loss of open space)
3. Mitigate a development's impact (for example, through increased public transport provision)

The key and overarching factor is that obligations can only be used to make an individual development acceptable.

1.8. To assist members a process map has been included at Appendix 1 which sets out the end to end process.

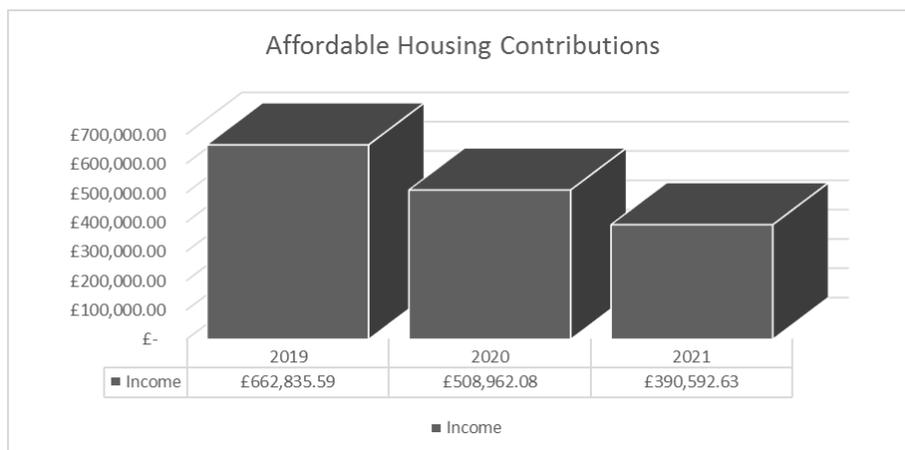
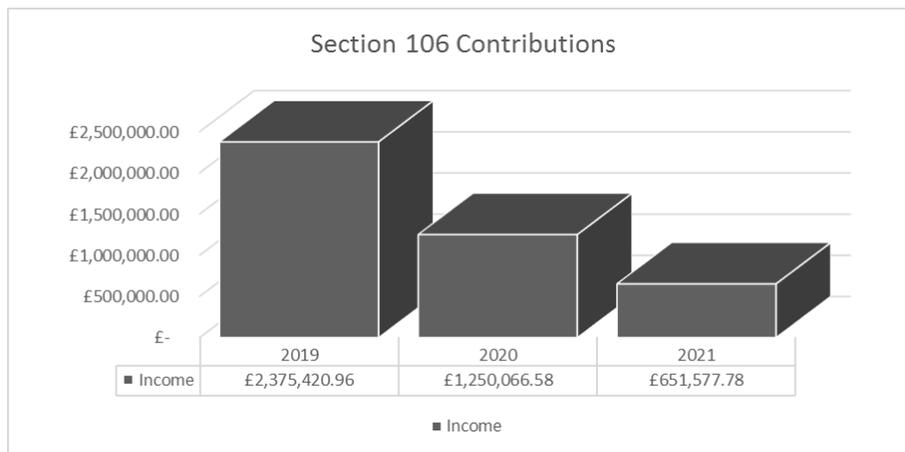
2.0 Activity over 2019/20, 2020/21 and 2021/22 (to date)

2.1. Planning application numbers have remained relatively stable although there was a slight downturn during 2020/21. It is still too early to predict activity for this current financial year; however, majors are currently not at previous levels. This is important to note as s106 agreements tend to relate to the bigger developments in order to mitigate their impact.



