

DECISION NO:	<i>For Member Services use only</i>
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Concurrence No:	066467
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Action under delegated authority of Chief Executive	
Action under delegated authority of Director of Finance and Cabinet Member for Finance	
Action taken by Chief Executive in consultation with Cabinet Member(s)	X

Subject: **Cabinet approval to the S106 Panel Recommendations (meeting on 9 March 2021)**

Signature and designation of officer(s) taking action:

05/05/2021

07/05/2021

Chief Executive	Date	Director of Finance	Date
		Head of Finance	Date

Name of Cabinet Member(s) Consulted:

I have been consulted and concur with the proposals set out below:

Councillor Lewis Cocking
Leader of the Council

17/05/2021

Signature:

Date:

Councillor Keith Brown
Cabinet Member for Planning and Regeneration

16/05/2021

Signature:

Date:

Councillor David Holliday
Cabinet Member for Environment

11/05/2021

Signature

Date:

Councillor Paul Mason
Cabinet Member for Finance and Business Services

10/05/2021

Signature:

Date:

Councillor Siobhan Monaghan
Cabinet Member for Housing and Community Services

17/05/2021

Signature:

Date:

Name of any member who has declared a conflict of interest in relation to this decision:

THIS DOCUMENT WILL BE PUBLISHED ON THE COUNCIL'S WEBSITE

The report overleaf sets out the decision to be taken, the reasons for the decision, and the details of alternative options, if any, considered and rejected. Officer decisions are available for public inspection, both at the Borough Offices and on the Council's website.

Officer decisions are kept for a period of six years at the Borough Offices and for six months on the website after the decision is made. Background papers are available for four years.

RECOMMENDED that:

- (a) the indicative profile of expenditure from generic s106 funds listed in table 2 of the report (attached) to the s106 Panel on 9 March be agreed and
- (b) the considerations for new S106 funded projects as outlined in the attached report be agreed

Purpose

To seek Cabinet Members' approval for the indicative profile of expenditure from generic section 106 (s106 funds). These are listed in table 2 of the report and were presented to the s106 Panel on 9 March 2021 (attached).

To take into account the considerations in reaching decisions on proposed S106 expenditure, also outlined in the report.

The Proposal

Arrangements for member level consideration of expenditure of s106 funds by a Member Panel were introduced in 2019.

The Panel's role is to effectively operate as an advisory body to the Cabinet. Therefore the way the approval process for s106 expenditure will work is that the Panel will make recommendations for the allocation of funds to specific projects. This will be formally agreed by the relevant director or the Chief Executive in consultation with the relevant Cabinet member.

The agreement of each Cabinet member is therefore sought to the indicative profile of expenditure from generic s106 funds listed in table 2 of the report presented to the Panel. In addition, the report sets out the considerations to be taken into account in reaching a decision namely:

Projects which will be using s106 monies must comply with new town planning legislation and the terms of the relevant s106 agreement. The project must also support the Council's priorities and in particular balance the benefits to the local community and economy against the financial implications. The Panel agreed that:

- a) future project proposals quantify any revenue implications and identify how they will be funded;

- b) projects should support the Council's corporate objectives as expressed in the Corporate Plan wherever possible; and
- c) where possible, and the relevant legal tests can be met, priority will be given to projects which generate income or save costs.

Cabinet Members asked to agree these considerations.

Financial, Legal and Risk Management Implications

As with all Council spending, the s106 receipts need to be managed and allocated with a high degree of scrutiny and accountability. Improper expenditure of s106 funds could have significant legal and financial implications for the Council.

Alternative Options Considered and Rejected

There are no alternatives to the recommendations.

Equality Implications

There are no equalities implications arising from the recommendation.

Contributions to the Council's Objectives and Environmental Sustainability Priorities

The delivery of s106 infrastructure projects generally supports most of the Council's corporate objectives and priorities.

Conclusion

The resolutions made by the s106 Panel help ensure that s106 receipts are managed to maximise the benefits to the local community, the local economy and help deliver the Council's corporate objectives.

