

Divisions Affected -

PLACE OVERVIEW & SCRUTINY

– DATE 17/04/2024

INFRASTRUCTURE FUNDING STATEMENT AND SECTION 106 UPDATE

Report by Director of Planning, Environment and Climate Change

RECOMMENDATION

1. The Committee is RECOMMENDED to

Acknowledge and endorse the progress being made against the actions identified from the 6 December 2023 meeting including the ongoing review of Section 106 collection and expenditure procedures.

Background

2. The County Council has a pivotal role in supporting the sustainable development of Oxfordshire through its statutory and non-statutory responsibilities relating to strategic infrastructure planning and delivery. Existing Local Plans across Oxfordshire currently plan for around 90,000 new homes to be delivered. Existing plans are supported by Infrastructure Delivery Plans to set out the transport, education, community and other infrastructure that is needed to ensure planned development comes forward in a managed and sustainable way to support existing and new communities.
3. The County Council has a long and proven track record in working with the other Oxfordshire councils, communities, and partners to deliver infrastructure through the securing of developer contributions from development as it comes through the planning system. Developer contributions for County Council infrastructure is secured principally through Section 106 of the Town and Country Planning Act 1990 (amended) as well as Community Infrastructure Levy, which has been adopted in Oxford City Council, South Oxfordshire District Council and Vale of White Horse District Council.
4. The County Council has dedicated Planning Obligations and Infrastructure Negotiator officers who work directly with applicants / developers to secure and collect the required developer contributions that are used to deliver infrastructure as planning permissions are built out. The officer structures and processes are highly effective in negotiating and securing development contributions with currently around £277m held to support delivery of a range of infrastructure. These monies are required by statute to be reported annually in the Infrastructure

Funding Statement (IFS). The latest IFS (for the period 1st April 2022 to 31st March 2023) was reviewed by Place Overview and Scrutiny Committee and approved by Cabinet in December 2023.

5. The expenditure of held monies in a timely fashion to support the pace of growth is, however, more challenging. In response, a corporate project is underway to review all s.106 monies held and working with the relevant service areas develop updated spend plans to speed up the delivery of projects and increase the amount of held monies that is identified and committed for delivery within the capital programme.
6. The IFS review by Place Overview and Scrutiny Committee identified a series of recommendations with regard to both Section 106 and CIL, progress against which is set out in the report. As part of the response, a corporate project has also been established to review all aspects of developer contributions process, governance and expenditure to increase the rate of delivery where practicable to do so. The progress of the project is set out in this report.

Section Review Project and Place Overview & Scrutiny Actions Update

Section 106 Review Update

7. A corporate Section 106 project has been established to review all S.106 monies that the Council holds across each service area to analyse their age profile and anticipated delivery timeline. The project is being overseen by a steering group that includes relevant officers from finance, planning, place, property services and reports into the Council's Strategic Capital Board.
8. The starting point for the project was to review held monies by service areas, which are summarised as follows:

Service Area	Funding received in 2022/23	Funding spent in 2022/23	Funding held (Received across all years) ¹	Funding secured (across all years) expected to be received in future years
Education	38,690,586	18,383,452	142,570,994	184,205,324
Transport	13,670,067	6,724,487	75,884,012	101,005,216
Libraries	765,854	350,984	5,765,653	2,655,334
Adult Social Care	453,465	0	4,652,406	1,053,300
Countryside	566,756	91,565	1,710,614	1,471,753
Waste	522,224	100,680	5,176,814	831,194
Adult Learning	6,214	0	199,438	65,629
Museums	2,823	0	126,421	1,772
Minerals sites	0	2,261	710,934	0

Fire & Rescue	0	0	252,341	11,422
Other	7,669,301	2,564,203	39,380,286	
Totals	62,347,290	28,217,632	276,429,913	291,300,944

9. The S106 project undertook an initial 'sprint' to analyse the held monies in more detail to help inform decisions on spend across the related services with the objective of increasing the amount of S106 that is committed for delivery in the Capital Programme. The 'sprint' project included assessing all held monies to determine whether there is any flexibility in how the monies can be used to help inform decisions on spend. The outcome of the 'sprint' project identified the following breakdown within the £277m of held S106 monies:

