

This Report will be made public on 15 January 2018

Folkestone

Hythe & Romney Marsh
Shepway District Council



Report Number: **DCL/17/31**

To: Planning and Licensing Committee
Date: 23 January 2018
Status: Non-Key Decision
Head of Service: Ben Geering

SUBJECT: SECTION 106 AGREEMENTS - PLANNING CONTRIBUTIONS

SUMMARY:

Some planning decisions are subject to Section 106 Legal Agreements that require developers to make financial contributions to the Council and Kent County Council (KCC) or provide for on or off site infrastructure to mitigate the impact of development.

The adequacy and effectiveness of the procedures and controls relating to Section 106 Agreements was reviewed by the East Kent Audit Partnership in 2008. A further review was carried out in 2014 which resulted in a completed report being produced on 5th June 2014. This recommended that the position regarding planning obligations that involve financial contributions should be reported to members on an annual basis. A progress report by East Kent Partnership was carried out in May 2015.

REASONS FOR RECOMMENDATIONS:

The Committee is asked to note the recommendation set out below so that there is a clear and transparent record regarding financial contributions required and received by the Council as a result of the planning process.

RECOMMENDATIONS:

- 1. To receive and note Report DCL/17/31.**
- 2. To receive and note Appendix 1 and Appendix 2.**

1. BACKGROUND

- 1.1 The objective of the East Kent Audit Partnership review was to provide assurance on the adequacy and effectiveness of the procedures and controls established to ensure all Section 106 agreements are correctly administered and adequate monitoring is undertaken of monies held.
- 1.2 Two of the key recommendations of the report were that Section 106 obligations should be recorded and monitored regularly to ensure that the Council is receiving all of the monies due under the legal agreements and that an update report should be provided to the then Development Control Committee at least on an annual basis.

The last report to committee was in August 2015. Since then that the Council has been working on the introduction of a Community Infrastructure Levy (CIL) scheme which was adopted in August 2016. Officers have also introduced measures to ensure monitoring of S106 agreements is carried out in a regular and appropriate manner across departments. A copy of the Council's CIL report, which was reported to Cabinet in December 2017 is attached as Appendix 2 to this document.

It is recommended that a S106 report, incorporating the CIL report will be reported to the Planning and Licensing Committee within the January of each year as an established agenda item, so as to ensure the recommendations of the audit report are met and that information relating to the collection and allocation of S106 legal agreements is publically available.

- 1.3 The basis for collecting contributions is planning policy SS5 of the Council's adopted Core Strategy Local Plan, as well as other policies within the Local Plan relating to requirements for open and play space provision. The aim of S106 contributions is to mitigate the impact of development on local services such as local schools and social care facilities etc and to ensure that where provision is not made on site off site mitigation is provided. S106 contributions for these services can only be sought on major residential schemes of 10 units or more, whereas under the Council's adopted CIL charging schedule CIL payments are required for all new housing schemes subject to exemptions and also some retail developments. It is important to note that S106 contributions can only be required to mitigate the impact of development, whereas CIL contributions are collected to fund wider infrastructure requirements.
- 1.4 Changes introduced by the Community Infrastructure Levy Regulations 2010 and the introduction of a CIL in Shepway have reduced the amount of contributions which are now collected through the S106 process, as in many cases monies are now collected through CIL instead, or such collection is no longer allowed by the regulations. However, affordable housing is still required to be delivered through S106 agreements as well as infrastructure that is specifically required as a result of the development, for example a new school or on or off site play and open space, which still has to be funded or delivered through S106 agreements.
- 1.5 The table below summarises the income received and payments made for all S106 agreements since 1st April 2015.

	Receipts	Payments	
	£	£	£
Balance at 31 March 2015			(1,517,450)
2015/16	(549,567)	622,805	
2016/17	(956,564)	441,127	
2017/18 (to 31 December 2017)	(1,740,212)	198,355	
Total	(3,246,343)	1,262,287	(1,984,056)
Balance at 31 December 2017			(3,501,506)

- 1.6 The balance of S106 income at 31 December 2017 of £3,501,506 is held for the following purposes:

S106 - Use of Balance Held at 31 December 2017		
	£	£
<u>Kent County Council</u>		
Social Care	65,226	
Libraries	16,464	
Education	167,155	
Community Learning	3,008	
Youth Services	9,687	
Public Rights of Way	55,907	
Transport Related	79,033	
Other	382	
Total KCC		396,862
Other Third Parties		31,711
<u>Shepway District Council</u>		
Affordable Housing	2,734,684	
Open Space & Play	71,078	
Other Community Use	276,171	
Total SDC		3,081,933
Total S106 Held		<u>3,510,506</u>

- 1.7 In 2016 an officer S106 working group was established and this has recently been revised to be led by the Corporate Director for Organisational Change and includes the Cabinet Member for Finance, as well as officers from Planning, Legal, Finance and Property services. The working group has ensured that funds held by the Council have been appropriately distributed and allocated in accordance with s106 requirements.
- 1.8 Appendix 1 is an extract from the monitoring spreadsheet and shows the applications on which S106 contributions have been sought, the amounts received and, where applicable, what they have been spent on, since January 2015.

2. RISK MANAGEMENT ISSUES

2.1 These are set out in the East Kent Audit Partnership's reports and are not relevant to this report which is for information purposes only.

3. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

3.1 Legal Officer's Comments (DK)

There are no legal implications arising directly out of this report.

3.2 Finance Officer's Comments (LW)

The financial information contained in section 1 of the report has been prepared by Financial Services. There are no financial implications arising directly from this report.

3.3 Diversities and Equalities Implications (LP)

There are no implications arising directly from this report.

4. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Lisette Patching - Development Management Manager
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The following background documents have been relied upon in the preparation of this report:

None

Appendix 1:

Contributions Required By Section 106 Agreements 2015/17

Appendix 2:

Community Infrastructure Levy (CIL) Annual Monitoring Report 2016/17.