

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 27 March 2024	<b>Meeting Name:</b> Planning Committee (Major Applications) A
<b>Report title:</b>		Release of £35,862,062.28 from S106 agreements across the borough to support the delivery of affordable housing in the borough	
<b>Ward(s) or groups affected:</b>		Old Kent Road, London Bridge & West Bermondsey, North Bermondsey, Borough & Bankside, Camberwell Green, Chaucer	
<b>From:</b>		Director of Planning and Growth	

## RECOMMENDATIONS

1. That the planning committee agrees the release of funds totalling £35,862,062.28 of S106 affordable housing funding, received against the legal agreements set out in Appendix A, to the New Homes Programme in order to support the delivery of affordable housing in the borough.
2. That the strategic director of finance be authorised to apply the funding released to individual projects within the New Homes Programme.

## BACKGROUND INFORMATION

3. Planning obligations are used to mitigate the negative impacts caused by a development and contribute towards providing infrastructure and facilities necessary to achieve sustainable communities. In order to achieve this, the council enters into a legal agreement with a developer whereby the developer agrees to provide planning contributions and/or enters into various planning obligations. These obligations may take the form of financial contributions, including towards affordable housing.
4. 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 are held in an account for S106 Affordable Housing Contributions. At present, the New Homes Programme seeks the release of these funds annually from Planning Committee. If approved, these contributions are moved into the S106 Affordable Housing Fund where they are ring-fenced to aid in the delivery of the New Homes Programme.

5. Subject to planning committee approval, the release of these S106 receipts will enable them to be used to help fund the council's New Homes Programme. As set out in the Capital Programme Refresh report presented to Cabinet in January 2023, this programme aims to deliver new affordable homes and contribute towards the council's commitment to build 11,000 new council homes by 2043, as per the Council Plan 2018-22. 2,500 of these homes have been delivered or started on site before May 2022, and the current plan for 2022-26 includes 1,000 social and 500 key worker homes.
6. S106 monies form a key part of the funding strategy to deliver the council's new homes, alongside grant from the GLA, right to buy receipts, other capital receipts and borrowing. Use of all forms of funding, including S106 receipts is subject to conditions and restrictions and is set out in an annual financing statement incorporating all capital expenditure incurred by the council, which is subject to review by the council's external auditors as part of their annual audit of the council's accounts. It is particularly important that the council keeps its borrowing within prudential limits to ensure it is sustainable and affordable for the Housing Revenue Account. The application of S106 receipts helps to ensure the council remains within prudential borrowing, especially given the economic uncertainty and period of relatively high interest rates currently being experienced.
7. In March 2023, the council's planning committee approved a release report of S106 affordable housing funding for £60,000,000. The funds enabled the council to support the cost of delivering affordable homes included within the council's New Homes Programme. The schemes in this programme are at different stages in their delivery.

## KEY ISSUES FOR CONSIDERATION

8. Subject to planning committee approval, the S106 affordable housing funding from the legal agreements set out in Appendix A will be added to the S106 Affordable Housing Fund and be used to help finance the council's New Homes Programme. The S106 sums released since July 2020 have contributed to the delivery of 305 new affordable homes. By way of an example as to the progress of the programme, the council has delivered or assisted with the delivery of the following:

Alfred Fagon Apartment Terraces (Copeland Road Car Park)	Completed in May 2022 providing 24 new council homes
Harold Moody Court and Prout House (Goschen Estate)	Completed in July 2022 providing 17 new council homes
John Gorsuch House (Daniels Road)	Completed in September 2022 providing 19 new council homes;
Leathermarket (Joyce Newman House)	Completed in May 2022 providing 40 new council homes
Lilac House (Meeting House Lane)	Completed in March 2022 providing 29 new council homes)
Welsford Street Garages	Completed in October 2021 providing 10 council homes

