

S106 AND CIL UPDATE REPORT

Head of Service:	Lee Duffy, Chief Finance Officer
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Appendices (attached):	None

Summary

This report provides an update on the funds held under Section 106 (S106) planning agreements and CIL (Community Infrastructure Levy).

Recommendation (s)

The Panel is asked to:

- (1) note the current position on S106 funds held by the Council;**
- (2) note the current position on CIL funds held by the Council.**

1 Reason for Recommendation

- 1.1 To provide an update on the section 106 and CIL funds held by the Council.

2 Current position: S106

- 2.1 The Council currently holds funds from S106 agreements totalling approximately £2.245 million. From this balance £90k is committed on small schemes, £675k is earmarked for the Horton Chapel Arts & Heritage society, £110k is proposed to fund two projects on the 2021/22 Capital Programme and £145k will be transferred to Surrey County Council and other organisations, as the authority responsible for utilising these funds.
- 2.2 The current position of Section 106 funds held as at the end of September 2020 is summarised below:

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	£'000	£'000
Section 106 funds held as at 1 April 2020		2,245
Section 106 net receipts to 30 September 2020		28
Balance of S106 Funds held as 30 September 2020		2,273
Less:		
Funds held due to SCC and other organisations	(148)	
Funds committed and approved for specific schemes	(90)	
Funds held for Horton Chapel	(675)	
Proposed use of S106 Outdoor Sports Facilities Receipts for the 2021/22 Capital Programme	(110)	
Total		(1,023)
Unallocated S106 funds as at 30 September 2020		1,250

The unallocated funds are held within various categories of expenditure as follows: -

Breakdown of unallocated S106 balances	£'000
Open Spaces	20
Affordable Housing	1,162
Open Space - Park & Gardens	7
Open Space - Outdoor Sports Facilities	29
Environmental Improvements	29
Community Facilities	1
Monitoring Charge	2
Total	1,250

3 S106 Funds for Affordable Housing

3.1 The Council has received a total of £4.26 million S106 contributions for affordable housing since the first recorded receipt in 2006. To date £3.1 million has been spent, leaving a balance of £1.16 million. The table below details the expenditure to date:

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Scheme	Amount (£'000)	Financial Year
Threshold Housing Association – Livingstone Park	228	2006/07
Mount Green Housing - Rosebank	250	2011/12
33-39 High Street, Epsom	89	2012/13
Hollymoor Lane	93	2012-2019
Orbit Group – Hollymoor Lane	360	2013/14
Defoe Court	500	2013-2016
102 Upper High Street	398	2014/15
24 South Street	112	2016/17
85 Marbles Way	245	2016/17
10 Crane Court	368	2016/17
1-3 Blenheim Road	400	2016/17
Mount Green Housing – Chase Road site	50	2018/19
Total	3,093	

4 Current Position: CIL

4.1 The Council currently holds funds from CIL totalling £7.59 million. The balance is split across three funds. 5% is held to fund the administration of the scheme; 15% is reserved for a community fund, split between a Civic Infrastructure Fund and Borough Investment Fund; and the remaining 80% is held for infrastructure provision to support new development in the Borough and can be accessed by both the County Council and the Borough Council.

4.2 The current balance of CIL across the three funds, and allocation of amounts committed to date are as follows: -

	Main Fund (80%) £'000	Community Fund (15%) £'000	Admin Fee (5%) £'000	Total £'000
CIL funds held at 1 April 2020	6,350	1,131	196	7,677
CIL invoices raised to 30 Sep 2020	1,355	254	85	1,694
Invoices outstanding at 30 Sep 2020	-1,426	-267	-89	-1,782

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Receipt held as charge against property	-1	0	0	-1
CIL Payments made to 30 Sep 2020	0	0	0	0
CIL Funds held at 30 September 2020	6,278	1,118	192	7,588
<i>Less commitments:</i>				
Plan E contribution	-2,515			-2,515
Cemetery Extension	-155			-155
Paving outside Playhouse	-60			-60
Stoneleigh Station	-500			-500
Borough Investment Fund		-71		-71
Civic Infrastructure Fund 2018/19		-36		-36
Civic Infrastructure Fund 2019/20		-156		-156
Civic Infrastructure Fund 2020/21		-250		-250
Monitoring CIL scheme in 2020/21			-98	-98
Proposed Capital Programme 2021/22 (subject to approval)	-500			
Unallocated CIL funds at 30 September 2020	2,548	605	94	3,247

- 1.1 The table above includes £500k of funding for infrastructure projects on the 2021/22 Capital Programme, as detailed in the Capital Programme 2021/22 report on this agenda. This is subject to approval at Council in February 2021.
- 1.2 The Council generated £1.7m of Community Infrastructure Levy (CIL) for the period 1 April 2020 to 30 September 2020. This includes one sum for £1.49m for the Epsom & Ewell High School site development. Large sums are collected in instalments so not all of the cash has been received at this date. Of the £1.78m of invoices raised but not yet collected, £145k relates to previous financial years and £133k of this was recently recovered by the Legal Department, but is not yet showing in the figures below which are to end of September 2020.

