

Item No. 8.	Classification: Open	Date: 14 July 2015	Meeting Name: Planning Committee
Report title:		Transfer of £26,944,122 from the developments at Kings Reach Tower (a/n 579) and 20 other development sites towards the cost of providing 82 new affordable housing units at: 169 Long Lane, SE1 Gatebeck and Southdown House, East Dulwich Estate SE22 Nunhead Site B, Clifton Estate garages Masterman House garages Cator Street Extra Care	
Ward(s) or groups affected:		Grange, South Camberwell, Nunhead, Peckham, Camberwell Green, Cathedrals, South Bermondsey, Chaucer	
From:		Head of Major Works and New Homes Delivery	

RECOMMENDATION

1. That the Planning Committee authorise the expenditure of £26,944,122 from the Section 106 Affordable Housing Fund (AHF) being monies collated from the development at Kings Reach Tower and 20 other development sites noted in paragraph 27 towards the provision of 82 new affordable housing units of the council's new homes delivery programme as noted in table 1b of Appendix 1 attached.

BACKGROUND INFORMATION

2. Approval in respect of Section 106 funds over £100,000 for matters of strategic importance is a matter reserved to planning committee. Planning obligations under Section 106 of the Town and Country Planning Act 1990 are used to mitigate against the negative impacts caused by a development and contribute to providing infrastructure and facilities necessary to achieve sustainable communities. The council can enter into a legal agreement with a developer whereby the developer agrees to provide financial contributions and/or enter into various planning obligations. Section 106 obligations can include affordable housing, provision of open spaces, health and community facilities and employment training schemes.
3. The council expects affordable housing to be provided by developers on-site. In exceptional circumstances where a developer has justified, in accordance with both the council's planning policy requirements and the London Plan, that the affordable housing cannot be built on-site, the affordable housing should be provided off-site. If this is not possible then the Council may allow a contribution to be secured by way of an in-lieu payment. All in-lieu payments received by the council in this way are combined to form the Affordable Housing Fund. This fund is ring-fenced to help finance social housing providers build new affordable housing schemes in the borough.

4. The planning committee considered a report on the council's direct delivery housing programme in September 2013 and noted the proposals for the building of new council homes. The report identified a number of sites for inclusion in the first phase of the programme; including the schemes noted in this report. These units will deliver new affordable homes and contribute towards the council's commitment to build 11,000 new council homes by 2043 and the initial target of delivering 1,500 of these homes by 2018.
5. On 25 March 2013 the planning committee approved the allocation of £5,262,998 Section 106 funds towards the provision of 21 new homes to be delivered at Willow Walk SE1.

KEY ISSUES FOR CONSIDERATION

6. The seven sites noted in Table 1 will deliver 131 new homes. However, the Section 106 funding being sought in this report relates to 82 of the units being provided overall as the remainder are additional affordable housing units on developments of eleven units or more. The exceptions are Southdown House site which also includes shared ownership units partly funded from GLA grant and ten housing for sale units being provided on the Masterman House site.

Table 1:

Name of site	No of units:	Planning Reference no:	Planning approval date
Long Lane, 169	21	14/AP/0117	16/04/14
Gatebeck House	9	12/AP/3563	26/03/13
Southdown House	18	12/AP/3563	26/03/13
Nunhead Site B	8	13/AP/1767	03/09/13
Clifton Estate	8	13/AP/4356	19/05/14
Masterman House	25	13/AP/2902	25/04/14
Cator Street Extra Care	42	13/AP/2901	01/04/14
Total	131		

Development proposals

7. The proposed development for each site is as follows:

Long Lane, SE1

- 21 for social rent contained in a 2 to 6 storey block with a mix of one, two and three bedroom flats.
- One commercial unit to the ground floor.
- Associated highways and landscape works.

Gatebeck House, East Dulwich Estate, SE22

- Nine housing units for social rent, contained in a three storey block with a mix of two and three bedroom flats.

Southdown House, East Dulwich Estate, SE22

- 18 housing units. Comprising ten for social rent and eight shared ownership units, contained in a four storey block with a mix of two and three bedroom flats.

Nunhead Site B, SE15

- Eight housing units for social rent. Comprising of four three storey houses and four two storey houses. Comprising of a mix of two, three and four bedroomed units.
- Associated landscaping and parking.

Clifton House SE15

- Eight housing units, for social rent contained in a four storey block with a mix of one, three and four bedroom flats.

Masterman House, SE15

- 25 unit scheme
- 15 housing units for social rent and ten new flats for sale contained in a three to five storey block with a mixture of one, two and three bedroom flats.
- Associated landscape works and play area.

Cator Street Extra Care, SE15

- 42 extra care units contained in a three and four storey building with a mix of one and two bedroom flats.
- Associated communal facilities, plant, staff areas and landscaped courtyard.

