

Report of	Meeting	Date
Chief Executive	Overview & Scrutiny	5 th September 2011

MONITORING OF RECEIPT AND USE OF DEVELOPERS' SECTION 106 CONTRIBUTIONS

PURPOSE OF REPORT

1. To update the Overview and Scrutiny Committee on the progress made in implementing the projects included in the revenue budget and capital programme that are to be funded with developers' Section 106 contributions.

RECOMMENDATION(S)

2. To note the progress made in implementing projects funded with S106 contributions.

EXECUTIVE SUMMARY OF REPORT

3. Contributions may be received from developers by the council as a result of Section 106 Agreements entered into to make a development acceptable in planning terms. Depending on the terms of specific agreements, contributions may be received for provision of facilities or infrastructure either on-site or off-site, such as affordable housing, transport or highways improvements, play and recreation and other community facilities. Use of such contributions would be included in the revenue budget or capital programme, as appropriate.
4. Not all projects to be financed with S106 contributions need be implemented directly by the council. A Play and Recreation Fund has been established to receive bids from parish and town councils, appropriate community organisations, as well as the Borough Council. Major schemes may be implemented in partnership with other bodies, such as the Buckshaw Village Railway Station.
5. Further information about S106 Agreements is published on the council's web site in the Environment & Planning section, which includes the Register of S106 Agreements.
6. The report presents details of expenditure financed with S106 contributions during 2010/11, and indicates the budget provision for 2011/12 and subsequent years, where agreed. Uncommitted balances and contributions due to be received as developments proceed are identified and the purposes for which the contributions can be applied are explained.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

7. To ensure that members are updated on progress made in implementing S106-funded projects; and are aware of S106 contributions received or due to be received but which are not yet reflected in either the revenue budget or capital programme.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

8. None

CORPORATE PRIORITIES

9. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	✓
Safe Respectful Communities		Quality Community Services and Spaces	✓
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			

BACKGROUND

10. Idea.gov.uk defines Section 106 (S106) Agreements as follows:

“Section 106 (S106) of the Town and Country Planning Act 1990 allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement.

These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms. They are increasingly used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing.

The scope of such agreements is laid out in the government’s Circular 05/2005. Matters agreed as part of a S106 must be:

- relevant to planning
- necessary to make the proposed development acceptable in planning terms
- directly related to the proposed development
- fairly and reasonably related in scale and kind to the proposed development
- reasonable in all other respects.

A council’s approach to securing benefits through the S106 process should be grounded in evidence-based policy.”

11. Services and infrastructure to be provided through S106 Agreements can be within the area of the development (on-site), or beyond the boundaries of the development (off-site). Depending on the terms of the particular agreements, off-site facilities might be provided within the immediate vicinity of the development, or within the boundaries of the whole Borough.

12. On-site facilities are often provided directly by the developers, for example, affordable housing units. In such cases, though the council would monitor the provision of the facilities or infrastructure in accordance with the S106 agreements, the works would not be included in the council’s own revenue budget or capital programme. An exception would be if top-up

funding from the council was required to ensure that a facility was provided at a higher specification than required by a S106 agreement, one example being the contribution towards the cost of the Fairview Farm Youth and Community Centre in Adlington. If the council adopts on-site facilities, such as a community centre, public open space or a play area, a commuted sum is often payable by the developer to finance the cost of future maintenance for a number of years.

13. If facilities are to be provided off-site, developers would usually pay a sum to the council to finance the cost of the works in another location, sometimes on council-owned land but also on land owned by housing associations, parish councils or other bodies. In some cases, such contributions are paid to the council in order to implement on-site facilities. Each S106 agreement can contain restrictions on the use of the contributions. The permitted uses of contributions might be set out in detail, and time limits requiring prompt use of the contributions might be specified. Some agreements permit use of the contributions for several types of facilities and infrastructure, to be determined by the council after taking account of the matters indicated in the definition of S106 agreements presented above.
14. Where the council receives contributions from developers as a result of S106 contributions, the use of these is included in the revenue budget or capital programme, as appropriate. Major schemes such as the Buckshaw Village Railway Station are identified separately in the capital programme. Smaller projects, such as enhancement of play areas or public open space, are grouped together in capital programme monitoring reports to Executive Cabinet and Council with the description "Play and Recreation Fund Projects". Use of the Play and Recreation Fund to provide grant-funding for schemes to be implemented by parish councils or community groups is reflected in the council's revenue budget. All such schemes, whether capital or revenue, are monitored individually by the budget holder.
15. Progress in implementing S106-funded projects in 2010/11 and budgeted use in 2011/12 to 2013/14 is identified below by category of contributions.

AFFORDABLE HOUSING

16. The S106 contributions available and applied in 2010/11 for the purpose of providing affordable housing were as follows:

Affordable Housing

	£
Balance as at 1 April 2010	499,206
Received in year	546,851
Available 2010/11	<u>1,046,057</u>
Financing of Purchase & Repair capital grants	(467,000)
Balance as at 31 March 2011	<u><u>579,057</u></u>

17. The Purchase and Repair programme commenced during 2009/10 in partnership with Adactus Housing Group. Expenditure in 2009/10 was £302,500, which means that the total for the programme financed from S106 contributions to date is £769,500.

