

London Borough of Hammersmith & Fulham

Report to: Cabinet

Date: 06/07/2020

Subject: Planning Obligations Draw Down Report 2019/20

Report of: The Cabinet Member for the Economy – Councillor Andrew Jones and the Cabinet Member for Finance and Commercial Services – Councillor Max Schmid.

Report author: Matthew Paterson, Interim Head of Spatial Planning

Responsible Director: Tony Clements, Interim Strategic Director for the Economy

Summary

The Council is required to use funds received from planning obligations to address the impact of developments carried out.

This report sets out the use of funds received through Section 106 (S106) agreements and received as a result of the Community Infrastructure Levy (CIL) schedules in force in the Borough. It seeks approval to the drawdown of these funds for projects which have been delivered in 2019/20.

The spending program for 2019/20 reflects the terms of the relevant S106 agreements and supports delivery of the Council's priorities set out in the corporate Business Plan, Industrial Strategy and adopted Local Plan.

Recommendations

1. That Cabinet approve the 2019/20 drawdown of Section 106 and CIL monies as set out in section 4 of this report, to fund expenditure of **£15,948,457**, including **£254,754** of monitoring and administration costs.

Wards Affected: All

H&F Priorities

Please state how the outcome will contribute to our priorities – delete those priorities which are not appropriate

Our Priorities	Summary of how this report aligns to the H&F Priorities
Building shared prosperity	Ensuring funding from new development supports and benefits existing communities and residents
Creating a compassionate council	S106 funding is used to provide new community facilities and services that bring the community together
Doing things with local residents, not to them	Spacehive is the H&F platform for crowdfunding of local projects and initiatives which are match funded through CIL receipts
Being ruthlessly financially efficient	A significant number of S106 and CIL projects are capable to leveraging external funding to maximise the benefits to local residents
Taking pride in H&F	S106 funds many of the projects to improve or parks and town centres so that residents continue to enjoy and make the most of these borough assets

Financial Impact

The report confirms the drawdown of **£15,948,457** of S106 and Borough CIL contributions to cover relevant and eligible expenditure incurred during the financial year 2019/20, including monitoring costs. These drawdowns are against balances of funds received by developers and held by the Council.

The monitoring costs of **£254,754** is funded from interest earned on S106 agreements (£159,953) and from Borough Community Infrastructure Levy funds (£94,801).

Legal Implications

Regulation 122 of the CIL Regulations and Paragraph 56 of the National Planning Policy Framework (“NPPF”) which requires planning obligations to be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Section 106(1) of Town and Country Planning Act 1990 as amended, states a person may to enter into an agreement containing these planning obligations.

Section 106(1)(d) allows the Local Authority to require sums on a specified date or dates periodically to be paid to the Authority as an obligation in the agreement.

Section 216 (2) of the Planning Act 2008 and regulation 59 of the CIL Regulations (as amended by the 2012 and 2013 Regulations), the levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, open spaces, sporting and recreational facilities and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities covered in paragraphs 3 to 14 of this report. Charging authorities may not use the levy to fund affordable housing.

Section 1 of the Localism Act 2011 grants Councils a General Power of Competence whereby a Local Authority has power to do anything that individuals generally may do, including the use of funds received from planning obligations to address the impact of developments carried out in the borough.

The costs of delivering the projects as identified in this report are to be secured by the s.106 agreements listed below. Financial contributions secured under s.106 agreements are to be used for the purposes intended under the terms of the 106 agreement. Legal services have checked the s.106 agreements listed at paragraphs 3 to 14 to this report and are satisfied that the section 106 contributions can be used for the proposed purposes as identified in this report.

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Background Papers Used in Preparing This Report

None.

