

POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE

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| Report of | OFFICE OF POLICE AND CRIME COMMISSIONER |
| Subject | SECTION 106 |
| Date | THURSDAY, 25 MARCH 2021 AT 13:00 HRS |
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Purpose of Report

1. To update the Panel on the position in relation to Section 106 as requested.

Recommendation

2. The Panel is asked :
 - i) to consider and note the contents of the report, and
 - ii) to support further discussions between the Force and the local authorities with planning powers, to optimise the use of Section 106 funds for operational policing purposes.

Introduction

Legislative Overview

3. Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as S106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They are focused on site specific mitigation of the impact of a development.
4. S106 agreements are often referred to as 'developer contributions' along with the Community Infrastructure Levy (CIL) which was introduced in April 2010. Leicester City Council are a CIL authority, Rutland County Council is a CIL and S106 authority, and all other local authorities within Leicestershire are S106 authorities.

Leicestershire Police Approach to S106 / CIL

5. Leicestershire Police is one of only several Forces in England and Wales that has proactively sought to apply for S106 / CIL funds over the past two decades and continues to do. Applications are only made where a significant policing demand / risk has been identified therefore, not every development warrants this. Developer contributions are used by the Force to fund infrastructure costs arising from and linked to, specific housing and commercial developments within Leicester, Leicestershire and Rutland which in turn, will increase policing demand and the need to invest in critical infrastructure in support of service delivery. This includes land and buildings, vehicles, equipment and information technology hardware which may be situated in specific locations, such as the Call Management Centre at Force Headquarters. In the main, developer contributions cannot be used to fund revenue expenditure such as the cost of police officers. Home Office grant funding and precept is used for that purpose.
6. When submitting an application for developer contributions, the Force must ensure the following CIL tests are met:
 - a. necessary to make the development acceptable in planning terms;
 - b. directly related to the development; and
 - c. fairly and reasonably related in scale and kind to the development.

Current Position

7. The Force currently has 102 developer contribution agreements in place totalling £9.2m (see Appendix 1 for further details). Around 80% of the historic bids relate to land and buildings requests. The majority of these may not be drawn down in future as austerity, alterations to the local policing model and digital developments, have altered the use of police buildings.
8. To date, a total of £1.5m has been drawn down from local authorities to fund infrastructure needs arising from developments. A further £2m is held by the authorities pending their approval for draw down by the Force. This is being progressed, but the timing of their release and the process involved is complex and uncertain in most cases.
9. A total of £5.1m has not yet been released by the developers to the local authorities to allow the Force to apply for draw down. This is because a number of agreements are linked to future build completion dates which have not yet been reached. Uncertainty around the timing and release of these funds is a challenge for both the Force and local partners, in considering when to invest in infrastructure to service new developments.
10. A further £0.6m may never be drawn down as developer release trigger points have not been reached. This figure is expected to increase through time which will impact Force and local authority budgets and financial planning.
11. The Force has encountered a number of challenges and uncertainties in applying for the draw down of the £2m funds currently held by local authorities. In some cases, the delayed release of funds has resulted in projects no longer being suitable for S106 funding, as the works were completed or had not been continued due to a lack of funding, such as Digital Kiosks.

12. The processes for the draw down of S106 funds varies across each local authority and is summarised as follows:

Blaby District Council

13. Blaby request a proposal to be sent detailing the projects the Force wish to finance through S106 which is matched with the proposed agreement. Once agreed in principal, an official draw down letter is sent by the Force (template supplied by Blaby), to reflect the exact wording of the S106, together with plans and tender documents, depending on the project. Once the project is complete in its entirety and available for use, relevant and related invoices are required to be sent to Blaby matching the value of the draw down request and only then will the funds be released to the Force. Funds are only released when the Force infrastructure projects are complete.

