

<b>Subject:</b>	<b>Section 106 Planning Obligations - Annual Report Financial Report for 2018/19</b>		
<b>Date of Meeting:</b>	<b>26 September 2019 (TECC) 9 October 2019 (Planning)</b>		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Debra May</b>	<b>Tel: 01273 292295</b>
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<b>Ward(s) affected:</b>	<b>(All Wards);</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report provides information on the type and value of financial contributions made under Section 106 of the Town and Country Planning Act 1990 in 2018/19. These are payments secured through planning agreements or undertakings (“planning obligations”) as part of the planning application process that are determined by Planning Committee. The report updates on the type and value of contributions secured, received and spent in 2018/19.

**2. RECOMMENDATIONS:**

- 2.1 That Committee notes the information set out in the report regarding Section 106 financial contribution sums secured, received and spent within the last financial year (2018/19).

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 Planning obligations, commonly known as Developer Contributions or Section 106 Agreements, are legally binding agreements or undertakings between the Council as Local Planning Authority and landowners/developers. They are secured during the consideration of planning applications to mitigate the impact of development and to meet planning policy objectives that enable the granting of planning permission. To date, planning obligations have been used to secure affordable housing, local employment training opportunities and the provision or improvement of certain types of local and community infrastructure, e.g. open space, sustainable transport and schools. (NB: With the introduction of Community Infrastructure Levy (CIL) next year the range and scope of S106 Contributions will be scaled back (see below).
- 3.2 Planning obligations are secured under Section 106 of the Town and Country Planning Act 1990. In order to secure contributions the following tests need to be met under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010:

- The obligation is necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

3.3 The specific obligations in each s106 Agreement make a development proposal acceptable in planning terms where it would not otherwise be granted planning permission and are sought in accordance with planning policy as set out in the adopted Development Plan.

3.4 The obligations are provided through either financial or in-kind direct provision towards necessary physical, community or environmental infrastructure assessed in accordance with detailed methodology as set out in the adopted Developer Contributions Technical Guidance<sup>1</sup>. The contributions secured and received must be spent on the specific projects identified in the each s106 agreements or undertaking, which, once signed, forms part of the planning permission.

3.5 All s106 payments are monitored to ensure timely spends as the council is covenanted in each s106 Agreement that after a specific time, usually 5 years, any unspent sums are to be returned to developers.

### 3.6 Financial Contributions secured in 2018/19

Below is a summary breakdown of the type and amount of the financial contributions 'secured' through the granting planning permission in 2018/19.

Affordable Housing - commuted sums in lieu	£ 893,150
Education	£1,362,824
Local Employment & training	£ 408,399
Recreation facilities <sup>1</sup>	£1,943,844
Sustainable Transport initiatives	£ 884,038
Artistic Component	£ 413,600

**Total contributions Secured 2018/19** **£5,905,855**

### 3.7 Financial Contributions Received in 2018/19

Below is a summary breakdown of the type and amount of financial contributions received as paid to the council in 2018/19.

Affordable Housing	£2,820,301
Education	£ 520,164
Local Employment & training	£ 408,489
Recreation Facilities	£2,074,932
Sustainable Transport	£ 772,156
Other – Environmental Improvements/legibility	£ 39,870
Artistic Components	£0

**Total contributions Received 2018/19** **£6,635,912**

<sup>1</sup> Recreation Facilities contributions includes all payments for parks gardens, playgrounds, indoor and outdoor sports and allotments,

### 3.8 Financial Contributions Spent in 2018/19

Below is a summary breakdown of the s.106 contributions spent in 2018/19 with the total sum held up to 31 March 2019.

Affordable Housing	£0
Education	£179,097
Local employment & training	£122,446
Recreation facilities	£317,904
Sustainable Transport	£274,340
Artistic Component	£ 70,334
<b>Total 2018/19 s106 spend</b>	<b>£964,126</b>

3.9 Contributions secured and received for the last year have been unusually high compared to recent years (see table below). This reflects the fact that a number of major development schemes have been permitted. The amount spent in 2018/19 may appear somewhat low in comparison to the amounts secured and received. However, it can be seen that this is comparable to recent years and it should also be noted that this does not yet include Affordable Housing commuted sums that are a new type of contribution being secured as further detailed in the table below.

