

Item No. 10.	Classification: Open	Date: 2 February 2016	Meeting Name: Planning Committee
Report title:		To release £368,500 from S106 agreement 13/AP/0065 (a/n 723) for highway improvements to Rotherhithe New Road, London SE16 3HG	
Ward(s) or groups affected:		Livesey Ward	
From:		Head of Regeneration	

RECOMMENDATION

1. To authorise the release of funds of £368,500 from the development known as 399 Rotherhithe New Road, London SE16 13/AP/0065 a/n 723.
 - £368,500 will go towards undertaking highway improvements to Rotherhithe New Road including tree planting, lighting, traffic calming measures and widening of existing footways by the Council.

BACKGROUND INFORMATION

2. Planning obligations are legal agreements between the local planning authority, the developer and other interested parties which are used to mitigate the impacts caused by 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 planning contributions pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
3. Section 106 funds are released to projects and programmes as new developments come forward for implementation which triggers the payment of sums to the council.
4. The development known as 399 Rotherhithe New Road, London SE16 13/AP/0065, paid the Rotherhithe New Road works contribution of £368,500 to the Council as defined below pursuant to the Section 106 Agreement.

“Public Realm Contribution”

the sum of £118,500 towards the cost of the provision of public realm within the vicinity of the Property payable in accordance with Schedule 1 of the deed.

“Site Specific Transport Contribution”

the sum of £250,000 payable in accordance with Schedule 1 of the deed.

KEY ISSUES FOR CONSIDERATION

Projects to mitigate the impact of the developments

5. Section 106 payments are secured as part of the planning permissions for the above site in order to mitigate the impact of large new developments on the area, and provide the infrastructure and services to support large new developments.
6. The approved and under construction 399 Rotherhithe New Road development will create new pedestrian links between the new residential blocks and the new school and sixth form centre that will enhance the public realm and bring benefits to both existing and new residential community. The planning approval also secured improvements to the footway on the roads directly adjacent to the new development. In order to further mitigate the impact of the development a £368,500 contribution was secured to ensure all areas of Rotherhithe New Road in the vicinity of the development are enhanced.
7. The proposed improvements to Rotherhithe New Road are as follows:
 - A new pedestrian crossing (zebra with raised table) including the provision of dropped kerbs and tactile paving;
 - Improvements to the Verney Way / Rotherhithe New Road junction that enhance pedestrian crossing facilities including the provision of dropped kerbs and tactile paving together with carriageway narrowing;
 - Improvements to lighting along Verney Way adjacent to the Property;
 - Improvements to the pedestrian crossing facilities at the St James's Road / Rotherhithe New Road junction;
 - Assessment of on-street car parking;
 - Measures to reduce vehicle speeds along Rotherhithe New Road and improvement of cyclist and pedestrian safety and road safety measures at junctions in the vicinity of the Property.

Resource implications

8. The resource implications are outlined above and summarised in the finance concurrent below.

Community impact statement

9. All projects will be designed to be fully accessible to all, without prejudice or discrimination.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Planning

10. The development at 399 Rotherhithe New Road, London SE16 13/AP/0065 a/n 723 secured £368,500 in contributions. All the triggered payments have been received.
11. The proposed allocation accords with the agreement and would provide some mitigation for the impacts of the development.

Director of Law and Democracy

12. The section 106 Agreement relating to 399, Rotherhithe Road was agreed in somewhat unusual circumstances. The planning application was heard by the Council's Planning Committee and it was resolved to reject the application on seven separate grounds. However, before a planning determination was issued, the case needed to be referred to the Mayor of London and he determined to call the application in for his own determination. Subsequently, the application was heard at a hearing in December 2013, when the Mayor decided that the breaches of planning policy were outweighed by the benefit of the provision of additional school spaces.
13. Accordingly the Agreement was not negotiated with the developer in the usual way and the Council effectively had to accept many of the provisions contained within the agreement. Once the terms were finalised, the Mayor issued the planning permission. However, Southwark Council remains responsible for the enforcement of the planning obligations contained within the Agreement.
14. In this instance, the items referred to in the report were expressly contained within the terms of the section 106 Agreement. It is always essential that section 106 monies are spent strictly in accordance with the terms of the relevant Agreement and also in accordance with the tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) which provide that the required obligation must be (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related in scale and kind to the development.
15. The Section 106 Agreements which are listed in this report have been reviewed to ensure that the proposals for expenditure are in line with the purposes for which the identified contributions were made. As the contributions relate to both site specific transport contributions and public health improvements which have been identified are indeed being spent in accordance with the tests set out above.
16. Under paragraph 6, part 3F of the Council's Constitution, it is one of the functions of the Planning Committee to consider the expenditure of section 106 monies and matters are reserved for decision by Planning Committee where the proposed expenditure exceeds £100,000 and is of strategic importance in accordance with paragraph 2, Part 3F under the subheading of "Matters Reserved for Decision".
17. Subject to taking account of the above considerations, Members are advised that they may approve the proposed expenditure as it is consistent with the terms of the relevant section 106 Agreements and the legal tests outlined above.

Strategic Director of Finance and Governance (CAP15/069)

- 19 This report requests approval from planning committee to the release of £368,500 S106 funds from legal agreement 13/AP/0065 (a/c no 723) towards highway improvements to Rotherhithe New Road, SE16.
- 20 It is noted that £368,500 from agreement 13/AP/0065 has been received by the council and has not been committed to other projects. It is therefore available for the detailed works and use of the S106 funds will be monitored as part of the council's capital programme.
- 21 Staffing and any other costs connected with this recommendation to be contained within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
S106 Legal Agreements	Planning Division, 160 Tooley Street, London, SE1	Jack Ricketts 020 7525 5464

APPENDICES

No.	Title
	None.

AUDIT TRAIL

Lead Officer	Jon Abbott, Head of Regeneration	
Report Author	Mandalina Stricevic, Project Manager	
Version	Final	
Dated	14 January 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Director of Planning	Yes	Yes
Date final report sent to Constitutional Team		21 January 2016