

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

**Date:** 14 March 2016

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

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

**Report Summary:** 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.

**Recommendations:**

1. To note the contents of the report;
2. Following consultation with the Executive Members for Transport and Land Use, and Learning Skills and Economic Growth it is recommended that Strategic Capital Panel recommend the Executive Cabinet give authority to release funds from the following available resources:

**Section 106 – None**

**Developer Contributions:**

1. Assheton Avenue Surfacing, Audenshaw (£10,000)
  2. War Memorial Cleansing and Maintenance, various wards across Tameside (£20,000)
  3. Tree Planting Programme, various wards across Tameside (£40,000).
3. To note that a future report will be required to quantify resources required to effectively monitor the S106 system.

**Links to Community Strategy:** 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.

**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.

**Financial Implications:** 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.

**Legal Implications:** It is important that all the schemes proposed are reviewed to consider whether they meet the strategic priorities of the Council. Any receipts that are non-specific in nature should be

**(Authorised By Section 151 Officer)**

**(Authorised by the Borough)**

**Solicitor)** applied in line with the Council's wider priorities, rather than being earmarked to the immediate district. It is critical that Members receive a report that sets out the new legislative framework for infrastructure costs.

**Governance Arrangements:** 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, Graham Holland by



Telephone: 0161 342 3102



e-mail: [graham.holland@tameside.gov.uk](mailto:graham.holland@tameside.gov.uk)

## 1. INTRODUCTION

- 1.1 This report summarises the position at the period 31 January 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.
- 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 January 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	Balance Transferred Previous Years (2006/07 - 2014/15)	795	1,632	1,250	16	3,693
	Applied Periods 1 - 3					0
	Applied Periods 4 - 7					0
	Applied Periods 8 - 10					0
	Applied Periods 10 - Outturn					0
	<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 2014/15	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 2014/15	(43)	(10)	(124)	0	(177)
	Received Periods 1 - 3					0
	Received Periods 4 - 7		(13)			(13)
	Received Periods 8 - 10					0
	Received Periods 10 - Outturn					0
	Transferred to Service					0

	Area					
	<b>Total</b>	<b>(43)</b>	<b>(23)</b>	<b>(124)</b>	<b>0</b>	<b>(190)</b>
S106 - Not yet reached trigger point		<b>(593)</b>	<b>(370)</b>	<b>(721)</b>	<b>(22)</b>	<b>(1,706)</b>

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

Developer Contributions	Green Space Contribution	Community Education Contribution	Integrated Transport Contribution	Totals (inc other)
	£000	£000	£000	£000
Brought Forward from 2014/15	(206)	(311)	(11)	<b>(528)</b>
Received Periods 1 - 3	(2)	(2)	(1)	<b>(5)</b>
Received Periods 4 - 7	(43)	(34)	(1)	<b>(81)</b>
Received Periods 8 - 10	(15)	(15)	(1)	<b>(32)</b>
Received Periods 10 - Outturn	0	0	0	<b>0</b>
Transferred to Service Area	0	0	0	<b>0</b>
Approved at previous SCP for release at year end	80	301	0	<b>381</b>
<b>Total</b>	<b>(186)</b>	<b>(61)</b>	<b>(14)</b>	<b>(265)</b>

**Overall position**

- 2.3 The current position for s106 agreements is £190,000 as at 31 January 2016 with developer contributions standing at £265,000.
- 2.4 **Services for Children and Young People**
- o The balance of unallocated s106 funds stands at £124,000 on 31 January 2016
  - o Developer contributions stands at £61,000 on 31 January 2016
- 2.5 **Community Services (Operations and greenspace)**
- o The balance of unallocated s106 funds stands at £43,000 on 31 January 2016
  - o Developer contributions stands at £186,000 on 31 January 2016
- 2.6 **Engineering Services**
- o The balance of unallocated s106 funds stands at £23,000 on 31 January 2016
  - o Developer contributions stands at £14,000 on 31 January 2016