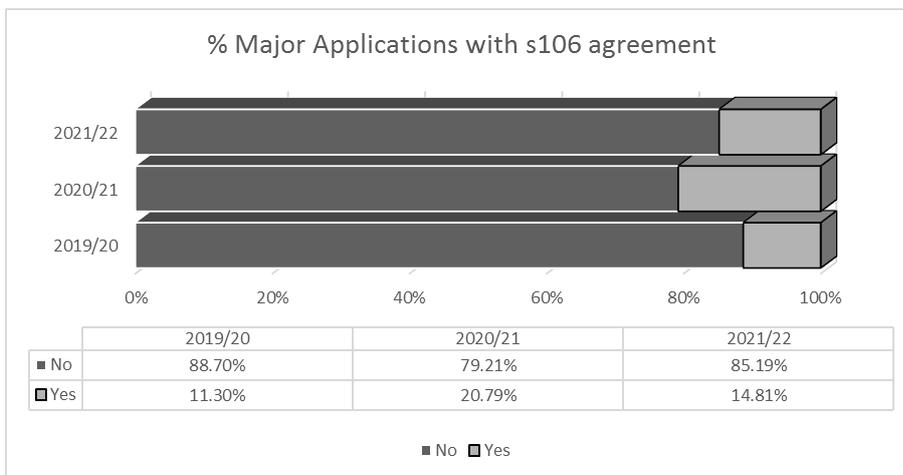
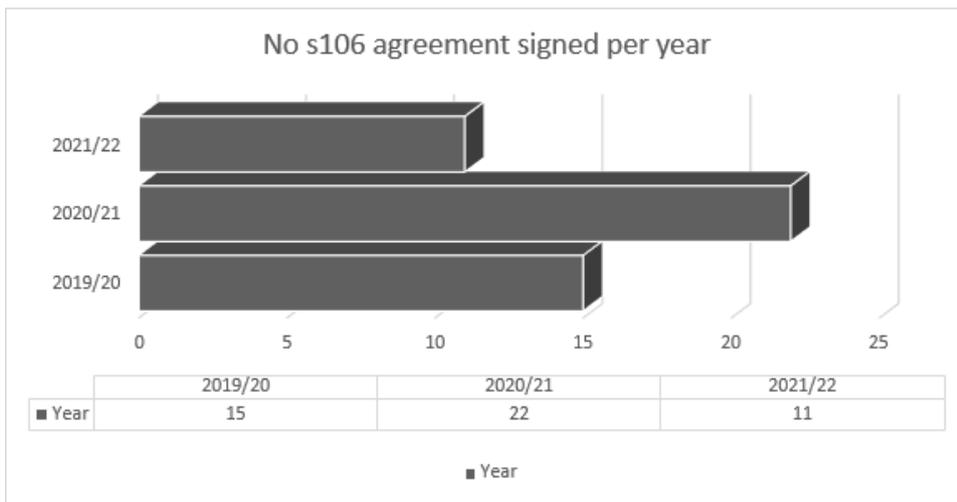
2.2. Notwithstanding the challenges of recent years and the reduction in planning application numbers themselves, contributions were received as construction in the city continued over this time.

2.3. Of the contributions received, a large proportion of these relate to affordable housing. Other key areas include leisure and environmental improvements.

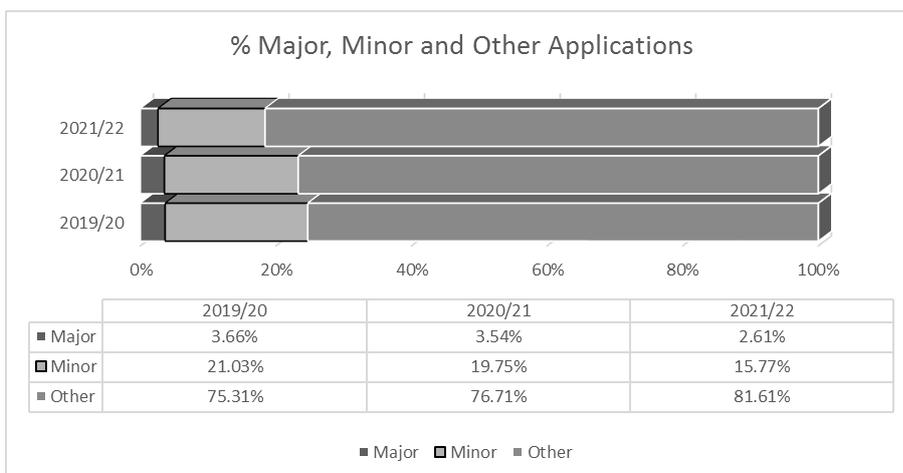


3.0 Planning permissions issued with s106 agreements

3.1. During the financial year 2019/20 15 S106 agreements were signed and in 2020/2021 this increased to 22. To date for 2021/22 a further 11 have been completed. This increase in completed agreements during 2020/21 may seem odd given applications in the same period was down. This is likely to be a consequence of how long it can take to complete the legal process with some agreements taking 12 month or more to be finalised. That is agreements signed relate to applications received in previous years. The timing of a planning application, its decision, implementation and triggers for any s106 obligation are therefore difficult to timeline. Each will differ, for example an application for Land At Portugal Street East Manchester M1 2WX, reference 121099/FO/2018, took 425 days from decision to the issue of the decision notice and s106 agreement whereas an application for English Martyrs Tennis Club Alness Road Manchester M16 8HW, reference 121945/FO/2018, took just 20 days. On average, for applications with s106 agreements approved since 1 April 2019, it has taken around 214 days from decision to the issue of the decision notice and signed s106 agreement.



