

## **East Herts Council Report**

### **Audit & Governance Committee**

**Date of Meeting: Wednesday 26 November 2025**

**Report by:** Councillor Vicky Glover-Ward – Executive Member for Planning and Growth

**Report title:** Section 106 Update Report & 2024/25 Infrastructure Funding Statement

**Ward(s) affected: (All Wards);**

**Summary** – This report provides an update on East Herts Section 106 contribution identification, collection and allocation, plus information on the additional work undertaken by the Section 106 Programme Manager, along with the ‘2024/25 Infrastructure Funding Statement’ prior to its publication.

#### **RECOMMENDATIONS FOR Audit & Governance Committee:**

- a) To note and comment on the contents of this report and the ‘2024/25 Infrastructure Funding Statement’ (Appendix A).

#### **1.0 Proposal(s)**

- 1.1 To note and comment on the contents of this report and the ‘2024/25 Infrastructure Funding Statement’ (Appendix A)

#### **2.0 Background**

- 2.1 Since September 2019, an annual update report has been prepared to provide information on East Herts Council Section 106 financial contributions identification, collection and allocation, including any changes to legislative and reporting requirements, and the required annual Infrastructure Funding Statement prior to its publication on the East Herts Council website. Copies of these previous reports can be found on the council’s website and are listed as background papers at the end of this report.
- 2.2 This report, which is presented annually to the Audit & Governance Committee in November, provides this year’s update

along with the '2024/25 Infrastructure Funding Statement' (attached as Appendix A).

### **3.0 Reason(s)**

- 3.1 To ensure transparency, and compliance with current Legislation, information is provided on the ongoing work of the Section 106 Programme Manager and the '2024/25 Infrastructure Funding Statement' prior to its publication on the council's website.

### **Update on Legislation and Section 106 new contribution requirements**

- 3.2 Detailed information on Section 106 legislation and the legal tests was provided in previous reports – copies of these can be found on the council's website and are listed as background papers at the end of this report.
- 3.3 To ensure that the council secures financial contributions obligations from forthcoming major developments, the Section 106 Programme Manager continues to work pro-actively with Planning Officers and developers. This can involve significant negotiations and there may be instances in which proposed contributions do not meet the legal tests or where they are not allowed by Planning Inspectors or are amended through negotiations with developers due to the development being financially unviable.
- 3.4 Members should note that work is also ongoing with community groups and organisations, as well as the Town and Parish Councils, to identify any current and future contributions available to them. Detailed information, including bespoke spreadsheets, is shared with potential recipients and collaboration continues to identify future funding requirements and help inform new Section 106 agreements.
- 3.5 Changes to Planning Legislation - the Government published a revised National Planning Policy Framework (NPPF) in December 2024 and introduced the Planning and Infrastructure Bill 2025. These include a number of changes to legislation aiming to reform the planning system to increase housing and infrastructure

delivery.

- 3.6 The NPPF (2024) sets out the Government's national policy guidelines in order to work towards the ambitious goal of delivering 1.5 million new homes this Parliament, and the vital infrastructure needed to grow the economy and support public services.
- 3.7 The NPPF (2024) also introduces a requirement to ensure faster delivery of other public service infrastructure such as health, blue light, library, adult education, university and criminal justice facilities. Local planning authorities are required to work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted. The NPPF (2024) states that significant weight should be placed on the importance of new, expanded or upgraded public service infrastructure when considering proposals for development.
- 3.8 The Planning and Infrastructure Bill is now subject to consultation before any legislative changes are enacted. Members will be updated on this new legislation or any changes affecting Section 106 as and when these are known.
- 3.9 However, it should be noted that currently all East Herts Section 106 contributions and obligations are sought and calculated in accordance with the current Legislation, East Herts District Plan and specific Supplementary Planning Documents (SPD's) requirements. Detailed information on current Section 106 Legislative requirements and the identification and calculation of East Herts financial contributions was provided in the previous reports to this committee – these are listed as background papers at the end of this report.
- 3.10 Information is given below on recent Biodiversity Net Gain Legislation and the associated new contribution requirements, along with the new locally agreed new Hatfield Forrest Mitigation Tariff, along with details on how contributions and obligations from the new Gilston area development will be monitored.
- 3.11 Biodiversity Net Gain obligation contributions and monitoring fees

