

Chichester District Council

CORPORATE GOVERNANCE & AUDIT COMMITTEE

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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 2020 and 31 March 2021 was £333,975
2. The value of contributions received from S106 Agreements between 1 April 2020 and 31 March 2021 was £429,488
3. The total expenditure on projects funded from S106 Contributions between 1 April 2020 and 31 March 2021 was £436,832
4. The total amount collected from CIL between 1 April 2020 and 31 March 2021 was £2,624,868
5. The total expenditure on projects funded from CIL between 1 April 2020 and 31 March 2021 was £53,372

3. Recommendation

That the Committee notes:

- 3.1 **The income and expenditure between 1 April 2020 and 31 March 2021 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 CIL monitoring information 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 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 2020/21

Appendix 4 lists all new S106 agreements completed between 1 April 2020 and 31 March 2021 showing financial contributions secured where appropriate. These total £333,975 from 112 new agreements completed comprising:

- 96 Unilateral undertakings, in respect of Chichester & Langstone Harbour and Pagham Harbour recreation disturbance mitigation contributions
- 16 bilateral S106 agreements of which 9 were variations to previously completed agreements

Table 1: Agreements Completed Between 2014 and 2021

Year	Number of new agreements signed	No of new agreements with financial contributions to CDC	Total contributions expected by CDC from new agreements
2020 - 2021	112	105	£333,975
2019 - 2020	96	96	£656,302
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

6.2 Contributions due to be paid to CDC (including those from 2020/21 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 2 shows the contributions expected by CDC, and those unspent, broken down by type.

Table 2: Expected Contributions by Type

As of 31st March 2021		
Contribution Type	To be received	Received and Unspent (Inc interest)
Affordable Housing	£445,762	£1,953,358
A27	£0	£364,817
Chichester Harbour	£0	£26,566
Community Facilities	£747,441	£1,453,051
Ecological Mitigation	£0	£26,802
Leisure	£263,375	£909,394
Monitoring Fee	£20,526	£0
Pagham Harbour	£179,306	£342,361
Public Open Space	£0	£265,763
Park and Ride	£0	£52,827
Primary Care Trust	£35,530	£35,530
Public Art	£0	£183,910
Recreation Disturbance	£234,196	£34,117
Sussex Police	£18,160	0
Sustainable Transport	£0	£23,334
Waste and Recycling	£900	£2,421

6.3 Contributions received during 2020/21 Financial Year

Appendix 5 sets out contributions received by CDC between 1 April 2020 and 31 March 2021 amounting to £429,488

6.4 S106 payments received by each spending department

Details of receipts together with expenditure are shown in Appendix 6.

6.5 Monitoring Fee Contributions

Paragraph 204 of the National Planning Policy Framework advises Local Authorities to monitor all legal agreements.

The amended CIL regulations that came into force on 1 September 2019 have clarified the law and monitoring fees are now a planning obligation payable on commencement of a development. They continue to be charged in accordance with the size and complexity of each agreement in order to cover monitoring costs. During the financial year 2020/21 monitoring fees of £18,104 have been secured.

6.6 SDNPA

A separate 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 3 agreements are being monitored by CDC on behalf of the SDNPA however, 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](#)

6.7 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. These are closely monitored and reported on a quarterly basis to 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 The requirement to produce a CIL Annual Monitoring Report was removed by the amendments to the CIL regulations introduced on 1 September 2019. There is now a requirement to publish an Infrastructure Funding Statement (IFS) covering both CIL and S106 monitoring information by 31 December following the end of each financial year. The IFS for 2020/21 will be published on the website shortly and is attached 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.

Members will be aware that the Government recently consulted on their proposals to introduce a new Infrastructure Levy (IL) that will replace the existing CIL and S106 planning obligation arrangements. The Government's response to that consultation is expected shortly and the SPD will need to be reviewed as any new legislation comes forward.

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.

9. Other Implications

Are there any implications for the following?		
	Yes	No
Crime & 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 - Infrastructure Funding Statement 2020/21

10.4 Appendix 4 -New S106 agreements signed between 1April 2020 and 31 March 2021

10.5 Appendix 5 -Details of income received between 1 April 2020 and 31 March 2021

10.6 Appendix 6 -Receipts & Expenditure by Service