Contact Officer: Alf Cuffaro

Ext: 5539

Date 14 April 2021

Action reported to the Cabinet on:

RECOMMENDED that :

- (a) progress with the projects as outlined in table 1 of the report be noted;**
- (b) the relevant Cabinet members be recommended to agree the indicative profile of expenditure from generic s106 funds listed in table 2 of the report;**
- (c) the site specific s106 projects detailed in planning agreements shown in table 3 be noted;**
- (d) proposals from Hertfordshire County Council for the projects listed in table 4 be requested and brought forward to a future meeting of the Panel;**
- (e) the considerations for new s106 funded infrastructure projects as outlined in the report be agreed; and**
- (f) new projects are brought forward based on the considerations referred to in recommendation (e) above.**

Purpose

To provide an update on the s106 funded projects and the s106 receipts available.

For members' information, Appendix 'A' is attached to this report.

Background

In 2019, a Section 106 member Panel was appointed to provide oversight of, and give consideration to, infrastructure projects to be funded by Section 106 agreements entered into with developers in association with planning applications, except those projects which are already agreed by the Council through the capital programme or for which there is no discretion.

Infrastructure projects are defined as the "provision, improvement, replacement, operation or maintenance" of infrastructure which includes (a) roads and other transport facilities; (b) flood defences; (c) sporting and recreational facilities; and (d) open spaces. Section 106 funding constitutes a significant proportion of the Council's annual capital expenditure.

Process for project authorisation and delivery

The officer Project Management Board (PMB) considers each project which is brought before it to ensure it complies with the statutory tests, aligns with the Council's corporate objectives and meets the aspirations expressed by members of this Panel. If the Panel endorses the project and its funding from Section 106 agreements then the appropriate Cabinet member is advised and their concurrence is sought to proceed with the project.

Once a budget is established the project manager is authorised to deliver the approved project. The PMB will oversee the project's delivery and report progress to the Panel to monitor delivery and expenditure. Additional project management resource is being planned for 2021/22.

Section 106 receipts and infrastructure projects they are funding

The Council holds £11,506,576 of s106 receipts (received up to the end of December 2020). The tables in Appendix 'A' give a detailed breakdown of the infrastructure projects the s106 receipts are funding as summarised in the table below.

Section 106 receipts available	(£)	(£)
Total section 106 receipts held (31/12/2020)		11,506,576
Less earmarked receipts:		
Projects previously agreed and underway or completed (Table 1)	2,433,245	
Indicative expenditure from generic s106 receipts (Table 2)	4,491,738	
Site specific projects detailed in s106 agreements (Table 3)	440,884	
Receipts held for projects potentially delivered with or by partners (Table 4)	894,404	
Total of earmarked receipts	8,260,271	8,260,271
Section 106 receipts available		3,246,305

A sum of £3,246,245 of s106 receipts is currently available to fund new projects as they are identified.

The deadlines for using the s106 funds and their intended purpose vary from agreement to agreement. Some of the older s106 agreements do not specify spending deadlines and explain the intended purpose of the funds in very general terms. The Panel will therefore play an important part in considering how such generic funds should be allocated to supported projects.

Some s106 agreements are more specific and tend to identify the specific projects for which the s106 funds can be used. In addition, full Council agrees the use of some S106 funds as part of its approval of the capital programme. Such projects are not therefore reported to the Panel for consideration. The key focus for the Council is to ensure that these specific projects are delivered on time and within the approved budget.

Considerations for new s106 funded projects

New projects must comply with town planning legislation, as reported to the Panel meeting in November 2020, and the terms of the relevant s106 agreement. The project must also support the Council's priorities and in particular balance the benefits to the local community and economy against the financial implications. In this respect it is proposed that:

- a) future project proposals quantify any revenue implications and identify how they will be funded;
- b) projects should support the Council's corporate objectives as expressed in the Corporate Plan, wherever possible; and

- c) where possible, and the relevant legal tests can be met, priority will be given to projects which generate income or save costs

Financial, Legal and Risk Management Implications

As highlighted in a report to the Panel in November 2020, the s106 receipts need to be managed and allocated with a high degree of scrutiny and accountability. Improper expenditure of s106 funds would have significant legal and financial implications for the Council.

Alternative Options Considered

The alternative is not to have a process for authorising s106 projects as set out in this report, which clearly would not be consistent with the Council's current intentions.

Equality Implications

There are no equalities implications arising from the recommendation.

Contributions to the Council's Objectives and Environmental Sustainability Priorities

The delivery of s106 infrastructure projects generally support all of the Council's objectives and environmental sustainability priorities.

Conclusion

The recommendations as set out at the beginning of this this report will help ensure the Council's s106 receipts are managed to maximise the benefits to the local community, the local economy and help deliver the Council's corporate objectives.