- Members should note that Biodiversity Net Gain (BNG) is now mandatory for most planning applications under the Environment Act 2021 and requires developers to deliver a measurable, 10% increase in biodiversity through habitat creation or enhancement on all new developments. BNG is a way of creating and improving natural habitats and makes sure that any new development has a measurably positive impact on biodiversity. Detailed information on BNG in East Herts can be found on the council's website - <https://www.eastherts.gov.uk/planning-and-building/planning-policy/mandatory-biodiversity-net-gain-bng>

- 3.12 The council can also collect a financial contribution in lieu of onsite BNG provision or the purchase of offsite BNG credits by the developer. A 'BNG Monitoring Fee' can also be requested by the council to help cover the council's costs of monitoring compliance with on-site BNG improvements requirements.
- 3.13 To date a single 'Off-site Biodiversity Net Gain Contribution' of £18,989.17 has been collected from the Mangrove Road (HERT5) development in Hertford (3/20/1563/FUL & S106 dated 24/06/2021). This will be allocated towards the creation and maintenance of neutral grassland and woodland in East Hertfordshire.
- 3.14 In this financial year (2025/26) one BNG Monitoring Fee contribution (£65,617.21) has been collected by the council from the development on Land at Walkern Road development in Watton-at-Stone (3/23/2108/FUL – S106 dated 16/08/2024). This contribution is to be used towards the costs of monitoring compliance with the development's Habitat Management and Monitoring Plan and reviewing the Monitoring Reports provided over a thirty-five-year period.
- 3.15 Hatfield Forest Mitigation Tariff – East Herts Council is now required to collect a 'Hatfield Forrest' financial tariff contribution from all new residential development consented within the 11.1km Zone of Influence of the ancient woodland to mitigate the impact of increased visitor numbers.
- 3.16 The map below shows the extent of the Zone of Influence as it affects East Herts.



- 3.17 The draft 'Governance Agreement' to implement this new arrangement has been approved and agreed between the four local planning authorities, (East Herts Council, Uttlesford District Council, Harlow District Council and Epping Forest District Council), and Natural England and the National Trust as landowners. The full background to this and details of the tariff can be found in the ['Hatfield Forrest Mitigation Strategy and Governance Arrangements'](#) report taken to Council on 23/07/2025.
- 3.18 The tariff differs for each local authority dependent on the number of homes planned within the Zone of Influence and the likely impact generated. The tariff for East Herts is calculated at **£540.07 per new dwelling** and will be applicable on all new residential development consented within the Zone of Influence. It should be noted that Gilston development is excluded from the tariff due to the extensive greenspace proposed in the new villages.
- 3.19 Delegated authority has been given to the Director for Legal Policy and Governance to work on the final version of the Governance Agreement with an expectation that this is signed and sealed in Autumn 2025. The Section 106 Programme

Manager is working with Planning Officers to finalise the implementation procedure and associated paperwork.