18. During 2011/12, S106 contributions have been applied towards the cost of affordable housing at Crosse Hall Lane (£80,000) and Devonport Way (£78,000). In the capital programme presented to Executive Cabinet on 18th August 2011, the affordable housing budget allowed for the application of £434,060 S106 resources to finance further schemes in 2011/12. However, the Head of Housing has indicated that it is unlikely that further schemes could be implemented during this financial year, because of the need to consult and negotiate with Registered Social Landlords, the Homes and Communities Agency and other interested parties. Rephasing of the affordable housing programme will be proposed when the capital programme is next reported.
19. The affordable housing budget for 2012/13 is currently only £90,000, to reflect the expected receipt of a new contribution. This will be supplemented by the resources now expected to be rephased from 2011/12. Further contributions received for the purpose of providing affordable housing will be added to the capital programme when available. Such contributions could include those received for a range of purposes, such as that receivable in respect of the Buckshaw Group 4 North development, which is discussed in more detail below. The Buckshaw Group 1 agreement provides for on-site affordable housing rather than payment of a commuted sum for off-site provision.

TRANSPORT

20. During 2010/11, the S106 contributions available and applied for the provision of transport infrastructure were as follows:

Transport

	£
Balance as at 1 April 2010	3,476,685
Received in year	107,936
Available 2010/11	<u>3,584,621</u>
Financing of Buckshaw Village Railway Station	(151,368)
Financing of Buckshaw Village Cycle Network	(30,577)
Balance as at 31 March 2011	<u><u>3,402,676</u></u>

21. Implementation of the Buckshaw Village Railway Station is by a partnership of Chorley Council, Lancashire County Council and Network Rail. Progress is monitored regularly by the partners, together with Northern Rail. Expenditure due to be financed in 2011/12 with the S106 contribution received for the specific purpose is £3,325,320. Budget provision in 2011/12 for further work on the Cycle Network is £77,360.
22. Of the £743,573 S106 contribution received from the development of the former Lex Autologistics site on Pilling Lane in Chorley, £150,000 has been earmarked as a contribution to highways improvements to be carried out by Lancashire County Council as a result of the development. The use of the Pilling Lane contribution is discussed further below.
23. Part of the Buckshaw Group 1 contribution, when received, would be for the provision, enhancement or replacement of public transport infrastructure and/or associated benefits and/or community facilities and/or associated benefits within the vicinity of the

Development, Buckshaw village and/or nearby town centres. Proposals will be reported when the contribution is available.

PLAY/RECREATION AND PUBLIC OPEN SPACE

24. S106 contributions for the provision and enhancement of play and recreation facilities and public open space were applied as follows during 2010/11:

<u>Play/Recreation & Public Open Space</u>	
	£
Balance as at 1 April 2010	589,886
Received in year	132,206
Available 2010/11	<u>722,092</u>
Financing of Play & Recreation Fund schemes (revenue)	(118,086)
Financing of Play & Recreation Fund schemes (capital)	(1,051)
Financing of grant re Coppull Leisure Park	(25,000)
Financing of Fairview Farm Play Facilities	(97,030)
Balance as at 31 March 2011	<u><u>480,925</u></u>

25. Many of the S106 contributions received for the purpose of providing such facilities are of low value, especially if a development is in respect of only one property. If use of such contributions was restricted to the parish in which the development was located, it could take several years before the total accumulated was sufficient to implement a project. As a consequence of such issues, and reflecting the desire of parish and town councils to be involved in deciding the use of the contributions, Executive Cabinet of 3rd December 2009 approved the establishment of the Play and Recreation Fund. The intention was to ensure that the needs of the local community could be identified and that contributions would be distributed effectively. Parish and town councils, appropriate community groups, and Chorley Council can submit bids for projects to be funded from the Play and Recreation Fund. The first bids were reported to and approved by the Executive Cabinet of 2nd September 2010. Further bids for use of a S106 contribution restricted to use in Coppull were approved by the Executive Member for Partnerships and Planning on 13th July 2011.
26. A copy of the Play and Recreation Fund Application Form is attached as Appendix 1.
27. Projects being implemented by parish and town councils and other community groups include Gough Lane Play Area, Clayton le Woods; Charnock Richard FC changing rooms; Meadows Play Area, Heskin; Mossie Close Play Area, Charnock Richard; Play Zone Wheelton; Recreation Ground improvements in Eccleston and Bretherton; floodlighting for Chorley Panthers ARLFC; play area improvements in Mawdesley; and pavilion improvements in Whittle le Woods. Funding has been earmarked for a skate park in Euxton, pending confirmation of the success of other funding bids. A grant will be made to enable the further development of the Springfield Play Park in Coppull, and a grant for more improvements to Chisnall Playing Fields can be made when the contribution is received from a development in Coppull later in the year.

