

# Chichester District Council

## CORPORATE GOVERNANCE & AUDIT COMMITTEE

25 July 2019

### S106 and CIL Annual Monitoring Report

#### 1. Contacts

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#### 2. Executive Summary

1. The total value of contributions secured by new S106 agreements signed between 1 April 2018 and 31 March 2019 was £539,332
2. The value of contributions received from S106 Agreements between 1 April 2018 and 31 March 2019 was £985,505.44
3. The total expenditure on projects funded from S106 Contributions between 1 April 2018 and 31 March 2019 was £1,569,946
4. The total amount collected from CIL between 1 April 2018 and 31 March 2019 was £4,016,475.59
5. The total expenditure on projects funded from CIL between 1 April 2018 and 31 March 2019 was £48,158

#### 3. Recommendation

**That the Committee notes:**

- 3.1 The income and expenditure between 1 April 2018 and 31 March 2019 in respect of S106 contributions and from CIL;
- 3.2 The information on S106 agreements within 2 years of the expenditure target date as set out in Appendix 1;
- 3.3 The details of non-financial S106 obligations set out in Appendix 2; and
- 3.4 The monitoring information required by the CIL regulations as set out in Appendix 3.

#### **4. Background**

- 4.1 The updated Section106 and CIL Protocol, approved by Corporate Governance and Audit Committee (CGAC) on 5 February 2019 sets out the reporting arrangements. In accordance with this protocol, CGAC receives an Annual Report setting out new agreements signed, income received and monies spent for the previous financial year, including an update on non-financial obligations and information on those S106 agreements due to expire within two years. Members are reminded that some non-financial obligations are operational and do not have expiry or trigger dates.

#### **5. Outcomes to be achieved**

- 5.1 Effective monitoring of S106 agreements and the CIL.

#### **6. S106 Progress & Developers' Infrastructure Contributions**

##### **6.1 New S106 Agreements completed 2018/19**

Between 1 April 2018 and 31 March 2019 125 agreements were completed comprising:

- 107 Unilateral Undertakings containing only recreation disturbance mitigation contributions in respect of Chichester & Langstone Harbour SPA and Pagham Harbour SPA
- 18 Bilateral S106 agreements of which 4 contained only non-financial obligations and 14 contained both financial and non-financial obligations
- Appendix 4 details all financial obligations secured totalling £539,322 and a summary by obligation type is shown at table 1 (Note: in some instances the financial amount secured cannot be calculated until the housing type/mix is known at Reserved Matters stage. These are indicated in Appendix 4 as an amount of 0.01p and excluded from table 1)
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**Table 1: Amounts Secured by New Agreements 2018/19**

<b>Obligation Type</b>	<b>Amount</b>
Affordable Housing	£152,540
Chichester & Langstone Harbour Recreation Disturbance	£304,124
Pagham Harbour Recreation Disturbance	£82,668
Total	£539,332

**Table 2: Agreements Completed Between 2012 and 2019**

Year	Number of new agreements signed	No of new agreements with financial contributions to CDC	Total contributions expected by CDC from new agreements
2018 - 2019	125	121	£539,332
2017 - 2018	86	76	£200,416
2016 - 2017	77	73	£1,827,574
2015 - 2016	74	68	£2,474,229
2014 - 2015	88	87	£1,696,022
2013 - 2014	35	26	£3,387,627
2012 - 2013	15	8	£461,876

## 6.2 Contributions due to be paid to CDC (including those from 2018/19 agreements detailed above)

There are a number of outstanding S106 contributions where the trigger point for collection of monies has not yet been reached and from developments that have not yet started. The exact amount of money expected is not known until the relevant trigger date is received because indexation can increase the sum due. A developer can also seek to renegotiate the terms of an agreement after 5 years have passed from completion. Such applications are reported to the Planning Committee. Table 3 shows the contributions expected by CDC, and those unspent, broken down by type.

**Table 3: Expected Contributions by Type**

As of 31 <sup>st</sup> March 2019 Contribution Type	To be received	Received and Unspent (inc interest)
Affordable Housing	£366,205	£2,103,402
A27	£102,833	£232,794
Chichester Harbour	£0	£111,149
Community Facilities	£1,392,705	£1,460,145
Ecological Mitigation	£0	£26,802
Leisure	£336,549	£942,183
Pagham Harbour	£180,724	£330,803
Public Open Space	£8,000	£320,842
Park and Ride	£0	£67,485
Primary Care Trust	£33,621	£35,530
Public Art	£2,800	£186,947
Recreation Disturbance	£331,649	£16,325
Sussex Police	£47,610	£18,160
Sustainable Transport	£0	£35,016
Waste and Recycling	£6,142	£2,467

Included within the unspent amounts is an element of interest earned on historic contributions where the capital has been spent, but the interest was not required to deliver projects. This amounts to £25,576 and on 5 February 2019 Cabinet resolved that this sum should be used to supplement the 'New Homes Bonus (Parish Allocations) scheme'.

