

# Chichester District Council

## CORPORATE GOVERNANCE & AUDIT COMMITTEE

30 June 2016

### S106 Monitoring Annual Report

#### 1. Contacts

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#### 2. Executive Summary

1. Total contributions secured by new S106 agreements signed between 1 April 2015 and 31 March 2016 was £2,474,229.
2. The value of contributions received from S106 Agreements between 1 April 2015 and 31 March 2016 was £1,145,476.
3. The total expenditure on projects funded from S106 Contributions between 1 April 2015 and 31 March 2016 was £287,183

#### 3. Recommendations:

**That the Committee notes:**

- 3.1 The income and expenditure in respect of S106 contributions between 1 April 2015 and 31 March 2016.**
- 3.2 The information on agreements within two years of the expenditure target date as set out in Appendix 4.**
- 3.3 The details of non-financial obligations as set out in Appendix 5.**

#### 4. Background

- 4.1 The updated Section106 Protocol, approved by Corporate Governance and Audit Committee (CGAC) on 19 January 2016 sets out the reporting arrangements. In accordance with this protocol, CGAC receives an Annual Report in June each year 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 Section 106 Agreements.

## 6. S106 Progress & Developers' Infrastructure Contributions

### 6.1 New Section 106 Agreements completed 2014/15

Appendix 1 shows financial obligations secured between 1 April 2015 and 31 March 2016. These total £2,474,229 from 74 new S106 Agreements completed comprising:-

- 52 Unilateral Undertakings, mainly comprising Chichester Harbour recreational disturbance mitigation contributions from smaller developments
- 22 bilateral S106 Agreements
- 68 contained financial contributions to CDC
- 4 contained only non-financial obligations to CDC
- 2 contained only financial contributions to WSCC

### 6.2 Contributions due to be paid to CDC (including those from 2015/16 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 1 shows the contributions expected by CDC, and those unspent, broken down by type.

**Table 1: Expected Contributions by Type**

<b>As of 16 May 2016</b>		
<b>Contribution Type</b>	<b>To be received</b>	<b>Received and Unspent</b>
Affordable Housing	£1,769,000	£1,604,464
CCTV	£0	£11,442
Chichester Harbour	£95,000	£161,456
Community Facilities	£3,306,117	£1,246,858
Interest	£0	£112,222
Leisure	£1,569,642	£560,480
Pagham Harbour	£253,300	£11,134
Public Open Space	£864,410	£221,137
Park and Ride	£0	£99,202
Primary Care Trust	£148,880	£0
Public Art	£377,257	£96,290
Recreation Disturbance	£141,806	£0
Sussex Police	£64,794	£0
Sustainable Transport	£0	£42,563
Transport	£100,000	£0
Waste and Recycling	£8,392	£11,903

### 6.3. Contributions received during 2015/16 Financial Year

Appendix 2 sets out contributions received by Chichester District Council between 1 April 2015 and 31 March 2016 amounting to £1,145,476.

#### 6.4 Agreements completed between 2008 and 2016

Year	Number of new agreements signed including West Sussex CC	No of new agreements with financial contributions to CDC	Total contributions expected by CDC from new agreements
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
2011 - 2012	9	4	£678,734
2010 - 2011	16	7	£1,496,345
2009 - 2008	24	10	£2,345,165

#### 6.5 S106 Payments received by each spending department

Details of receipts and expenditure are shown in Appendix 3 including data from WSCC and SDNPA.

#### 6.6 S106 Monitoring Contributions

Para. 204 of the National Planning Policy Framework advises Local Authorities to monitor all legal agreements. From 2008 until the High Court ruling referred to below, the Council charged a 5% monitoring fee for recording and monitoring of S.106 Agreements. During the financial year 2015/16 the Council collected £47,917 in monitoring fees.

Following a legal challenge in the High Court in 2015, it was ruled that administration and monitoring fees were not necessary to make development acceptable in planning terms. As a result the Council is no longer collecting these fees in Agreements signed since the ruling. Officers are however assessing the options for introducing a new monitoring charge under section 111 of the Local Government Act 1972.

#### 6.7 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 9 Agreements are being monitored by the SDNPA as set out in Appendix 3. CDC expects to be informed when funding has been received.

#### 6.8 S106 agreements nearing their expenditure target date

Appendix 4 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. In these instances, the problems are compounded where there has been a change in Parish Clerk. In future, spending officers will liaise with the Ward Members where there is concern about expiry of spending sums.

Further to the November 2015 CGAC report, funds were returned to the developer in respect of planning application CCE/00/01073/FUL for the Farr's Field bus shelter in February 2016. £25,000 was secured, at the request of West Sussex County Council and the funds were paid to the Council on 29 January 2008. WSCC was however unable to find a suitable location for the bus shelter in the area. The agreement was specific in requiring that the bus shelter be installed within 5 years of the receipt of the obligation. The project was not taken further due to future maintenance and road safety issues for the bus shelter being unresolved and following discussion with the developer, the funds were returned in February 2016.

In respect of planning application CCN/ 05/00430/FUL, Shippams Factory (Roman Quarter) and Social Club, the developer has requested that unused funds be returned. £30,099 was received by CDC as a CCTV contribution, together with indexation under the S106 in 2008. The agreement was specific and restricted to providing a wall mounted CCTV camera in a pre-determined location. The camera has been installed at a cost of £20,485, leaving a balance of £9,614. The spending officer has requested that the balance be used towards maintenance, however, the developer has requested it be returned.

## 7. Update on Implementation of the Community Infrastructure Levy (CIL)

7.1 CIL was implemented on 1 February 2016 for the part of Chichester District outside of the South Downs National Park. This was accompanied by a new Planning Obligations and Affordable Housing SPD.

### 7.2 How CIL will affect planning obligations

Since the CIL has been implemented, S.106 (Planning Obligations) have been scaled back. Infrastructure associated with the cumulative growth of the area is now being secured by CIL. However, S.106 planning obligations will continue in relation to affordable housing and certain site specific requirements to mitigate the impact of new development. The new Planning Obligations and Affordable Housing Supplementary Planning Document (SPD) shows how CIL, S106 planning obligations, planning conditions, and Highways S278 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 The risks that development will not provide the infrastructure required to make it acceptable in planning terms is reduced.

8.2 The risk of returning unused contributions is reduced.

## 9. Other Implications

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

## **10. Appendices**

- 10.1 Appendix 1 – Details of new S106 Agreements signed between 1 April 2014 and 31 March 2015
- 10.2 Appendix 2 – Details of income received between 1 April 2014 and 31 March 2015
- 10.3 Appendix 3 - Receipts and Expenditure by Service (including WSCC and SDNP)
- 10.4 Appendix 4 – Unspent contributions approaching or beyond target expenditure date.
- 10.5 Appendix 5 – Current S106 Agreements by Ward showing Non-Financial Obligations