- 3.20 Going forward, the monitoring and collecting of the Hatfield Forrest Mitigation Tariff contributions due from all new consented development within the Zone of Influence will be undertaken by the Section 106 Programme Manager. Collected tariff contributions will be transferred to Uttlesford District Council, as the lead collection authority, on a bi-annual basis or as agreed in the governance arrangements.
- 3.21 Gilston Area Development Section 106 Agreement & Monitoring Contributions – Members will be aware of the outline planning permission granted for 10,000 new homes and associated infrastructure in the ‘Harlow and Gilston Garden Town: Gilston Area Villages 1-7’ area development as per 3/19/1045/OUT (Villages 1-6) and 3/19/2124/OUT (Village 7).
- 3.22 A single Section 106 Agreement has been created for the two granted planning permissions. This was signed and sealed on 09/01/2025 - a copy of the agreement is available on the planning website and a link is provided at the end of this report.
- 3.23 The ‘Harlow and Gilston Garden Town: Gilston Area Villages 1-7’ Section 106 Agreement sets out the financial contributions and the non-financial obligations due from the whole development (10,000 dwellings across seven villages). However, Members should note the only financial contributions identified directly for East Herts Council are the maximum monitoring contribution amounts of £926,750.00 for Villages 1-6 and £239,400.00 for Village 7. These monitoring contributions are to cover the ongoing monitoring of the development over the construction period and phased occupation of the whole development. As such, these monitoring contributions payments will also be phased, with £30,892 due prior to the implementation of the Villages 1-6 development and on each anniversary of the implementation date for 29 years, plus £23,940 due prior to the implementation of the Village 7 development and on each anniversary for 9 years, or earlier dates if agreed – this is based on the delivery trajectory of each development. Officers are required to maintain a record of

hours spent and issue a time sheet report to the developers every six months after commencement of development. The sums above are therefore 'up to' costs, ensuring the cost of monitoring the development is paid but no more.

- 3.24 Reporting on the progress of the Gilston area development will be as per the 'Gilston Area Monitoring Framework' which was reported to and endorsed by Council on 23 July 2025 – see [The Gilston Area Monitoring Framework Report](#)
- 3.25 The Gilston Area Monitoring Framework outlines the objectives of monitoring the development over time, describing the various monitoring activities to be undertaken, and the way these will come together in the form of a Gilston Area Monitoring Report. The Gilston Area Monitoring Report will be produced annually and published on the council's website from January 2026 onwards to provide detailed information on the progress of these developments and the draw down of the monitoring contributions.

### **2024/25 Infrastructure Funding Statement – see Appendix A**

- 3.26 Members are invited to comment on the '2024/25 Infrastructure Funding Statement' attached as Appendix A.
- 3.27 This is the sixth annual 'Infrastructure Funding Statement' produced by East Herts Council and covers the financial year 2024/25. The '2024/25 Infrastructure Funding Statement' and the three associated CSV files are in line with the Legislation requirements of the Community Infrastructure Levy (Amendment) (England) (No 2) Regulations 2019) and will be published on the dedicated [Infrastructure Funding Statement webpage](#) in December 2025. It should be noted that the three CSV files are not mandatory but will continue to be updated annually for information only.
- 3.28 The '2024/25 Infrastructure Funding Statement' provides a summary of new Section 106 legal agreements signed, along with detailed information on financial contribution income and expenditure, and projects funded in the financial year 2024/25. In line with the Legislation, it also includes information on Section 106 financial contribution collection and allocation for previous

financial years.

- 3.29 Detailed information has been provided on the thirty-three individual projects and uses funded in 2024/25 and the contributions used for this. To provide more clarity on these projects and the Section 106 contributions used, a new Appendix in the '2024/25 Infrastructure Funding Statement' lists the individual projects and uses funded in alphabetical order with an specific table listing the developments and contributions which financed them.
- 3.30 Members should note that Hertfordshire County Council produce their own Annual Infrastructure Funding Statement which provides information on the Section 106 contributions due directly to them - this is available on the [Hertfordshire County Council website](#).

