

<b>Report to:</b>	<b>STRATEGIC PLANNING AND CAPITAL MONITORING PANEL</b>
<b>Date:</b>	28 November 2016
<b>Reporting officer:</b>	Damien Bourke, Assistant Executive Director (Development, Growth and Investment)
<b>Subject:</b>	<b>SMARTLY POOLED SECTION 106 AGREEMENTS AND DEVELOPER CONTRIBUTIONS</b>
<b>Report Summary:</b>	The report summarises the current position with regard to receipts received from section 106 Agreements and Developer Contributions and contains recommendations on the release of receipts.
<b>Recommendations:</b>	<ol style="list-style-type: none"> <li>1. To note the contents of the report.</li> <li>2. The following project has been signed off by the Executive Member for Clean and Green and it is recommended that they be authorised by the Strategic Capital Panel and recommend the Executive Cabinet give authority to release funds from the following available resources: <ul style="list-style-type: none"> <li><b>Section 106 –</b></li> <li>Environmental Improvements in Audenshaw (£8,500)</li> <li><b>Developer Contributions – None</b></li> </ul> </li> </ol>
<b>Links to community strategy:</b>	Successfully implementing schemes funded through s106 agreements assists in supporting Community Strategy priorities concerning supportive communities, safe environment, prosperous society, learning community and attractive borough.
<b>Policy implications:</b>	Works completed through obligations contribute to mitigating the impact of developments in three policy areas contained within the Councils adopted Unitary Development Plan.
<b>Financial implications:</b> <b>(Authorised By Section 151 Officer)</b>	It is important that regular monitoring is undertaken to ensure that monies are paid to the Council when due; as per the individual S106 agreements. The S106 contributions and Developer Contributions must be spent within the agreed timescales and on the purposes specified within the individual agreements. A summary position of the S106 contributions and developer contributions is included in the report.
<b>Legal implications:</b> <b>(Authorised By The Borough Solicitor)</b>	Section 106 Obligations need to comply with the requirements of the Community Infrastructure Levy Regulations, which the adopted policy framework seeks to secure.
<b>Governance Arrangements:</b> <b>(If applicable, the intended governance arrangements e.g. key decision, executive decision)</b>	Section 106 obligations requested are done so following the policy framework set out to support this approach contained within the Councils adopted Unitary Development Plan.

**Risk Management:**

Developers will be entitled to claw back any contributions if they are not spent within the agreed timescales as per the agreements.

Contributions may not be received on time or at all without adequate monitoring. Any specific conditions included with S106 agreements must also be considered in the use of these resources to reduce developer challenges.

The continued implementation of the approach outlined beyond April 2015 is guided by professional judgement and as such is open to challenge. Keeping abreast of relevant legal cases and modifying the Councils approach accordingly will assist in minimising risk.

**Access to Information:**

The background papers can be obtained from the author of the report, Jason Dugdale by



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## 1. INTRODUCTION

- 1.1 This report summarises the position at the period 31 October 2016 with regard to receipts for Section 106 (s106) agreements and developer contributions and makes comments for each service area. This is followed by a section on new agreements concluded and pending.
- 1.2 Additionally the report provides an update following the implementation of section 106 (s106) Smart Pooling following the April 2015 deadline which brought to a close the requesting of developer contributions via the Councils now revoked Developer Contributions Supplementary Planning Document (SPD). Furthermore an update is provided in relation to the internal audit of the processes of collection, management and monitoring of the developer obligations system.

## 2. S106 UPDATE

- 2.1 The summary position statement at 31 October 2016 for s106 agreements and developer contributions is as follows:

### Smart Pooling Section 106 agreements:

Section 106		Community Services	Engineering Services	Services for Children & Young People	Other	Total
		£000	£000	£000	£000	£000
S106 - Applied - Budget Transferred to Service Area	Balance Transferred Previous Years (2006/07 - 2015/16)	795	1,632	1,250	16	3,693
	<b>Total</b>	<b>795</b>	<b>1,632</b>	<b>1,250</b>	<b>16</b>	<b>3,693</b>
S106 - Schemes devised not yet signed off	Brought Forward from 2015/16	0	0	0	0	0
	Received Periods 1 - 3					0
	Received Periods 4 - 7					0
	Received Periods 8 - 10					0
	Received Periods 10 - Outturn					0
	Transferred to Service Area					0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
S106 - Not yet earmarked	Brought Forward from 2015/16	(43)	(23)	(123)	0	(189)
	Received Periods 1 - 3	(14)	(8)	(17)		(39)
	Received Periods 4 - 7	(79)		(44)		(124)
	Received Periods 8 - 10					0
	Received Periods 10 - Outturn					0
	Transferred to Service Area					0
<b>Total</b>	<b>(136)</b>	<b>(31)</b>	<b>(184)</b>	<b>0</b>	<b>(352)</b>	
S106 - Not yet reached trigger point		<b>(500)</b>	<b>(362)</b>	<b>(660)</b>	<b>(24)</b>	<b>(1,546)</b>