Contact Officer:
Mr A Cuffaro (ext. 5539)

List of Background Papers:
None

Table 1 - Projects previously agreed and underway or completed			
S106 Project Description	2020/21 S106 funds (£)	2020/21 Expenditure (To P.9) (£)	Previous Years S106 Expenditure (16/17 to
Waltham Cross Renaissance	630,342	75,774	1,004,972
Hoddesdon Town Centre Improvements*	1,698,834	0	3,751
New River Path Improvements	157,723	0	91,139
Play Area Improvements Rolling Programme	60,000	0	279,042
Highways Improvements Rolling Programme	40,000	18,229	22,649
Bishops College Hall	28,000	0	0
Investment in the Spotlight Improvements	189,835	5,241	345,426
Old Highway Recreation Ground Upgrade	5,726	0	53,774
Cheshunt Cemetery Improvement Works	24,335	1,998	0
Hoddesdon Clock Tower	5,725	5,725	0
LTLC Holistic Studio	28,379	0	21,621
Rosedale Community Church Refurbishment	295,705	0	2,295
Hoddesdon Town Centre CCTV	60,000	39,004	0
Cheshunt Cemetery Mausoleum Improvement Works	12,200	9,474	35
Brown Tourist Signs	6,000	5,608	0
Tree Planting Programme	60,000	0	0
LTLC – CCTV Cameras	30,000	0	0
Halstead Hill Fencing Works	30,000	26,949	0
Cedar Park Improvement Works	5,394	0	21,606
Cedar's Park Tank	2,140	0	7,860
Cedars Park Landscaping and Improvement Works	24,000	0	0
CPGC Improvement Works	343,000	0	0
Affordable Housing	195,907	195,907	0
s106 Payments to HCC**	N/A	307,887	0
Total:	3,933,245	691,796	1,854,170
Less sum not yet received from the High Leigh	1,500,000		
Revised Total:	2,433,245		

***Note:** The budget figure for Hoddesdon Town Centre Improvements includes the sum of £1.5m expected from the High Leigh development.

****Note:** This expenditure are payments the Council has made directly to HCC out of s106 funds held for the projects. Therefore, there is no established budget for these payments. These were: contribution to the New River Bridge scheme, Essex Road. (£300,000); and refurbishment of Cheshunt Library (£7,887).

Table 2 - Indicative profile of expenditure of generic s106 receipts												
Development Site	Spend Deadline	Cheshunt Old Pond	Affordable Housing	Goffs Oak Village	Park or open space imprvs in the local area	St Marys Community Hall	A10 Junct Imprvs	New River Shared Path	Rosedale Park primary school contribution (Loan)	Turnford Station	Park Lane Bridge/Train Station	(£)
Everest Site - Andrews Lane - Crest Nicholson 07/12/0524/O	31/08/2024	0	0	0	0	0	0	0	804,407	0	0	804,407
Everest Site - Andrews Lane - Crest Nicholson 07/12/0524/O	04/02/2021	0	0	50,000	49,000	0	0	0	0	0	0	99,000
Halstead Hill - Barrow Lane - 07/13/0631/F	01/03/2023	415,900	254,093	0	0	0	0	0	0	0	0	669,993
St Mary's Former School - Dandara Homes - 07/14/0076/F	01/07 2027	66,439	0	0	0	100,000	26,634	0	0	0	0	193,073
St Mary's Former School - Dandara Homes - 07/14/0076/F	01/01/2028	0	0	0	0	0	61,302	0	0	0	0	61,302
St Mary's Former School - Dandara Homes - 07/14/0076/F	01/04/2028	324,068	0	0	0	0	0	0	0	0	0	324,068
Cheshunt Reservoir South - 7/0674/08/F	01/11/2022	200,000	0	0	0	0	87,539	100,000	0	0	0	387,539
Grangebrook, Rags Lane, Goffs Oak	01/06/2028	0	0	0	0	0	0	0	517,157	0	0	517,157
Grangebrook, Rags Lane, Goffs Oak	01/12/2027	0	0	0	0	0	0	0	212,078	0	0	212,078
Brookfield Retail Park - 07/16/0166/F	None	41,243	0	0	0	0	0	0	143,762	0	0	185,005
Land @ Small Acre Nursery - 07/17/0500/O	01/11/2030	0	0	0	0	0	0	0	137,748	0	0	137,748
New River Arms Turnford - 07/18/0307/F	None	0	302,129	0	0	0	0	0	0	0	0	302,129
Former Hoddesdon Snooker Club Conduit Lane - 07/18/1005/F	None	0	80,000	0	0	0	0	0	0	0	0	80,000
Hertford Regional College Turnford	None	0	0	0	0	0	0	0	0	200,000	0	200,000
Various developments in the WX area	None	0	0	0	0	0	0	0	0	0	318,239	318,239
Total		1,047,650	636,222	50,000	49,000	100,000	175,475	100,000	1,815,152	200,000	318,239	4,491,738