<u>Sums Secured</u>	<u>Sums Received</u>	<u>Sums Spent</u>
<u>2015/16</u>	<u>2015/16</u>	<u>2015/16</u>
£	£	£
5,780,044.00	552,596.00	1,366,412.00
<u>Sums Secured</u>	<u>Sums Received</u>	<u>Sums Spent</u>
<u>2016/17</u>	<u>2016/17</u>	<u>2016/17</u>
£	£	£
6,486,782.00	2,026,099.00	1,294,300.00
<u>Sums Secured</u>	<u>Sums Received</u>	<u>Sums Spent</u>
<u>2017/18</u>	<u>2017/18</u>	<u>2017/18</u>
£	£	£
9,425,648.00	464,788.00	663,641.00

3.10 The Affordable Housing commuted sums now being secured reflect the change in planning policy following the adoption of the City Plan in March 2016 where the council now secures financial contributions towards affordable housing from smaller developments. Those contributions are now being received. The Affordable Housing contributions held are being pooled to be spent across the city on a renewed New Homes for Neighbourhoods programme to be reported later this year.

### 3.11 The future of Developer Contributions

Once adopted, the Community Infrastructure Levy (CIL) will be a levy on new development based on a £/sq.m charge on additional floorspace and each additional residential unit. Under CIL, the scope of S106 contributions will be necessarily scaled back but will continue to secure direct development related mitigation, e.g. site related highways works and local employment training

opportunities. The provision of affordable housing will also continue to be secured through S106 planning obligations. An update to the Developer Contributions Technical Guidance will be prepared to assist CIL implementation.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The report provides information detailing the annual securing, receipt, and spend for s106 developer contributions from development schemes in the city. It is proposed that annual report will continue. The only alternative option is that reporting is not provided annually and this information is not therefore available to view to all interested parties.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 Community consultation has not been carried out directly in respect of this report. However, securing s106 contributions is in accordance with adopted planning policy and priorities in the City Plan Part One adopted March 2016 following extensive consultation. The community are welcome to comment on all planning applications in their areas which are available to view on the council website.

#### **6. CONCLUSION**

- 6.1 The recommendation is to note the information set out in the report and to agree to continued annual reporting.

#### **7. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 7.1 The costs to the council associated to officer time in carrying out Section 106 Planning Obligations monitoring duties are funded from approved revenue budgets within the City Development & Regeneration Service.
- 7.2 Developer contributions under Section 106 Planning Obligations are an important source of income towards the provision of necessary physical, community and environmental infrastructure to mitigate the impacts of a development proposal.

*Finance Officer Consulted: Steven Bedford*

*Date: 06/08/2019*

##### Legal Implications:

- 7.4 The statutory background to securing financial contributions in connection with planning applications is set out in the body of the report.

*Lawyer Consulted: Hilary Woodward*

*Date: 5/08/2019*

##### Equalities Implications:

- 7.6 Developer contributions (including S106 planning obligations) provide benefits for residents and visitors to the city with the timely and effective provision of community infrastructure for example, affordable housing, local employment training opportunities, recreation space, improved access and education facilities.

Sustainability Implications:

- 7.7 Sustainable development is a key priority to the council and developer contributions assist in ensuring necessary obligations are secured towards appropriate enabling infrastructure for instance to help provide long-term sustainable transport in the city.

Any Other Significant Implications:

- 7.8 None.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Section 106 Contributions

**Background Documents**

1. Brighton & Hove City Plan Part One – March 2016
2. Developer Contributions Technical Guidance - March 2017

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<sup>i</sup> The Developer Contributions Technical Guidance was first adopted by the Council February 2011.