Programme

8. The development programme for each site is as follows:

Table 2:

Site	Start on site	Completion
Long Lane, 169	Jan 2015	March 2016
Gatebeck House,	Jan 2015	March 2016
Southdown House	Jan 2015	March 2016
Nunhead Site B	March 2015	March 2016
Clifton Estate	Jan 2015	Jan 2016
Masterman House	Jan 2015	March 2016
Cator Street Extra Care	Jan 2015	September 2016

Funding structure

9. The total cost of developing the seven sites listed above is £43,308,245 of which £26,944,122 is being sought from the affordable housing fund, with the balance of £16,364,123 being funded from other streams such as RTB receipts, GLA grant and housing capital.
10. The claim is based on current estimated figures. The actual maximum Section 106 funds claimable on these schemes is £30m and should the actual scheme costs increase and be eligible for an increase in funding, then further approval will be sought from the Committee
11. The social rent and shared ownership units will be funded through a mix of Section 106 funding and RTB receipts or GLA grant and housing capital. The affordable units required by planning to be provided on schemes of eleven units or more or with commercial or housing for sale elements will be funded from a mix of other capital funding, RTB receipts and GLA grant.
12. A table summarising the proposed funding stream for each site is provided at Appendix 1.
13. It is proposed that £26,944,122 is sought from the Section 106 AHF. If Members do not approve the release of funds they will be retained in the Affordable Housing Fund until such time as approval is sought for the funding of future schemes.

Policy implications

14. The LPA seeks to secure, a provision of at least 35 per cent affordable housing for all new housing within private developments in the Urban Density Zone in relation to schemes of ten units or more or on sites larger than 0.5 hectares. The allocation of funds the subject of this report would secure a provision over and above the required 35 per cent level.
15. Paragraph 3.10 of the Affordable Housing SPD provides that all in-lieu payments received by the council are pooled together to form an Affordable Housing Fund (AHF). This fund is ring-fenced to help fund the provision of affordable housing by social housing providers in the borough.

Community impact statement

16. The proposal to increase the supply of affordable homes in the borough will benefit households in need from all Southwark's communities.
17. All of the social rent units will be subject to a local letting policy which will ensure that 50 per cent of all new homes on an individual site will be available for letting to tenants on the estate or nearby, and the remainder released generally to other housing applications within the borough.
18. The provision of this housing is in line with community needs and will create stronger communities. This in turn will improve the quality of life of people in Southwark and encourage community cohesion.

Resource implications

19. The proposed expenditure of £26,944,122 from the AHF would be financed from developers' Section 106 Agreement contributions.
20. These amounts have been paid into the affordable housing fund and the project is fully funded from this allocation. Officer time will be met from existing resources and commitments.

Consultation

21. Each site has been subject to the usual planning consultation process and has been assessed as being acceptable, with planning permission being granted for each site.
22. The Chair and vice chair of the local community council and the local ward councilors have been consulted and comments will be report in the addendum.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

23. Members of the Planning Committee are requested to authorise the release of Section 106 funds totalling £26,944,122, £22,623,651 of which comes from the Section 106 Agreement for Kings Reach Tower, Stamford Street, planning application reference 11-AP-1071 and the remainder comes from 20 other Section 106 agreements which are listed in paragraph 27 of this report.
24. The Section 106 monies must be spent in accordance with :-
 - (i) the terms of the specific Section 106 Agreement;
 - (ii) the tests set out in Regulation 122 (2) a to c of the Community Infrastructure Regulations 2010 (as amended) which provide they must be:-
 - 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.
25. The Section 106 Agreement for Kings Reach Tower has been reviewed to ensure that the Affordable Housing Contribution is being spent in accordance with the tests set out above and has been found to be compliant. The Section 106 Agreement specifically states that the Affordable Housing Contribution must be "used by the Council towards the construction or provision or delivery of new Affordable Housing in the Borough or to be paid by the Council into a managed pool of funds to be operated and utilised for the same purpose, namely the construction or provision or delivery of new Affordable Housing with the objective of achieving the creation of mixed communities in the Borough". Members are advised that the recommendation to expend part of the Affordable Housing Contribution from the Kings Reach Tower development towards the provision of 89 affordable housing units as part of the Direct Delivery programme accords with the terms of the legal agreement.

26. The Section 106 agreements for the 20 remaining sites have also been checked to verify whether the contribution amounts specified can be allocated towards affordable housing and whether there is any time bar on spending the contribution. The following observations can be made in respect of the agreements.

