

Report to: **Executive**

Date: **2 February 2017**

Title: **Release of s106 funds for the delivery of green travel measures at the Follaton Oak development, Totnes**

Portfolio Area: **Customer First**

Wards Affected: **Totnes**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **Current**

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Recommendations:

1. To approve the release of s106 funds for the delivery of the green travel measures at the Follaton Oak development in Totnes, as set out in the report.
2. That agreement of any specific details be delegated to the relevant Specialist in consultation with Ward Member(s) and the Portfolio holder.

1. Executive summary

- 1.1 The Council has a key role as Local Planning Authority in securing funds for appropriate mitigation projects in relation to development. The current mechanism for securing funds is through Section 106 (s106) of the Town and County Planning Act.
- 1.2 The Council has secured a s106 contribution of £35,000 for the delivery of green travel measures at the Follaton Oak development in Totnes. The contribution was subject to an Indexation Formula set out in the s106 agreement and the total value now received by the Council is £44,930.23.
- 1.3 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 thus to request the release

of the above funds so that the green travel measures secured through the s106 can be delivered.

2. Background

2.1 The s106 agreement for the Follaton Oak development secured a contribution of £35,000 (subject to an Indexation Formula) for the delivery of the following green travel measures (as set out in Paragraph 2, Schedule 3 of the agreement):

- Preparation of travel information packs for each dwelling outlining the travel options to the Property and detailing the benefits of all modes of travel (walking, cycling, bus, rail, car sharing, eco driving, car clubs and motorcycle safety information).
- Provision of bus and cycle vouchers to encourage residents to form sustainable travel habits.
- Preparation of personalised travel planning.
- Provision of suitable secure storage for cycles.
- Other community transport projects to be agreed with DCC if any part of the contribution remains unspent.
- For such other purposes for the benefit of the Development as the owner and/or registered provider, SHDC & DCC shall agree.

2.2 The total payment of £44,930.23 has now been received by the Council.

3. Outcomes/outputs

3.1 The desired outcome is the successful delivery of the green travel measures secured through the Follaton Oak s106 agreement to encourage residents to form sustainable transport habits and reduce single car occupancy.

4. Options available and consideration of risk

4.1 The Council has a legal obligation to spend the s106 funds in accordance with the provision of the s106 agreement. A number of options for delivering the green travel measures have been considered by Officers in conjunction with the local Ward Members as follows:

Option 1 – Delivery by SHDC staff

The first option considered was for SHDC Officers to deliver the green travel measures. However it was agreed that SHDC do not have sufficient in-house resource to deliver the work. It was also felt that other organisations may be better placed to undertake the community liaison work associated with the project and bring in other funds.

Option 2 – Delivery by the developer/housebuilder

The second option considered was delivery of the measures by the developer/housebuilder. The housebuilder was contacted and responded to confirm that they did not wish to take on this work.

Option 3 – Delivery through a contract with a suitable organisation

The remaining, and preferred option, was delivery through a contract with a suitable organisation. The Council would ensure that any contract would secure appropriate terms and conditions securing the interest of the Council and ensuring that the requirements of the s106 agreement is adhered to.

5. Proposed Way Forward

- 5.1 It was agreed that the preferred option was delivery through a contract with a suitable organisation.
- 5.2 Discussions were held with interested parties including Totnes Town Council, Totnes Traffic and Transport Forum and local Ward Members. Through these discussions a number of potential delivery organisations were identified including DCC¹, consultancy firms with specialist transport planners (including DCC's partner consultant, Jacobs) and Transition Town Totnes.
- 5.3 Given the nature of the work, the need to liaise with the local community regarding community transport projects and the significant benefits of the delivery organisation being located in Totnes, it was determined that there is a limited market to take the project forward.
- 5.4 As a not for profit community organisation with specific aims to support sustainable living and green travel, Transition Town Totnes was considered to be best placed in terms of maximising value, bringing a specific Totnes focus and being able to use the funding as a catalyst to wider community benefits. Transition Town Totnes is also ideally placed to undertake community liaison work with well-established, existing links to community groups.
- 5.5 Based on the grounds that there is a limited market to deliver the green travel measures for the Follaton Oak development, an Exemption from the Council's Contract Procedure Rule to obtain three written quotations was submitted. The Exemption sought approval for Transition Town Totnes to deliver the green travel measures on behalf of SHDC.

¹ DCC were contacted to see if they would be able to deliver the work but responded that they had insufficient staff resource.

- 5.6 The exemption was granted based on the fact that it is a one-off contract, there is a limited market of suppliers and both the housebuilder and normal delivery organisation, DCC, were unable to take on the work. The application also demonstrated value for money in the comparables quoted.
- 5.7 The release of the funds is now sought so that Transition Town Totnes can commence work to deliver the green travel measures. It should be noted that all three Totnes Ward Members are supportive of this approach. It is proposed that the agreement of any specific details be delegated to the relevant Specialist in consultation with Ward Member(s) and the Portfolio holder.

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 development. The Council has an obligation to spend the funds in accordance with the terms of the agreement.</p> <p>It should be noted that the legislative framework for receipt and expenditure of s106 funds has become increasingly restrictive. Under the Community Infrastructure Levy (CIL) Regulations 2012 there are clear constraints on the collection and use of s106 funds. The purposes to which the funds are applied must be:</p> <ul style="list-style-type: none"> • 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. <p>Since April 2015 there have been restrictions on the pooling of planning obligations. Only five s106 contributions can be pooled for use on the same infrastructure project (dating back to March 2010).</p> <p>The Council has powers to promote wellbeing under the General Powers of Competence in the Localism Act 2011.</p> |
| Financial | Y | <p>The Council's Financial Procedure Rules require that where expenditure over £30,000 is proposed that this needs to be agreed by Executive.</p> |

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| | | Proposals for expenditure of the green travel contribution (total value £44,930.23) secured through the s106 agreement for the Follaton Oak development are set out in this report. The parameters for expenditure are prescribed in the s106 agreement. |
| Risk | Y | <p>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 a third party organisation for delivery, 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. If ambiguity exists over the appropriateness of a project agreement of the developer will be sought.</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. In this case an Exemption from the Contract Procedure Rules has been submitted and granted.</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 | N/A |
| Community Safety, Crime and Disorder | N | N/A |
| Health, Safety and Wellbeing | Y | Use of sustainable transport methods such as walking and cycling are closely linked with improved health and wellbeing. |
| Other implications | N | |
| Process checklist | | Completed |
| Portfolio Holder briefed | | Yes |
| SLT Rep briefed | | Yes |
| Relevant Exec Director sign off (draft) | | Yes |
| Data protection issues considered | | Yes |
| If exempt information, public (part 1) report also drafted. (Committee/Scrutiny) | | No |