

Report of	Meeting	Date
Chief Executive	Overview & Scrutiny Committee	22 January 2013

MONITORING OF RECEIPT AND USE OF DEVELOPERS' SECTION 106 CONTRIBUTIONS 2011/12 ONWARDS

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.
2. To brief Overview and Scrutiny Committee about proposed changes in legislation that could affect planning obligations arising from S106 agreements.

RECOMMENDATION(S)

3. To note the progress made in implementing projects funded with developers' S106 contributions.

EXECUTIVE SUMMARY OF REPORT

4. A monitoring report showing receipt and use of contributions from 2010/11 to 2014/15 was presented to Overview and Scrutiny Committee on 5 September 2011. This report confirms actual receipt and use of contributions in 2011/12 and budgeted receipt and use from 2012/13 to 2015/16.
5. The largest scheme to be funded with developers' contributions in this period is Buckshaw Parkway railway station, £3.325 million in total.
6. A new S106 Task Group met during December 2012, and will continue to meet quarterly to monitor receipt and use of contributions.
7. Changes to existing planning obligations could arise as a result of the Growth and Infrastructure Bill 2012/13 and proposed regulations that would require renegotiation of planning obligations agreed up to 6 April 2010. This could have an impact on the Buckshaw Group 1 and Group 4 North agreements.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

8. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	✓	A strong local economy	✓
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	✓

BACKGROUND

9. A monitoring report was presented to Overview and Scrutiny Committee on 5 September 2011. The use receipt and use of contributions in the 2010/11 financial year was reported for each category of contribution. Appendix 2 to the report indicated the contributions expected to be received during 2011/12 and 2012/13, and the budgeted use of the contributions up to financial year 2014/15. The appendix identified that £412,391 contributions had not been committed to be spent by 2014/15.
10. Appendix 3 to the report indicated that contributions totalling £6,207,500 before index linking would be received as a result of the Buckshaw Group 1 and Group 4 North S106 agreements. The contributions would be received in phases according to the number of dwellings occupation, which meant that it was not possible to estimate when the contributions would be received. Use of the contributions was not yet included in the council's budget.

RECEIPT AND USE OF CONTRIBUTIONS IN 2011/12

11. The receipt and use of developers' contributions in 2011/12 is presented in Appendix 1. Contributions received during 2011/12 exceeded the figure quoted in the 5 September 2011 report by £178,146. Contributions totalling £3.222 million were applied in the year to finance schemes included in the council's revenue budget or capital programme.
12. By far the largest project was the Buckshaw Parkway railway station, implemented by Network rail in partnership with Lancashire County Council and Chorley Council. The expenditure of £2.763 million included accrued expenditure based on the outturn figure estimated by Network Rail. There was a dispute between Network Rail and the main contractor as to the final cost of the scheme, which has delayed payment by this council to LCC of the final cash sum (already accounted for in 2011/12). Now that the dispute has been resolved, it seems likely that the actual cost of the station would be less than included in the 2011/12 accounts. There would be an adjustment in 2012/13, which would mean that more of the contribution would be available for Buckshaw Village transport improvements.
13. Other payments to third parties to support their projects included the affordable housing contributions to housing association affordable housing schemes (£134,430); and Play and Recreation Fund schemes implemented by parish councils and other bodies (£124,727).

RECEIPT AND USE OF CONTRIBUTIONS 2012/13 ONWARDS

14. Appendix 1 also presents an updated estimate for contributions receivable from 2012/13 to 2014/15, and introduces figures for 2015/16. In total, contributions due between 2012/13 and 2014/15 have increased by £362,509 compared to the figure reported on 5/9/11. Of this total, £229,202 is in respect of play and recreation facilities; affordable housing £53,702; community facilities in Eccleston £22,764; and the Buckshaw Planning Officer £56,841 (including estimated index linking).

