

**TOURISM, DEVELOPMENT &
CULTURE COMMITTEE**

**Agenda Item 36
Agenda Item 84**

PLANNING COMMITTEE

Brighton & Hove City Council

Subject:	Section 106 Planning Obligations - 2016/17 Financial Contributions Report		
Date of Meeting:	16 November 2017 13 December 2017		
Report of:	Executive Director – Economy, Environment and Culture		
Contact Officer:	Name:	Debra May, Principal Planning Officer (s106)	Tel: 01273 292295
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 This report provides information and updates on the type and value of financial contributions made under Section 106 of the Town and Country Planning Act 1990 in 2016/17. These are payments secured through planning agreements or undertakings (“planning obligations”) as part of the planning application process and are determined by Planning Committee. The publication of this information is in response to the recommendations in the Planning Advisory Group (PAS) Planning Peer Review, it provides further information on measure to mitigate the impact of new development; and is more open and transparent. The report sets out the type and value of contributions and the process for the allocation of contributions.

2. RECOMMENDATIONS:

- 2.1 That Committee notes the report on the s.106 financial contributions held and those sums secured, received and spent within the last financial year (2016/17).
- 2.2 That Committee agrees that updates are to be reported at the end of each financial year.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 Planning obligations, commonly known as Developer Contributions or Section 106 Agreements, are legally binding agreements between the council as Local Planning Authority and landowners/developers that are secured through the planning process to meet planning policy objectives that enable the granting of planning permission.

- 3.2 The contributions are secured under Section 106 of the Town and Country Planning Act 1990. Under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 a planning obligation may only constitute a reason for granting planning permission for development where an obligation is:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development
- 3.3 The specific obligations in each s106 Agreement makes a development proposal acceptable in planning terms that would not otherwise be granted planning permission. The Developer Contributions are sought in accordance with planning policy objectives set out in the adopted development plans (City Plan Part One and the remaining retained policies in the Brighton & Hove Local Plan 2005). The figures included in this report illustrate the ‘value added’ to development proposals as a result of the planning process in securing site specific mitigation measures and the provision of new and enhanced infrastructure facilities for the benefit of local communities in the city.
- 3.4 The obligations are typically sought on major development proposals (10 or more dwellings) determined at Planning Committee. Committee will agree the details of a specific mitigation project to be included in the s106 Agreement that enables the granting of planning permission. These details form part of the legal agreement which, once signed, forms part of the planning permission and is a public document.
- 3.5 Planning officers negotiate with developers as part of the planning process. In terms of identifying s.106 priorities officer use local plan priorities and the adopted Developer Contributions Technical Guidance (DCTG). The latter identifies the main type of contributions that should be sought and contains approved methods for assessing the level of contribution. Additionally, officers in the relevant teams in the city council are consulted on development schemes that trigger potential developer contributions. They are asked to make comments and identify priorities for projects which are often based on agreed service strategies and the location of the development.
- 3.6 Contributions secured in 2016/17
This is a breakdown of the type and amount of the financial contributions secured through granting planning permission in 2016/17. See below.

Summary of s106 contributions Secured in 2016/17

Affordable Housing - commuted sums in lieu	£3,821,508
Education	£ 643,633
Local Employment & training	£ 341,830
Parks, sports Inc. Allotments	£ 861,037
Transport initiatives – all	£ 818,774
Total contributions Secured 2016/17	£6,486,782

3.7 The obligations are provided through either financial or in-kind direct provision towards necessary physical, community and environmental infrastructure. The contributions secured will vary according to the scale and type of development proposed. Many contributions, such as towards education, open space, recreation and local employment, are triggered by major developments of over 10 residential units. The contributions received are spent by council services for upgrades and improvement to specific identified measures in the nearest most appropriate vicinity of the development. The actual financial contributions will not be made until the developer reaches a specific trigger point in implementing their planning consent so there is a lag between contributions secured (above) and received (below).

3.8 Contributions Received in 2016/17

A breakdown of the type and amount of contributions received in 2016/17 and 2017/18 up to 30 September 2017 is set out below.

Summary of s106 contributions Received in 2016/17 & up to 30 September 2017

Artistic components	£24,900
Education	£381,442
Local Employment & training	£175,123
Parks, sports Inc Allotments	£673,623
Transport initiatives – all	£771,011
Total contributions Received 2016/17 up to 30/9/17	£2,026,099

3.9 As stated above, contributions are received when a specific trigger is reached such as the commencement of development or the occupation of the development. In addition, developers have three years in which to implement their planning permissions. This means that contributions may not necessarily be received in the same year of planning permission being granted.

3.10 Contributions spent in 2016/17

A breakdown of the type and amount of contributions spent in 2016/17 is set out in paragraph 3.13 below.

Contributions held (as at 30th September 2017)

A breakdown of the sums held is set out in paragraph 3.13 below.

3.11 This year the contributions have been spent on a range of projects and services in accordance with the s106 agreements linked to the individual planning consents. The balance of sums held varies as contributions are received and spent. Some contribute to significant individual schemes and projects, such as school expansion and sports facilities, and some contribute to ongoing rolling programmes of smaller scale works, such as bus stop improvements. Concluded planning obligations dated from 2010 can be found on the council's website Planning Register by searching against the planning application to which they relate.

