

MUNICIPAL YEAR 2015/2016 REPORT NO. 146

COMMITTEE:

PLANNING COMMITTEE

17.12.2015

REPORT OF:

Director - Regeneration and Environment

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See Annexes 1 & 2

AGENDA – PART 1	ITEM 9
SUBJECT - S106 AGREEMENTS – MONITORING INFORMATION WARDS: ALL	

1. SUMMARY

1.1 This report provides an update on the monitoring of Section 106 Agreements (S106) and progress on Section 106 matters during the period 1 April 2015 to 30 September 2015. It provides an overview of:

- The position regarding current S106 Agreements, categorised by constituency, including the type and amount of financial obligations, progress on spend and implementation of schemes;
- New S106 agreements agreed and signed since April 2015.

1.2 This report is provided for information only. Members are invited to contact the officers named above for more information on individual schemes.

2. RECOMMENDATION

2.1 That Planning Committee note the contents of this Report and its Annexes.

3. S106 MONITORING OVERVIEW

3.1 At 30 September 2015 there were 226 individual S106 agreements in the programme, containing approximately 990 heads of terms.

3.2 Funds have been received for 126 of these agreements and projects are currently being delivered. The position regarding the implementation of these S106 agreements at the end of the monitoring period is set out in Annex 1. A copy of the spreadsheet has also been placed in the Members Library. An overview of the financial information contained in Annex 1 is set out in Table 1 below.

Table 1: Summary of S106 Funds Received and Expenditure Programmed

Status	Total Amount (£)
Opening Balance at the start of FY 2015/16	5,661,036.37
Total Amount of S106 payments received in 2015/16 (at 30 Sept 2015)	2,643,927.05
In-Year Movements (1 April to 30 September 2015)	
<ul style="list-style-type: none"> • Sub-total of in-year movements 	30,179.62
<ul style="list-style-type: none"> • Money moved to contingency 	0.00
<ul style="list-style-type: none"> • Q3 expenditure shown on schedule (Actual £14,475.72 and Committed £17,120.07) 	31,595.79
<ul style="list-style-type: none"> • Total amount drawn down in 2015/16 	78,421.29
<ul style="list-style-type: none"> - Of which amount drawn down in Q1 	22,542.08
<ul style="list-style-type: none"> - Total amount drawn down in Q2 	55,879.21
Closing balance as at 30 September 2015	8,164,766.73
Total available balance of which:	
<ul style="list-style-type: none"> • Earmarked/Committed to projects 	2,826,171.64
<ul style="list-style-type: none"> • Allocated to department but not committed to a specific project 	5,338,595.09
<ul style="list-style-type: none"> Including: 	
<ul style="list-style-type: none"> S106 Contingency Fund 	111,182.23
<ul style="list-style-type: none"> Pooled Carbon Fund Contributions 	107,626.89
Closing balance as at 30 September 2015	8,164,766.73

*SAP Actuals are amounts which have been spent since the end of Q2 and will be formally drawn down from S106 funds at the end of Quarter 3. Commitments are plans to spend but where monies have not yet been claimed from Section 106 funds.

3.3 As shown in Table 1 above, on 30 September 2015 the total available balance of S106 monies was £8,164,766.73, taking account of monies drawn down in Q1, Q2 and other movements.

3.4 In the first six months of financial year 2015/16, the Council received £2,643,927.05 in S106 financial contributions from schemes where planning permissions were implemented. This figure is higher than the whole amount received during financial year 2014/15¹ and is attributable to a number of large housing projects currently under construction across the borough reaching the relevant stages of their respective development cycles simultaneously and thus triggering payments.

¹ £1.654m was received during the whole of FY 2014/15, as reported to Committee in July 2015.

Amounts of £395,900 (covering all obligations due at the Ladderswood Estate); £316,538.00 (all contributions due at 194-242 and 244-262 Bowes Road); £270,040.99 (94 Camlet Way); £198,007.56 (Seven Small Housing Sites) and £186,231.40 (109 Station Road) are among the other large payments received during Q1 and Q2. These five schemes alone are responsible for over half of the total amount of monies received in the first six months of 2015/16.

