


<p style="text-align: center;">London Borough of Hammersmith & Fulham</p> <p style="text-align: center;">CABINET</p> <p style="text-align: center;">1 JULY 2019</p>	
<p>PLANNING OBLIGATIONS DRAW DOWN REPORT 2018/19</p>	
<p>Report of the Cabinet Member for Finance and Commercial Services - Councillor Max Schmid and the Cabinet Member for the Economy - Councillor Andrew Jones</p>	
<p>Open Report</p>	
<p>Classification - For Decision Key Decision: Yes</p>	
<p>Consultation: All departments</p>	
<p>Wards Affected: All</p>	
<p>Accountable Director: Jo Rowlands, Strategic Director for the Economy</p>	
<p>Report Author: Joanne Woodward, Chief Planning & Economic Development Officer</p>	<p>Contact Details: Tel: 020 8753 4429 E-mail: Joanne.Woodward@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1. The Council is required to use funds received from planning obligations to address the impact of developments carried out.
- 1.2. This report sets out the recommended use of funds received through Section 106 agreements and received as a result of the CIL schedules in force in the borough. It seeks authority for the drawdown of these funds for projects which have been delivered in 2018/19.
- 1.3. The spending program for 2018/19 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.

2. RECOMMENDATIONS

- 2.1. That officers be authorised to drawdown Section 106 and CIL monies as set out in section 4 of this report, to fund expenditure of **£14,167,432** including **£288,946** of monitoring and administration costs.

3. REASONS FOR DECISION

- 3.1 The Council enters into agreements with developers and land owners under Section 106 (S106) of the Town and Country Planning Act 1990 to enable mitigation of impacts of development and to enable delivery of necessary social and physical infrastructure.
- 3.2 For a Council to enter into an agreement under S106 of the Town and Country Planning Act, the obligations need to comply with the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. All obligations must be:
- Necessary to make the development acceptable in planning terms;
 - Relevant to the development being permitted; and
 - Reasonable in all other respects.
- 3.3 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 tests set out above.
- 3.4 In addition to S106, the Council has a Community Infrastructure Levy (CIL) charging schedule in force and has been collecting monies as a charging authority as well as on behalf of the Mayor. 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.
- 3.4 This report seeks authority for the 2018/19 spend of monies received from S106 obligations and CIL for the purposes set out in this report.

4. THE 2018/19 DRAWDOWN

- 4.1 All drawdown requests set out in this report have been assessed by the S106/CIL Officer Board to ensure they meet the identified purpose within the s106 agreement and the tests within the legislation. In reaching its recommendation, the Board also ensures the proposal supports the delivery of the Council's Local Plan, Business Plan 2018-2022 objectives and the Industrial Strategy. The following schedules summarise the projects that have been completed in 2018/19 and the relevant s106 agreement for which approval of the drawdown of funds is sought.

4.2 Community Safety Initiatives

£3,046,812 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 (£)
506	Britannia House, 1-11 Glenthorne Road	432,957
716	Fulham Reach	167,177
722	Chelsea Creek, Imperial Road	11,082
744	Site of The Former Favourite Public House	45,202
777	Land Bounded by Harbour Avenue and Lots Road	28,099
798	Service Station on Du Cane Road	412,500
799	Parsons Green Club	140,396
843	Thames Tidal Tunnel (TTT)	1,028,500
892	Sunberry Day Centre - Land North of Westfield Shopping Centre	780,899

4.3 Parks Projects

£860,967 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 the Ravenscourt Park masterplan, Wormholt Park refurbishment, St Paul's Park Improvements and the ecology garden at South Park. To be funded from: -

S106 Ref No.	Site	Amount (£)
468	Empress State Building	2,840
506	Britannia House, 1-11 Glenthorne Road	76,979
710	248 Hammersmith Grove	73,992
712	Janet Adegoke Leisure Centre	8,642
722	Chelsea Creek, Imperial Road	11,062
730	Farm Lane Trading Estate	69,138
739	Ravenscourt House, 3 Paddenswick Road	33,595
784	282 - 292 Goldhawk Road	93,350
801	Riverside Studios and Queens Wharf	57,000

828	176 - 182 Goldhawk Road	20,481
830	271-281 King Street	83,628
843	Thames Tidal Tunnel (TTT)	117,346
867	M&S White City Site	111,821
892	Sunberry Day Centre - Land North of Westfield Shopping Centre	101,093

4.4 **Housing Projects**

£619,266 towards the delivery of affordable housing projects in the borough, including initiatives at various sites including, Fulham North Housing office, Ed City, Flora Gardens, Edith Summerskill House and 50 Commonwealth Avenue. To be funded from: -

S106 Ref No.	Site	Amount (£)
777	Land Bounded by Harbour Avenue and Lots Road AKA Chelsea Island	414,997
794	London House, 100 New King's Road	21,149
867	M&S White City Site	183,120

