



**COTSWOLD**  
DISTRICT COUNCIL

Council name	<b>COTSWOLD DISTRICT COUNCIL</b>
Name and date of Committee	<b>OVERVIEW AND SCRUTINY – 23 FEBRUARY 2021</b>
Report Number	<b>AGENDA ITEM 9</b>
Subject	<b>COTSWOLD DISTRICT - SECTION 106 MONITORING UPDATE</b>
Wards affected	ALL
Accountable member	Cllr. Rachel Coxcoon - Cabinet Member for Planning Policy, Climate change and Energy Email: Rachel.coxcoon@cotswold.gov.uk
Accountable officer	James Brain, Forward Planning Manager Tel: 01285 623549 Email: james.brain@publicagroup.uk
Summary/Purpose	To provide an update on the monitoring of developer contributions (also known as Section 106 and the Community Infrastructure Levy).
Annexes	NONE
Recommendation/s	<i>To note the report</i>
Corporate priorities	<i>“to make the Local Plan green to its core”</i>
Key Decision	NO
Exempt	NO
Consultees/ Consultation	None

## **I. BACKGROUND**

- 1.1 Section 106 of the Town and Country Planning Act (S106) is the means and mechanism whereby the harms arising from development can be mitigated in order to render the scheme acceptable in planning terms. These developer contributions can be both financial and non-financial.
- 1.2 In June 2019 the Internal Audit Service audited the processes carried out for consulting upon, negotiating, securing by way of a legal agreement, monitoring and reporting upon the funds delivered by way of negotiations undertaken pursuant to section 106 of the Town and Country Planning Act (S106). The audit made a series of recommendations relating to the process which included the need to improve monitoring.
- 1.3 The government requires Councils to produce an annual 'Infrastructure Funding Statement' (IFS). The purpose of the IFS is to increase transparency by providing a standardised statement of accounts of all financial and non-financial developer contributions relating to Section 106 Legal Agreements (S106) and the Community Infrastructure Levy (CIL) collected and spent by a local authority per calendar year.
- 1.4 Cotswold District Council published its first statement in December 2020<sup>1</sup>. This should be read in conjunction with Gloucestershire County Council's (GCC) IFS<sup>2</sup> to get a full picture of infrastructure funding that is collected and spent in Cotswold District. Both statements report figures for the 2019/20 financial year.

## **2. MAIN POINTS**

- 2.1 Key findings of the Cotswold and Gloucestershire IFS include.

### **CIL**

- The total value of CIL set out in all demand notices issued in 2019/20 was £167,841.82
- Levy collected equals £16,635.42. Most have come from small developments which would not have been subject to a S106 agreement. Of this total £1,873.69 is set aside for neighbourhood contributions.
- The Council granted a total of £1,046,871.59 in CIL reliefs.
- Since the IFS was published the Council has also secured additional CIL payments (to Jan 2021) totalling £115,779.70.

### **S106**

- The Council holds a total of £1,144,885.27 of allocated S106 funds;
- Agreements signed in 2019/20 secure £3,925,445.50 and 742 affordable housing – Land south of Chesterton (now referred to as the Steadings) is a key reason for the higher than normal figures.
- £1,014,266.00 of the allocated funds has been collected for the delivery of affordable housing across the district. This includes £200,000 which has already been assigned by the Council to a site at Berrington Road in Chipping Campden.
- The Council holds £569,235.05 of non-allocated S106 funds. This is money that will be spent by external bodies such as GCC or the town/local parish council.
- Since the IFS was published the Council has also secured additional payments (to Jan 2021) totalling £566,124.80. This is a direct result of the CIL team reviewing historic S106 agreements.

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<sup>1</sup>

<sup>2</sup> <https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/infrastructure-funding-statement-ifs/>

- Gloucestershire County Council entered into twenty S106 agreements in the year from April 2019 to March 2020. The total amount of money to be provided totals £9.4m.

2.2 The IFS is nationally recognised as the procedure for reporting and monitoring developer contributions. In future, the Overview and Scrutiny Committee is able to use its call in powers to scrutinise the report, however, a bespoke report to the Overview and Scrutiny Committee should not be necessary.

### **Audit update**

2.3 The CIL team was set up with the long term intention of providing services to West Oxfordshire when they operate CIL. Officers are working with counterparts in West Oxfordshire to integrate CIL and S106 operations and monitoring in anticipation of their CIL going live later this year. The outcome will be to nominate a dedicated officer(s) to monitor S106 as per the audit report's recommendation.

2.4 In response to the audit, officers are also:

- investigating opportunities to charge a monitoring fee levied against all S106 to recognise the financial burden of monitoring legal agreements;
- drafting a guidance note to assist the development management process to secure infrastructure;
- Investigating suitable CIL governance arrangements to ensure the spending of CIL monies is transparent and supports the delivery of the adopted local plan.

## **3. FINANCIAL IMPLICATIONS**

3.1 Seeking to ensure that all the harms arising from development are adequately mitigated, subject to the development remaining viable, will reduce the need for public authorities to step in and provide, or finance, that infrastructure.

3.2 There are no direct financial implications as a result of this report.

## **4. LEGAL IMPLICATIONS**

4.1 The CIL and S106 processes are tightly regulated and any decision where it is considered the scale and nature of the offer goes beyond that which is necessary to make the development acceptable in planning terms is liable to legal challenge.

## **5. RISK ASSESSMENT**

5.1 The key risk relates to monitoring. Inadequate monitoring would affect the Council's ability to prepare and publish the annual Infrastructure Funding Statement and may affect the ability to spend funding to deliver infrastructure in a timely manner.

## **6. EQUALITIES IMPACT (IF REQUIRED)**

6.1 Not required from this report

## **7. CLIMATE CHANGE IMPLICATIONS (IF REQUIRED)**

7.1 A number of the impacts of development such as impacts upon habitat, sustainable transport patterns, efficient use of land, dealing with waste, etc. will in turn affect the causes and effect of climate change but can be mitigated by requiring developers to help offset the harms arising.

**8. ALTERNATIVE OPTIONS**

8.1 None.

**9. BACKGROUND PAPERS**

9.1. None.

(END)