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| Item No. 6. | Classification: Open | Date: 16 July 2018 | Meeting Name: Planning Committee |
| Report title: | | The release of £2,800,345.40 from S106 from the S106 agreement to deliver improved amenities at three schools | |
| Ward(s) or groups affected: | | North Bermondsey | |
| From: | | Director of Planning | |

RECOMMENDATION

1. That Planning Committee authorise the release of £2,800,345.40 of section 106 funding from the legal agreement detailed below (paragraph 2 and 3) to deliver improved amenities at three schools.

BACKGROUND INFORMATION

2. Funding of £2,800,345.40 of Section 106 has been and is due to be received under the Section 106 agreement 14/AP/0000, Thames Tideway Tunnel, dated 12th February 2014. This funding is in order to provide improvements at Riverside Primary School, St Joseph's Catholic Primary School, and St Michael's Catholic College. These improvements will ameliorate the environments of the schools in question as well as mitigating the impact of the Thames Tideway Tunnel in respect of each.
3. This report recommends the release of a total of £950,345.40 which has been received to date, the £1,850,000.00 which is due to be paid to the council for the same purposes over the next five years, and any additional indexation or interest which may become liable on these future payments to the council. As additional sums are paid over to the council by the developer, they can then be passed on to the schools themselves to finance improvements as set out below.
4. Planning obligations under S106 of the Town and Country Planning Act 1990 are used to address 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 planning obligations. These obligations can take the form of financial contributions and can cover a range of facilities including contributions toward educational facilities.
5. The proposed Thames Tideway Tunnel will capture the flows of storm sewage from 34 sewer overflow points along the River Thames. The Tunnel will extend for approximately 20 miles through London, and up to 240 feet beneath the River Thames, broadly following the path of the river. Major construction works are required to build the tunnel over several years.
6. There are two sites in Southwark where works are to be carried out, these being at Chambers Wharf and Shad Thames Pumping Station, both in Bermondsey. Riverside Primary School is located to the south-east of the Tideway site at Chambers Wharf, and is very likely to suffer adverse effects due to the digging of the tunnel at the Chambers Wharf site. St Joseph's and St Michael's are to the south-west of the

Chambers Wharf site, and are expected to be adversely affected by the digging itself and the movements of spoil by lorries on roads near these schools.

7. For that reason, these three schools have been specifically identified in the S106 agreement as beneficiaries of S106 contributions.
8. Riverside Primary School is a popular and successful school in the North Bermondsey ward, housed in a Grade II listed building. It was most recently rated by Ofsted as Outstanding.
9. St Joseph's Catholic Primary School, George Row, is a popular and successful school in the North Bermondsey Ward. It was most recently rated by Ofsted as Outstanding.
10. St Michael's Catholic College is a popular and successful secondary school in the North Bermondsey Ward. It was most recently rated by Ofsted as Outstanding.

KEY ISSUES FOR CONSIDERATION

11. The breakdown of S106 contributions, received and due, relating to these schools under this agreement is as follows:

| | Received to date | Due over the next 5 years | Total |
|--|-------------------------|----------------------------------|--------------|
| Riverside Primary School | 579,664.83 | 1,100,000.00 | 1,679,664.83 |
| St Joseph's Catholic Primary School, George Road | 103,560.19 | 250,000.00 | 353,560.19 |
| St Michael's Catholic College | 267,120.38 | 500,000.00 | 767,120.38 |

12. A more detailed breakdown is available in Appendix 1. It should be noted that due to the potential for indexation and interest in future years, it is possible that the sums received will differ slightly from the table above, and from Appendix 1.

Riverside Primary School

13. The Riverside Primary School Garden Mitigation Contribution, Green Wall Contribution, and Indoor Sports, Recreation and Music Contribution, totalling £124,000.00 have all been received by the council, and appropriate projects have been identified by the school, which this sum can support.
14. This £124,000.00 has not been allocated to any other purpose, and is available.
15. The first two instalments of the Riverside Primary School Wellbeing Impact Mitigation Contribution have been received by the council, and at Riverside appropriate works have commenced, and in some instances been completed. These works have all focused on the amelioration of the school's built environment, to the end of improving pupil wellbeing, in line with the agreement. These works have to date cost Riverside Primary School £207,363.62. The two instalments of this Contribution, including associated indexation, total £207,120.38.