Hinckley & Bosworth Borough Council

14. Hinckley have supplied templates to draw down S106 funds held by them. These templates provide details of the request, what it will be spent on and how it will improve the police service due to the impact of the development. Some agreements require additional details. A number of templates are being completed by the Force in order to request the release of certain funds. Funds are normally released before Force expenditure is incurred, however, detailed information is required before released which can cause delays.

Harborough District Council

15. Harborough supply a table of S106 agreements which show the amount of police contribution they are holding. The Force requests funds to be drawn down and no information is required in relation to the projects the Force is funding. Once the Force has used the funds, copy invoices are sent to Harborough. The Force is in the process of arranging to draw down further funds. Funds are normally released before Force expenditure is incurred.

Charnwood Borough Council

16. Charnwood supply the templates to draw down funds held by them. The Force has completed and submitted these templates a number of times but some were rejected as Charnwood insist on funding projects which are not yet complete, but the Force was unaware of this at the time. In addition further information was required including queries around proportionality. Charnwood have recently agreed to fund the Front Enquiry Desk at Loughborough but funds will not be released until copy invoices are received. The Force has received £63,485 to date and the Force is currently working with Charnwood to secure funds for further projects. Funds are not released if the Force has already paid the related infrastructure costs as a consequence of the need to do so. The Force continues to challenge this. Funds are being released to support the costs of the Front Enquiry Office conversion at Loughborough NPA whilst the work is ongoing.

North West Leicestershire Borough Council

17. North West have an issue around proportionality and have not released any funds to the Force to date due to the Force apparently not demonstrating proportionality in any draw down requests. Following a recent meeting with the Planning team at North West, it has been agreed that the Force will

resubmit the same draw down requests, together with the same letter that was sent during summer 2020, detailing the projects being funded. In addition some qualitative data will be included and examples of incidents in the area which have seen a response from Force Assets. No funds have been released since 2013. It is currently unclear as to when and how funds will be released. Productive discussions have taken place between Force and North West staff to resolve this.

Melton Borough Council

18. Melton Borough Council notify the Force when they receive any Police Contributions and an invoice is raised by to draw down these funds. Once these funds have been spent, copy invoices are supplied. Funds are normally released before Force expenditure is incurred.

Oadby & Wigston Borough Council

19. Oadby & Wigston notify the Force when they receive any Police Contributions and give the option to raise an invoice or a direct transfer into the PCC/Force bank account. Funds are normally released before Force expenditure is incurred.

Rutland County Council

20. Rutland County Council notify the Force when they receive any Police Contributions and request a document containing full details of the proposed spend. This includes details of the capital expenditure / project, how the spend meets the need arising from the development and benefits of the spend. Funds are normally released before Force expenditure is incurred.

Leicester City Council

21. No CIL applications have been submitted at present.

Funds held by Developers

22. The balance of the £5.1m funds held by developers is usually subject to certain trigger points being achieved around the number of dwellings built. In some cases, this can span 15 to 20 years before trigger points are reached, or indeed may never be reached at all either intentionally or inadvertently, as is the case with the £0.6m referred to above.

Leicestershire Police Capital Programme

23. The capital programme sets out the requirements for future investment over the medium term in land and buildings, vehicle fleet and information technology. The programme is mainly funded through borrowing and a small Home Office capital grant.
24. The ongoing uncertainty around the release of S106 funds by local authorities prevents the inclusion of these funds in the Capital Programme as a guaranteed source of funding moving forward. Only when the funds are drawn down, are they included in the Programme. In some cases, the need to invest in infrastructure has occurred before the release of funds and the costs has been met by the PCC. The subsequent release of developer contributions is then dependent upon the approach taken by the specific local

authority as outlined above. This overall process is managed and monitored by a Force working group.

Implications

Financial : See report

Legal : See report

Equality Impact Assessment : None

Risks and Impact : None

Link to Police and Crime Plan : None

Communications : None

List of Appendices

Appendix A – S106 Agreements Summary

Background Papers

None.

Person to Contact

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