### **East Herts Section 106 financial highlights**

- 3.31 A snapshot of the financial highlights from the '2024/25 Infrastructure Funding Statement' is provided below.
- 3.32 Total Section 106 income & expenditure – As noted in previous reports, detailed information on the collection and allocation of East Herts Council Section 106 financial contributions has been collected since April 1996 in the Section 106 Master Spreadsheet – an internal document for Officer use only.
- 3.33 Information from the Section106 Master Spreadsheet is used to inform the annual Infrastructure Funding Statement and the ongoing work in the collection and allocation of financial contributions payable to East Herts Council. The Master Spreadsheet informs the information on identified and collected contributions which is shared with potential recipients, including bespoke spreadsheets for the Town Councils, as well as other council departments.
- 3.34 In order to assist the identification of future funding requirements and help inform new Section 106 agreements, internal and external collaboration is ongoing. Members are advised to use the 'Expressions of Interest' form on the Section 106 webpage to put forward any funding suggestions or requests. All received



Expressions of Interest forms are responded to and if funding is not currently available the information is kept on file for potential future inclusion in new Section 106 Agreements from any new major developments in their specific area.

3.35 Information on the total East Herts Council Section 106 contribution collection and allocation - from 01/04/1996 up to 31/03/2025 the following total financial amounts have been collected and allocated:

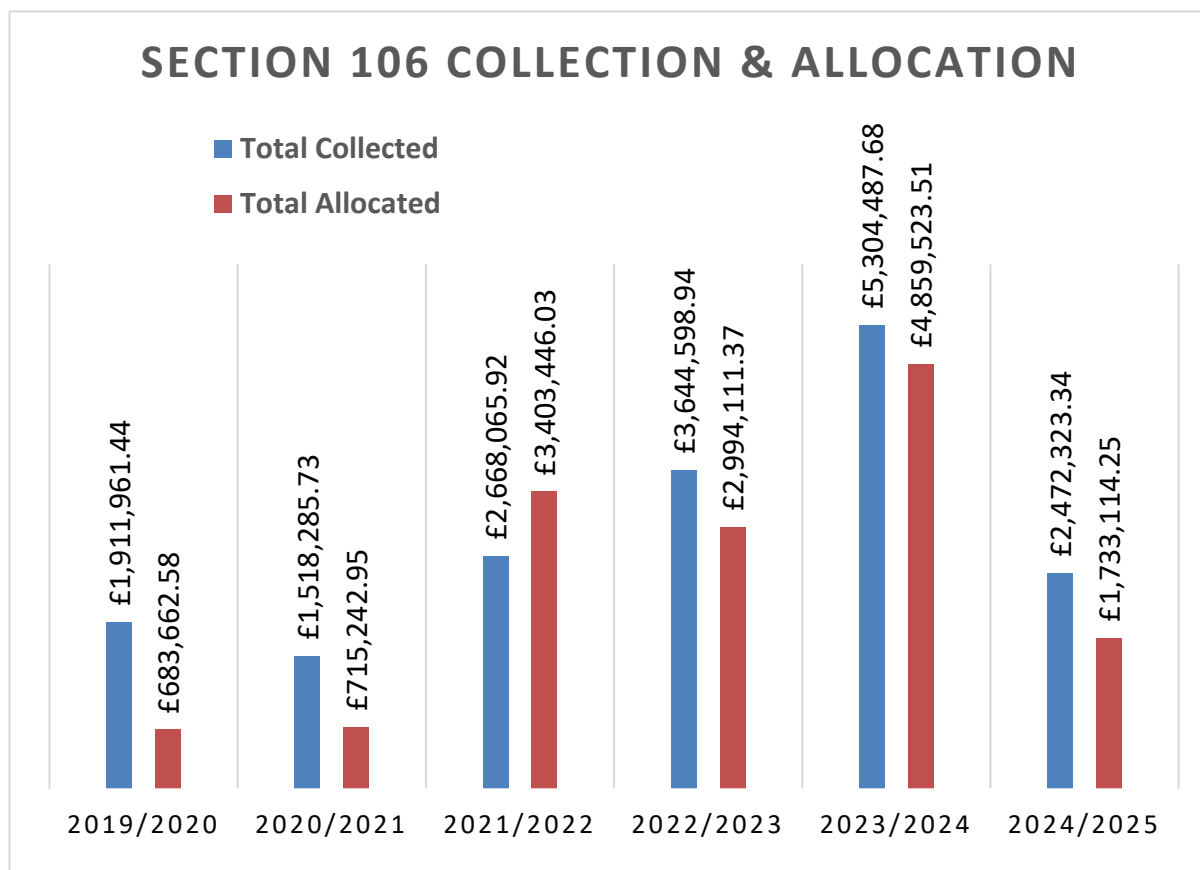
- Received contributions - £26,192,014.86
- Spent contributions - £18,427,663.68
- Unspent contributions - £7,764,378.18
  - Allocated contributions\* - £7,709,512.99
  - Unallocated contributions\*\* - £54,865.19