16. This £207,120.38 has not been allocated towards any other purpose, and is available.
17. Riverside have identified costs relating to Wellbeing as totalling £207,363.62, which the school considers appropriate to part-finance using the sum in question, as they are in line with the purposes set out in the agreement. Further expenditure along the same lines is planned, which will make use of future years' Wellbeing contributions, which would total £500,000.00 over the five years to 2022-23.
18. The first two instalments of the Riverside Primary School Teaching Assistants Contribution have also been received by the Council. The two instalments of this Contribution, including associated indexation, total £248,544.45.
19. This £248,544.45 has not been allocated towards any other purpose, and is available.
20. Riverside have identified Teaching Assistant costs of £390,868.65 which the school considers appropriate to part-finance using the sum in question, as they are in line with the purposes set out in the agreement. Further expenditure along the same lines is planned, which will make use of future years' Teaching Assistants contributions, which would total £600,000.00 over the five years to 2022-23.
21. £579,664.83 of the Riverside funds in question have been received under the aforementioned S106 agreement, and the remaining £1,100,000.00 is expected over the next five years. These funds cannot be used for any other purpose than that specified, nor on any other school.

St Joseph's Catholic Primary School, George Row

22. The first two instalments of the St Joseph's Wellbeing Impact Mitigation Contribution have been received by the council, and appropriate projects have been identified by the school. The school is using the Wellbeing Contribution towards four discrete projects; firstly, ventilation and air-conditioning works to improve the learning environment; additional security measures in the form of upgraded CCTV; an improved range of on-site sports provision; and finally the provision of an on-site school library. The choice of these projects has been informed by the restrictions placed on pupil movements by the Thames Tideway works, the increased footfall around the school brought about by those works, and concerns over air quality due to traffic and pollution directly related to the development. The two instalments of this Contribution, including associated indexation, total £103,560.19.
23. This £103,560.19 has not been allocated towards any other purpose, and is available.
24. These works are yet to commence, but the school has identified costs relating to Wellbeing as consisting of ventilation and air-conditioning costs of £100,000.00, security costs of £20,000.00, sports facilities costs of £50,000.00, and library provision costs of £250,000.00, for a total of £420,000.00. The school considers it appropriate to part-finance these schemes using the sum in question, as they are all in line with the purposes set out in the agreement. The total of £420,000.00 includes future planned expenditure, which will make use of the funds as they are received over the five years to 2022-23.
25. £103,560.19 of the St Joseph's funds in question have been received under the aforementioned S106 agreement, and the remaining £250,000.00 is expected over the next five years. These funds cannot be used for any other purpose than that specified, nor on any other school.

St Michael's Catholic College

26. The first two instalments of the St Michael's Wellbeing Impact Mitigation Contribution have been received by the council, and appropriate works have commenced. The school is using the Wellbeing Contribution towards soundproofing and associated ventilation works. These works are to maintain the quality of the school environment so that the staff and pupils are able to sustain their present high standard of teaching and learning, despite the Tideway works going on nearby. The two instalments of this Contribution, including associated indexation, total £207,120.38. Further expenditure on these projects is planned, which will make use of future Wellbeing contributions, which would total £500,000.00 over the five years to 2022-23.
27. This £207,120.38 has not been allocated towards any other purpose, and is available.
28. The St Michael's Indoor Sports, Recreation and Music Contribution, of £60,000.00, has been received in full by the council, and appropriate projects have been identified by the school, such as the installation of enhanced mechanical ventilation to specific areas including the ICT suite and Food Technology room.
29. This £60,000.00 has not been allocated towards any other purpose, and is available.
30. £267,120.38 of the St Michael's funds in question have been received under the aforementioned S106 agreement, and the remaining £500,000.00 is expected over the next five years. These funds cannot be used for any other purpose than that specified, nor on any other school.

Policy implications

31. All of these measures are considered to be in agreement with the 2016 Primary and Secondary School Place Planning and Investment Strategy.

Community impact statement

32. Funding the measures to the school environment and the provision of teaching assistants at Riverside Primary School will improve the ability of the school to serve its local community, especially since it is in an area (Bermondsey) noted by the 2016 Primary and Secondary School Place Planning Strategy as having a potential shortfall in places.
33. Funding the measures described in respect of St Joseph's will not only maintain the school environment, but will improve pupil safety and access to learning resources close-at-hand (presently, pupils have to travel to access library and sports facilities, which the development has made increasingly less feasible). The school considers that these measures will have a particularly positive effect on the wellbeing of the school's more vulnerable pupils.
34. For St Michael's, the measures being undertaken will maintain the school environment, which will minimise the disruption engendered by the Thames Tideway Tunnel works. Accordingly this will augment the school's ability to provide a quality secondary education in the north of the Borough and thereby serve the local community, in line with the 2016 Primary and Secondary School Place Planning Strategy.
35. The Public Sector Equality Duty, at section 149 of the Equality Act 2010, requires public bodies to have due regard when carrying out their activities to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with protected characteristics and those with none. The council's

Approach to Equality commits the council to ensuring that equality is an integral part of our day to day business. "Protected characteristics" are the grounds upon which discrimination is unlawful - the characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender and sexual orientation. In this case, these characteristics are considered unlikely to be issues with regard to the schools in question.