3.2. The graphs below provide information on applications by type received; the significance of this is that it would be highly unusual for S106 agreements to be linked with minor or other applications as noted in 2.1. The profile of the city is that major applications, are around 4-5 % of all schemes received (this has remained stable over recent years (*see note below on application type))



*Major applications are split into those involving 200 residential units or more or where the floor space is 10,000 sqm (these are known as largescale major developments) and where the number of residential units is between 10 and 199 and floorspace is between 1000 sqm and 9,999 sqm (known as small scale major developments)

Minor applications are those that involve between 1 and 9 residential units or where the floor space is less than 1,000 sqm

Other includes householder applications, changes of use etc

3.3. S106 agreements completed during this period include:

As with the previous report a schedule of the agreements signed over recent financial years is set out below.

2019/2020

Ward	Application	Location	Obligations	Total	Date
Ancoats and Beswick	120893/FO/2018	Land Bounded By Bengal Street, Primrose Street, Radium Street And Silk Street Manchester M4 6AQ	Affordable Housing	(reconciliation)	Jun-19
Ardwick	122945/FO/2019	328-336 Stockport Road Manchester M13 0LE	Affordable Housing	£30,000	Oct-19
			Public Realm (Facilities/ Infrastructure)	(reconciliation) £30,000	
Cheetham	114860/FO/2016	Land To The South Of Dantzic Street Manchester	Public Realm (Facilities/ Infrastructure), Affordable Housing	£750,000	Oct-19
			Affordable Housing	(reconciliation)	
Chorlton Park	124237/FO/2019	419 – 421 Barlow Moor Road Manchester M21 8ER	Affordable Housing	39 units	Mar-20
Deansgate	114664/FO/2016	Land Bounded By Jacksons Row, Bootle Street, Southmill Street & 201 Deansgate	Affordable Housing	£2,200,000	Sep-19

		Manchester M2 5GU			
Deansgate	116850/FO/2017	Olympia Trading Estate Great Jackson Street Manchester M15 4NP	Affordable Housing	£1,000,000	May-19
				(reconciliation)	
Didsbury East	122334/JO/2019	825 Wilmslow Road Manchester M20 2SN	Deed of Variation	No change to obligations	Aug-19
Hulme	123261/FO/2019	Land Bounded By Arundel Street, Ellesmere Street, The A57 (M) Inner Ring Road (Mancunian Way) And Worsley Street Manchester	Affordable Housing	£1,150,000	Aug-19
				(reconciliation)	
Levenshulme	122042/OO/2018	Land Off Cringle Road Manchester	Parks and Leisure	£150,000	Jun-19
			Affordable Housing	11 units	
Piccadilly	121380/FO/2018	Swan House Swan Street Manchester M4 5DF	Highways	£150,000	Oct-19
			Affordable Housing	19 units (reconciliation)	
Piccadilly	122523/FO/2019	Land Bound By Back Turner Street, Shudehill, Soap Street And High Street Manchester M4 1EW	Affordable Housing	(reconciliation)	Nov-19
Piccadilly	124888/FO/2019	Land Bound By Addington Street, Marshall Street, Cross Keys Street And Chadderton Street Manchester M4 4RJ	Environmental Improvement	£36,000	Jan-20
			Affordable Housing	£220,000	
Whalley Range	121945/FO/2018	English Martyrs Tennis Club Alness	Parks and Leisure	£5,900	Aug-19

		Road Manchester M16 8HW			
Withington	117847/FO/2017	Existing Car Park Off Cotton Lane Christie Hospital Manchester M20 4UX	Transport and Car Parking	£1,000,000	Jun-19
Withington	123981/FO/2019	Former Nat West Bank 437 Wilmslow Road Manchester M20 4NW	Environmental Improvement	£5,000	Dec-19

2020/2021

Ward	Application	Location	Obligations	Total	Date
Ancoats and Beswick	126261/FO/2020	Land At The Corner Of Pollard Street And Munday Street Manchester M4 7AN	Affordable Housing	£102,000 (reconciliation)	Aug-20
Ancoats and Beswick	126431/FO/2020	Site South Of Sportcity Way, East Of Joe Mercer Way, West Of Alan Turing Way And North Of The Ashton Canal At The Etihad Campus Manchester	Transport and Car Parking, Highways	£250,000	Oct-20
Cheetham	126944/FO/2020	Land Bound By Dantzic Street, Gould Street, Williamson Street And Bromley Street (Known As Victoria Riverside) Manchester	Affordable Housing	>= 32 units (reconciliation)	Jan-21
Clayton & Openshaw	125474/FO/2019	Land Adjacent To Mayton Street Manchester M11 2AN	Affordable Housing	5 units	Nov-20
Crumpsall	115468/OO/2017	Land To The Rear Of Whitehouse Club Middleton Road Manchester M8 4JZ	Parks and Leisure Affordable Housing	£201,921 15 units (reconciliation)	Feb-21
Crumpsall	125961/FO/2020	Land To The Rear Of Crumpsall Constitutional Club Off Linn Street Manchester M8 5SN	Parks and Leisure	£20,000	Jul-20

