

Scrutiny Report



Listening Learning Leading

Report of Head of Housing and Environment

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Wards affected: All

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To: SCRUTINY

Date: 07 August 2023

Grant Funding Affordable Housing

Recommendation(s)

To consider the report to Cabinet on the revised Affordable Housing Section 106 Commuted Sums Grant Policy for the awarding of S.106 grant funding to affordable housing projects in the district and to make any recommendations scrutiny see fit.

If the new policy is adopted by Cabinet, to bring a further report to Scrutiny in financial year 2024/25 with a review of the performance of the new policy and applications for housing grant funding.

Purpose of Report

1. The Joint Housing Delivery Strategy 2022-2024 (Approved by Cabinet on 10 November 2022) recommended a refresh of the criteria used to allocate Section 106 affordable housing funds, and the framework for fund allocation used by South Oxfordshire District Council and Vale of White Horse District Council. The changes reflect the council's desire to increase the delivery of affordable housing further, and to make the grant application process, easier and more transparent.
2. This report puts forward a set of priorities to be used to determine whether a project fits with the strategic priorities agreed in the Housing Delivery Strategy and recommends a clearer alignment between the information requested from applicants and the information used for evaluation. This will give greater clarity to applicants.

Corporate Objectives

3. Action on Climate Emergency
4. Homes and infrastructure that meet local needs.

Background

5. Section.106 (S.106) of the Town and Country Planning Act 1990 allows the Council to enter into a planning agreement with a planning applicant which sets out certain enforceable obligations. These relate to the carrying out of a development. One of these obligations can be the payment of a financial contribution in lieu of the on-site delivery of affordable housing. In most cases, this sum is a result of a 'part unit' (e.g. a development of 33 dwellings would result in 13.2 affordable dwelling when seeking 40 per cent affordable housing. A financial contribution would therefore be payable on the 0.2).
6. On a small number of occasions, a financial contribution may be accepted in lieu of any on-site delivery, and where there is a robust justification for doing so. The contribution is paid by the developer and is ringfenced for the sole purpose of contributing to the delivery of affordable housing by those that apply. The sum is normally held for a period of 10 years. If it remains unspent after that time, it may have to be returned to the developer.
7. Current guidance for S.106 funding asks applicants to provide a detailed description of their project and to address:
 - Affordability
 - Value for money
 - Community benefit
 - Environment
 - Why the project cannot be delivered without grant
8. Applicants are also asked for financial appraisal, layout, and location. The criteria is then used to evaluate the project, looking at eligibility, strategic fit, value for money, and capability, asking a series of questions which the applicant may or may not, have included on the application form. Alignment between the guidance, application form and evaluation criteria would reduce the amount of follow up work required on applications and reduce delay in processing and decision-making.
9. Based upon experiences since its introduction, there are several areas within the current application system which would benefit from updating and amending in order to ensure a more streamlined process, with clearer parameters which fully address the council's requirements. The assessment criteria is also updated as part of this review. An updated and clearer application process will form part of a greater overall drive to increase the provision of genuinely affordable homes for local households and individuals.
10. The aim is to have a policy and process for the allocation of S.106 funds which is fair, transparent, and legal and enables officers to make clear and objective recommendations for the allocations of funds within this policy, if agreed by Cabinet. It is also highly important that applications for grant funding align with the priorities of the council's recently adopted Housing Delivery Strategy, which has access to high quality affordable homes at its heart.

Proposal

11. A revised and updated S.106 commuted sum spend policy is attached as Appendix 1 of this report. If approved by Cabinet, this will replace the current framework and application process in its entirety.
12. In replacing a currently open-ended system, receipt of applications will be acknowledged within a maximum of 10 working days. Following this, applicants will be provided with a clear timescale in which the council will be able to assess the application and, if accepted, undertake the necessary due diligence, and prepare a report to Cabinet.
13. To ensure that sufficient funds are available at any given time, the council will suspend the application window on its website if funds fall below £250,000. The application window will reopen once further income has been received from S.106 contributions already secured.
14. The application process, and the criteria against which applications are assessed, is proposed to be revised as shown at Appendix 1. It contains the detailed criteria, assessment process, together with the application form, required information list, and the key requirements of a funding agreement between the council and any recipient organisation.
15. The council's website will invite prospective applicants to engage with the Affordable Housing Team in advance of submitting a formal grant funding application. This will help to identify any issues early on, and prevent applications being submitted, that will not meet the council's criteria.
16. If adopted by Cabinet, the revised arrangements will become applicable on 1 September 2023. Any applications received and acknowledged prior to this date will be considered against the original framework.