17-19 Wood Vale	Completed in January 2024 providing 6 homes;
18-19 Crimscott Street	Completed in August 2023 providing 13 homes;
Adrian & Dennis (39-44 Rutley Close)	Completed in November 2023 providing 25 homes;
Aylesbury (First Development Site A)	Completed in July 2023 providing 229 homes;
Bassano Street Garages	Completed in May 2023 providing 4 homes;
Breamore House	Completed in September 2023 providing 1 home;
Commercial Way	Completed in July 2023 providing 74 homes;
Fenham Road	Completed in April 2024 providing 5 homes;
Heaton House	Completed in December 2023 providing 8 homes;
Henslowe Road	Completed in January 2024 providing 3 homes
Underhill Road	Completed in August 2023 providing 3 homes

9. The council's New Homes Programme, to which these S106 sums will be contributing, has a total of 1,619 homes on site, which includes 415 replacement homes. A further 28 homes are expected to commence within next 12 months. With this, the council is making significant steps toward its commitment to deliver 1,000 new council homes by 2026.
10. The council's new homes programme predominately adopts a direct delivery model whereby the council procures and appoints the professional services and main contractors to build out schemes on council owned land. In addition the Southwark Construction programme currently has five schemes being delivered by development agreement and has also made some s106 acquisitions where it has been cost effective to do so. S106 monies for affordable housing is applied across the programme where additional council homes are being delivered.
11. The S106 sums will help contribute towards the funding of the schemes listed below and other schemes that may come forward as part of the New Homes Programme. Following release of the funding, S106 monies will be applied to individual projects depending on the level of expenditure by the council on the projects in the New Homes Programme and the availability of other sources of funding as authorised by the strategic director of finance.

<b>Project</b>	<b>Ward</b>	<b>No. of New Council Homes (New + Replacement)</b>	<b>No. of New Council Homes (New Only)</b>
2 Linden Grove	Peckham Rye	6	6
35-41 Nunhead Lane	Rye Lane	12	12
38 Mary Datchelor Close	Nunhead & Queens Road	13	13
87 Gosvenor Park	Newington	2	2
Aylesbury (FDS Package B)	Faraday	352	352
Canada Water (Plot K1)	Rotherhithe and Surrey Dock	60	60
Cator Street Extra Care (Phase 2)	Peckham	58	58
Cherry Gardens School, Macks Road	South Bermondsey	26	26
Comber House	Camberwell Green	6	6
Fendall & Maltby	London Bridge & West Bermondsey	40	40
Flaxyard, Sumner Road	Peckham	96	96
Former Rotherhithe Civic Centre, Albion Street and Rear of Albion Primary School (Southern End), Albion Street	Rotherhithe	39	39
Haddonfield Garages	Rotherhithe	14	14
Ledbury Towers	Old Kent Road	260	47
Lomond Grove	Camberwell Green	22	22
Penry Street	South Bermondsey	13	13
Regina & Columbia Point	Rotherhithe	2	2
Rennie Estate	South Bermondsey	49	49
Rye Hill Park Garages	Peckham Rye	23	23
Salisbury Est Car Park (Balfour Street)	North Walworth	26	26
Sedgemoor Place (TA)	St Giles	13	13
Manor Place	Newington	30	30
Slippers Estate	North Bermondsey	18	18
TA-Contract 1 (former hostel)	Camberwell Green	12	12
TA-Contract 2 (former hostel)	Camberwell Green	15	15
TA-Contract 3 (former hostel)	Old Kent Road	10	10
Tenda Road	South Bermondsey	12	12

<b>Project</b>	<b>Ward</b>	<b>No. of New Council Homes (New + Replacement)</b>	<b>No. of New Council Homes (New Only)</b>
Tissington Silverlock Estate (underground garages)	Rotherhithe	35	35
Tustin Regeneration	Old Kent Road	355	153
<b>Total on Site</b>		<b>1619</b>	<b>1204</b>

12. The S106 sums will also be utilised for the following schemes which have received planning permission and are expected to commence over the next twelve months:

<b>Project</b>	<b>Ward</b>	<b>No. of New Council Homes (New + Replacement)</b>	<b>No. of New Council Homes (New Only)</b>
66 Linden Grove	Peckham Rye	28	28

13. Resources from the S106 affordable housing contributions play an important part in the overall funding approach to the council's provision of new affordable homes. The schemes delivered by the council typically deliver a far higher proportion of new council homes than required by planning policy and hence the s106 contributions, along with grant, right to buy receipts and council borrowing, have enabled the council to take forward this programme of investment. It is for this reason that this report recommends that the Planning Committee release the sums described in Appendix A.
14. These projects will help deliver our Fairer Future Commitments by making Southwark a more connected and sustainable borough to live in.
15. The New Homes Programme particularly supports the second Fairer Future Commitment, A Place to Belong.