Deansgate	113617/FO/2016	Plot G Slate Wharf Blantyre Street Manchester	Affordable Housing	£162,500	Jan-21
Deansgate	120635/FO/2018	Hotspur Press 2 Gloucester Street Manchester M1 5QR	Affordable Housing	£400,000 (reconciliation)	Oct-20
Deansgate	125573/FO/2019	Plot 11 First Street Comprising Land Bound By Hulme Street To The North, Wilmott Street To The East, The Unite Parkway Gate Development And Mancunian Way To The South, And Medlock Street To The West Manchester	Other	a sum equivalent to the Council Tax payable had a room been occupied by a person who was not exempt from Council Tax and the periods of occupation	Mar-21
Didsbury West	120849/FO/2018	The Limes 816 Wilmslow Road Manchester M20 2RN	Affordable Housing	£85,000	Oct-20
Harpurhey	126507/FO/2020	67 Old Market Street Manchester M9 8DX	Affordable Housing	18 units	Oct-20
Longsight	122160/FO/2018	Belle Vue Stadium Kirkmanshulme Lane Manchester M18 7BD	Affordable Housing	(reconciliation)	Nov-20
Miles Platting and Newton Heath	125596/FO/2019	Land Bounded By Hulme Hall Lane, Varley Street, Iron Street, Coleshill Street And Rochdale Canal Manchester M40 8HH	Parks and Leisure	£300,000	Nov-20
			Transport and Car Parking	£60,000	
			Affordable Housing	(reconciliation)	
Piccadilly	121099/FO/2018	Land At Portugal Street East Manchester M1 2WX	Affordable Housing	(reconciliation)	Mar-21

Piccadilly	121375/FO/2018	20 – 36 High Street Including Church Street Market Stalls Manchester M4 1QB	Affordable Housing	£1,000,000 (reconciliation)	Oct-20
Piccadilly	122000/FO/2018	Victoria House Great Ancoats Street Manchester M4 7AB	Affordable Housing	(reconciliation)	Aug-20
Piccadilly	123371/JO/2019	Land Bounded By Thompson Street / Mason Street / Bendix Street And Rochdale Road Manchester	Deed of Variation	No change to obligations	May-20
Piccadilly	125678/FO/2019	Site Bound By Bendix Street To The North East, Chadderton Street To The South East, Goulden Street To The South West And Cross Keys Street To The North West Manchester	Affordable Housing	£156,428 (reconciliation)	Dec-20
			Highways	£12,000	
Piccadilly	125686/FO/2019	Site Bound By Oldham Road To The South East, Marshall Street To The North East, Chadderton Street To The North West, And Addington Street To The South West Manchester	Highways	£12,000	Dec-20
			Affordable Housing	£308,572 (reconciliation)	
Piccadilly	126608/FO/2020	Land To The South Of Store Street Manchester M1 2NE	Affordable Housing	13 units	Nov-20
Piccadilly	127317/FO/2020	Land At Heyrod Street Manchester M1 2WW	Affordable Housing	(reconciliation)	Feb-21
Withington	125126/FO/2019	Land To The Rear Of Melmar Court Heaton Road Manchester M20 4PU	Affordable Housing	1 unit	Aug-20

2021/2022

Ardwick	126651/JO/2020	Vacant Plot North East Of The Vallance Centre Brunswick Street Manchester M13 9XF	Highways	£10,000	Apr-21
Deansgate	121252/FO/2018	Great Marlborough Street Car Park Great Marlborough Street Manchester M1 5NJ	Public Realm (Facilities/Infrastructure)	£707,300	Jul-21
			Affordable Housing	£300,000	
Deansgate	125655/FO/2019	Water Street Manchester M3 4JQ	Affordable Housing	10% of the Bedrooms (64) will be let at a Discounted Rent	Jul-21
			Non Financial	not permit the Development Bedrooms or the Studio Units to be Occupied by Students for the duration of their use	
				Waste Management Agreement	
				Disabled Parking Spaces Strategy	
Deansgate	125655/FO/2019	Water Street Manchester M3 4JQ	Deed of Variation	No change to obligations	Nov-21
Deansgate	127944/FO/2020	8-8A St John Street Manchester M3 4DU	Public Realm (Facilities/Infrastructure)	£70,000	Aug-21
Hulme	124302/FO/2019	Land Bounded By Chester Road, Hulme Hall Road & Ellesmere Street	Parks and Leisure	£80,000	Aug-21
				£250,000	