Resource implications

36. As stated above (paragraphs 20, 24, and 29), since these contributions were received under a Section 106 agreement which specifies their use, they cannot be spent for any other purpose, nor on any other school. £950,345.40 has been received to date, and £1,850,000.00 is due to be paid to the council over the next five years to 2022-23.
37. Of the £2,800,345.40 set out above, and in Appendix 1, £950,345.40 has been received by the council and is available for immediate distribution to the three schools. The remaining £1,850,000.00 is due in contributions of £370,000.00 per annum for each of the next five years to 2022-23.
38. The proposed allocations would be to the local schools most directly affected by the new development and would provide direct mitigation from the impacts of those developments.
39. The schools concerned have submitted receipts and other supporting information appropriate to such expenditure as has already occurred, or have submitted plans for future expenditure, where projects have not yet begun.

Consultation

40. The head teacher of Riverside Primary School has been consulted about the use of these funds, as have all the relevant officers.
41. The head teacher of St Joseph's Catholic Primary School has been consulted about the use of these funds, as have all the relevant officers.
42. The head teacher of St Michael's Catholic College has been consulted about the use of these funds, as have all the relevant officers. The inclusion of mitigation works to St Michael's Catholic College in the Thames Tunnel S106 agreement was as a result of discussions with Ward members and the College.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director Law and Democracy

43. This report seeks the release of £2,800,345.40 from the Thames Tideway Tunnel planning obligations agreement. The terms of this agreement were debated at a public inquiry into the application for a Development Consent Order for the Thames Tideway Tunnel and the provisions were confirmed by the Secretary of State after receiving a report from the appointed Planning Inspectors. Accordingly the obligations were imposed by way of a Unilateral Undertaking from Thames Tideway as opposed to a negotiated section 106 Agreement. The payments are intended to mitigate the harmful impacts which have arisen to the schools as a result of the construction works.
44. Expenditure in excess of £100,000 is reserved to a Planning Committee in

accordance with paragraph 9, Part 3F of the Council Constitution The report refers to the consultation which has been carried out with the respective head teachers and with ward members. The report also comments at paragraph 32 that it is not expected that releasing these monies to the three schools is anticipated to give rise to any issues concerning groups having protected characteristics.

45. Members are advised that the expenditure would be in accordance with the terms of the relevant Unilateral Undertaking from Thames Tideway and consistent with the legal tests relating to the validity and expenditure of section 106 contributions.

Strategic Director of Finance and Governance CAP18/012

46. This report requests the Planning Committee to approve the release of £2,800,345.40 from section 106 agreement 14/AP/000, towards improvement works at the schools listed at paragraph 1. Details of the improvement works are outlined in the body of this report.
47. The director of planning confirms the section 106 funds associated with the agreement stated in this report have not been allocated to other projects, and the proposed allocations accord with the terms of the agreement.
48. Of the £2,800,345.50 secured under this agreement, £950,345.50 has been received by the council. The balance of £1,850,000 is due over the next five years.
49. The strategic director of finance and governance confirms the £950,345.40 received to date is available for the purposes outlined in this report.
50. It is noted that approval for the release of £1,850,000, and any additional indexation or interest, is sought in advance of the receipts in order to facilitate the continuity and completion of the intended works at these schools. Close monitoring of S106 accounts will be required to ensure all relevant sums are received before disbursement of funds to the relevant schools.

BACKGROUND DOCUMENTS

| Background Papers | Held At | Contact |
|---|--|--------------------------------|
| Copies of S106 Agreements | Planning Division, 160 Tooley Street, London SE1 | Jack Ricketts 020 7525 5464 |
| 2016 Primary and Secondary School Place Planning and Investment Strategy | | |
| Link: (Copy and paste into browser) http://modern.gov.southwark.gov.uk/documents/s65489/Report%202016%20Primary%20and%20Secondary%20School%20Place%20Planning%20Strategy%20Update.pdf | | |

APPENDICES

| No. | Title |
|------------|---------------------------------|
| Appendix 1 | Breakdown of S106 Contributions |

AUDIT TRAIL

| | | |
|---|---|--------------------------|
| Lead Officer | Alistair Huggett, Planning Projects Manager | |
| Report Author | James Gilliland, Finance and Governance | |
| Version | Final | |
| Dated | 03 July 2018 | |
| Key Decision? | Yes | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINAT MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Director of Law and Democracy | Yes | Yes |
| Strategic Director of Finance and Governance | Yes | Yes |
| Date final report sent to Constitutional Team | | 04 July 2018 |