THE 2019/20 DRAWDOWN

1. All drawdown requests set out in this report have been assessed by the S106/CIL Board of senior officers and the Strategic Leadership Team to ensure they meet the identified purpose within the s106 agreement and the tests within the legislation. SLT then made recommendations for spend to the S106/CIL Member Board, ensuring all projects support the delivery of the Council's Local Plan, Business Plan 2018-2022 objectives and the Industrial Strategy.
2. The following schedules summarise the projects that have been agreed through the above process and completed in 2019/20 and the relevant s106 agreement. Cabinet approval of the drawdown of funds is now sought.

Community Safety Initiatives

3. £1,459,444 towards Community safety initiatives such as CCTV installation and enhanced policing projects to address increased crime/fear of crime arising from new developments and population growth. To be funded from:

S106 Ref No.	Site	Amount (£)
732	Chelsea Creek, Lots Road	£473,148
867	M&S White City	£473,148
776	Kings Mall Car Park, Glenthorne Rd 45 Beadon Rd	£473,148
926	Fulham Football Club, Stevenage Road	£40,000

Parks Projects

4. £452,200 to fund parks projects necessary to improve parks in the borough and/or increase their capacity necessary to support increasing and changing population. Projects include various improvements to Ravenscourt Park, Brook Green, Bishops Park, Hammersmith Park, St Paul's Park, Normand Park, Marcus Garvey, Margravine Gardens, Eel Brook, South Park, Frank Banfield Park and Shepherds Bush Green as well as minor improvements to other parks across the Borough. To be funded from:

S106 Ref No.	Site	Amount (£)
926	Fulham Football Club, Stevenage Road	£39,570
424	Saunders House	£1,867
712	Janet Adegoke Leisure Centre	£1,116
739	Ravenscourt House, 3 Paddenswick Road	£4,445
725	Ashlar Court, Ravenscourt Gardens	£13,728
SOTHMISC03	Hammersmith Park	£8,167
752	174 Hammersmith Road	£79,417
776	Kings Mall Car Park, Glenthorne Rd & 45 Beadon Rd	£74,907
503	West 12 Shopping Centre	£4,745
756	22 Bute Gardens & 11-17 (odd) Wolverton	£2,009

	Gardens	
830	271-281 King Street W6	£20,361
468	Empress State Building	£14,346
777	Land Bounded By Harbour Avenue & Lots Rd	£121,750
716	Fulham Reach	£40,948
413	West 12 (Concord Centre), Shepherd's Bush	£24,824

Housing Projects

5. £1,091,618 towards the delivery of affordable housing projects in the borough, including initiatives at various sites including Spring Vale, Edith Summerskill House and Barons Court. To be funded from:

S106 Ref No.	Site	Amount (£)
877	Nomis Studios, 45 - 53 Sinclair Road	£534,464
867	M&S White City	£284,724
777	Land Bounded By Harbour Avenue & Lots Road	£272,430

Economic Development Projects

6. £1,005,869 towards economic development and training and skills projects in the borough including Place-Making Activities, local supply chain procurement, and the establishment of a Growth and Innovation partnership with Imperial College. This is to be funded from:

S106 Ref No.	Site	Amount (£)
722	Chelsea Creek	£151,570
867/917	M&S White City	£53,305
851	Former BBC TV Centre Wood Lane	£142,544
687	58 Shepherd's Bush Green	£32,821
721	51 Townmead Road	£22,459
729	28-36 Glenthorne Road	£13,000
784	282 - 292 Goldhawk Road	£9,000
926	Fulham Football Club, Stevenage Road	£25,000
161	Quayside Lodge, Townmead Road	£58,861
732	Chelsea Creek, Lots Road	£177,570
776	Kings Mall Car Park, Glenthorne Rd & 45 Beadon Rd	£56,462
777	Land Bounded By Harbour Avenue & Lots Road	£16,015
795	Earls Court 2, Lillie Bridge Rd	£16,015
805	258 - 264 Goldhawk Road	£8,170
804	77 - 89 Glenthorne Road London	£16,015
823	Edison Court & Tesla Court, Warple Way	£16,015
830	271-281 King Street	£16,015
862	Bechtel House 245 Hammersmith Road	£16,015
897	Woodlands 80 Wood Lane	£16,015
296/629/ 630	Westfield	£143,002