3.36 \*Allocated contributions include contributions identified for future allocation/transfer to Revenue Budgets for ongoing maintenance, to Capital Budgets for major projects, to specific named uses / projects and for transfer to external bodies (e.g., health contributions collected for the NHS Hertfordshire and West Essex Integrated Care Board).

3.37 \*\*Unallocated contributions are classed as unallocated because they do not have a specific project named in the contribution wording. Work is ongoing to identify projects to fit with these contributions and these are available for internal and external funding application bids with certain caveats.

3.38 Details on the unallocated Section 106 contributions are given on page 10 of the 2024/25 Infrastructure Funding Statement (attached as Appendix A).

3.39 Section 106 contribution collection & allocation over the last six financial years - The graph below provides information on the total Section 106 contributions collected and allocated by over the last six financial years:



3.40 Members should note that the 2024/25 figures include:

- £2,472,323.34 collected from thirty-two contributions triggered from nine individual Section 106 Agreements.
- £1,733,114.25 allocated to thirty-three individual projects or uses from sixty-one individually held contributions from thirty-eight separate Section 106 Agreements.

3.41 The 2024/25 collected and allocated contribution totals are significantly less than those of the previous financial year. This is explained by a single contribution collection and transfer in the previous financial year (2023/24) - the council collected and transferred £3.4m on behalf of Hertfordshire County Council in 2023/24 as per the legal requirements concerning collecting Section 106 contributions from a development on HCC land.

Details on this specific contribution are available in the published '2023/24 Infrastructure Funding Statement' reported to the Audit & Governance Committee in November 2024 and available on the council's website.

- 3.42 Further detailed information on the collected and allocated Section 106 contributions in the current and previous financial year is available in the '2024/25 Infrastructure Funding Statement', along with details of the uses and projects funded in 2024/25 (attached as Appendix A).
- 3.43 Members are reminded that legal advice has confirmed that all Section 106 contributions can only be allocated in accordance with the specified contribution use wording in the individual legal agreement and within the vicinity of the associated development. Any deviation or non-conforming use may be subject to challenge and potential reclaim by the developer.
- 3.44 Current Section 106 contribution collection and allocation in 2025/26 – to date the Section 106 contributions collected and allocated for spend / transfer in this financial year (01/04/2025 to end of September 2025) include:
- £1,972,930.94 in total from twenty-nine triggered contributions from five separate developments.
  - £1,242,532.04 has been identified to date for allocation / transfer in 2025/26\*.
- 3.45 \*This figure includes contributions identified for internal transfer to help fund council operations and projects, approved funding of community projects and the transfer of contributions collected by the council to repay forward funding of capital projects and contributions collected on behalf of other external organisations.
- 3.46 These are interim figures and detailed information on the individual Section 106 contributions collected and allocated in the current financial year will be provided in the '2025/26 Infrastructure Funding Statement' and the Section 106 Update Report which will be presented to the Audit & Governance Committee in November 2026.

## **Section 106 income generation and information requests**

3.47 Monitoring Fee Income - following a change in the legislation in 2019, the inclusion of a Monitoring Fee contribution in new Section 106 Agreements has generated significant income totalling £51,103.51 to date. This is transferred internally at the end of each financial year into the planning budget to help fund the council's monitoring costs.