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- 1.3 A report to S&R Committee in April 2018 agreed a sum of £250k for a Civic Infrastructure Fund in 2018/19 and £100k for a Borough Investment Fund. The report also set out the procedures for applications to the funds. Of the 8 successful bids, 3 completed in 2018/19, 2 completed in 2019/20, and 2 were removed from the programme due to feasibility issues. The final project delivered by Surrey County Council has the real-time data feed outstanding, as such is awaiting financial settlement, as detailed below: -

2018/19 Project	Allocated Budget (£)	Expenditure to 30/09/20 (£)	Notes
Bid 4 Woodcote Green Bus Shelter	35,640	0	Shelter in use, awaiting real-time data feed not yet billed.

- 1.4 No bids for the Borough Investment Fund have been received in 2020/21 to date. There is still £71k of the original £100k allocation remaining.

- 1.5 In April 2019 S&R Committee agreed a further £250k for 2019/20 projects. The Horton Country Park Bridleway Path Restoration project completed last year and the progress of remaining schemes in this programme is detailed below: -

2019/20 Project	Agreed Amount	Expenditure to 30/09/20	Notes
Bid 8 Epsom Common Facilities	£26,000	£15,945	Bid progressing.
Bid 13 2 nd Epsom Scouts Refurbishment of HQ	£27,000	0	Bid progressing.
Bid 15 Clarendon Park Replacement Swing	£11,546	£11,546	Works complete.
Bid 16 Defibrillators across Epsom	£28,800	0	Bid progressing.
Bid 17 Wet Pour across borough playgrounds	£32,995	0	Bid progressing.
Bid 18 Mo-Ichido Martial Arts Club	£30,000	£30,000	All funding has been paid over.
Total	£156,341	£57,491	

- 1.6 A further £250k has been agreed for a 2020/21 scheme, the closing date for bids is 30 September 2020, later than in previous years due to the Covid situation.

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2 Proposals for use of uncommitted S106 and CIL balances

- 2.1 The majority of uncommitted S106 balances are within the Affordable Housing category, the level of which currently stands at £1.1 million. This funding is used to facilitate the provision of affordable housing in the Borough where the project is not financially viable without additional funding. Officers work with providers to identify schemes where the affordable housing would not be deliverable without additional support.
- 2.2 Future CIL receipts are currently forecast at a level of £1.3m each year. To be eligible for funding from the CIL Main Fund (80%), schemes must meet the infrastructure types set-out in the Council's Regulation 123 list. The Regulation 123 list is currently being reviewed to ensure it meets the Borough's future needs. The Joint Infrastructure Group (JIG) considers schemes eligible for CIL funding and makes recommendations to Strategy & Resources Committee who approve the funding. The priority for allocating CIL funds will need to take into account future plans for growth across the borough, set out by the Local Plan.

3 Risk Assessment

Legal or other duties

- 3.1 Impact Assessment
 - 3.1.1 None for the purposes of this report.
- 3.2 Crime & Disorder
 - 3.2.1 None for the purposes of this report.
- 3.3 Safeguarding
 - 3.3.1 None for the purposes of this report
- 3.4 Dependencies
 - 3.4.1 None for the purposes of this report.
- 3.5 Other
 - 3.5.1 None for the purposes of this report.

4 Financial Implications

- 4.1 Section 106 and CIL receipts provide an opportunity for additional investment.
- 4.2 The relevant policy committee will need to ensure that there are no additional resource implications for new schemes that would have an adverse impact on budgets for other services. Some schemes may even reduce future maintenance liabilities.

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- 4.3 **Section 151 Officer's comments:** All financial implications are reflected in the body of the report.

5 Legal Implications

- 5.1 Agreements under Section 106 of the Town and Country Planning Act 1990 are invariably connected to a grant of planning permission. They are designed to address the impact of a development and any contributions due and paid, are required to be spent in accordance with the terms of the related Agreement.
- 5.2 CIL is a local tax on new development that local authorities can choose to introduce to help fund infrastructure in their area. CIL provides a relatively straightforward mechanism for collecting contributions from new developments. This is guided by the Community Infrastructure Levy Regulations..
- 5.3 The Council maintains an Infrastructure Delivery Plan (IDP) and a draft Regulation 123 list, the latter identifying the types of community infrastructure that the Council envisages using CIL funding for. The IDP identifies the infrastructure improvements required to support growth and demonstrates that there is a sufficient 'infrastructure funding gap' to justify the need to collect CIL.
- 5.4 The establishment of CIL requires partnership working with infrastructure providers and partnership working is fundamental to the success and delivery of the objectives of the Borough.
- 5.5 **Monitoring Officer's comments: none arising from the contents of this report.**

6 Policies, Plans & Partnerships

- 6.1 **Council's Key Priorities:** IT meets the Council's Key Priorities under Effective Council.
- 6.2 **Service Plans:** The matter is/is not included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:** none for the purposes of this report.
- 6.4 **Sustainability Policy & Community Safety Implications:** none for the purposes of this report.
- 6.5 **Partnerships:** none for the purposes of this report.

7 Background papers

- 7.1 The documents referred to in compiling this report are as follows:

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Previous reports:

- N/A

Other papers:

- N/A