S106 category	£
a) Monies held for specific scheme or clause	£54,725,465
b) Monies held for a scheme that is proposed but not yet actioned	£28,621,671
c) Monies held for specific use but no scheme proposed yet	£108,926,591
d) Monies held where there is flexibility of use across service area	£82,152,788
e) Monies held where there is flexibility of use across service areas	£3,384,172
Total S106 held	£277,810,687

10. Following the breaking down of the monies held, the project turned to engagement with the relevant S106 service areas to discuss the above analysis and to understand further their plans for delivery and expenditure of the held monies:

- Adult learning
- Fire
- Museums
- Libraries
- Social and Healthcare
- Countryside
- Educations
- Minerals
- Transport
- Waste

11. The engagement with services is ongoing but to date has identified the following:

- Services are generally aware of monies held and some have plans to spend being actively progressed. The spend plans, however, do not encompass all held monies and work is needed to support services to increase the amount of monies that are committed to specific project delivery;

- Some monies are constrained by needing additional capital to deliver against;
 - Some monies are held as 'step in' safeguard if a developer doesn't undertake certain activities. These monies need to be re-categorised as such in the ongoing financial analysis;
 - An issue with the age profile of monies held has emerged, with some monies having being held for over 20 years without any movement other than accruing of interest.
12. Based on the above, the next steps for activity are to focus on further service engagement for updated spend plans across each area to be prepared that set out a clear pathway to delivery. This will include increased focus on flexibility to ascertain how much additional monies could be re-allocated to support delivery either by providing the required additional capital for those monies that are stuck in this regard, or to be earmarked for delivery through the Capital Programme pressures.
13. As part of this, it is essential that due political oversight and involvement is factored in to the process of forming updated spend plans. In this regard, in addition to this Overview & Scrutiny update, it proposed that Locality Meetings include a more forward looking update on S106 so Members can provide input into the process and be kept aware generally on progress. An update on this approach and taking Members' views on how they would like this information to be set out and discussed, including use of technological enhancements with access to data, will be included in the upcoming Locality meetings.
14. Alongside the ongoing service engagement and financial analysis, the steering group are undertaking a review of all existing S106 process including governance and consideration of business cases for projects as they are taken forward into the capital programme. A business case process review is underway that aims to better coordinate S106 activity through the capital boards so there is a transparent and golden thread of expenditure within the capital programme, which is ultimately overseen by the Strategic Capital Board and Council decision making.
15. It is recognised by both the oversight group and Finance that additional resource is needed to progress at pace the above next stages of the project. A job description has been prepared and expected to be advertised in Spring 2024 to enable the next stages of the S106 review project to take place.

December 2023 Place Overview & Scrutiny Recommendations Update

16. The S106 project is also ensuring that the recommendations from the Place Overview & Scrutiny recommendations in December 2023 are taken forward where possible to do so. An update on each recommendation is as follows:

That the Council is mindful to build in as much flexibility as possible to its S.106 agreements at negotiation and agreement stages.

17. This action is being progressed within the S106 review workstream to review standard wording of agreements to, wherever possible, include appropriate

flexibility for future agreements. Please note that there will always be scenarios whereby planning obligations are secured for specific items of infrastructure albeit officers are cognisant of the need for flexibility where possible.

That the Council holds conversations with non-CIL collecting district councils in the county to emphasise the benefits of collecting CIL funding over s.106 contributions.

18. It is recognised there are benefits of operating CIL, albeit there will always be a need to operate a dual system with s.106 agreements for specific requirements needed to enable the grant of planning permission. Notwithstanding this, officers continue to discuss proposals for CIL implementation with Cherwell District and West Oxfordshire District Councils. The decision to implement CIL is a matter for those councils but it is expected in both cases that consultation on draft charging schedules will be held in 2024.

19. In addition, discussions are underway to discuss the County's existing CIL arrangements with Oxford City, South Oxfordshire and Vale of White Horse Councils. There is a long-established process in place with South Oxfordshire and Vale of White Horse Councils for how the County accesses CIL monies to help support delivery of strategic infrastructure, which has recently been enhanced to speed up the transfer of monies through a less onerous approach to funding agreements between the Councils.

20. There is not the same structure in place for how the County accesses CIL collected in Oxford City. This is recognised as a priority for the County to resolve with contact made with City Council officers to review this as they progress their new Local Plan and CIL Charging Schedule in 2024.

That the Council's progress review of s.106 funded infrastructure projects to provide, for each project, an easy-to-read summary of the barriers, constraints and trigger points it is subject to.