4.5 **Economic Development Projects**

£741,684 towards economic development and training and skills projects in the borough including North End Road market and Place-Making Activities and the establishment of a Growth and Innovation partnership with Imperial College. This is to be funded from: -

S106 Ref No.	Site	Amount (£)
691	Woodlands, 80 Wood Lane	90,432
733	Earls Court, Seagrave Road	569,768
804	77 - 89 Glenthorne Road London	15,810
843	Thames Tidal Tunnel (TTT)	58,238
867	M&S White City Site	7,436

4.6 Highway Works

£4,325,585 towards highway projects in the borough directly required because of developments taking place, including Harbour Avenue highway improvement works, Ariel Way/ Wood Lane Highway Works and various Street Czar projects. To be funded from: -

S106 Ref No.	Site	Amount (£)
458	Chelsea Village	2,835
478	Site at Wandsworth Bridge Rd/Townmead Rd junction	4,700
506	Britannia House, 1-11 Glenthorne Road	23,683
716	Fulham Reach	22,817
722	Chelsea Creek, Imperial Road	9,832
723	26 Sullivan Road and 92-116, Carnwath Road	6,026
733	Earls Court, Seagrave Road	309,362
740	Stewart's Garages, 72 Farm Lane	83,746
743	84 - 90B Fulham High Street	95,981
777	Land Bounded by Harbour Avenue and Lots Road	110,936
799	Parsons Green Club	25,370
801	Riverside Studios and Queens Wharf	53,694
802	7 - 9 Wyfold Road, London	19,714
830	271-281 King Street	105
832	Land North of Westfield Shopping Centre	390,562
843	Thames Tidal Tunnel (TTT)	859,144
862	Bechtel House	39,774
867	M&S White City Site	27,956
868	58 - 76 Willow Vale	5,571
877	Nomis Studios	4,249

884	Stamford Bridge Grounds	246,911
917	Land known as the M & S White City site at 54 Wood Lane	915,229
296 (+ 629 and 630)	Westfield	110,154
S278	Seagrave Road / Lillie Square	864,166
S278	Wood Lane Streetscape Improvement	93,068

4.7 **Arts and Culture**

£68,767 towards Arts and Culture Development in the borough, including Bush Theatre improvements and Arts Strategy projects. To be funded from: -

S106 Ref No.	Site	Amount (£)
506	Britannia House, 1-11 Glenthorne Road	26,504
733	Earls Court, Seagrave Road	15,000
877	Nomis Studios, 45 - 53 Sinclair Road	2,263
CIL	Bush Theatre	25,000

4.8 **Social Inclusion Projects**

£33,067 towards social inclusion projects to address the increased needs generated by population growth and change in the borough, including the expansion of the Social Inclusion Unit and funding for a Crisis Navigator - to support residents affected by the rollout of the Universal Credit scheme in Hammersmith & Fulham. To be funded from: -

S106 Ref No.	Site	Amount (£)
843	Thames Tidal Tunnel (TTT)	3,233
861	London House, 100 New King's Road	23,255
296 (+ 629 and 630)	Westfield	6,579

4.9 **Libraries and Community Centres**

£361,944 towards Libraries and Community Centres/ improved facilities to increase capacity and extend provision, including projects at the Macbeth centre and Sands End Community centre. To be funded from: -

S106 Ref No.	Site	Amount (£)
862	Bechtel House 245 Hammersmith Road	155,832
884	Stamford Bridge Grounds, Fulham Road	206,112

4.10 **Schools / Education**

£250,767 towards Schools / Education projects, including the TBAP Bridge project to enhance the curriculum offer to Hammersmith & Fulham students at the Bridge Academy. To be funded from: -

S106 Ref No.	Site	Amount (£)
506	Britannia House, 1-11 Glenthorne Road	30,644
721	51 Townmead Road	220,123

4.11 **Environmental Monitoring**

£269,627 towards waste disposal / environmental protection and on-site monitoring for air quality, land contamination and environmental health.

S106 Ref No.	Site	Amount (£)
733	Earls Court, Seagrave Road	10,000
777	Land Bounded by Harbour Avenue and Lots Road London AKA Chelsea Island	107,017
795	Earl's Court 2 Exhibition Centre, Lillie Bridge Rail Depot	111,255
843	Thames Tidal Tunnel (TTT)	20,100
867	M&S White City Site, 54 Wood Lane	21,255

4.12 **Services of the Council**

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. Authority is sought for **£3,300,000** to be recovered from S106 being made up of the following: -

S106 Ref No.	Site	Amount (£)
722	Chelsea Creek, Imperial Road	1,650,000
777	Land Bounded by Harbour Avenue and Lots Road	825,000
843	Thames Tidal Tunnel (TTT)	825,000

- 4.13 **Monitoring and Management Costs** - The cost to planning of monitoring and managing S106 and CIL contributions. Authority is sought to draw down **£288,946** for monitoring and managing obligations costs from S106 funds specifically for this purpose and interest. Authority is also sought to draw down the operation costs of CIL from the 4% administrative expenses.

