



# Gloucester City Council

## Audit and Governance Committee

**Meeting: Monday, 13th November 2023 at 6.30 pm in Civic Suite, North Warehouse, The Docks, Gloucester, GL1 2EP**

<b>Membership:</b>	Cllrs. Wilson (Chair), Gravells MBE (Vice-Chair), Bowkett, Brooker, Durdey, Morgan, Patel, Sawyer and Mr Peter Tervet
<b>Contact:</b>	Democratic and Electoral Services 01452 396127 <a href="mailto:democratic.services@gloucester.gov.uk">democratic.services@gloucester.gov.uk</a>

## AGENDA

<b>8.</b>	<b>S. 106 AGREEMENTS - UPDATE</b> (Pages 5 - 8)  To receive a progress update.
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**Jon McGinty**  
Managing Director

**Date of Publication: Friday, 3 November 2023**

## NOTES

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<u>Interest</u>	<u>Prescribed description</u>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the Council's area.  For this purpose "land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge) – (a) the landlord is the Council; and (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Council's area and (b) either – i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with

whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

NOTE: the requirements in respect of the registration and disclosure of Disclosable Pecuniary Interests and withdrawing from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.

### **Access to Information**

Agendas and reports can be viewed on the Gloucester City Council website: [www.gloucester.gov.uk](http://www.gloucester.gov.uk) and are available to view five working days prior to the meeting date.

For enquiries about Gloucester City Council's meetings please contact Democratic Services, 01452 396126, [democratic.services@gloucester.gov.uk](mailto:democratic.services@gloucester.gov.uk).

If you, or someone you know cannot understand English and need help with this information, or if you would like a large print, Braille, or audio version of this information please call 01452 396396.

### **Recording of meetings**

Please be aware that meetings may be recorded. There is no requirement for those wishing to record proceedings to notify the Council in advance; however, as a courtesy, anyone wishing to do so is advised to make the Chair aware before the meeting starts.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the Public and Press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

### **FIRE / EMERGENCY EVACUATION PROCEDURE**

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions:

- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building; gather at the assembly point in the car park and await further instructions;
- Do not re-enter the building until told by a member of staff or the fire brigade that it is safe to do so.

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## Update for A&G Committee- S106

### 13.11.23

Updates on Management Action Plan:

1. Review has been completed. S106 will be overseen by Head of Place, with Exacom used as the central system.
2. Exacom is the central system for all 'live' agreements.
3. Exacom and the Finance system will be regularly reconciled. All new agreements will be uploaded to Exacom as soon as agreements are made for monitoring and reporting purposes.
4. This work has now been completed by Officers, all agreements are accessible, and a policy is in creation to ensure all charges are clear and in the Fees and Charges booklet.
5. (i) The finance summary report to committee highlights all funds reviewed as part of the audit were committed or spent within the specified timescales.  
(ii) All of the mentioned 'overspent' budgets were covered by S106 funding available at that time which were able to be used across the whole City, so none of the budgets were overspent. However, the council sometimes wishes to develop an area beyond the minimum scope of the S106 agreement and will look at using other funds, including its own, to deliver these improvements for residents.  
(iii) Officer follow ups will be able to be recorded on Exacom for monitoring purposes.  
(iv) The unpaid contributions detailed are subject to Council recovery process.  
(v) The £85k for affordable homes are available to the Council to spend until at least 2026 and the Council expects to fully spend these funds.
6. One Legal have advised that where there is no timeline in an agreement, there is no expiry of the funds.
7. The appropriate accounting adjustments have been made in respect of monitoring fees.
8. The land charges work will commence now that Exacom is the central system.
9. Fees and charges will be clearly set out in our Fees and Charges Book 2024/25.
10. Monitoring fees will be included in the next IFS.
11. An experienced S106 Open Spaces Officer is now in post to support adoptions and completions of S106 projects.

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## S. 106 agreements – Progress Update

The report suggested 11 recommendations (5 High, 6 Medium)

Management accepted the report findings and agreed to all 11 recommendations and are now in the process of implementing these recommendations.

The audit report identified five agreements where the deadline for spending contributions had passed, concluding the Council could have lost £180k of s106 funds as a result of not meeting the deadlines:

PLANNING REF	SITE/POT NAME	Date of Legal Agreement	DEADLINE	REMAINING
11/00742/OUT	Hucclecote Centre	13/09/2012	09/12/2019	£348.20
14/01317/OUT	Blackbridge Allotments	30/10/2013	17/10/2021	£18,261.53
12/01098/FUL	Hallmark Hotel	31/07/2013	05/01/2020	£19,338.95
07/00472/OUT	St Gobain	01/05/2013	26/06/2021	£60,452.72
08/01171/OUT	Travis Perkins	14/03/2011	21/02/2019	£81,263.94

Management reviewed these agreements to establish whether the Council had failed to commit the funds within the appropriate timeframes and if that was the case, the amount of s106 potentially lost.

- **Hucclecote Centre** – not material
- **Blackbridge Allotments** – The deadline noted (17/10/2021) listed on the s106 spreadsheet refers to the Education Contributions as per the legal agreement. There is no deadline specified within the agreement for ‘Play Space Contributions’ – As such, these funds remain available for the City Council to spend.
- **Hallmark Hotel** – Letter dated 11/12/2019 commits £25,577 to Matson Rugby Club. This commitment ensures all funds were committed within the agreement timeframe – all sums secured under the S106 are committed with draw down happening on a phase basis and £19,338.95 remains to be drawn down but remains available.
- **St Gobain** – These funds have been committed as a contribution to ESIF – Urban Greenings Project. There was the £35k committed in 22/23 and £10k committed in 23/24. These were originally committed to the scheme as part of the original ESIF application signed in 2017. These funds were committed so remain available for the City Council to spend on this project.
- **Travis Perkins** – The remaining balance was committed to the Play Area Improvement Grant (PIG). This was covered by the Playing Pitch Strategy report which went to cabinet 6/2/2019. These funds were committed and remain available for the City Council to spend.

### Summary

With the exception of Hucclecote which wasn’t reviewed for materiality. The four remaining suggested s106 sums have been reconciled against the relevant legal agreements and available evidence. This confirmed all funds made available under each of these s106 agreements was either

spent or committed within the timeframes specified, as such no funds need to be returned to developers.