		Manchester M15 4JY	Affordable Housing	(reconciliat ion)	
Miles Platting and Newton Heath	127971/FO/202 0	271 Oldham Road Manchester M40 7PS	Affordable Housing	(reconciliat ion)	May- 21
Northenden	125635/FO/201 9	Tatton Arms Boat Lane Northenden Manchester M22 4HR	Affordable Housing	(reconciliat ion)	Apr- 21
Moston	127669/FO/202 0	Former Deanway DIY Store, 112 Kenyon Lane, Manchester, M40 9DH	Affordable Housing	7 Units	Nov- 21
Piccadilly	125681/FO/201 9	Site Bound By Thompson Street To The North East, Oldham Road To The South, Bendix Street To The South West And A Building Occupied By Turning Point To The North West Manchester	Affordable Housing	£345,000	Apr- 21
			Highways	£12,000	
Piccadilly	128997/FO/202 0	40 Swan Street Manchester M4 5JG	Highways	£12,000	Sep- 21
			Environmenta l Improvement s	£53,000	
			Affordable Housing	(reconciliat ion)	

*Agreements signed in 2019/20 amount to a value over £5.5000,000 plus 69 units.
Agreements signed in 2020/21 amount to a value over £3.0000,000 plus 84 units.
Agreements signed in 2021/22 amount to a value over £1.8000,000 plus 7 units.*

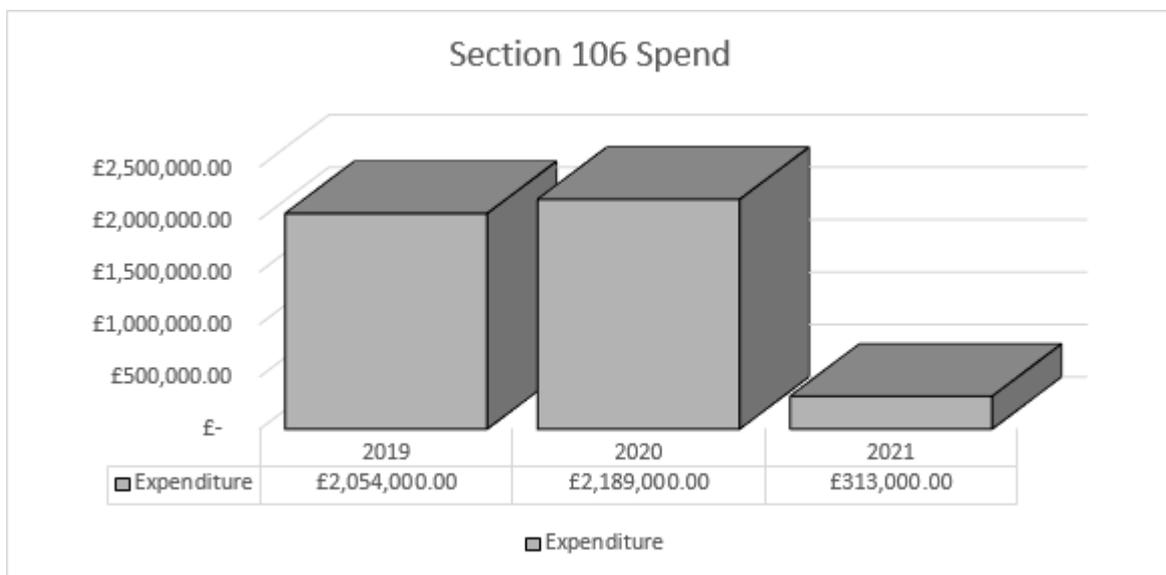
- 3.4. Members will note that the reference to a reconciliation clause in the above schedule. As previously reported this clause enables the LPA to reassess viability at an agreed trigger point. This is expanded on in 5.1
- 3.5. Further from the schedule it is noted that there have been a number of significant legal agreements signed, some incorporating multiple requirements. Not all are about securing a financial contribution and could be a mix of both financial and non-financial obligations. As examples:
- Erection of multi-use arena at Sport City incorporating a legal agreement that includes the design and implementation of a Residents Parking Zone; a scheme of highway improvement measures; events management plan;

community operations plan; local benefits/local labour proposals and a waste collection service.