### **Policy framework implications**

16. Southwark is committed to the most ambitious council house building programme anywhere in Britain, aiming to deliver 11,000 new council homes by 2043 as per the Council Plan 2018-22. 2,500 of these homes have been delivered or started on site before May 2022, and the current plan for 2022-26 includes 1,000 social and 500 key worker homes.

## **Community, equalities (including socio-economic) and health impacts**

### **Community impact statement**

17. The 2019 Strategic Housing Market Assessment demonstrated a continuing need for affordable housing, with the borough experiencing very high house prices that are outside the reach of many of its residents. It has the highest house prices in the housing sub-region (the average 2-bedroom flat being sold for £521,000 in December 2022). At the time of the 2011 census there were 18,547 overcrowded households in Southwark, a higher number, and a higher percentage (15.3%), than any of the other four boroughs in the sub-region. Over the period 1981- 2012, the population of Southwark increased by 34%, the fastest growth in the sub-region by some margin. The 2016 average growth assumption from the GLA was 2,094 each year.
18. This proposal to increase the supply of affordable homes in the borough will benefit households in housing need from all Southwark's communities with new homes allocated in line with the council's Housing Allocation Policy.

### **Equalities (including socio-economic) impact statement**

19. The provision of this housing, which includes family homes and homes for older people, is in line with community needs and aims to foster stronger communities. This in turn will improve the quality of life of people in Southwark and encourage community cohesion.
20. It is not considered that the proposal has any negative impact on any particular age, disability, faith or religion, race and ethnicity and sexual orientation.
21. The Public Sector Equality Duty requires public bodies to consider those with protected characteristics (which includes age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) when carrying out their day to day work, in shaping policy and delivering services. It applies to every aspect of local government decision making and requires decision makers to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. The council's consultation with residents on the New Homes Programme has been designed to be inclusive of all the borough's communities and provided a range of mechanisms to provide residents with the opportunity to engage.
22. The Southwark Construction team undertakes full equalities impact assessments for each project within the programme. This is to ensure that there is no disproportionate or discriminatory impact on groups with protected characteristics.
23. By providing a stronger link between the New Homes Programme and continuing the principles established as part of the Great Estates programme (empowering local communities and adopting initiatives to support clean, safe and cared for estates) as well as utilising social regeneration indicators linked

to council plan objectives, the programme will help target those most in need to deliver community benefits.

24. New homes delivered by the council will work towards achieving carbon neutral and sustainability requirements in line with the council's 2030 carbon neutral policy. All projects will comply with Building Regulations Part L that addresses the conservation of fuel and power, and guarantees eco-friendly efficient properties and minimises carbon emissions, as part of a drive towards a greener future.

### **Health impact statement**

25. The provision of quality affordable housing benefits the health of residents in numerous ways. The effect of housing conditions on physical and mental health can be caused by overcrowding, risk of burglary, damp and mould, excess heat and cold and trip hazards. The provision of affordable housing units funded with S106 contributions is of a high quality with minimum room sizes, daylight and sunlight standards, ventilation, heating/insulation and consideration of amenity regarding noise and outdoor space. All these measures are intended to benefit the health of the occupants.

### **Climate change implications**

26. To achieve planning permission, the New Homes Programme must demonstrate how the affordable housing developments comply with the climate emergency policies as outlined in the Southwark Plan (2022). There are a number of detailed policies including strategic policy SP6 Climate Emergency which requires consideration to making buildings as energy efficient as possible, making Southwark a place where walking, cycling and public transport are the first choice, protecting and creating green spaces and waterways to provide habitats and amenity spaces, improving air quality and reducing flood risk through urban greening. The New Homes Programme comply with the conditions and obligations within their planning permissions in order to ensure the delivery of affordable housing that responds positively to the climate emergency.

