

FINANCE, AUDIT AND RISK COMMITTEE 12 JUNE 2017

*PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No. 8
----------------------------------	--

TITLE OF INFORMATION NOTE: PLANNING OBLIGATION FUNDING (SECTION 106 AND UNILATERAL UNDERTAKINGS)

INFORMATION NOTE OF THE HEAD OF FINANCE, PERFORMANCE AND ASSET MANAGEMENT

1. SUMMARY

- 1.1 Planning obligation funding is available for capital projects, as long as they meet the conditions of why the funding was provided. There may be a need to return funding that is not used within the terms of the funding within a specified period. The Council always seeks to avoid this.
- 1.2 Where possible, the funding will be used to reduce the amount that the Council has to contribute towards projects from its own resources. Some projects may only come about as a result of the planning obligation income received. The Council must consider whether it has to contribute any capital funding and any ongoing revenue costs that may result before going ahead with these.
- 1.3 The time period for spending planning obligation funding is usually quite long i.e. 10 years for section 106 agreements and unrestricted for unilateral undertakings. This means that the balances held are quite high, but these are kept under regular review to ensure optimal usage and avoid having to pay back amounts to developers

2. STEPS TO DATE

- 2.1 Annual reports are provided to Area Committees on the planning obligation totals for their area. This information note provides a general overview of the balances held.

3. INFORMATION TO NOTE

- 3.1 The Council introduced a Planning Obligations supplementary planning document (SPD) in 2006 giving a formula for developers to use to calculate what their planning contribution costs might be. Planning obligation payments should reflect the additional demand placed on infrastructure, services and public facilities by new development. For simpler developments the planning contribution may be through a unilateral undertaking. For more complex developments there will need to be an agreement between the developer and the Council, i.e. a section 106 agreement.
- 3.2 Planning obligation payments are for facilities and infrastructure and therefore can only be used for capital expenditure. The agreement in relation to the planning obligation is likely to stipulate what the funding will be used for and also set a time period for doing so. Unilateral undertakings do not have a time period for when they need to be used. Where the funding is not used in accordance with the agreed purpose then it may have to be returned to the developer.

- 3.3 The Community Infrastructure levy (CIL) regulations came into force in April 2010. It is unlikely that the Council will adopt a Community Infrastructure Charging Schedule until after 2018 following the adoption of a Local Plan.
- 3.4 Developer Contributions can be a source of funding for the Council's capital programme. Wherever possible the contributions will be used towards existing planned projects to reduce the amount that has to be funded from other Council resources (e.g. set-aside and capital receipts). For some balances specific projects may be identified to make use of the available funding. There should always be a consideration of whether the Council has to provide additional capital funding and the ongoing revenue costs that arise from any new facilities or infrastructure.
- 3.5 Contributions that the Council is holding (i.e. received but not yet spent) are invested in the same way as any cash balances that the Council holds. The interest from these balances supports General Fund expenditure.
- 3.6 Table 1 below shows a summary of the planning obligation balances by year and by type:

Table 1, Planning Obligation amounts by year and by type (£000)

	31st 2017	March	31st 2016	March	31st 2015	March
Community Centres and Halls	-301		-466		-520	
Leisure	-225		-332		-474	
Open Spaces	-314		-381		-479	
Pitch Sports	-216		-254		-262	
Play Spaces	-241		-353		-463	
Public Realm	-11		-4		-4	
Transport	-728		-732		-733	
Other	-711		-627		-438	
Amounts held on behalf of HCC	-13		-191		-226	
	-2,761		-3,340		-3,599	

- 3.7 The Council holds planning obligation amounts in respect of sustainable transport. Hertfordshire County Council (HCC) is kept informed of the amounts being held so that they can incorporate them in to their schemes, as they are the highways authority. The Council can also identify and deliver their own schemes that are not highways related, such as providing cycle racks. Table 1 above also highlights some other balances that are being held on behalf of HCC.
- 3.8 The Council also holds balances in relation to Police and Healthcare (£211k at 31st March 2017). These are included within the 'other' total in table 1. Relevant contacts at these organisations are made aware of the balances that are available.
- 3.9 Rural balances are made up of lots of small amounts allocated to each parish area. This means that it can take a long time to identify projects that meet the requirements and do not require the Council to contribute additional capital funding.

- 3.10 Of the amounts that the Council are best able to influence (i.e. excluding police, healthcare and sustainable transport), the majority of the amounts are in progress, due to commence or are for projects which require additional contributions to commence.
- 3.11 The only amount that has ever been required to be returned to a developer was £7k. This was for a town centre cycle way scheme that was not implemented.

4. NEXT STEPS

- 4.1 This information note was requested by the Committee. There are no planned follow up reports.

5. CONTACT OFFICERS

- 5.1 Ian Couper, Head of Finance, Performance and Asset Management,
01462 474243 ian.couper@north-herts.gov.uk
- 5.2 Simon Ellis, Development and Conservation Manager
01462 474264 simon.ellis@north-herts.gov.uk