- Housing led mixed use redevelopment of the former Manox site in East Manchester incorporating a legal agreement which includes a residents permit parking scheme contribution; a financial contribution of £300 000 towards the improvement of recreational/sports facilities within the Miles Platting and Newton Heath Ward and also for the retesting of the affordable housing contribution in order to allow a financial contribution in the future if necessary (see also 1.2 above about the use of conditions to secure other benefits from this development).

3.6. Following the last Committee Members asked about the triggers on certain recently completed s106 agreements in the Deansgate ward. These are all included in the attached schedule and have been highlighted to assist the Committee.

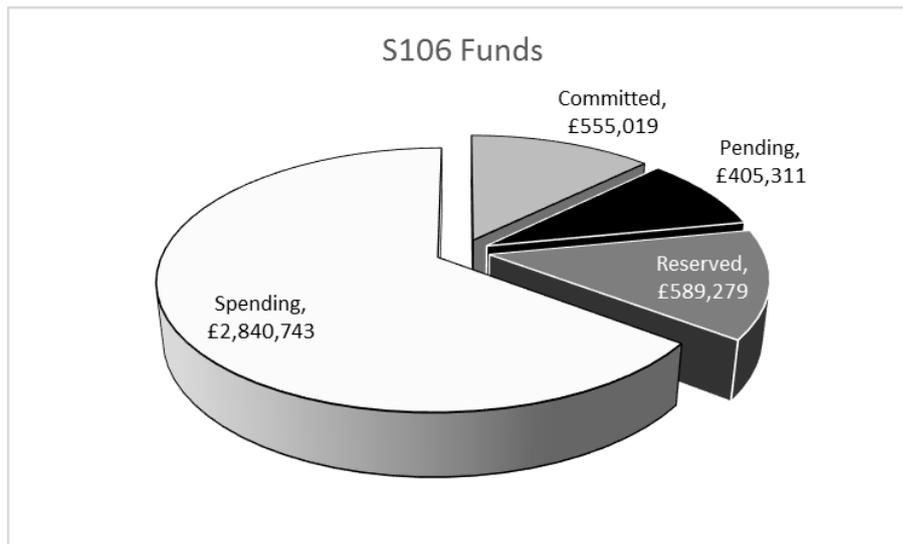
4.0 Spend



- 4.1. Members have previously asked about a delay in spending the financial contributions. The table above hopefully demonstrates this is an improving picture and services are more aligned to ensure this takes place in a timely manner. Although not shown in the charts, in 2017/18, capital spend was identified as £917,711 with an increase to £1,475,593 in 2018/19.
- 4.2. What we are also now finding is that the governance arrangements in place, which brings together relevant officers from across the Council, is helping in committing money and ensuring there is a programme for delivering projects more quickly.
- 4.3. There will inevitably, however, be several factors that will influence when money is and can be drawn down. This includes the nature of the contribution, what it is a contribution to and or is reliant on match funding. Equally, there will be other processes that will impact on timing; the memorial gardens and glade of light highlighted in appendix 1 is an example of a scheme being supported by several agreements; once sufficient funding was in place the works itself had to be subject to a planning application.

4.4. The balance of funds in the s106 capital accounts as identified by the schedule in Appendix 2 is currently £4,390,352. The funds can be classified as:

- Pending allocation £405,311 – the terms of an obligation identified and agreement on who will take this forward
- Reserved £589,279 – a specific project/work identified and awaiting a project manager to take forward.
- Committed to project £555,019 – design and approval processes have commenced
- Spending Commenced £2,840,743



4.5. Any contribution towards affordable housing is received into the s106 account and recorded. This is then transferred into the Housing Affordability Fund and the S106 account balance adjusted accordingly.

5.0 Examples of spend

5.1 Affordable Housing

A report considered by the Economic Scrutiny Committee on 14 January 2021 provided an update on the delivery and provision of Affordable Housing in Manchester. Links are provided to a copy of the report and the appendix below.

[Affordable Housing Update.pdf \(manchester.gov.uk\)](#)

[Appendix 1 and 2 for Affordable Housing report.pdf \(manchester.gov.uk\)](#)

The Housing Affordability Fund, which is funded by contributions from Section 106 agreements for the provision of Affordable Housing within the boundaries of Manchester, has received c. £3.3m to date. There is £1.9m available within the fund, with £1.4m having been spent on capital projects to create affordable housing.