### **6.3 Contributions received during 2018/19 Financial Year**

Appendix 5 sets out contributions received by CDC between 1 April 2018 and 31 March 2019 amounting to £985,505.44.

### **6.4 S106 payments received by each spending department**

Details of receipts together with expenditure are shown in Appendix 6. At the time of drafting this report WSCC have been unable to supply their data due to IT issues. If possible, an update to Appendix 6 will be provided before the committee meeting.

### **6.5 Monitoring Contributions**

Para. 204 of the National Planning Policy Framework advises Local Authorities to monitor all legal agreements. From 2008 until a High Court ruling in 2015, the Council charged a 5% monitoring fee for recording and monitoring of S106 agreements. This is deducted from the commuted sums as they are paid. During the financial year 2018/19 the Council collected £8,437 in monitoring fees from these historic agreements.

Following a legal challenge in the High Court on 3 February 2015, it was ruled that administration and monitoring fees were not necessary to make development acceptable in planning terms. As a result the Council ceased to collect these fees in agreements signed after the ruling.

At a meeting of Cabinet on 6 December 2016 it was resolved that the Council reintroduce monitoring fees by virtue of its powers under S111 of the Local Government Act 1972 and S1 of the Localism Act 2011. The fees are calculated to cover the costs of the Planning Obligations Monitoring and Implementation Officer post and reflect the size and complexity of each S106 agreement. The fee is payable at the time the agreement is signed. In the financial year 2018/19 the Council collected £31,195 in monitoring fees from new agreements.

### **6.6 SDNPA**

The Section 106 Protocol operated by the SDNPA and CDC applies to S106 Agreements associated with schemes within the South Downs National Park signed on or after 1 April 2011. Currently 12 agreements are being monitored by CDC on behalf of the SDNPA as set out in Appendix 6. CDC expects to be informed when funding has been received and payments are made.

### **6.7 S106 agreements nearing their expenditure target date**

Appendix 1 sets out the contributions which are reaching their expenditure target date within the next two years, together with those that have reached their spending deadline. Officers have been experiencing difficulty with a number of Parish Councils which have not either identified projects for spending or are taking an excessive amount of time to provide quotes. Spending officers will liaise with the Ward Members where there is concern about expiry of spending sums.

## 6.8 Non-performance of non-financial obligations

Whilst officers endeavour to ensure that non-financial obligations are met in a timely manner and to an appropriate standard, difficulties have been experienced at the following sites: TG/14/00797/OUT Land to the North of Tangmere Military Aviation Museum, (Play Area obligations) TG/12/01739/OUT Land on the East Side of Meadow Way (Open Space Land obligations) and CC/14/01018/OUT Graylingwell Hospital (Sports Pitches, Toucan Crossing & SUDS obligations). Officers in the Planning Enforcement Team are pursuing the developers to remedy defects and meet their obligations.

## 7. Community Infrastructure Levy

7.1 The information to be published within the Authority's Monitoring Report (AMR) in December 2019 in respect of the CIL is shown at Appendix 3.

### 7.2 How CIL works with planning obligations

Since the introduction of CIL, S106 (Planning Obligations) have been scaled back. Infrastructure associated with the cumulative growth of the area is now being secured by CIL. However, S106 planning obligations will continue in relation to affordable housing and certain site specific requirements to mitigate the impact of new development. The Planning Obligations and Affordable Housing Supplementary Planning Document (SPD) shows how CIL, S106 planning obligations, planning conditions and S278 highways agreements work together as a set of tools to help deliver necessary infrastructure as a result of development.

## 8. Community impact and corporate risks

8.1 By closely monitoring S106 agreements the risk of returning unspent contributions is reduced, and the risk of failing to provide the timely provision of infrastructure is also reduced.

## 9. Other Implications

Are there any implications for the following?		
	Yes	No
<b>Crime &amp; Disorder:</b>		✓
<b>Climate Change and Biodiversity</b>		✓
<b>Human Rights and Equality Impact:</b>		✓
<b>Safeguarding and Early Help:</b>		✓
<b>General Data Protection Regulations (GDPR):</b>		✓
<b>Other (Please specify):</b>		✓

## 10. Appendices

10.1 Appendix 1 -Unspent Contributions approaching or beyond target expenditure date

10.2 Appendix 2 -Non-Financial obligations

10.3 Appendix 3 -Community Infrastructure Levy (CIL) Annual Monitoring Report

10.4 Appendix 4 -New S106 agreements signed between 1 April 2018 and 31 March 2019

10.5 Appendix 5 -Details of income received between 1 April 2018 and 31 March 2019

10.6 Appendix 6 -Receipts & Expenditure by Service