**New Section 106 Agreements**

- 2.7 A section 106 agreement has been made for an application at East Tame Business Park, 15/00721/OUT, land at Rexcine Way, Hyde. The outline planning application comprises of up to 49 residential properties subject to reserved matters being approved and provides commuted sums to mitigate against impact the proposal may have on off-site Open Space and Education provision. The sums of £269 per 1 bed property, £846 per 2 bed property, £1,182 per 3 bed property and £1,296 per 4 bed property for Education will go towards enhanced facilities at Bradley Green Primary School. There will also be £674 per property for Open Spaced towards environmental improvements to footpath links to and within Hyde Park and along Clark Way.
- 2.8 **Requests to draw down funding**
- Three requests are made by Operations and Greenspace to drawdown funds from Developer Contributions for the purposes of:
4. Assheton Avenue Surfacing, Audenshaw (£10,000)

5. War Memorial Cleansing and Maintenance, various wards across Tameside (£20,000)
6. Tree Planting Programme, various wards across Tameside (£40,000)

### 3. SMART POOLING UPDATE

- 3.1 As previously presented at Strategic Capital Panel (SCP) the introduction of the Community Infrastructure Levy (CIL) modified the mechanisms and methods for collecting developer contributions via a CIL Charging Schedule. CIL is intended to run alongside the use of s106 agreements, with CIL being used for general infrastructure contributions and s106 for obligations for site-specific mitigation.
- 3.2 The aim of CIL is to allow local authorities to raise funds from developers to fund both the initial and ongoing costs of general infrastructure however as outlined within the CIL regulations, a Council is unable to adopt a CIL Charging Schedule without an up to date Local Plan.
- 3.3 The CIL Regulations also affect how s106 funds can be used, limiting local planning authorities to pooling no more than 5 obligations for site specific mitigation projects or infrastructure items. This became applicable in April 2015 and applied to retrospective agreements, dated back to April 2010.
- 3.4 Because the Council made use of a tariff based Developer Contributions SPD and generic s106 agreements during this time, from April 2015 the pooling limits imposed by CIL had been reached and the Council could no longer collect funds for generic infrastructure items.
- 3.5 As a result the Council is now only able to collect developer obligations for site specific mitigation via s106 agreements. It has to smartly pool them to avoid the 5 project limit restriction until such time that it may consider supplementing this with a CIL Charging Schedule for general infrastructure items.
- 3.6 For the avoidance of doubt, all obligations now requested take the form of s106 agreements. The policy framework set out to support this approach is contained within the adopted Unitary Development Plan (UDP), specifically policies;
  - H5 – Greenspace;
  - H6 – Education;
  - T13 – Highways.
- 3.7 This approach is not a significant departure to that used in the past; however projects funded through s106 obligation need to be specific in nature to avoid reaching the pooling limits. To address this, a working group has been established, meeting on a regular basis to identify specific projects and therefore not fall foul of the 5 project funding limits.
- 3.8 To assist, consultees have been provided with evidence of residential development sites likely to come forward sourced from the Councils adopted Strategic Housing Land Availability Assessment (SHLAA). The SHLAA details estimate dwelling yields for sites and timescales for delivery. Estimate s106 contribution amounts have been worked through the online obligation generator to inform consultees of possible contribution amounts. This process will continue to take place with the consultees as and when the Council revises its SHLAA.
- 3.9 Working with and through the consultees a project register has now been established and is shown at **Appendix A**. This is intended to be the first port of call for Development Management officers when negotiating with prospective applicants. It should be noted

however that project costings are estimates and the exact description and nature of projects will require validation with the appropriate consultee at the time of an application to ensure changing priorities are appropriately reflected before inclusion in any s106 Agreement.

- 3.10 To ensure the obligation amount remains fair and reasonable, related in kind and scale to the development, the developer contribution calculator which underpinned the revoked SPD continues to be used. This ensures s106 obligations take into account likely pupil numbers generated and pressure placed on existing greenspaces for instance. Albeit, it is recognised the online calculator requires continual updating to ensure inputs are robust and the figures it generates are reflective of real world costs, as detailed further below.

#### **Monitoring and Audit**

- 3.11 As previously reported to SCP 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.
- 3.12 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.
- 3.13 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.

#### **4. RECOMMENDATION**

- 4.1 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
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

Site	Town	Easting	Northing	Works	Approximate Costs
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
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

Site	Town	Easting	Northing	Works	Approximate Costs
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
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

<b>Site</b>	<b>Town</b>	<b>Easting</b>	<b>Northing</b>	<b>Works</b>	<b>Approximate Costs</b>
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