As referred to in 3.3 above 106 agreements relating to affordable housing will also include a reconciliation clause following the viability of a scheme having been fully tested, and the contribution cannot meet a 20% provision. The

reconciliation requires retesting of the financial viability of the scheme, usually during the late stages of construction, in order to allow a financial uplift if circumstances have changed. At the present time there are no developments where the appropriate trigger has been met to facilitate the reconciliation process.

5.2. Highway related works

Although historically, off-site highways related works were factored into a S106 agreement, it is becoming more common to capture these through the conditions attached to a planning permission. This allows those works to be delivered internally by the Council or through a Section 278 process. There will still be occasions where highway improvements and associated highways works will be embedded in an agreement, but this is more likely where the work is extensive and relies on a significant funding contribution relating to individual planning applications.

5.3. Tree Planting and Public Realm Works

As already noted, replacement and new tree planting can sometimes be dealt with through legal agreements. However, it is more often the case that this matter is dealt with through the conditions of a planning permission which regularly require street tree planting, off-site planting in an appropriate location, as well as on site tree planting as part of a comprehensive landscaping scheme. Similarly, public realm works can also be delivered through the conditions of planning permission and will therefore not always be subject to a 106 agreement.

In this way, many benefits of an individual development are secured through the approved plans or conditions of any development.

Appendix 3 provides specific examples of projects funded by Section 106 and Includes:

- Medieval Quarter (Memorial Gardens)
- New Islington 2020
- Southern Cemetery
- Active Lifestyle Centre, Denmark Road
- Whitworth Park (currently ongoing)
- Painswick Park
- Riverside Park
- Leisure Projects in Gorton & Abbey Hey, Levenshulme and Longsight
- Highway related works

6.0 Audit Review

6.1. As previously reported to Committee, our Internal Audit team had been asked to review the s106 arrangements and how we were moving forward with changes to governance etc.

6.2. The conclusion of this work was to recommend three actions. Two are partially implemented with a third one fully complete and assurance provided. The latter relates to regular performance monitoring. Reports have been developed

to provide monthly updates for agreements that have been signed, along with a financial report detailing all contributions received and spend from the accounts.

- 6.3. The reports will be made available through a solution using Microsoft Teams which will make the reports and other s106 information available to authorised officers, and councillors for their ward.
- 6.4. One of the outstanding actions now almost complete relates to formalising and updating the resources and team structure, policies and procedures and formalise governance proposals. The outstanding element of this action relates to the finalised team structure, due for implementation by the end of the current financial year (2021/22).
- 6.5. In the meantime, a senior officer has been appointed to manage the work and has already introduced the reports on s106 agreements and the reconciliation of records. The work identified with audit has therefore not been affected and has continued to be completed.
- 6.6. The second outstanding matter relates to reconciling the new database to the various records held across the Council and to update the database to ensure details of all 106 agreements are recorded in a single place. It has been accepted this is near complete but had not been finalised due to challenges with responding to other priorities over the last 18 months.

7.0 Benchmarking with other LPAS

- 7.1. This is something members have raised, and officers are continuing to explore how best to approach this. A meeting is being arranged with Core Cities for early in the new year to focus on opportunities to benchmark in the most meaningful way possible.. The challenge is being able to provide accurate benchmarking against other comparable Council's. Each local authority has its own uniquely adopted policy criteria that individual planning applications are required to be assessed against and these policies require different contributions ranging from payments towards a range of matters: education, open space provision and play equipment (as well as others).
- 7.2. In Manchester there is a very clear Council imperative that quality drives design and that this permeates throughout the built form and place making, ensuring there is longevity and a sustainable approach to development. We also drive much out of development in term of environmental standards, inclusiveness and safety. As noted earlier in the report securing other benefits ranging from the quality of the architectural form, materials to be used, energy efficiency and renewable energies, community facilities through to electric vehicle charging points as well as crime and safety issues are embedded into a planning permission. The same applies to community use agreements for new playing fields and local labour agreements.

The manner in which we capture these does set Manchester apart from some other local planning authorities; there is also the question of variations in land values and the role of market forces.

- 7.3. One option being considered for benchmarking in the future is to look at the Infrastructure Fund Statement (IFS). This is a new requirement that includes information on the Community Infrastructure Levy (CIL) liability notice and where money is received or takes the form of in-kind works from a Section 106 agreement. Authorities that charge CIL have had to produce a report on receipts and expenditure since the regulations were introduced in 2010, but there has not been a requirement to report on section 106 in this way until now. The information provided would relate to all the new activity in the year as well as all unspent money from previous years.
- 7.4. IFS are now beginning to be published although they will differ as some authorities are not CIL charging (as is the case in Manchester) and for others there have been different methods for reporting on s106 activity. The intention is to explore how information can best be provided through GM and Core Cities and which could also help to provide more of an in depth analysis on how benefits are secured.