28. Chorley Council schemes being funded from the Play and Recreation Fund include improvements to Lodge Bank Play Area; enhanced access to Astley Park; development of the Chorley Cemetery Memorial Wetland; and improvement of Buttermere Green Play Area. Funding has been agreed for improvements to Hurst Brook and Longfield Avenue Play Areas in Coppull, which can proceed once the S106 contribution has been received in full.
29. Other schemes included in the capital programme for 2011/12 include play facilities at Eaves Green and the Yarrow Valley Country Park's Natural Play Zone. In addition, improvements to Rangleys Recreation Ground and Duke Street Field have been included in the 2011/12 programme, the £230,000 expenditure being funded from the S106 contribution received in respect of the Pilling Lane site.
30. The uncommitted balance of contributions available for play and recreation use is approximately £49,000 at present.

ENVIRONMENTAL IMPROVEMENTS

31. During 2010/11, a contribution of £25,203 was received to finance various improvement works to Milestone Meadow. These works will be completed during 2011/12, and budget provision is included in the revenue budget.

YOUTH DEVELOPMENT

32. Contributions totalling £63,978 were received during 2010/11 for youth development in Buckshaw Village. This will be spent at the rate of £16,000 each year from 2011/12 onwards, to make grants to suitable organisations. Any unspent budget provision, which is included in the revenue budget, will roll over until applied in full.

FORMER LEX AUTOLOGISTICS SITE, PILLING LANE

33. Of the total community facilities benefit contribution of £743,573 received during 2010/11, £150,000 has been earmarked for Highways Improvements and £230,000 for improving Rangleys Recreation Ground etc., as discussed above. This leaves an uncommitted balance of £363,573 not yet reflected in either the capital programme or the revenue budget.
34. The contribution could be used for the following purposes: a neighbourhood warden service and/or CCTV facilities to benefit the local area; the improvement and maintenance of any open space and recreational facilities in the local area; the carrying out of streetscape improvements in the vicinity of the site; and the carrying out improvements to off-site cycle network and public transport.

FUTURE S106 CONTRIBUTIONS

BUCKSHAW GROUP 1 DEVELOPMENT

35. The S106 agreement in respect of Group 1 (Royal Ordnance Site, Euxton Lane, Euxton) includes the following contributions, which are to be index linked and will be phased as the development proceeds. (South Ribble Borough Council would also receive some contributions, but the figures below refer only to the amounts payable to Chorley Council.)

36. Planning Officer Contribution A contribution of £16,500 per year for five years towards the cost of a planning officer, which would be index linked. Use of this contribution would be reflected in the Head of Planning's revenue budget.
37. Off-Site Public Open Space Contribution To be paid in two instalments, this would total £262,500 plus index linking. The purpose of the contribution is to provide or enhance public open space within a two mile radius of Central Avenue, Buckshaw.
38. Public Infrastructure Contribution Receivable for the purpose of making improvements to existing public infrastructure or the provision of new public infrastructure, considered to benefit the Development and/or Buckshaw Village, this would total £2,625,000 plus index linking and would be receivable in three instalments.
39. Public Transport and Community Facilities Contribution This contribution would be used to provide, enhance or replace public transport infrastructure and/or associated benefits and/or community facilities and/or associated benefits within the vicinity of the Development, Buckshaw Village and/or nearby town centres. Before index linking, the sum due would be £427,500, which would be received in three instalments.
40. Affordable housing is to be provided on-site rather than by payment of a commuted sum for off-site provision.

BUCKSHAW GROUP 4 NORTH DEVELOPMENT

41. The S106 agreement in respect of the land west of Sibbering's Farm, Dawson Lane, Whittle le Woods includes the payment of a contribution of £2,810,000 plus index linking. This would be paid in three instalments, and could be used towards the provision of off-site affordable housing, community facilities and playing fields within the vicinity of the site and towards the provision and maintenance of an equipped children's play area. The original agreement included use of an index that is no longer published, so use of an alternative index has to be negotiated with the developer.

REGISTER OF S106 AGREEMENTS

42. Further information about S106 Agreements is provided on the council's web site in the 'environment and planning' section. This contains the council's Register of S106 Agreements, which is being updated at present.

SUMMARY

43. Appendix 2 summarises the progress made in implementing S106-funded projects during 2010/11. It shows the budgeted use of contributions from 2011/12 onwards and identifies the uncommitted balance of contributions. The appendix indicates that affordable housing contributions included in the 2011/12 capital programme that have not yet been allocated to specific schemes will be rephased to 2012/13. Finally, contributions due from the continuing development of Buckshaw Village are summarised in Appendix 3. The contributions, apart from the Group 1 planning officer contribution, would be received in phases according to the number of dwellings occupied. At present, it is not possible to estimate when the contributions would be received, but the resources would be reflected in the council's budget once the sums become due.

IMPLICATIONS OF REPORT

44. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	✓	Customer Services	
Human Resources		Equality and Diversity	
Legal		No significant implications in this area	

45. Financial implications are set out in the body of the report.

GARY HALL
CHIEF EXECUTIVE

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Michael Jackson	5490	22 nd August 2011	S106 Monitoring O&S Cttee Sept 2011.doc