Highway Works

7. £528,111 towards highway projects in the borough directly required because of developments taking place. To be funded from:

S106 Ref No.	Site	Amount (£)
703	295 North End Road	£18,025
776	Kings Mall Car Park, Glenthorne Rd 45 Beadon Rd	£80,843
721	51 Townmead Road	£52,082
732	Chelsea Creek, Lots Road	£77,924
867	M&S White City	£5,712
777	Chelsea Harbour	£91,089
722	Chelsea Creek	£4,331
851	Former BBC TV Centre Wood Lane	£77,924
832	Land North of Westfield Shopping Centre	£42,331
898	214 to 226 (evens) Shepherds Bush Road	£17,733
723	26 Sullivan Road & 92-116 Carnwath Road	£5,338
751	Hammersmith and Fulham Irish Centre	£11,571
933	Land known as Walkabout Inn incl Dorsett Hotel	£38,706
864	Mackenzie Trench House, Lillie Road	£1,988
769	Riverview House	£2,514

Arts and Culture

8. £149,670 towards Arts and Culture Development in the borough, including improvements to facilities at the Macbeth Centre that support the furthering of arts, community education and training, implementation of Arts Strategy projects, and community workshop programmes at the Bush Theatre. To be funded from:

S106 Ref No.	Site	Amount (£)
943	Olympia Exhibition Centre, Hammersmith Road	£83,432
867	M&S White City	£10,000
784	282 - 292 Goldhawk Road	£41,466
866	Horatio & Ophelia House, 77 Fulham Palace Rd	£13,517
698	Hammersmith Palais, 242 Shepherd's Bush Road	£1,009
776	Kings Mall Car Park, Glenthorne Rd & 45 Beadon Rd	£246

Community Wellbeing & Social Inclusion Projects

9. £154,771 towards community wellbeing and social inclusion projects to address the increased needs generated by population growth and change in the borough, including funding of Social Inclusion events and initiatives in Hammersmith & Fulham. To be funded from:

S106	Site	Amount
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Ref No.		(£)
851	Former BBC TV Centre Wood Lane	£52,006
438	Gibbs Green	£7,972
776	Kings Mall Car Park, Glenthorne Rd & 45 Beadon Rd	£26,302
861	London House	£38,491
827/844/ 851	Former BBC TV Centre Wood Lane	£30,000

Community Facilities

10. £2,682,770 towards new and improved facilities to increase capacity and extend provision, including improvements to the Hammersmith and Shepherds Bush libraries, and the new Sands End Community Centre and Nourish Hub. To be funded from:

S106 Ref No.	Site	Amount (£)
776	Kings Mall Car Park, Glenthorne Rd & 45 Beadon Rd	£680,057
784	282 - 292 Goldhawk Road	£31,028
718	405 King Street	£2,063
726	Apex Court, 1 Woodger Road	£20,371
725	Ashlar Court, Ravenscourt Gardens	£56,043
722	Chelsea Creek	£186,912
884	Stamford Bridge Fulham Road	£1,574,075
867	M&S White City	£66,464
827/844/ 851	Former BBC TV Centre Wood Lane	£65,757

Schools / Education

11. £359,675 towards Schools / Education projects, including educational attainment and the creation of a state-of-the art learning and play centre for disabled children and young people at Queen's Manor Primary School. To be funded from:

S106 Ref No.	Site	Amount (£)
917	M & S White City, 54 Wood Lane	£78,951
861	London House, 100 New King's Road	£34,673
776	Kings Mall Car Park, Glenthorne Rd & 45 Beadon Rd	£17,000
804	77 - 89 Glenthorne Road	£3,402
722	Chelsea Creek	£28,288
851	Former BBC TV Centre Wood Lane	£10,137
843	Thames Tidal Tunnel	£187,224