## Developer Contributions (based on SPD prior to CIL changes):

Developer Contributions	Green Space Contribution	Community Education Contribution	Integrated Transport Contribution	4% Administration Charge	Totals
	£000	£000	£000	£000	£000
Brought Forward from 2015/16	(201)	(61)	(14)	0	(276)
Received Periods 1 - 3	0	0	0	0	0
Received Periods 4 - 7	0	0	0	0	0
Received Periods 8 - 10	0	0	0	0	0
Received Periods 10 - Outturn	0	0	0	0	0
Transferred to Service Area	0	0	0	0	0
Approved at previous SCP for release at year end	0	0	0	0	0
<b>Total</b>	<b>(201)</b>	<b>(61)</b>	<b>(14)</b>	<b>0</b>	<b>(276)</b>

### Overall position

2.2 The current position for s106 agreements is £352,000 as at 31 October 2016 with developer contributions standing at £276,000.

### 2.3 Services for Children and Young People

- The balance of unallocated s106 funds stands at £184,000 on 31 October 2016
- Developer contributions stands at £61,000 on 31 October 2016

### 2.4 Community Services (Operations and greenspace)

- The balance of unallocated s106 funds stands at £136,000 on 31 October 2016
- Developer contributions stands at £201,000 on 31 October 2016

### 2.5 Engineering Services

- The balance of unallocated s106 funds stands at £31,000 on 31 October 2016
- Developer contributions stands at £14,000 on 31 October 2016

### New Section 106 Agreements

2.6 A section 106 agreement has been signed for an application at Charlotte House, Albert Road, Hyde. The planning application comprises the demolition of Charlotte house and the construction of a new apartment block containing 16 two bed apartments. The development provides commuted sums to mitigate against the impact the proposal may have on off-site open space provision. The sum of £6,400 will go towards an enhanced play area surface at the park on Croft Street, Hyde.

2.7 A section 106 agreement has been drafted for an application at St Stephens Church, Bennett Street, Hyde. The planning application comprises the conversion of existing church into 16 no. apartments and erection of 14 houses on land adjacent to church. The development provides commuted sums to mitigate against the impact the proposal may have on education. The sum of £25,000 will go towards the development of the new Discovery Academy in Porlock Street in Hyde.

2.8 A section 106 agreement has been proposed for an application at the former Conservative Club on Vernon Street, Ashton. The planning application comprises the construction of a new apartment block containing 24 two bed apartments. The development provides commuted sums to mitigate against the impact the proposal may have on off-site open space provision and highways.

- 2.9 The sum of £20,632.37 will go towards infrastructure improvements to King George's Park, Cedar Park and Smallshaw Fields to include new bins and benches, new play equipment and more sustainable planting. The sum of £16,482.24 will fund new and improved cycle and pedestrian links between Ashton and Queens Road/Palace Road as part of the Ashton/Stalybridge circular route identified in Tameside Cycling Strategy Options Report.
- 2.10 A section 106 agreement has been proposed for an application at 32 Denton Road, Audenshaw. The planning application comprises the demolition of existing gym and the construction of a new apartment block containing 13 two bed apartments. The development provides commuted sums to mitigate against the impact the proposal may have on off-site open space provision and highways.
- 2.11 The sum of £7,944.59 will assist the Council in providing footpath links to Shepley Wood to the east of the site.
- 2.12 The sum of £7,018.36 will fund highway safety improvements at the junction of Guide Lane, Shepley Lane & Denton Road, Audenshaw.

#### **Requests to draw down funding**

- 2.13 Operations and Greenspace would like to request a drawdown of £8,500; this is the remaining balance from the Morris Homes Development in Audenshaw S106 Agreement no. 05/00840/OUT. This funding will be used for Environmental Improvements in Audenshaw.