3.48 This Monitoring Fee income is itemised per financial year below:

- 2019/20 - £3,100.00 (one contribution payment)
- 2020/21 - £9,336.99 (three contribution payments)
- 2021/22 - £14,513.82 (six contribution payments)
- 2022/23 - £0.00 (no contribution payments triggered)
- 2023/24 - £8,543.65 (four contribution payments)
- 2024/25 - £10,231.53 (three contribution payments)
- 2025/26 - £5,377.52 received from one monitoring contribution to date

3.49 Section 106 Contribution Status Confirmations - Income continues to be generated from the provision of Section 106 status confirmation letters to solicitors for house moves and to housing associations to confirm compliance with the legal agreements.

3.50 A total of £19,989.90 has been collected to date from 2019/20 when the Section 106 Programme Manager took over this role. The fee charged for this increased to £98.70 per enquiry response in April 2025.

3.51 This income is itemised per financial year below:

- 2019/20 – £2,229.00 (25 confirmations)
- 2020/21 – £2,693.00 (31 confirmations)
- 2021/22 - £4,809.30 (54 confirmations)
- 2022/23 – £3,290.00 (35 confirmations)
- 2023/24 – £1,786.00 (19 confirmations)
- 2024/25 - £3,572.00 (38 confirmations)

- 2025/26 - £1,776.60 (18 enquiries to date)

3.52 Section 106 information requests - In the previous 12 months the Section 106 Programme Manager has responded to twelve Freedom of Information (FOI) requests and four Member inquiries (via “Infreemation”) relating to Section 106.

#### **4.0 Options**

4.1 Members are invited to note and comment on the contents of this report and on the ‘2024/25 Infrastructure Funding Statement’ prior to its publication.

#### **5.0 Risks**

5.1 The ‘2024/25 Infrastructure Funding Statement’ must be published on the East Herts Council website before 31/12/2025. Not to do so would be in contravention of the Community Infrastructure Levy (Amendment) (England) (No 2) Regulations 2019 and would be a reputational and legal risk for the council. As the ‘2024/25 Infrastructure Funding Statement’ has been written and is ready to be published this is a minor risk and the likelihood is unlikely.

5.2 The main risk of non-allocation of received Section 106 contributions, within the timescale set out in the individual legal agreements, is reputational as it could result in public challenge and potential reclaim by the developer.

5.3 Significant work continues to be undertaken to ensure that this will not happen and that all contributions payable to the council are identified, collected, RAG rated and allocated to be used within the period stated within the individual Section 106 agreements. This allocation period is usually 10 years from the date of actual receipt of the financial contribution, but some new agreements now stipulate allocation within five years of receipt.

#### **6.0 Implications/Consultations**

6.1 Feedback on this report and the ‘2024/25 Infrastructure Funding Statement’ was sought from Director for Place, Service Manager for Development Management and Enforcement, Planning Officers, and the Executive Member for Planning & Growth.

## **Community Safety**

There are no community safety implications arising from this report.

## **Data Protection**

There are no data protection implications arising from this report.

## **Equalities**

There are no direct equality, diversity, or inclusion implications in this report. All funding allocations go through a fair and proper process and an Equalities Impact Assessment (EqIA) will be carried out in accordance with The Equality Act 2010 as required.

## **Environmental Sustainability**

All Section 106 funding allocations consider the environmental sustainability of the proposed contribution use to contribute to meeting the Council's key environmental and sustainability objectives.

## **Financial**

All Section 106 financial contributions collected by East Herts Council are allocated and used in accordance with the individual contribution wording requirements of the associated Legal Agreement.

Regular meeting with Finance ensures that all Section 106 contributions for East Herts Council's own use are identified and allocated as per the associated contribution wording. These identified contributions support specific named projects and help repay the council's capital project borrowing costs for forward funded projects.

