

Report to: **Executive**

Date: **19 March 2020**

Title: **RELEASE OF SECTION 106 FUNDS FOR AN AFFORDABLE HOUSING PROJECT AT ST ANNS CHAPEL**

Portfolio Area: **Affordable Housing – Cllr H Bastone**

Wards Affected: **Charterlands**

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

Date next steps can be taken: **Upon the expiry of the Call-in period.**

Author: **Cassandra Harrison** Role: **Specialist, Place Making**

Contact: **01803 861317 / cassandra.harrison@swdevon.gov.uk**

RECOMMENDATIONS

That the Executive approve the allocation of Section 106 funds for Affordable Housing projects as set out below:

- a) £97,700.91 – from the contribution from the former Old Chapel Inn, St Anns Chapel, Bigbury to spend on a community housing scheme at St Anns Chapel being developed by South Hams District Council; and**
- b) £65,193.00 – from the contributions from the Hollywell Stores, Bigbury to spend on a community housing scheme at St Anns Chapel being developed by South Hams District Council.**

1. Executive summary

The Council has a key role as Local Planning Authority in securing funds for appropriate mitigation projects in relation to development granted by planning permission. 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 1990. Affordable Housing requirements are set out in the SHDC Affordable Housing SPD, adopted September 2008.

The Council has 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 the Executive. The purpose of this report is to request the release and allocation of s106 funds over £30,000 for a community housing project being developed by South Hams District Council.

2. Background

The Council's Affordable Housing Supplementary Planning Document (SPD) 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.

The Community Housing Strategy was put in place to support the development of homes accessible to those with local connections for whom the cost of market housing (to purchase and rent) is beyond their reach.

A budget of £8.5m was approved at Council on 21st March 2019 (minutes E.83/18 and C74/18 refer) to build out four community housing schemes delivering 55 residential units as set out in the report. St Anns Chapel is one of the four community housing schemes.

A monthly update on the schemes is issued by the Community Housing Officer and published in the Members' Bulletin.

Background to Former Old Chapel Inn, St Anns Chapel, Bigbury contribution

The s106 agreement for this development dated 5th May 2011, secured an off-site contribution of £97,700.91. The agreement states that on the occupation or sale of the 6th unit the owner shall pay to the Council the Affordable Housing contribution. The planning application number is 05/0227/11/F.

Background to Hollywell Stores, Bigbury contribution

The s106 agreement for this development dated 22nd August 2014, secured an off-site contribution of £65,193. The agreement states that on the sale or occupation of the second dwelling of the development the owner shall pay to SHDC the Affordable Housing contribution. The planning application number is 05/2557/13/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 to 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.

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

The proposal is Option 1, SHDC to develop a housing project at St Ann's Chapel. This scheme has planning approval, application number 4214/18/FUL. The need for this proposed development became evident during the preparation of the Bigbury Neighbourhood Plan. A questionnaire was undertaken and 80% of respondents considered there was a need for more affordable housing in the parish.

SHDC is working in collaboration with the Parish Council (acting as community interfacing body) to deliver 13 homes (3 open market, 5 discount sale, 3 Affordable rent, 2 landowner). The S.106 funds from the Old Chapel Inn and Hollywell Stores will form part of the development budget to build out the affordable housing units, allowing them to be offered at approximately between 55% and 65% of open market value, and the rental units to enable them to be offered at Local Housing Allowance rates. Local Housing Allowance rates are set and used to work out Housing Benefit.

This funding is crucial to the success of the scheme and keep the cross subsidisation from open market units to a minimum. The affordable units will remain so in perpetuity.

The 5 rented homes will be prioritised to Bands A – E on Devon Home Choice with a local connection to Bigbury. The 3 discount sale properties will only be sold to someone with a local connection, this is set out in the S106 agreement. The 3 open market homes will have a covenant to insist they are a primary residence only and not a holiday home/let.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	S106 agreements are secured under Section 106 of the Town and Country Planning Act 1990 to support projects that mitigate the impact of the development granted by planning permission. The Council has an obligation to spend the funds in accordance with the terms of the agreement. The Affordable Housing Supplementary Planning Document 2008 sets out the policy basis for collection of offsite financial contributions towards affordable housing.
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. A budget of £8.5m was approved at Council on 21 st

		<p>March 2019 (minutes E.83/18 and C74/18 refer) to build out four community housing schemes delivering 55 residential units as set out in the report. St Anns Chapel is one of the four community housing schemes.</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 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 by the Council's S106 Monitoring Case Manager, Julie Rowdon 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>
Supporting Corporate Strategy		<p>Homes and Communities</p> <ul style="list-style-type: none"> • Enabling homes for all incomes and tenures • Helping to sustain a community by building housing for local people
Climate Change – Carbon / Biodiversity Impact		<ul style="list-style-type: none"> • Corporate carbon footprint review and sustainability plan in progress. • Light pollution will be avoided by having low level lighting only and limiting light pollution from dwellings. • An Ecological Report shows that the site is currently of poor ecological value with no evidence of protected species. The proposed development includes a number of measures to enhance the biodiversity of the site. • The proposed development includes the provision of an area of public open space for the benefit of the occupiers of the proposed development as well as being available for the wider community. This public open space is centrally located within the scheme and will be available for informal play for the children or as

		<p>providing a pleasant sitting out area for the residents to relax and to socialise.</p> <ul style="list-style-type: none"> • A Tree Survey shows that there will be no loss of mature trees. The loss of a small section of less well formed and species poor hedgerow will be more than compensated by proposals for new Devon hedge banks and woodland planting along the northern and eastern boundaries of the development site. Measures are to be put in place to ensure the long term maintenance and management of these hedgerows and woodland areas. • The scheme has been designed to maximise energy efficiency of fabric and to provide a low carbon energy system including the provision of renewable energy through solar panels. The layout of the development has also been carefully considered to maximise solar gain.
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 – 6th

July 2017

Council – 21st March 2019 – Community Housing Schemes