8.0 The Planning Reforms and planning contributions

- 8.1. Government has already introduced several changes to the planning system. Whilst there are now some questions over the extent of these into the future, it is likely we will see some further changes as set out in its white paper on planning reform.
- 8.2. Issued last year, the paper set out three pillars of reform; the third 'Planning for infrastructure and connected places' contains an ambition to reform the system of developer contributions. The proposal for the introduction of a new "infrastructure levy", would reform and extend the Community Infrastructure Levy (CIL) and abolish section 106 agreements and planning obligations.
- 8.3. CIL was first introduced in 2010. It is discretionary and has enabled an LPA to levy a fixed charge per sqm of new floorspace with the intention to fund local infrastructure and support development. S106 agreements which have been around a long time take the form of negotiation and are designed to make schemes acceptable through site specific mitigation.
- 8.4. Having been found to be inflexible and unable to respond to changing markets, there are two fundamental issues with CIL: regional disparities in take up demonstrate that it would simply not provide the funding necessary to support infrastructure plus it cannot be used to provide affordable housing.
- 8.5. The new infrastructure levy would operate "a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates", levied at the point of occupation, with an offset for any affordable housing provided on-site. This would potentially be extended to changes of use, not just the creation of new floor space which is a change to the current CIL.
- 8.6. Little detail though has been forthcoming which is disappointing given the criticism associated with the current CIL, which includes questions over enforcement and procedural difficulties. Principally though is the recognition it does not guarantee the delivery of the required mitigation that it is meant to

fund. Although Section 106 agreements themselves have their drawbacks, they can provide some flexibility and delivery certainty.

- 8.7. The proposal has further been silent on the question of who will decide whether, and, if so, how much, affordable housing is to be provided on-site and offset against the levy. One suggestion is that there could be a range of inventive options for LPAs looking at how a scheme might deliver against an affordable housing requirement, including on-site delivery, land transfer, rights of first refusal or the opportunity to "flip" a unit back to market housing should market fluctuations result in the levy liability being insufficient to cover the value secured through in-kind contributions. Beyond this there is little detail as to how this is to be agreed, secured, delivered, varied or monitored on a site-by-site basis.
- 8.8. There is also concern about the introduction of a "development value" threshold, below which no levy will be charged. As a blunt tool the question is how this would deal with the complexities surrounding viability and where developments are only just viable in an uncertain market, they may not be deliverable due to a rigid levy liability.
- 8.9. Regrettably, there is no reference to the wider use of s106 agreements, that they do more than just secure financial contributions. For example, they provide an ability to legally bind land to certain requirements and help secure a whole raft of benefits from sustainable travel methods, local employment, environmental improvements and much more.
- 8.10. They provide mitigation which cannot be conditioned on a planning permission. If section 106 agreements are abolished, and planning conditions, which can sometimes be unsuitable to address such matters, are to be increasingly standardised in line with a further white paper proposal, there is a question over how any on-site mitigation measures are to be secured. In view of our approach to embedding required outcomes through a planning permission and condition, as outlined above, standardising conditions is also a concern.
- 8.11. Currently, though there is some uncertainty around how the government will proceed with this aspect of the reforms with the housing ministry chief planner earlier this year stating that the government will proceed "incredibly carefully" in bringing in any reforms. We also now have a new cabinet and Ministers who will be aware of the widespread criticism that the reforms risk stalling developments on brownfield sites and jeopardising the delivery of affordable housing contrary to its intended purpose.
- 8.12. For now, we are anticipating some changes and the future of s106 agreements remains uncertain.
- 8.13. All of the above means that we are proceeding with caution with respect to the emerging Local Plan in terms of the treatment of planning contributions. The draft Places for Everyone plan includes a general policy approach for planning contributions (Policy JP -D 1). The Local Plan will look to set out the appropriate level of detail to ensure planning contributions capture key requirements expected to be delivered via the process. The current timetable for the next stages of the Local Plan are as follows:

- Consultation on a draft plan (summer 2022)
- Consultation on a finalised plan (winter 2022)
- Examination of the plan (spring/summer 2023)
- Adoption (autumn 2023)

9.0 Conclusion

- 9.1. The Planning Service are continuing to negotiate 106 agreements in order to mitigate harm from individual developments and to also compensate for the loss of environmental features or open space in line with the tests set by National Guidance. Obligations will also be used to continue to add to the supply of affordable housing across the City subject to policy tests and viability.