### **3. POLICY UPDATE**

- 3.1 As previously reported to Strategic Capital Panel, the Council continues to collect developer obligations for site specific mitigation via S106 agreements, smartly pooling tariff style contributions to avoid limits introduced by the Community Infrastructure Levy (CIL) Regulations. The online calculator assists in generating a contribution tariff figure that this is fair, reasonable and proportionate in its scale to a proposed development.
- 3.2 In November 2014 the government introduced a lower development threshold limit from which tariff style contributions should not be sought via a Written Ministerial Statement. The Government's decision to introduce such a threshold was challenged by a number of authorities, with the High Court ruling in their favour in July 2015. The Court of Appeal however has recently overturned this, with the effect of re-introducing the initial Government policy announcement.
- 3.3 The Panel should therefore be aware that current national policy directs that tariff style contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000sqm.
- 3.4 Obligations requested by the Council are supported by the policy framework set out within the adopted Unitary Development Plan (specifically policies: H5-Greenspace, H6-Education and T13-Highways). In the case of policy H6, a minimum development limit of 25 or more dwellings already applies and therefore the above changes to national policy do not affect the Councils ability to request contributions toward this type infrastructure.
- 3.5 It should also be noted that national policy advises there may still be instances, even where the development threshold limits apply, that obligations may be required to make a site acceptable in planning terms.

#### **4. MONITORING AND AUDIT**

- 4.1 As previously reported to the Panel, to effectively manage the post April 2015 s106 smart pooling system, the Council has implemented a number of technical and policy changes. However alongside this a robust monitoring system is required as previously identified and brought to the attention of SCP.
- 4.2 The above processes and procedures are currently the subject of an internal audit. Although it was envisaged the outcome findings of the audit and appropriate responses would be in a shareable position the audit remains ongoing, albeit in its latter stages.
- 4.3 Draft outcomes of the internal audit are expected shortly which will assist in identifying an appropriate set of further actions requiring attention and the resources required to deliver on these. Ultimately officers will welcome the outcome findings of the audit and share them with SCP in due course in helping to further deliver a robust and effective process.

#### **5. RECOMMENDATION**

- 5.1 As stated at the front of this report.

## APPENDIX A – PROJECTS REGISTER

### Community Services (Operations and greenspace)

Site	Town	Easting	Northing	Works	Approximate Costs
Park Bridge	Ashton	393699	402697	Increase accessibility to the site by improving footpath network, signage, interpretation and enhancements to key entrance points.	£40,000
Park Bridge Rocher Vale	Ashton	393699	402697	Improved signage and links to cycle route 626	£5,000
Park Bridge Fennyfield Path	Ashton	393699	402697	Improvements to the path	£7,500
Pond at Park Bridge	Ashton	393699	402697	Improvements to the pond for use by local schools and families.	£20,000
Daisy Nook	Ashton	392523	400896	Upgrade surface of the bridle path to make it more user friendly for families with pushchairs, new cyclists and those with limited mobility.	£25,000
King George's Park	Ashton	394172	399724	Upgrade existing play area including new play equipment.	£40,000
Scout Green	Mossley	397537	401269	Improvements to bridleway	£10,000
Scout Green	Mossley	397537	401269	Level off land adjacent to toilet block	£10,000
Mossley Park	Mossley			Improvements to play kit and surfacing	£20,000
Werneth Low Road	Hyde	396041	393595	Enhance footpaths and riding tracks in the area to improve accessibility.	£60,000
Hurst Clough	Longdendale	398743	394829	Improvements to bridge and footpath works	£40,000

<b>Site</b>	<b>Town</b>	<b>Easting</b>	<b>Northing</b>	<b>Works</b>	<b>Approximate Costs</b>
Lymefield, Broad Mills	Longdendale	399624	393554	Improve accessibility and use of the site through interpretation, improvements to the footpath network to make them more usable and additional signage.	£20,000
Tower Street	Dukinfield	394905	398188	New benches, enhanced entrance signage and street planters	£8,000
Tower Street	Dukinfield	394905	398188	Enhancements to play area	£20,000
Lees Park	Droylsden	390844	398588	Improvements including additional footpath network to provide a link through to the Metrolink Station, additional signage and removing physical barriers to access.	£20,000
Hollinwood Branch Canal	Droylsden	392011	400450	Enhancements to pathways and signage	£10,000
Medlock	Droylsden	390622	398795	Upgrade paths, more whip planting, drainage gullies, replace some play kit, zip wire safety surfacing.	£10,000
Sunnybank Vale	Droylsden	389241	399111	Improvements to Greenside Lane entrance	£6,000
Floral Gardens	Droylsden	389856	398300	Improvements to kid's kick-a-bout area, retaining wall around it, refurb play kit.	£15,000
Silver Springs	Stalybridge	395536	400001	Access improvements	£50,000
Egmont Street	Stalybridge	397529	401638	Improve railings and frontage; improve play area; remove balsam	£30,000
Cheetham Park	Stalybridge	396568	398271	Remove old shrub beds, replace with birch copse	£10,000



