

Report to: **Executive**  
Date: **14 June 2018**  
Title: **Release of S106 funds for Affordable Housing projects**  
Portfolio Area: **Place Making**  
Wards Affected: **All Wards**  
Relevant Scrutiny Committee: **Overview & Scrutiny Panel**

Urgent Decision: **N** Approval and clearance obtained: **Y**  
Date next steps can be taken: **Following Call In 5pm Monday 11 June 2018**

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**Recommendations: That Executive be RECOMMENDED to:**

1. To approve the release or allocation of s106 funds for Affordable Housing projects as set out below:  
£87,124.50 – from the Fallapit House, East Allington development to spend on an affordable housing scheme at Clay Park, Dartington with Transition Homes CLT.  
£11,704.00 – from Elwell House, Totnes to spend on an affordable housing scheme at Clay Park, Dartington with Transition Homes CLT.  
£9025.00 – from Warlands Garage, Totnes to spend on an affordable housing scheme at Clay Park, Dartington with Transition Homes CLT.

## **1. Executive summary**

The Council has a key role as Local Planning Authority in securing funds for appropriate mitigation projects in relation to development. These funds can be deployed either directly on Council projects or released to community groups and other organisations to develop affordable housing projects. The current mechanism for securing funds is through Section 106 (s106) of the Town and County Planning Act. Affordable Housing requirements are set out in the SHDC Affordable Housing SPD, adopted September 2008.

The Council has significant secured s106 funds for affordable housing projects. The Council's Financial Procedure Rules require that where expenditure is proposed over £30,000 that this be authorised by Executive. The purpose of this report is to request the release and allocation of s106 funds over £30,000 for an affordable housing projects with Transition Homes CLT.

## **2. Background**

The Council's Affordable Housing Supplementary Planning Document (September 2008) sets out when the Council will ask for an off-site commuted sum rather than on-site provision of affordable housing from a developer.

The SPD states that where off site provision is the agreed contribution, the contribution will be used solely for the purpose of affordable housing in accordance with the housing need priorities at the time. Contributions will be applied to meet housing need across the South Hams District. In practice this may mean that contributions in lieu arising from one location may be applied to meet housing need elsewhere in the South Hams.

### **Background to Fallapit House, East Allington contribution**

The s106 agreement for this development dated 14<sup>th</sup> July 2009, secured an off-site contribution of £87,124.50. The agreement states that on the occupation or sale of the 6<sup>th</sup> unit the owner shall pay to the Council the Affordable Housing contribution. The planning application number is 19/0915/09/F.

### **Background to Elwell House, Totnes contribution**

The s106 agreement for this development dated 25<sup>th</sup> July 2014, secured an off-site contribution of £11,704.00. The agreement states that on the occupation of the first dwelling of the development the owner shall pay to SHDC the Affordable Housing contribution. The planning application number is 56/1214/14/F.

## **Background to Warlands Garage, Totnes**

The s106 agreement for this development dated 14<sup>th</sup> March 2012, secured an off-site affordable housing contribution of £9025.00. The agreement states that upon the first occupation of the first house to pay to the Council the Affordable Housing contribution in full. The planning application number is 56/2793/11/F.

### **3. Outcomes/outputs**

The Council's adopted Affordable Housing Supplementary Planning Document states:

Payments received in lieu of affordable housing on site will be held in the Affordable Housing Fund. Such payments will be used to meet the Council's affordable housing objectives in accordance with Circular 05/2005 and the following criteria:

- That the proposal fulfils the scope of the relevant Section 106 agreement, the Affordable Housing Policy and any relevant case law and Government guidance.
- That the proposal fulfils the aims of the current Housing Strategy statement and any other relevant documents.

### **4. Options available and consideration of risk**

The Council has a legal obligation to spend the s106 funds in accordance with the agreements. There are two main alternative approaches for expenditure of the s106 funds:

#### **Option 1 – SHDC develop and deliver housing projects**

The first option is for SHDC Officers to develop and deliver projects. This allows more control over project plans and certainty. However there is an implication with regard to time resource and other partners may be best placed to lead community consultation and bring in other funds. Other partners may also own housing sites.

A report was taken to Overview & Scrutiny Panel on 3<sup>rd</sup> May 2018, which recommended that SHDC prepare a business case to form a housing company which will help increase the delivery of affordable homes in the district. S106 monies could be used to fund homes delivered through this proposed vehicle. However, at present it is not certain if this company will be formed, nor when any houses will be delivered. Therefore

granting the release of these S.106s funds to Transition Homes CLT will deliver 23 affordable homes within 3 years.