### **Resource implications**

27. The developments set out in Appendix A secured the sum of £35,862,062.28 towards the delivery of affordable housing. All of the £35,862,062.28 is currently unallocated and available.
28. The allocation of the money to the S106 Affordable Housing Fund accords with the individual S106 agreements and the delivery of affordable housing will provide appropriate mitigation for the impacts of the developments to which the money has been secured against.
29. Subject to Planning Committee's approval, the sum of £35,862,062.28 will be allocated to the S106 Affordable Housing Fund, which will then in turn be released to facilitate the delivery of the New Homes Programme.

## **Consultation**

30. Each site listed in this report has been subject to the usual planning consultation process and has been assessed as being acceptable, with planning permission being granted.
31. Consultation is a key part of the New Homes Programme and will be undertaken in respect of the stakeholders concerned with each housing development at multiple stages during the project lifecycle. Some of the New Homes Programme projects are not yet at the post planning consultation stage, but these will be subject to the same processes of consultation and community involvement.
32. Consultation on individual sites is being undertaken in line with the council's Charter of Principles and continues to provide mechanisms for current and prospective residents to engage with the development of new homes.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Planning and Growth**

33. The proposed allocation accords with the agreements itemised in Appendix A and would provide appropriate mitigation for the impacts of the specific and future developments.
34. 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 accord with the justification for the contribution and the legal agreement.
35. If approved, once drawn down, these funds will be moved to the S106 Affordable Housing Fund to be used towards the delivery of the New Homes Programme. Details of their monitoring and audit process are set out in this report.

### **Assistant Chief Executive – Governance and Assurance**

36. The council's constitution provides that it is the function of planning committee (major applications) to, amongst other things, consider the expenditure of funds over £100,000 of strategic importance secured through legal agreements under section 106 of the Town and Country Planning Act 1990.
37. The Equality Act 2010 introduced the public sector equality duty, which merged existing race, sex and disability equality duties and extended them to include other protected characteristics; namely age, gender reassignment, pregnancy and maternity, religion and belief and sex and sexual orientation, including marriage and civil partnership. In summary those subject to the equality duty,



which includes the council, must in the exercise of their functions: (i) have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and (ii) foster good relations between people who share a protected characteristic and those who do not. The report considers equalities issues, and the report confirms the proposals are not expected to have a detrimental impact on any particular protected group under the Equality Act 2010.

38. The Human Rights Act 1998 imposed a duty on the Council as a public authority to apply the European Convention on Human Rights; as a result the council must not act in a way which is incompatible with these rights. The most important rights for planning purposes are Article 8 (respect for homes); Article 6 (natural justice) and Article 1 of the First Protocol (peaceful enjoyment of property). The proposals are not expected to breach any of the provisions of the Human Rights Act 1998.
39. Council Assembly on 14 July 2021 approved a change to the council's Constitution to confirm that all decisions made by the council will consider the climate and equality (including socio-economic disadvantage and health inequality) consequences of taking that decision. This has been considered in paragraphs 17 -26 above.

### **Strategic Director of Finance**

38. This report requests the planning committee to approve the release of £35,862,062.28 in section 106 affordable housing contributions from the agreements set out in Appendix A to the S106 Affordable Housing Fund, to be used towards the delivery of the New Homes Programme.
39. The strategic director of finance notes the resource implications at paragraphs 27-29, the supplementary advice at paragraphs 33-39 and confirms that the council has received most of the related funds and have assurance that the outstanding £5.95m contribution is expected to be received. All receipts are available for the purpose outlined in this report.
40. Staffing and any other costs associated with this recommendation are to be contained within existing budgets.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Copies of S106 All documents can be accessed online at:	160 Tooley Street London SE1 2QH	David Whitehead 07732 828276
<b>Link:</b> <a href="https://www.southwark.gov.uk/planning-and-building-control/planning-applications/planning-register-search-view-and-comment-on-planning-applications">https://www.southwark.gov.uk/planning-and-building-control/planning-applications/planning-register-search-view-and-comment-on-planning-applications</a>		
Council Plan 2022-26	160 Tooley Street London SE1 2QH	Joseph Brown <a href="mailto:Joseph.Brown@southwark.gov.uk">Joseph.Brown@southwark.gov.uk</a>
<b>Link:</b> <a href="https://www.southwark.gov.uk/council-and-democracy/fairer-future/fairer-greener-safer-southwark-s-council-delivery-plan">https://www.southwark.gov.uk/council-and-democracy/fairer-future/fairer-greener-safer-southwark-s-council-delivery-plan</a>		
Capital programme update for 2022-23 to 2031-32	160 Tooley Street London SE1 2QH	Amarjit Uppal 020 7525 4578
<b>Link:</b> <a href="https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=7342&amp;Ver=4">https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=7342&amp;Ver=4</a>		

