

Chichester District Council

CORPORATE GOVERNANCE AND AUDIT COMMITTEE

26 July 2018

Section 106 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 2017 and 31 March 2018 was £200,416
2. The value of contributions received from S106 Agreements between 1 April 2017 and 31 March 2018 was £1,620,170.22
3. The total expenditure on projects funded from S106 Contributions between 1 April 2017 and 31 March 2018 was £439,236
4. The total amount collected from CIL between 1 April 2017 and 31 March 2018 was £2,852,376.37
5. The total expenditure on projects funded from CIL between 1 April 2017 and 31 March 2018 was £5,000

3. Recommendation

That the Committee notes:

- 3.1 **The income and expenditure between 1 April 2017 and 31 March 2018 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 Section 106 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 S106 agreements and the CIL.

6. S106 Progress & Developers' Infrastructure Contributions

6.1 New S106 Agreements completed 2017/18

Appendix 4 lists all new S106 agreements completed between 1 April 2017 and 31 March 2018 showing financial contributions secured where appropriate. These total £200,416 from 86 new agreements completed comprising:-

- 75 Unilateral undertakings, in respect of Chichester & Langstone Harbour and Pagham Harbour recreation disturbance mitigation contributions
- 11 bilateral S106 agreements
- 76 contained financial contributions to CDC
- 10 contained only non-financial obligations to CDC.

6.2 Contributions due to be paid to CDC (including those from 2017/18 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 31st March 2018		
Contribution Type	To be received	Received and Unspent (inc interest)
Affordable Housing	£812,710	£2,175,607
A27	£102,833	£229,934
Bracklesham	£0	£22,738
CCTV	£0	£1,263
Chichester Harbour	£17,500	£124,402
Community Facilities	£1,431,932	£1,853,526
Ecological Mitigation	£0	£26,802
Leisure	£358,839	£1,017,095
Pagham Harbour	£118,400	£307,542
Public Open Space	£8,000	£365,965
Park and Ride	£0	£76,822
Primary Care Trust	£67,241	£0
Public Art	£2,800	£188,290
Recreation Disturbance	£210,211	£0
Sussex Police	£64,794	£0
Sustainable Transport	£0	£40,243
Waste and Recycling	£6,142	£2,878

6.3 Contributions received during 2017/18 Financial Year

Appendix 5 sets out contributions received by CDC between 1 April 2017 and 31 March 2018 amounting to £1,620,170.22.

6.4 Agreements completed between 2011 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
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
2011 - 2012	9	4	£678,734

6.5 S106 payments received by each spending department

Details of receipts together with expenditure are shown in Background Paper 1 including data from WSCC and SDNPA.

6.6 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 S106 agreements. This is deducted from the commuted sums as they are paid. During the financial year 2017/18 the Council collected £20,051.70 in monitoring fees from these 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 2017/18 the Council collected £23,143 in monitoring fees from 10 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 12 agreements are being monitored by CDC on behalf of the SDNPA as set out in Background Paper 1. CDC expects to be informed when funding has been received.

6.8 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.

6.9 Non-performance of non-financial obligations

The Committee's attention is drawn to the non-financial obligations relating to planning application CH/15/02436/FUL Wakeford's Field. The developer went into administration part way through the development. Whilst all financial contributions due to CDC have been paid, the administrators, who have been building out the site, advised that there would be insufficient funds to meet all S106 non-financial obligations. Enforcement officers are liaising with the administrators, the Parish Council and their solicitor regarding the transfer of the amenity land. It is anticipated that the land will still be transferred to the Parish Council however, the investigation is ongoing and at this stage the matter remains unresolved.

7. Community Infrastructure Levy

- 7.1 The information to be published within the Authority's Monitoring Report (AMR) in December 2018 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 The risks that the 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
Crime and Disorder		✓
Climate Change and Biodiversity		✓
Human Rights and Equality Impact		✓
Safeguarding and Early Help		✓
General Data Protection Regulations (GDPR)		✓
Other (please specify)		✓

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 2017 and 31 March 2018
- 10.5 Appendix 5 - Details of income received between 1 April 2017 and 31 March 2018

11. Background Papers

- 11.1 Paper 3 -Receipts and expenditure by service (including WSCC and SDNP)