<b>Site</b>	<b>Town</b>	<b>Easting</b>	<b>Northing</b>	<b>Works</b>	<b>Approximate Costs</b>
Cheetham Park	Stalybridge	396568	398271	Improve access to the woodland through footpath improvements, interpretation and signage.	£15,000
Cheetham Park	Stalybridge	396568	398271	Drying shed – improve, open up, create shelter.	£40,000
Stamford Park	Stalybridge	395466	399046	New piece of play kit in toddler play area. Timber seating within toddler play area	£25,000
Brushes	Stalybridge	398009	399470	New boardwalks	£7,000
Shepley Wood	Audenshaw	392765	396650	Create footpath around edge of field.	£20,000
Haughton Dale	Denton	393555	393281	Tree planting, stiles, fencing.	£8,000

**Services for Children and Young People**

<b>Site</b>	<b>Town</b>	<b>Easting</b>	<b>Northing</b>	<b>Works</b>	<b>Approximate Costs</b>
Livingstone primary and nursery school	Mossley	397126	401956	Extension works to create two classrooms	£350,000
Aldwyn Primary and Hawthorns Special Schools	Audenshaw	391264	398133	Five new classrooms and associated works	£2,000,000
St John's CE Primary School	Dukinfield	395399	397647	Additional two classrooms	£450,000
Milton St John's CE Primary School	Mossley	397409	402652	Additional classroom and associated remodelling works	£40,000
St James' RC Primary School	Hattersley	397916	394915	Additional classroom	£175,000

**Engineering Services**

<b>Site</b>	<b>Town</b>	<b>Easting</b>	<b>Northing</b>	<b>Works</b>	<b>Approximate Costs</b>
Clarke Way	Hyde	394828	395264	Cycle and Pedestrian crossing improvements to improve accessibility to town centre	£40,000
Laburnum Rd	Denton	389800	395496	Traffic calming through the introduction of one-way operation system	£15,000
Manor Rd	Droylsden	389373	398287	Central separation	£15,000
Stamford St	Mossley	396844	402290	Pedestrian crossing facilities	£30,000
High St and Quarry St	Stalybridge	395826	398201	Provide pedestrian crossing facilities at signals	£12,000
Oxford Rd and Foundry St	Dukinfield	394767	397717	Contribution to provision of pedestrian crossing facilities at signals to improve accessibility for pedestrians	£12,000
Demesne Drive	Stalybridge	397299	398402	Carriageway widening to improve public transport links	£15,000
Borough wide	NA			Variable Message Signage for traffic calming	£20,000
Willshaw Lane	Ashton	393400	400269	Pedestrian Crossing	£30,000
Manchester Road	Denton	391434	395673	Rail station cycle link	£35,000
Fern Lodge Drive- Palace Road	Ashton	394966	400123	Cycle link	£10,000
Stamford Park	Stalybridge and Ashton	395403	398972	Core cycle route through the park	£8,000
Peak Forest Canal	Hyde	394323	394310	Improved direction and destination signage and enhance pedestrian and cycle routes	£1,200

<b>Site</b>	<b>Town</b>	<b>Easting</b>	<b>Northing</b>	<b>Works</b>	<b>Approximate Costs</b>
Peak Forest Canal	Dukinfield	393897	396245	Improved direction and destination signage and enhance pedestrian and cycle routes	£1,200
Watson St and Manchester Road	Denton	393630	395409	Cycle link between	£5,000
Hyde Road	Denton	393555	395397	Segregated cycle lanes	£10,000
Tame Valley	Denton	393769	395536	Upgrade paths to cycling standard and upgrade footpath to bridleway	£75,000
Mellor Road and Stamford Park	Stalybridge and Ashton	395574	399756	Improve cycle route	£20,000
Victoria St to Hickenfield Road	Hyde	395766	396009	Cycle track upgrade	£12,000
Bradley Green Road to Yew Tree Lane		395768	396788	Improved cycle link	£20,000
Ashton Norther Bypass to Romney Street	Ashton	394206	399299	Cycle link	£10,000