27. The agreements for:-

- (i) Neo Bankside
- (ii) King's Reach Tower (see paragraph 24 above)
- (iii) 38 Stoney Street
- (iv) 7 Westminster Bridge Road
- (v) 1 to 15 Anchor Terrace
- (vi) 1 to 33 Falmouth Road
- (vii) Benbow House
- (viii) The Grange
- (ix) London Bridge Station (Southwark Towers)
- (x) New London Bridge (Southwark Towers)
- (xi) New Caledonian Antiques Market
- (xii) 156 to 172 Tooley Street
- (xiii) St Giles' Hospital
- (xiv) Wilfred Sheldon Building
- (xv) 231 to 241 Blackfriars Road
- (xvi) 157 to 159 New Kent Road
- (xvii) 4 to 10 Lamb Walk
- (xviii) 44 Wanley Road

all have Affordable Housing Contributions which can be used for affordable housing. The agreement for 156 to 172 Tooley Street refers instead to a Social Housing Contribution and the monies from this agreement should therefore be allocated to Social Housing specifically rather than any other tenure of Affordable Housing.

28. The agreements for:

- (i) 19 Grange Road; and
- (ii) Former Southwark College

both make reference to a "Site and Development Payment" but do not specify what the payments need to be allocated towards therefore there is enough discretion to legally allow the Council to utilise these payments for affordable housing and the Direct Delivery programme.

29. The Section 106 agreement for Ewer Street does not have a contribution for Affordable Housing but the Inspector's appeal decision dated 16 December 2011 states that an Affordable Housing Contribution of £615,000 would be viable for the scheme and as a result £338,352 of this is available for the Direct Delivery programme.

30. The decision to consider and approve Section 106 expenditure of strategic importance exceeding the sum of £100,000 is reserved to Members of the Planning Committee in accordance with Part 3F of the Council's Constitution, paragraph 2, under the heading 'Matters Reserved for Planning Committee'. Subject to taking account of the above considerations, Members are advised to approve the expenditure which would be consistent with the terms of the Section 106 Agreement and the legal tests outlined above.

Section 106 Manager

31. The development at Kings Reach Tower, Stamford Street, London, SE19LS now known as the Southbank Tower, 11/AP/1071 a/n 579 secured over £23m worth of contributions. Included within this amount is £22.6m towards affordable housing which has been paid and is available.
32. The following sites noted below have secured the contributions noted for the purposes of new additional affordable housing either in the Section 106 agreement, or through an appeal decision and are available.

Agreements:	Claim	£
Neo Bankside (a/c no 339B)	10 years by 11/12/2024	47536
Kings Reach (a/c no 579)	None	22623651
38 Stoney St (a/c no 684)	None	300000
19 Grange Rd (a/c no 048)	None	33688
7 Westminster Bridge Rd (a/c no 060)	None	4399
1-15 Anchor Terrace (a/c no 068)	None	60560
Bermondsey Centre (a/c no 072)	None	51508
1-33 Falmouth Rd (a/c no 097)	None	15129
BenbowHse (a/c no 118)	None	11070
The Grange (a/c no 131)	None	6348
L/A London Bridge Station (a/c no 190)	09/05/2019	1012500
New London Bridge (a/c no 190A)	None	500000
New Caledonian Antiques Mkt (a/c no 282)	11/08/2018	588623
156-172 Tooley St (a/c no 286A)	23/03/2020	72177
St Giles Hospital (a/c no 532)	12/06/2018	365102
The Wilfred Sheldon Centre (a/c no 559)	12/06/2021	100000
231-241 Blackfriars Rd (a/c no 568)	None	602946
157-159 New Kent Rd (a/c no 591)	14/10/2024	15000
Ewer St (a/c no 594)	14/10/2024	338352
4-10 Lamb Walk (a/c no 661)	None	153640

Agreements:	Claim	£
44 Wanley Rd (a/c no 670)	None	41893
Total		26,944,122

33. The affordable housing contributions received can only be used for new affordable housing beyond what is required by the donor site. The affordable housing requirements for the identified donor sites have been calculated and the proposed allocation will be to the additional affordable housing beyond what is required. These accords with the justification for the contribution and the legal agreement.

Strategic Director of Finance and Corporate Services (SDFCS)

34. This report is requesting approval from Planning Committee to authorise the release of £26,944,122 from various planning agreements as reflected in paragraph 27 towards the provision of 82 new affordable housing units as detailed in this report.
35. The strategic director of finance and corporate services notes that the overall cost of the scheme is currently estimated to be £43,308,245. In addition to the requested allocation of £26,944,122 from AHF, funding from Right to Buy receipts, GLA grants and the council's housing capital receipts income are expected towards the funding of the overall scheme. It is noted that any requests for additional funding from the AHF will be subject to a further report to planning committee for formal approval.
36. It is noted that the council has received the £26,944,122 AHF and is available for the proposed allocation.
37. Staffing and any other costs connected with this recommendation to be contained within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix 1	Spreadsheet of scheme costs

AUDIT TRAIL

Lead Officer	Dave Markham, Head of Major Works	
Report Author	Sonia Hamilton, Investment Strategy Manager	
Version	Final	
Date	29 June 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services(SH/06/15)	Yes	Yes
Strategic Director of Finance and Corporate Services(CAP15/060)	Yes	Yes
Section 106 Manager	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		1 July 2015