5. **CONSULTATION**

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

6. **EQUALITY IMPLICATIONS**

- 6.1 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.
- 6.2 *Implications completed by: Fawad Bhatti, Social Inclusion Policy Manager, tel. 07500 103617.*

7. **LEGAL IMPLICATIONS**

- 7.1 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.
- 7.2 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.

- 7.3 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 defenses, 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 4.2 – 4.13 of the report. Charging authorities may not use the levy to fund affordable housing.
- 7.4 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.
- 7.5 The Council has entered into a significant number of Section 106 agreements. Section 106 Funds can only lawfully be applied in accordance with the terms of each specific agreement, as approved by the Planning Applications Committee. Officers will need to ensure that the funding proposals as set out in this Report are permitted under the terms of each individual Section 106 agreement to include any subsequent variation/s to those agreements agreed between the parties.
- 7.6 Funds received from the S106 agreements and interests generated from the must be used for the purposes specified in the agreements. The interests of from the contributions must be used for the same purpose as the obligations requiring the fees were paid.
- 7.7 *Implications verified/completed by:* Emmanuel Amponsah, Solicitor 07788418743.

8. FINANCIAL IMPLICATIONS

- 8.1. The report requests the drawdown of **£14,167,432** of S106 and Borough CIL contributions to cover relevant and eligible expenditure incurred during the financial year 2018/19, including monitoring costs. These drawdowns are against balances of funds received by developers and held by the Council.
- 8.2. The monitoring costs of **£288,946** will be funded from available S106 and Borough CIL balances. This will be funded from interest earned on S106 agreements (**£179,829**) and from Borough Community Infrastructure Levy funds (**£109,117**).
- 8.3. Implications completed by: Trina Tali-Zekaj, Principal Accountant (Planning), Finance and Governance, 020 8753 2946 and Danny Rochford, Head of Finance (The Economy), Finance and Governance, 020 8753 4023.

Implications verified by: Emily Hill, Assistant Director, Corporate Finance, 020 8753 3145.

9. IMPLICATIONS FOR BUSINESS

- 9.1. Initiatives supported via the economic development and related strands contain support for local SMEs, including local procurement opportunities and access to wider business support. Hence, the investment of S106 funds into economic development initiatives is deemed to provide positive impact for local businesses.
- 9.2. Planning colleagues are working closely with the Economic Development Team to secure S106 funding for local employment and business initiatives and support their implementation.
- 9.3. *Implications verified/completed by: Albena Karameros, Economic Development Team, tel. 020 7938 8385.*

10. RISK MANAGEMENT

- 10.1 To ensure appropriate governance and oversight for the use of s106 funds received and to demonstrate ruthless financial efficiency, a s106 Board has been established (including the Strategic Director of Finance and Governance and the Assistant Director of Legal and Governance) which makes recommendations on allocations for approval by the relevant Cabinet member/Cabinet as appropriate under the scheme of delegation. 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.
- 10.2 *Implications completed by: David Hughes, Director of Audit, Fraud, Risk and Insurance, 07817 507695.*

11. COMMERCIAL IMPLICATIONS

- 11.1 Monies which are received from a developer which arise from the terms of an Agreement under section 106 can only be expended by the Council strictly in accordance with the terms of the Agreement.
- 11.2 The proposed expenditure outlined in the report must be in accordance with the relevant Agreements.
- 11.3 All expenditure shall follow the rules and regulations set out in CSOs and PCR2015.
- 11.4 *Implications verified/completed by: Joanna Angelides, Procurement Consultant, tel. 020 8753 2586.*

12. IT IMPLICATIONS

- 12.1 No IT implications are considered to arise from this report as it requests authorisation for officers to draw down on Section 106 and CIL monies as set out in the report. Should this not be the case, for example, by requiring new

systems to be procured or existing systems to be modified; or, should this change, for example, by considering how information technology could be deployed to assist with the monitoring of these monies; IT Services should be consulted.

- 12.2 IM implications: (the) Privacy Impact Assessment(s) (PIA) for any personal data processing activities affected by this report need to be updated to reflect any changes to the way that data is processed and stored. This will ensure all potential data protection risks are properly assessed with mitigating actions agreed and implemented. If (a) PIA(s) is/are not yet in place to cover the relevant data processing activities, one/these will need to be completed.
- 12.3 Any contracts arising from this report will need to include H&F's data protection and processing schedule if this is not yet the case. This is compliant with the General Data Protection Regulation (GDPR) enacted from 25 May 2018.
- 12.4 Any suppliers engaged as a result of this report will be expected to have a GDPR policy in place and all staff will be expected to have received GDPR training.
- 12.5 *Implications verified/completed by: Tina Akpogheneta, Interim Head of Strategy and Strategic Relationship Manager, IT Services, tel. 0208 753 5748.*

13. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

None.