

Report to: **STRATEGIC PLANNING AND CAPITAL MONITORING PANEL**

Date: 10 July 2017

Reporting Officer: Damien Bourke, Assistant Executive Director (Development, Growth and Investment)

Subject: **SECTION 106 AGREEMENTS AND DEVELOPER CONTRIBUTIONS**

Report summary: The report summarises the current position with regard to receipts received from section 106 (s106) Agreements and Developer Contributions, new s106 Agreements made and any requests to draw down funding.

The report also provides a summary of the final audit report relating to Planning Obligations which has identified a number of actions which need to be taken including provision of additional resources to assist with effective monitoring of Section 106 Agreements and Developer Contributions.

Recommendations: To note the contents of this report.

Links to community strategy: Successfully implementing schemes funded through s106 Agreements support a number of Community Strategy priorities including supportive communities, a safe environment, a prosperous society, learning community and attractive borough.

Policy implications: Works completed through obligations contribute to mitigating the impact of developments in three policy areas contained within the Councils adopted Unitary Development Plan, namely policy H5 Open Space Provision, H6 Education and Community Facilities and T13 Transport Investment.

Financial implications:
(Authorised by Section 151 Officer) 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 within section 2 of the report.

Legal implications:
(Authorised By The Borough Solicitor) Section 106 Obligations need to comply with the requirements of the Community Infrastructure Levy Regulations, which the adopted policy framework seeks to secure, and which, in turn, is supported by the Council's adopted Unitary Development Plan.

Risk Management: Developers will be entitled to claw back any contributions if they are not spent within timescales as per the agreements made.
Contributions may not be received on time or at all without adequate monitoring. Any specific conditions included with agreements must also be considered to minimise the risk of developer challenges.

In accordance with Audit recommendations additional resources are being secured which will include specific requirements to monitor and track Section 106 payments and expenditure.

Access to information:

The background papers can be obtained from the author of the report, Paul Moore by



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1. INTRODUCTION

- 1.1 This report summarises the year-end financial position at 31st March 2017 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 made and requests to draw down funding. However it should be noted that no new agreements have been signed since the previous report,
- 1.2 In addition the report clarifies specific actions to address the draft recommendations of the draft Audit report from 2016.

2. AGREEMENTS UPDATE

- 2.1 The summary position statement at 31 March 2017 for s106 Agreements and Developer Contributions is as follows:

Section 106 Agreement Funds:

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
	Total	795	1,632	1,250	16	3,693
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
	Total	0	0	0	0	0
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)		(123)
	Received Periods 8 - 10	(97)		(57)		(154)
	Received Periods					0

	10 - Outturn					
	Transferred to Service Area	22				22
	Total	(210)	(31)	(241)	0	(483)
S106 - Not yet reached trigger point						
		(694)	(386)	(854)	(23)	(1,957)

2.2 The current position for s106 Agreements is £483,000 in credit as at 31 March 2017.

Services for Children and Young People

- The balance of unallocated s106 funds stands at £241,000.

2.3 **Community Services (Operations and greenspace)**

- The balance of unallocated s106 funds stands at £210,000.

2.4 **Engineering Services**

- The balance of unallocated s106 funds stands at £31,000.

Developer Contributions (Secured prior to Infrastructure Levy Regulations):

Developer Contributions	Green Space Contribution	Community Education Contribution	Integrated Transport Contribution	Totals (inc. Other)
	£000	£000	£000	£000
Brought Forward from 2015/16	(201)	(61)	(14)	(276)
Received Periods 1 - 3	0	0	0	0
Received Periods 4 - 7	0	0	0	0
Received Periods 8 - 10	(16)	(18)	(8)	(44)
Received Periods 10 - Outturn	(2)	(2)	(1)	(5)
Transferred to Service Area	29	0	0	31
Approved at previous SCP for release at year end	117	0	0	117
Total	(74)	(81)	(23)	(178)

2.5 The current position for Developer Contributions as at 31 March 2017 was £294,000 in credit, less approved allocations of £148,000 leaving a balance of £178,000.

2.6 **Services for Children and Young People.**

- The balance of available contributions stands at £81,000.

2.7 **Community Services (Operations and greenspace)**

- The balance of available contributions stands at £74,000.

2.8 **Integrated Transport**

- The balance of available contributions stands at £23,000.

New Section 106 Agreements

- 2.9 No new section 106 Legal Agreements have been entered in to since 20 February 2017, although there are a number of resolutions to grant planning permission subject to agreements being entered in to and more schemes due at Speakers Panel which will also involve the signing of new section 106 Legal Agreements. These will be reported to a future meeting of the Strategic Planning and Capital Monitoring Panel once they have been entered into and become active.

Requests to draw down funding

- 2.10 There are no outstanding requests to draw down funding but it is anticipated that these will develop significantly over the remainder of the year and a full report of requests and proposed expenditure will be provided.

3. **AUDIT REVIEW**

- 3.1 In 2016, a review was undertaken of Planning Obligations within the Development Management service. The final report was published in April 2017 and the key issues are now reported to SCP.

- 3.2 In overall terms, the audit focused on both S106 legal Agreements and the historic Developer Contributions which were collected up until 2015 when the Community Infrastructure Levy Regulations 2010 changed the rules regarding financial contributions through the planning system.

- 3.3 The report examined 6 key risks and identified 42 expected internal controls. 33 were found to be operating effectively but an overall low level of assurance was identified due to concerns principally related to the lack of monitoring of agreements. The report recognised that management have responded positively to strengthen controls but that a shortage of resources within the team has meant the effective monitoring has not been possible. It therefore recommended that urgent monitoring of these historic agreements is undertaken.

- 3.4 A recruitment exercise is currently underway for a Graduate Trainee (Planning) on a 12-month fixed term contract to assist the Council with undertaking a review of historic legal agreements and further updates will be provided to SCP over the course of the next 12-months.

- 3.5 Steps have also been taken to address a number of other recommendations within the audit report. This is included adjusting the financial contributions calculator for inflation and changes to the way finance record and account for payments.

4. **RECOMMENDATION**

- 4.1 As stated on the report cover.