

# Chichester District Council

## CORPORATE GOVERNANCE & AUDIT COMMITTEE

29 June 2017

### S.106 and CIL Annual Monitoring Report

#### 1. Contacts

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#### 2. Executive Summary

1. Total contributions secured by new S106 agreements signed between 1 April 2016 and 31 March 2017 was £1,827,574.21
2. The value of contributions received from S106 Agreements between 1 April 2016 and 31 March 2017 was £1,764,032.40
3. The total expenditure on projects funded from S106 Contributions between 1 April 2016 and 31 March 2017 was £531,299
4. The total amount collected from CIL between 1 April 2016 and 31 March 2017 was £775,847.85
5. The total expenditure on projects funded from CIL between 1 April 2016 and 31 March 2017 was £18,368.90

#### 3. Recommendations:

**That the Committee notes:**

- 3.1 The income and expenditure between 1st April 2016 and 31st March 2017 in respect of S106 contributions and from the CIL;
- 3.2 The information on S106 agreements within 2 years of the expenditure target date as set out in Appendix 4; and
- 3.3 The details of non-financial S106 obligations as set out in Appendix 5.
- 3.4 The monitoring information required by the CIL Regulations as set out in Appendix 6.

#### 4. Background

- 4.1 The updated Section106 and CIL 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 and the CIL.

## 6. S106 Progress & Developers' Infrastructure Contributions

### 6.1 New Section 106 Agreements completed 2016/17

Appendix 1 lists all new S106 Agreements completed between 1 April 2016 and 31 March 2017 showing financial contributions secured where appropriate. These total £1,827,574.21 from 77 new agreements completed comprising:-

- 59 Unilateral Undertakings, mainly comprising Chichester Harbour and Pagham Harbour recreational disturbance mitigation contributions from smaller developments
- 18 bilateral S106 Agreements
- 73 contained financial contributions to CDC
- 4 contained only non-financial obligations to CDC
- 4 Contained only financial contributions to WSCC

### 6.2 Contributions due to be paid to CDC (including those from 2016/17 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**

As of 4 <sup>th</sup> May 2017 Contribution Type	To be received	Received and Unspent
Affordable Housing	£2,113,836	£1,919,444
CCTV	£0	£1,313
Chichester Harbour	£58,779	£144,859
Community Facilities	£2,598,079	£1,700,998
Interest	£0	£166,762
Leisure	£1,038,143	£927,718
Pagham Harbour	£244,539	£170,262
Public Open Space	£693,152	£382,991
Park and Ride	£0	£88,899
Primary Care Trust	£155,546	£0
Public Art	£198,177	£201,866
Recreation Disturbance	£193,135	£0
Sussex Police	£64,794	£0
Sustainable Transport	£0	£42,152
Highways	£223,970	£100,000
Waste and Recycling	£11,495	£4,300

### 6.3. Contributions received during 2016/17 Financial Year

Appendix 2 sets out contributions received by Chichester District Council between 1 April 2016 and 31 March 2017 amounting to £1,764,032.40

### 6.4 Agreements completed between 2010 and 2017

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
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
2011 - 2012	9	4	£678,734
2010 - 2011	16	7	£1,496,345

### 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. This is deducted from the commuted sums as they are paid. During the financial year 2016/17 the Council collected £58,999 in monitoring fees from these agreements.

Following a legal challenge in the High Court on 3<sup>rd</sup> 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 collecting these fees in agreements signed after the ruling.

At a meeting of Cabinet on 6<sup>th</sup> 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. Implemented part way through the financial year 2016/17 the council collected £1,538 in monitoring fees from 2 new agreements.

### 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 11 agreements are being monitored by CDC on behalf of 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. Spending officers will liaise with the Ward Members where there is concern about expiry of spending sums.

Further to the November 2016 CGAC report, funds of £13,330 plus interest will potentially need to be returned to the developer in relation to WH/04/01070/FUL Land West of Devils Rush (former Apollo Garage site). As previously reported, a sum of £20,000 was secured, at the request of West Sussex County Council, for the provision and maintenance of a bus shelter within the vicinity of the site in the Parish of Westhampnett. A bus shelter was installed at a cost of £6,670. Prior to the spending deadline in March 2017 a survey was commissioned by the Spending Officer to ascertain if any maintenance was required and confirmation was received that none was necessary. A letter has been sent to the developer asking for permission to retain the monies for future maintenance or instructions for the return of the funds.

## 7. Community Infrastructure Levy (CIL)

7.1 The information to be published within the Authority's Monitoring Report (AMR) in December 2017 in respect of the CIL is shown at Appendix 6.

### 7.2 How CIL works with 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 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 2016 and 31 March 2017
- 10.2 Appendix 2 – Details of income received between 1 April 2016 and 31 March 2017
- 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
- 10.6 Appendix 6 – Community Infrastructure Levy (CIL) Annual Monitoring Report 2016/17.