15. Budgeted use of contributions from 2012/13 to 2015/16 is also presented in Appendix 1. The phasing of use to finance capital projects is the same as reported to Executive Cabinet on 17 January 2013. However, use in 2012/13 could change before the end of the financial year. Use of the balance of the Buckshaw station contribution could not be considered until finalisation of the station contract, so rephasing of expenditure to 2013/14 seems likely. Affordable housing projects are being developed in partnership with housing associations, but it is not certain that the 2012/13 budget would be used in full by the end of the financial year. Use of the budgets for a Collingwood Road puffin crossing (£47,820) and highway improvements in the Pilling Lane area (£150,000) depend on implementation of the works by Lancashire County Council, so phasing of expenditure is beyond the control of this council. The Rangletts Recreation Ground project is due to commence during 2012/13, but is likely to continue into 2013/14. Unfortunately an estimated split between years of the expenditure is not available at present.
16. A budget of £224,089 for Play, Recreation and Public Open Space projects is included in the 2013/14 capital programme. This consists of several contributions restricted to use in specific areas rather than being available for Borough-wide use via the Play and Recreation Fund. It will be allocated to specific projects, which could include support for appropriate schemes implemented by other bodies such as parish councils.
17. The Appendix shows that £60,526 Play and Recreation contributions are not committed, though £21,735 of this figure has not yet been received. Of the Pilling Lane contribution, £363,570 has not been committed. However, it is likely that part of this sum would be required to increase the budget for the Rangletts Recreation Ground project to include additional facilities; and to provide CCTV in the area of the development. Approval of the budget changes would be requested once estimated costs are available.

S106 TASK GROUP

18. The first meeting of a new S106 Task Group, consisting of officers from Planning, Legal, People and Places, and Shared Financial Services, was held on 18 December 2012. The group was convened in response to an internal audit recommendation. Meetings would be held quarterly, the first full meeting being due during January 2013.

GROWTH AND INFRASTRUCTURE BILL 2012/13

19. As reported in my Capital Programme monitoring report to Executive Cabinet of 22 November 2012 and Council of 8 January 2013, the Government has recently published the Growth and Infrastructure Bill 2012/13. One purpose of the Bill is to unlock stalled housing sites by allowing for affordable housing in S106 agreements to be reconsidered where the agreements are “economically unrealistic”, particularly those negotiated at the height of the housing boom. The intention of the Bill is to deliver more housing, but the potential impact on affordable housing delivered on-site or off-site through S106 agreements is unclear at present. The second reading of the Bill in the House of Lords was on 8 January 2013, and the Lords committee stage will commence on 22 January 2013.
20. Consultation on the renegotiation of Section 106 planning obligations ran from 13 August to 8 October 2013. As at 9 January 2013, the DCLG web site indicates that responses are being analysed. The DCLG’s proposal is that for all planning obligations agreed on or prior to 6 April 2010, the relevant local authority could be required to renegotiate the terms of planning obligations one month after the introduction of the new regulations (*Town and Country Planning (Modification and Discharge of Planning Obligations) (Amendment) (England) Regulations 2012*) required to implement the policy change. For all planning

obligations agreed after 6 April 2010, the period for a formal request to reconsider an obligation would remain at five years, as at present. Such planning obligations could be renegotiated voluntarily at any time, as allowed by Section 106A of the Town and Country Planning Act 1990.

21. Planning obligations agreed up to 6 April 2010 include Buckshaw Group 1 (agreement dated 22 December 2009); and Buckshaw Group 4 North (agreement dated 31 March 2008). Contributions totalling £3,397,500 before index linking would be receivable as a result of the Group 1 agreement; and £2,810,000 before index linking in respect of Group 4 North. To date, only the 2011/12 Planning Officer contribution (£17,802) resulting from the Group 1 agreement has been received. Voluntary negotiations about the obligations have been taking place in advance of the proposed statutory change.

IMPLICATIONS OF REPORT

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

Finance	✓	Customer Services	
Human Resources		Equality and Diversity	
Legal	✓	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

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

COMMENTS OF THE MONITORING OFFICER

24. The Monitoring Officer has no comments.

GARY HALL
CHIEF EXECUTIVE

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
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