- 3.12 Depending on the scheme, s106 contributions are required to be spent within a period of 3 to 10 years, after which unspent contributions are returned. The council has a good record of ensuring contributions are spent and over the last 17 years, only one contribution has been returned following the completion of a development.
- 3.13 A breakdown summary of the s.106 contributions spent in 2016/17 and sums held up to 30th September 2017 are set out in the paragraph below. In terms of the balance of sums held, as outlined in para 3.11 above, this is required to be spent on the specific projects identified in the original s106 agreements linked to the granting of planning permission on individual schemes.

Summary of s.106 sums spent 2016/17 and contributions held (as at 30th September 2017):

	2016/17 Spend	Balance Sums held
Artistic Components	£94,161	£224,894
Community Facilities	£0	£113,437
Education	£0	£1,648,841
Local Employment & training	£56,992	£245,580
Parks/sports Inc. Allotments	£748,227	£1,907,354
Transport – Bus stops	£235,462	£291,405
Transport – walking/cycling Inc. highways	£159,458	£2,377,255
Total 2016/17 spend	£1,294,300	
Total balance sum held as at 30/9/2017		£6,808,766

- 3.14 The future of developer contributions
The collecting and spending on s106 contributions and provision of direct on site infrastructure will continue to be monitored through the Planning service. The contributions paid by developers are held in a separate ring fenced fund in accordance with financial procedures and identified to those specific infrastructure projects and measures as agreed at Planning Committee as identified within each s106 Agreement. The process is monitored by the Principal Planning Officer (Section 106) and the contributions released retrospectively following the appropriate infrastructure improvements being completed.
- 3.15 Ward councillors can comment on a proposed development in their ward where a s106 contribution might be necessary and where any funding might best be used towards supporting infrastructure in the local area. Developer contributions are normally triggered on major applications (e.g. 10 or more dwellings) and these can be identified through the planning weekly list. Comments made on contributions are more effective if made early on in the planning process to allow for negotiations and for the officer report and s106 agreement to be drafted. As set out above, payments need to meet the tests for contributions and planning applications need to be determined in a timely way.

3.16 Committee approval has been given to progress a Community Infrastructure Levy (CIL) charge for the city, commencing shortly with consultation on a Preliminary Draft Charging Schedule (PDCS). This is a levy on new development based on floorspace or number of residential dwellings and should be spent on strategic infrastructure. Section 106 contributions will continue alongside CIL for securing direct on site infrastructure requirements which will include affordable housing, some transport and local employment opportunities. To enable introduction of a CIL, and prevent charging twice for infrastructure, s106 contributions towards education, recreation open space and transport will be replaced by CIL once it is adopted.

3.17 In securing a CIL a wider range of development, including individual residential units, will provide contributions to infrastructure. There are restrictions on pooling payments from s106 planning obligations and these do not apply to CIL. Negotiating CIL income is not part of the planning application process, so it is likely that most councillor input will be into how the contributions are spent locally through priorities set out in a Regulation 123 list. Officers will review member involvement in both S106 contributions and CIL to ensure that this is effective.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The report provides details on the annual securing, receipt, spend and balances held for s106 developer contributions from development schemes in the city, with the proposal this approach continues for reporting annually. The only alternative option is that reporting is not provided annually and this information is not therefore available to view to all interested parties.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Community consultation has been carried out directly in respect of this report. However, securing s106 contributions is in accordance adopted planning policy and priorities in the City Plan Part One adopted March 2016 following extensive consultation over a number of years. The community are welcome to comment on all planning applications in their areas which are available to view on the council website.

6. CONCLUSION

6.1 The recommendation is to note the report and agree to the continued annual reporting of up to date details on the value and scale of developer contributions available for supporting physical, community and environmental infrastructure across the city.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 The staff costs resulting from the implementation of the report recommendations will be met from existing revenue budgets within the City Development and Regeneration service.

7.2 All new capital schemes financed from Section 106 contributions require approval from the Policy and Growth Committee as part of the Targeted Budget Monitoring (TBM) process.

7.3 Developer contributions under Section 106 Planning Obligations are considered to be an important source of income in providing or upgrading infrastructure.

Finance Officer Consulted: Gemma Jackson

Date: 19/10/17

Legal Implications:

7.4 The statutory background to securing developer contributions by way of planning obligations is set out in the body of the report. Where a planning obligation is required the planning permission for the development proposed will not be issued until the relevant agreement or undertaking has been concluded.

7.5 It is not considered that the recommendations of the report raise any adverse human rights implications.

Lawyer Consulted: Hilary Woodward

Date: 23/10/17

Equalities Implications:

7.6 Section 106 developer contributions can provide wide benefits for residents and visitors to the city with the timely and effective provision of community infrastructure for example: affordable housing; local employment, recreation space, improved access and education facilities.

Sustainability Implications:

7.7 Sustainable development is a key priority to the council and s106 developer contributions assist in ensuring necessary obligations are secured towards appropriate enabling infrastructure to help provide long-term sustainable transport in the city.

Any Other Significant Implications:

7.8 None.

SUPPORTING DOCUMENTATION

Documents in Members' Rooms

1. None

Background Documents

1. Brighton & Hove City Plan Part One – March 2016
2. Developer Contributions Technical Guidance - March 2017

