

Report to: **Executive**
Date: **14th September 2017**
Title: **Release of S106 funds for Affordable Housing projects**
Portfolio Area: **Place Making**
Wards Affected: **All Wards**
Relevant Scrutiny Committee: **Overview & Scrutiny**

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 or allocation of s106 funds for Affordable Housing projects as set out below:
£31,291 – from the 23 Western Road, Ivybridge development to spend on an affordable housing scheme at Butterpark, Ivybridge
£97,845 – from Torhill Cottages, Godwell Lane, Ivybridge to spend on an affordable housing scheme at Butterpark, Ivybridge
£60,000 – from the Gara Rock Hotel development to spend on East Portlemouth CLT
2. In future for s106 spends below £30,000 be delegated to the Place Making Community of Practice Lead in consultation with Ward Member(s) and Portfolio Holder.

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 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 and in line with the priorities set out in the South Hams Housing Strategy. 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.

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 two affordable housing projects, Butterpark in Ivybridge and East Portlemouth Community Land Trust.

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.

Circumstances where the Council may consider the acceptance of an off-site contribution may include the following:

- Where housing need priorities could be better met in an alternative location, either through an alternative site, completed units elsewhere or a financial contribution.
- Where there is a dominance of a particular type of affordable housing provision in the immediate area.
- Where the integrity or viability of the particular form of development might be compromised by the integration of affordable housing for reasons that can be clearly justified.

Background to the Land at rear of 23 Western Road, Ivybridge contribution

The s106 agreement for this development dated 10th July 2009, by Hayman Homes secured an off-site contribution of £32,938. The agreement states that prior to the commencement of development the owner shall pay to the Council the Affordable Housing contribution towards the provision of affordable housing required as a result of that development. The planning application number is 27/0908/09/F.

Background to land at Torhill Cottages, Godwell Lane, Ivybridge contribution

The s106 agreement for this development dated 4th October 2011, secured an off-site contribution of £97,845. The agreement states that prior to the occupation of the first dwelling of the development the owner shall pay to SHDC the Affordable Housing contribution to be used by SHDC for the purpose of providing subsidised housing within the district. The planning application number is 27/1758/11/F.

Background to the Gara Rock Hotel, East Portlemouth

The s106 agreement for this development dated 23rd January 2014, secured an off-site affordable housing contribution of £290,000. The agreement states that upon the legal completion of the sale of the fifth residential unit to pay to the Council the Affordable Housing contribution in full. The planning application number is 20/2104/13/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.

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.

Butterpark Ivybridge

Ivybridge Town Council are in the process of purchasing the land occupied by the former residential care home, Butterpark in Brook Road, Ivybridge from Devon County Council. They are purchasing the land at a discounted rate of £201,250 with a view to completion of the land purchase by the end of October 2017. The proposal is to build 6 units of accommodation for people with learning disabilities, plus a 3 bed learning/training house. Dialogue has been ongoing with Devon Social Services supported by the Dove Project and Brook Housing to enable a supported living package to be offered to residents.

The development of the site will be put out to tender to seek a mix of private sector development, which it is hoped would part fund the cost of the units, as well as delivering additional affordable housing for the town.

Ivybridge Town Council have requested £31,291 from the 23 Western Road, Ivybridge development and £97,845 – from Torhill Cottages, Godwell Lane, Ivybridge. The money would help the Town Council to purchase the site with the balance being met from Ivybridge Town Council reserves.

The Waterhouse Trust

The Waterhouse Trust constructed six 3 bedroom homes at Bakers Piece, East Portlemouth in 2010 and these were let to local people at affordable rents. The project was completed successfully, using borrowings secured on The Waterhouse Trust properties. The initial funding was provided by Charity Bank. The Trust has struggled to keep the rents within local housing allowance rates and the rent currently charged is £685 per month. The local housing allowance rate for the area is £663.09 per month.

The Waterhouse Trust are requesting £60,000 from the Gara Rock Hotel s106 agreement. This funding would enable them to save on the interest rate charged on their borrowing and result in a rent reduction of £29 per month. This would be for a period of not less than £25 years. The Waterhouse Trust's current policy is to increase rents annually in line with the Retail Price Index. The base figure would become the current rent less the £29 per month. In addition the reduction in the Trust's overall borrowing by £60,000 would improve the Trust's ability to borrow more new money to finance further affordable housing development.

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	<p>The Council's Financial Procedure Rules require that where expenditure over £30,000 is proposed that it needs to be agreed at Executive.</p>
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 community groups to develop and deliver projects, offers of grants will be made with appropriate</p>

		<p>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

Appendices:

S.106 agreement – Land to the rear of 23 Western Road, Ivybridge - 10th July 2009

S.106 agreement – Land at Torhill Cottages, Godwell Lane, Devon - 4th October 2011

S.106 agreement – Gara Rock Hotel, East Portlemouth 23rd January 2014

Background Papers:

"Section 106 Agreements" report to Overview and Scrutiny Panel – 6th July 2017

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