21. This work is ongoing as part of the S106 review project with the information currently held within the Council's planning system being linked to Microsoft Power BI, which is a relatively new platform that allows self-service access for users to find information relating to developer contributions by service and division area. The functionality of this technological enhancement remains in development, but it is anticipated that this will be made available for County Councillors to be able to review available funds and progress.

That the Council involves local members throughout the full process of infrastructure delivery in their areas via, in the first instance, its locality meetings.

22. Members are recognised as needing to be regularly informed about infrastructure delivery in the divisions they represent. As mentioned above, an enhancement for how information is accessed and discussed with officers is in development. The Locality meetings will continue to have due oversight on infrastructure planning and delivery going forward. By way of an initial update, Annex A provides a summary of s.106 monies available by service area within each Locality Area and which will

form the basis of further discussion with regard to delivery at the next round of Locality meetings.

That the Council improves the involvement and communication of stakeholders in the infrastructure delivery process, particularly between the negotiation and delivery teams, and the delivery teams and the wider Council.

23. This is an ongoing action that forms a key part of the S106 Project Review. The specific action in this regard is a process mapping review that will identify not only the most effective way of negotiating and collecting developer contributions but also how stakeholders are engaged in the process. The process mapping review will take place through Spring 2024.

24. *That the Council invests in its infrastructure delivery, including project management, to enable it to reach a high level of efficiency and effectiveness, reducing delays or the threat of handing back developer contributions for undelivered infrastructure.*

25. This is an ongoing action that is being addressed in part through the implementation of the recent Environment and Place directorate reorganisation, which added resource in its infrastructure delivery functions. Recruitment to these posts is ongoing and once completed is expected to increase the levels of efficiency required to address this recommendation.

That the Council leads on improving strategic coordination between Tier 1 and Tier 2 authorities in the county via the Future Oxfordshire Partnership to embed necessary infrastructure requirements for the achievement of the LTCP targets in the next iteration of OXIS.

26. Since the December 2023 meeting, county officers have taken a lead role in progressing the procurement to update OXIS as part of the Future Oxfordshire Partnership Infrastructure Advisory Group workstream. The project brief has been agreed and subject to procurement input expected to go out for tender in Spring 2024. Delivery against key strategies such as LTCP will be an integral part of the OXIS project.

That a back-casting exercise from 2030 in reference to the OXIS refresh be undertaken and the required investment in infrastructure to achieve LTCP targets to be compared with current plans and the OXIS be updated as necessary.

27. The consultant for the OXIS update will take forward this action once appointed.

That the Council develops a pipeline of infrastructure projects, particularly around Active Travel.

28. This is being actioned through the Capital Programme and supporting capital boards that have been set up to develop a pipeline of infrastructure projects that is aligned to the Council's corporate priorities.

That the Council undertakes an audit of its spending on pavements, street lighting and other walking infrastructure.

29. This action has not progressed due to current resource pressures. This action will, however, be referred to the corporate audit team to take forward as part of their future work programme.

Financial Implications

30. Prioritising the use of funds before any longstop dates are reached mitigates against the risk of repayment.

Comments checked by:

Filipp Skiffins, Assistant Finance Business Partner,
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Legal Implications

31. There are no new legal implications in this report. Legal agreements are used to secure developer contributions which must be spent in accordance with the terms of the agreement. This Infrastructure Funding Statement is required to be produced in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).

Comments checked by:

Paul Grant, Head of Legal (paul.grant@oxfordshire.gov.uk)

Staff Implications

32. There are no new staffing implications within this report. The report is introducing the Infrastructure Funding Statement, which is an annual, statutory requirement for the council. The work undertaken to produce the report is achieved within existing resources.

Caroline Bing, HR Business Partner, caroline.bing@oxfordshire.gov.uk

Equality & Inclusion Implications

33. There are no equality and inclusion issues arising from this report. Equalities will be considered within service areas at the point at which funding is sought for a scheme.

Sustainability Implications

34. There are no sustainability implications from this report. Sustainability will be considered within service areas at the point at which funding is sought.

Risk Management

35. There are no reputational and financial risks to the Council through publication or non-publication of the report. Publication is a statutory duty. Whilst there are no defined penalties for failing to publish, the reputation of the council could be affected by a failure to publish.

Consultations

36. As the report is a statement of fact no consultations have been undertaken.

Rachel Wileman, Director of Planning, Environment and Climate Change

Annex A – S106 Monies Held by Locality

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