- 3.5 As these monies have been received very recently, the funds have been allocated to specific departments but not yet committed to a specific project. This is also responsible for a higher than usual amount currently awaiting allocation.
- 3.6 Many S106 agreements contain clauses requiring spending of the contributions within a 5 or 10 year window, at which point any unexpended funds - plus the accumulated interest - should be returned to the developer. Due to the length of the timeframe for spending the monies, it is not uncommon for initial project identification to take up to a year (or slightly longer), particular where large or more complex works will be undertaken.
- 3.7 Approximately half of the S106 money received during 2015/16 was for Education purposes, including a one-off payment of £664,000 for education purposes from the 7 Melling Drive (former Council depot) project. Of the schemes mentioned in para 3.5 above, a further £210,835 was received for education uses from the development at 194-242 and 244-262 Bowes Road, with additional large sums being received from the Seven Sites development (£192,369.36), £99,800 from 109 Station Road and £89,000 from Ladderswood. School place provision (under the control of the Education service) is a capital spending project. All capital spend projects are drawn down at the end of each financial year. To this extent, there will be a large reduction in the funds currently not committed to a specific project in six months' time when these funds have been drawn down.
- 3.8 In addition to Education, between April and September 2015 a further £462,000 was received for Affordable Housing delivery.
- 3.9 The remaining funds will be spent on site-specific mitigation measures associated with offsetting the negative impacts of developments. Examples of these include highway works, CCTV provision, public realm, biodiversity and open space improvements as necessary. These funds have been allocated to the relevant departments accordingly and lead officers will identify projects for their use.
- 3.10 Quarterly drawdowns have been introduced for revenue projects in order to more accurately reflect expenditure throughout the financial year, and to provide an up-to-date balance for reporting purposes.

4 S106 FUNDS AGREED BUT NOT YET RECEIVED

- 4.1 Paragraph 3.1 notes that at the time of writing there are 226 S106 agreements in the programme. This includes 100 agreements where contributions have been agreed but funds have not yet been received. In these cases, although agreements have been made between the Council and relevant applicant(s) or developer(s), the payments have not been received as the relevant 'trigger points' (i.e. stages of development) have not yet been reached. Typical 'trigger points' for receipt of payments are the commencement of development works on site, or the first occupation of a residential unit within the development. Further details of these S106 agreements are included in Annex 2.

- 4.2 Attention must be drawn to the fact that not all financial contributions secured via signed S106 agreements will ultimately be received by the Council. For example, the landowner/developer may choose not to progress development, or in the event that a planning permission expires, a new planning application(s) and S106 agreement may supersede an earlier agreement.
- 4.3 Applicants may also seek to vary their original deed via a formal Deed of Variation.
- 4.4 Table 2 below summarises the financial contributions that have been negotiated and included in these S106 agreements. It shows that over £9.5m could potentially be received by the Council, once the relevant planning permissions are implemented. Please note that this figure is in addition to the total current balance contained in Table 1.

Table 2: Summary of S106 Funds not yet received – awaiting implementation of planning consent (September 2015)

Type of Obligation	Total Amount Negotiated/ Expected to be received once payment is triggered (£)
Education	3,270,358.45
Affordable Housing	3,802,126.65
Highways/ Traffic and Transportation	748,352.00
Health Care	1,092,976.00
Parks	248,225.00
Sustainability (carbon fund and air quality monitoring)	59,475.00
Employment and Training	131,520.00
Public Art	30,000
Community Facilities	83,000 (Will be £184,850 if community facilities are not provided on site – see Annex 2)
Other	123,854.00
Grand Total	9,589,887.10 (or up to £9,691,737.10 if community facilities are not provided onsite)

- 4.5 Agreements for some of the larger residential schemes in the borough make provision for a 'Community Facility Contribution'². These contributions will only be payable in

² These schemes are Notting Hill Housing Trust's developments at 25-29 and 43-57 Telford Road, Birchwood Court and land to the rear of 238-286 North Circular Road; 1-5 Lynton Court and 80-90 Bowes Road; 102-118

the event that the facilities are not provided on site by the developers. Should the developers elect not to build the facilities in line with the S106, the payment(s) would be triggered.

- 4.6 In the event that all five facilities were not built, the Council could potentially receive a further £135,000 towards the provision of community facilities. This would raise the potential total which could be received from the schemes where permission has been granted but the works are yet to commence to as much as £9,691,737.10.

5. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

Financial Implications

- 5.1 The financial position as described reflects the position as reported in the S106 monitor at 30 September 2015. Annex 1 contains proposals for the allocation of approved S106 monies to specific work programmes. Approvals of individual schemes within the proposed programme are subject to separate reports and full financial appraisal. Expenditure incurred on these schemes will be reported as part of the regular monitoring process and drawn down from available S106 funds quarterly for revenue schemes and at year-end for capital projects. Amounts committed to projects including the nature of potential expenditure have been updated following advice from officers leading on individual schemes.

Legal Implications

- 5.2 By virtue of s.106 of the Town and Country Planning Act (as amended) the Council may secure planning obligations to make development acceptable which would otherwise not be acceptable in planning terms. Obligations must be secured in line with the Council's Section 106 SPD. Where financial contributions are required, the terms of the obligation dictate the manner in which any financial obligation held by the Council may be spent, and must be spent by the applicable deadline. Following expiry of a spend deadline, any funds which remain unspent should be returned to a developer.

6. Background Papers

None.

Annex 1

S106 Monitoring Spreadsheet (September 2015). A hard copy will be placed in the members' room

Annex 2: Agreements signed where payments have not yet been received

A hard copy of the spreadsheet will be placed in the members' room.