Environmental Improvement & Monitoring

12. £369,838 towards waste disposal / environmental protection and on-site monitoring for air quality, land contamination and environmental health. To be funded from:

S106 Ref No.	Site	Amount (£)
867	M&S White City	£116,000
843	Thames Tidal Tunnel	£60,639
795	Earls Court 2, Lillie Bridge Rd	£40,000
864	Mackenzie Trench House Lillie Road	£21,926
833	Godolphin and Latymer School, Iffley Road	£8,992
744	The Former Favourite Public House, St Ann's Rd	£31,321
862	Bechtel House 245 Hammersmith Road	£17,118
804	77 - 89 Glenthorne Road London	£45,238
706	120 Broughton Road	£2,976
506	Britannia House, 1-11 Glenthorne Road	£25,628

Carbon Offsetting

13. £77,261 towards carbon reduction initiatives, such as the replacement of existing street lighting with LED lighting.

S106 Ref No.	Site	Amount (£)
862	Bechtel House 245 Hammersmith Road	£38,630
919	Lavender Court 168-178 Westway & Joslings Close	£38,631

Services of the Council

14. Several new developments have resulted in additional pressures and costs to the Council of operating services that it would otherwise not have needed to operate. £3.3m to be recovered from S106 being made up of the following: -

S106 Ref No.	Site	Amount (£)
722	Chelsea Creek	£1,650,000
732	Chelsea Creek, Lots Road	£1,650,000

CIL

15. £174,149 in neighbourhood CIL was drawn down for match funding of local projects that gain the necessary support of the community on the H&F Hive crowdfunding platform and for the Liveable Neighbourhoods project for North End Road.
16. £3,888,330 in strategic CIL was drawn down for the refurbishment of the Civic Campus

Monitoring and Management Costs

17. £254,754 is being draw down in 2019/20 to cover the Council's cost of monitoring and managing S106 and CIL contributions. Funds specifically covering the administrative expense to the Council are secured through S106 agreements and through CIL (5% of the CIL charge in respect of the Borough CIL and 4% in respect of Mayoral CIL).

Reasons for Decision

18. Planning obligations are used to secure benefits capable of mitigating the adverse impacts of a development. Planning obligations can take the form of legal agreements, known as Section 106 Agreements (S106), made under the Town and Country Planning Act 1990 (as amended), and as a Community Infrastructure Levy (CIL), that is charged on the net additional floorspace created by certain types of new development within the Borough.
19. Funds received pursuant to S106 agreements must be used for the purposes specified in those agreements or, where there is flexibility within the terms of the agreement, for purposes that comply with the following tests:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
20. With respect to CIL receipts, the Council is required to use 15% of the borough CIL on projects in agreement with the Community, and then the remainder towards Infrastructure needed to support development in the Borough together with its operation, maintenance and repair.
21. This report seeks approval for the 2019/20 spend of monies received from S106 obligations and CIL for the purposes set out in this report.

Equality Implications

22. It is not anticipated that the approval of the drawdown of Section 106 and CIL monies (as set out in the Recommendations) will impact negatively on protected groups under the Equality Act 2010.
23. *Implications verified by: Fawad Bhatti. Policy & Strategy Officer, tel. 07500 103617.*

Risk Management Implications

24. The Council's approach to Being Ruthlessly Financially Efficient extends to ensuring appropriate governance and oversight for the use of s106 funds received is in place. Measures include an established s106 Office Board (including the Director of Finance and the Director of Resources) which considers asks of s106 and makes recommendations on allocations for approval by a s106 SLT/Member Board. There is a clear protocol in place setting out how proposals for use of s106 are to be justified and are compliant

with the specific s106 agreement which it is proposed to utilise. Additional cost pressures are anticipated following the outbreak of Covid-19, these are yet to be fully known.

25. *Implications completed by: Michael Sloniowski, Risk Manager, tel 020 8753 2587.*

Consultation

26. The projects funded form part of the service plans for each of the services of the Council.

List of Appendices:

None.