In addition, Revenue contributions are used to support existing maintenance budgets, refuse and recycling contributions contribute to covering the costs to the council for container provision in new developments and monitoring contributions are used to support Officer costs.

## **Health and Safety**

There are no health and safety implications arising from this report.

## **Human Resources**

There are no human resources implications arising from this report.

## **Human Rights**

There are no human rights implications arising from this report.

## **Legal**

All Section 106 contributions are identified, collected, and allocated in accordance with Section 106 of the Town & Country Planning Act 1990 and Regulation 122 of the Community Infrastructure Levy Regulations 2010.

The Infrastructure Funding Statement is produced in accordance with the Community Infrastructure Levy (Amendment) (England) (No 2) Regulations 2019.

## **Specific Wards**

No

## **7.0 Background papers, appendices and other relevant material**

- 7.1 24/09/2019 - Performance, Audit and Governance Scrutiny Committee - [Section 106 Agreements Update Report](#)
- 7.2 17/11/2020 - Audit & Governance Committee – [Section 106 Policy and Financial Contributions Update Report](#)
- 7.3 09/11/2021 – Audit & Governance Committee – [Section 106 Update Report](#)
- 7.4 15/11/2022 - Audit & Governance Committee – [Section 106 Update Report](#)
- 7.5 29/11/2023 – Audit & Governance Committee – [Section 106 Update Report](#)
- 7.6 27/11/2024 – Audit & Governance Committee – [Section 106 Update Report](#)
- 7.7 23/07/2025 – Council – [Hatfield Forrest Mitigation Strategy and Governance Arrangements](#)’ report

- 7.8 23/07/2025 – Council - [The Gilston Area Monitoring Framework Report](#)
- 7.9 Harlow and Gilston Garden Town: Gilston Area Villages 1-7 – Section 106 Agreement dated 09/01/2025:
- Part 1 - [https://publicaccess.eastherts.gov.uk/online-applications/files/5A5E3FFFFEB1D3B7227BC9B7D826DF76/pdf/3\\_19\\_2124\\_OUT-S106\\_PART\\_1-2204525.pdf](https://publicaccess.eastherts.gov.uk/online-applications/files/5A5E3FFFFEB1D3B7227BC9B7D826DF76/pdf/3_19_2124_OUT-S106_PART_1-2204525.pdf)
  - Part 2 - [https://publicaccess.eastherts.gov.uk/online-applications/files/FB379D9E296B19EFF235AA24EAD532D9/pdf/3\\_19\\_2124\\_OUT-S106\\_PART\\_2-2203962.pdf](https://publicaccess.eastherts.gov.uk/online-applications/files/FB379D9E296B19EFF235AA24EAD532D9/pdf/3_19_2124_OUT-S106_PART_2-2203962.pdf)
  - Part 3 - [https://publicaccess.eastherts.gov.uk/online-applications/files/C5A4903FE50E0209781E0BB049860698/pdf/3\\_19\\_2124\\_OUT-S106\\_PART\\_3-2203963.pdf](https://publicaccess.eastherts.gov.uk/online-applications/files/C5A4903FE50E0209781E0BB049860698/pdf/3_19_2124_OUT-S106_PART_3-2203963.pdf)

## **Appendix A - Infrastructure Funding Statement 2024/25.**

### **Contact Member**

Executive Member for Planning and Growth  
[Vicky.glover-ward@eastherts.gov.uk](mailto:Vicky.glover-ward@eastherts.gov.uk)

### **Contact Officer**

Sara Saunders, Director for Place,  
[sara.saunders@eastherts.gov.uk](mailto:sara.saunders@eastherts.gov.uk)

### **Report Author**

Jackie Bruce, Section 106 Programme Manager  
[Jackie.bruce@eastherts.gov.uk](mailto:Jackie.bruce@eastherts.gov.uk)