### **Option 2 – SHDC pass funds to community groups/other groups to develop and deliver housing projects**

The second option is to pass s106 funds to community groups/other organisations to develop and deliver projects.

Where SHDC has done this in the past the offer of grants have been made with the appropriate terms and conditions securing the interest of the Council and ensuring that the requirements of the s106 agreements are adhered to.

## **5. Proposed Way Forward**

Proposals for the expenditure of secured s106 funds are detailed below.

### **Transition Homes CLT**

Transition Homes CLT were granted planning permission in 2017 for a development of 27 homes, which includes 19 affordable homes (70%).

The consent is to build 27 houses to a very high eco standard with low running costs, using local natural materials (straw and wood) as far as possible, and providing much needed good quality affordable housing for local people. The houses will be built to a high standard, on a site which is quite challenging to access and service, so costs are higher than average to build. Eight of the houses will be sold on the open market to help cross subsidise the others, which will be a mixture of affordable rent and shared ownership.

To reduce water consumption, all the houses will have compost toilets and electricity will be produced on site from the solar PV arrays. Also to save water and energy, there will be a shared laundry so people do not need their own washing machines.

Inspired by co-housing 'common houses' Clay Park will also have a community hub – a space for meetings and community activities with a kitchen, office and toilets. The development will occupy about two thirds of the seven acre field with the rest used for an orchard, wild flower meadow and vegetable growing.

South Hams District Council have supported the group with a £190,000 grant payment from the Community Housing Fund on 30<sup>th</sup> November 2017. The CLT are seeking additional funding from South Hams District Council due to an increase in build costs and increasing the number of rented units.

Transition Homes CLT are looking at converting one of the 4 bedroom houses to rent into 2 self contained flats for adults with learning disabilities in collaboration with ROC and converting another 4 bedroom house into four self contained studios for young people in partnership with Young Devon. This would greatly assist the Council in meeting our statutory housing need.

The scheme is financed up until the end of RIBA stage 4 (technical design). The development phase is being funded through a combination of debt finance (Triodos Bank) and grant funding – the CLT have submitted a bid to Homes England SO-AHP 16-21 programme for funding towards the 12 shared ownership units. Homes England have stated the scheme is good value for money and are going to allocate grant funding of £450,000.00. Triodos Bank are loaning Transition Homes CLT £4.2 million of development finance.

Transition Homes CLT have requested £87,124.50 – from the Fallapit House, East Allington development, £11,704.00 – from Elwell House, Totnes and £9025.00 – from Warlands Garage, Totnes to spend on the construction costs of the affordable housing scheme at Clay Park, Dartington. The balance will be met from the grant payment from Homes England and loan funding from Triodos Bank.

## **6. Implications**

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>S106 agreements are secured under Section 106 of the Town and Country Planning Act to support projects that mitigate the impact of the development. The Council has an obligation to spend the funds in accordance with the terms of the agreement.</p> <p>The Affordable Housing Supplementary Planning Document 2008 sets out the policy basis for collection of offsite financial contributions towards affordable housing.</p>
Financial	Y	The Council's Financial Procedure Rules require that where expenditure over £30,000 is proposed that it needs to be agreed at Executive.
Risk	Y	There is a risk of funds not being spent in accordance with the s106 agreement. To address this, where any s106 funds are passed to community groups to develop and deliver projects,

		<p>offers of grants will be made with appropriate terms and conditions securing the interest of the Council and ensuring that the requirements of the s106 agreements are adhered to.</p> <p>Some s106 agreements have clauses allowing the developers to be re-paid the money if it is not spent within a certain timeframe. Thus there is a risk of communities losing out if money is not spent within the specific timeframes. Careful monitoring will prevent this from happening.</p> <p>There is a risk that the requirements of the Council's Financial Procedure Rules will not be met. All payments will be made in accordance with the Rules and contracting/tendering procedures where relevant.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	Projects need to address accessibility issues to ensure access to all wherever reasonable and practicable.
Safeguarding	N	There are no safeguarding implications.
Community Safety, Crime and Disorder	N	There are no community safety, or Crime and Disorder implications as a result of these recommendations.
Health, Safety and Wellbeing	Y	Increasing the provision of affordable housing is closely linked with improved health and wellbeing.
Other implications	N	

## **Supporting Information**

### **Background Papers:**

"Section 106 Agreements" report to Overview and Scrutiny Panel – 6<sup>th</sup> July 2017

"Capital Budget Proposals for 2017/18 to 2019/20" – report to Executive - 15 December 2016

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes</b>
SLT Rep briefed	<b>Yes</b>
Relevant Exec Director sign off (draft)	<b>Yes</b>
Data protection issues considered	<b>Yes</b>
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	<b>No</b>