

# Chichester District Council

**CORPORATE GOVERNANCE & AUDIT COMMITTEE**

**30 Oct 2023**

## **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 2022 and 31 March 2023 was £278,077.05.
2. The value of contributions received from S106 Agreements between 1 April 2022 and 31 March 2023 was £426,245.55.
3. The total expenditure on projects funded from S106 Contributions between 1 April 2022 and 31 March 2023 was £458,799.05.
4. The total amount collected from CIL between 1 April 2022 and 31 March 2023 was £9,170,192.43.
5. The total expenditure on projects funded from CIL between 1 April 2022 and 31 March 2023 was £70,149.91

### **3. Recommendation**

**That the Committee notes:**

- 3.1 The income and expenditure between 1 April 2022 and 31 March 2023 in respect of S106 contributions and from CIL;**
- 3.2 The contents of the Infrastructure Funding Statement as set out in Appendix 1;**
- 3.3 The information on S106 agreements within 2 years of the expenditure target date as set out in Appendix 2; and**
- 3.4 The details of non-financial S106 obligations set out in Appendix 3.**

## **4. Background**

- 4.1 The updated Section 106 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. Developers' Infrastructure Contributions**

### **6.1 S106 Agreements**

14 new bilateral agreements and 62 Unilateral Undertakings were completed between 1 April 2022 and 31 March 2023. Details of the amounts and other items of infrastructure secured are shown in Table 7 of the Infrastructure Funding Statement (IFS) attached at Appendix 1.

### **6.2 Financial Obligations**

Details of the contributions secured, received, spent and remaining are shown in tables 7 to 11 of the IFS.

As of 31 March 2023, £5,237,392 remained to be spent of which £914,418 has been allocated to specific projects. Spending officers continue to engage with Parishes, Town Councils, and other partners regarding the remaining funds.

Both West Sussex County Council (WSCC) and South Downs National Park Authority (SDNPA) will be reporting on their contributions in their own versions of the IFS.

### **6.3 Non-Financial Obligations**

Those sites with outstanding non-financial obligations either because they have not commenced, or the appropriate trigger has not been reached are detailed in Appendix 3.

Where triggers are not met in a timely manner officers are engaging with developers to ensure that any outstanding items of infrastructure are delivered without delay. Currently officers are in dialogue with the consortium delivering Shopwyke Lakes where there are a number of late items including play areas.

### **6.4 Monitoring Fee Contributions**

S106 monitoring fees are charged on a scale that reflects the size and complexity of each agreement. During the financial year 2022/23 monitoring fees of £11,529 have

been secured and fees of £18,311.15 received. Costs are estimated at £23,509. The fees were reviewed in January 2023 and increased from 1 April 2023.

## **6.5 SDNPA**

A separate Section 106 Protocol operated by the SDNPA and Chichester District Council (CDC) applies to S106 Agreements associated with schemes within the South Downs National Park signed on or after 1 April 2011. Currently 2 agreements are being monitored by CDC on behalf of the SDNPA. These contributions are collected and spent directly by the SDNPA and they report on them in their Infrastructure Business Plan and Infrastructure Funding Statement document published on their website [here](#).

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

Appendix 2 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. These are closely monitored and reported on a quarterly basis to the Senior Leadership Team (SLT). Spending officers will liaise with the relevant Ward Members where there is concern about expiry of spending sums.

## **7. Community Infrastructure Levy**

7.1 Further information regarding the CIL collected and our spending plans including amounts handed to local councils are shown in Tables 2 and 6 of the IFS.

### **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. Since September 2019 pooling restrictions have been relaxed allowing more flexibility in combining CIL and S106 contributions to support a project.

In 2021 the Government consulted on their proposals to introduce a new Infrastructure Levy (IL) that will replace the existing CIL and to a large extent S106 planning obligations. The Government has since published outline legislation in the Levelling Up and Regeneration Bill and further consulted on technical & practical matters.

Whilst detailed legislation will follow, it is intended that the basis of the charge will move from being linked with floor-space to sale value and will be payable on completion rather than at commencement. Local authorities will be able to set a charging schedule based on their local circumstances, but introduction of the new IL will be mandatory. Officers will keep members informed as more detail and a timetable for implementation becomes known.

## 8. Community impact and corporate risks

- 8.1 Effective monitoring of CIL and Section 106 obligations ensures that the risk that development will not provide the infrastructure required to make it acceptable in planning terms is reduced.
- 8.2 Monitoring also ensures that the risk of returning unused contributions is reduced.
- 8.3 There is a risk of a loss of projected CIL receipts due to developers implementing schemes with a greater proportion of affordable housing. This is now being mitigated by the inclusion of appropriate obligations within new Section 106 agreements.

## 9. Other Implications

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

## 10. Appendices

- 10.1 Appendix 1 -Infrastructure Funding Statement 2022/23
- 10.2 Appendix 2 – Unspent contributions approaching or beyond their target expenditure date
- 10.3 Appendix 3 -Non-Financial Obligations