Table 3 - Site Specific Projects detailed in planning agreements yet to start on site

Development	Project Description	Spend Deadline	(£)	Comments
Land adjacent to 144 Windmill Lane 07/15/0079/F	Improvement of cycle & pedestrian facilities to enable access to the Lee Valley Park in the Cheshunt Station	None	9,200	A project to improve access for pedestrians and cyclists off of the River Lea Navigation tow path
Bridge Court, High Street	Waltham Cross Town Centre Gateway Improvements	None	21,000	A scheme to be presented to the Cheshunt and WX Development
Eleanor House - 33-45 Eleanor Cross Rd -	Waltham Cross Town Centre Gateway Improvements	None	30,000	As above
39 King Edward Road - 07/14/0393/F	Monarchs Way underpass wall improvements	None	6,000	As above
69 Crossbrook Street - 07/15/1170/F	Environmental & other improvements in the road corridor along A1170 from Waltham Cross to Cheshunt Old Pond	None	27,175	Cycleway improvements as part of the Council's walking and cycling strategy
Tanfield Farm Hammondstreet Road -	Goffs Oak Village gateway improvement	None	45,233	Concept designs to be developed. But possibly used as part of the proposals for the village hall and surrounding
Riverdene House and The Colonnade High Street Cheshunt -	Newnham Parade car park improvements or other environmental improvements within the vicinity of the site	None	66,000	Initial designs complete to improve access road to the car park.
Brookfield Retail Park - 07/16/0166/F	Controlling & enhancing shopper parking in the Brookfield area	None	16,093	To be determined as part of the overall Brookfield project.
Brookfield Retail Park - 07/16/0166/F	Administering & Monitoring Travel Plan in the Brookfield area	None	6,609	HCC project.
Land @ Small Acre Nursery - 07/17/0500/O	Youth centre kitchen facilities at Waltham Cross Youth Centre	01/11/2030	2,643	HCC are currently implementing a programme of improvements to Waltham Cross Young People's Centre
Land @ Small Acre Nursery - 07/17/0500/O	Remediation of Hope Nursery, Barrow Lane, Cheshunt for the purposes of creating a self-build demonstration	01/11/2030	210,931	Contribution towards providing a fully serviced site for self-build plots.
Total			440,884	

Table 4 – Receipts held for projects potentially delivered with or by partners				
Development/Purpose of fund	Spend deadline	Education and Skills	HCC - Highway Transport Environ.	LVRPA
Aldi, Hoddesdon 7/0551/04 Bus stop improvements in the vicinity	None	0	15,000	0
Britannia Nurseries – sustainable transport measures within the vicinity of the development	01/06/27	0	60,000	0
Britannia Nurseries – Educational improvements in Waltham Cross	04/06/29	365,508	0	0
Britannia Nurseries – Improvements to the Lee Valley Regional Park and other recreational improvements in the local area	01/06/27	0	0	250,000
St Mary's former school (River works in the vicinity to improve biodiversity) 07/14/0076	01/04/28	0	19,827	0
Old Manor House, Wormley – Highway project to be agreed with the Council 07/10/0147	None	0	10,000	0
Tower Centre, Hoddesdon – Highway and transport related developments 07/11/0481	None	0	6,270	0
Tanfield Farm, Goffs Oak – sustainable transport improvements in the vicinity of the site 07/16/0644	None	0	23,359	0
Hazelmere Marina, Waltham Cross – Provision of new, extended or improved primary education facilities to be attended by children from the Development	01/04/27	85,363	0	0
Hazelmere Marina, Waltham Cross – Provision of new, extended or improved primary education facilities to be attended by children from the Development	01/04/27	59,077	0	0
	Sub-total	509,948	134,456	250,000
			Total	894,404