## APPENDICES

No.	Title
Appendix A	S106 agreements delineated by funds available and intended purpose
Appendix B	Affordable Housing Projects

## AUDIT TRAIL

<b>Lead Officer</b>	Zoe Davies, Strategic Lead, Southwark Construction	
<b>Report Author</b>	David Whitehead, Graduate Planner	
<b>Version</b>	Final	
<b>Date</b>	15 March 2024	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Strategic Director of Finance	Yes	Yes
Director of Planning and Growth	Yes	Yes
Cabinet Member	No	No
<b>Date final report sent to Constitutional Team</b>	15 March 2024	

## APPENDIX A

### S106 agreements delineated by funds available and intended purpose

Profit Centre	App Ref	New Ward	Address:	Indexation/Late Payment interest	Total Available Balance
W09491	20/AP/2701	Old Kent Road	671-679 Old Kent Road London Southwark SE15 1JS	£162,893.70	£2,162,893.70
W08891	17/AP/3281	London Bridge & West Bermondsey	11-13 Spa Road, London, SE16 3RB	£0	£1,000,000.00
W08321	17/AP/0367	Borough & Bankside	Southwark Fire Station, 94 Southwark Bridge Road, London, SE1 0EG, Grotto Place and Grotto Podiums	£1,625,737.71	£1,625,737.71
W08321	14/AP/3277	Camberwell Green	Land at 1-20 Houseman Way, 30-51 Houseman Way and 90-106 Benhill Road, London Se5	£4,347.07	£30,143.07
W08901	18/AP/2295	Camberwell Green	77-89 Alscot Road London SE1 3AW	£729,878.05	£804,878.05
W09221	18/AP/3991	North Bermondsey	386 Southwark Park Road London SE16 2ET	£57,957.60	£307,957.06
W09061	18/AP/0900	London Bridge & West Bermondsey	Capital House 42-46 Weston Street London SE1 3QD	£1,815,452.69	£23,980,452.69
W09101	16/AP/3144	Chaucer	87 Newington Causeway London Southwark SE1 6BD	£0	£5,950,000.00
				£4,396,266.82	£35,862,062.28

### Source of funding by ward:

Ward	S106 generated
Old Kent Road	£2,162,893.70
London Bridge & West Bermondsey	£24,980,452.69
North Bermondsey	£307,957.06
Borough & Bankside	£1,625,737.71
Camberwell Green	£835,021.12
Chaucer	£5,950,000.00
	£35,862,062.28

### Indexation and Late Payment Interest:

Concerning the available balances above, of the £35,862,062.28 collected, £4,396,266.82 represents indexation and £22,742.29 is late payment interest.

### 16/AP/3144:

The contribution of £5,950,000.00 has been requested from the developer and is due to be paid by the 21 March 2024. It has been included within this release report to support the Council in the delivery of the New Homes Programme and remain within prudential borrowing limits. The money has not yet been received by the council and in the event that it is, will then be ring-fenced for the New Homes Programme.

**Affordable Housing Projects**



**17-19 Wood Vale**



**18-19 Crimscott Street SE1**



**Breamore House**



**Rutley Close**



**Aylesbury FDS A**





**Bassano Street**



**Commercial Way**



Fenham Road



**Heaton House**



**Underhill Road**



**Workshops, 42 Braganza Street SE17**