Climate and ecological impact implications

17. Significant weight will be given to applications demonstrating that they will deliver a net zero-carbon project. In addition to contributing to addressing the council's declared climate emergency, a zero-carbon home will contribute significantly to reducing running cost for the occupants. This is outlined in Paragraph 9 (scheme features) which states *"Specifically for applications related to homes to be provided in South Oxfordshire District Council, any projects that propose gas heating will automatically be given a score of zero in this category, and this issue will be highlighted in any decision report. Conversely, greater weight will be given to housing schemes that can clearly demonstrate and evidence that the resulting scheme will be considered low carbon."*

Financial Implications

18. The council's Infrastructure Obligations Team will be consulted on all projects to ensure that the proposed use meets the spending criteria of the associated S.106 contributions, and will be updated monthly on any allocation, transfer of funds and project completions, so that this can be recorded appropriately. Any funding allocations and expenditure will be captured in the statutory annual Infrastructure Funding Statement to be published in December each year.

19. The S.106 commuted sums held by the council equate to approximately £2.8 million. This amount is less grant funding already approved by Cabinet in connection with the following schemes:

Henley and District Housing Trust £450,933 (3 homes for Social Rent)
Thame and District Housing Association £765,000 (5 homes for Social Rent)
Soha £746,208 (12 homes for Affordable Rent)
SODC £500,000 (Broadway feasibility study, design etc)

20. Any council decision that has financial implications must be made with the knowledge of the council's overarching financial position. For Vale, the position reflected in the council's medium-term financial plan (MTFP) as reported to full Council in February 2023 showed that the council was able to set a balanced budget for 2023/24, but that there is expected to be a budget gap in future years. However, there is great uncertainty over this caused by a lack of clarity from government.

21. The future funding gap is predicted to increase to over £7.8 million by 2027/28, based on current cautious officer estimates of future funding levels. Whilst it is anticipated that overall funding for the council will remain relatively unchanged in 2024/25, the lack of certainty on future local government funding from 2025/26 onwards means the level of funding, and the resulting estimated funding gap, could be significantly different from current officer estimates in either a positive or negative way. Every financial decision, particularly those involving medium-term funding commitments (i.e., those beyond 2024/25), needs to be cognisant of the potential for significant funding gaps in future years

Legal Implications

22. Scrutiny will appreciate that it is open to Cabinet to set the parameters for any grant scheme and, as the report recognises, Section 106 monies should be applied for the purposes expressed in the agreement. Scrutiny committee may consider the report and policy and, if it considers appropriate, may make recommendations to Cabinet. Any recommendations will be reflected in the Cabinet report. Other than that, there are no specific legal implications arising from the recommendation in this report.

Risks

23. Sums held as S.106 financial contributions can only normally be held for a maximum of ten years. If they remain unspent after this period, they must be returned to the developer, usually with interest or indexation. Therefore, the council should actively look to appropriately expend these sums.

24. The risk of a recipient body failing to deliver homes for which it has been allocated grant, will be mitigated through terms contained within a grant funding agreement. This will include staged payments of the grant and restriction on title of the property benefiting from funding.

Other implications

25. None

Conclusion

26. The revised commuted sum policy will replace all existing guidance if adopted. The policy and accompanying procedures will provide greater clarity and transparency, and ensure that the council's corporate objectives, and strategic aims of the Housing Delivery Strategy are more effectively met.
27. A streamlined and more transparent assessment process, combined with greater emphasis on the council's strategic housing deliver objectives will ensure a high-quality affordable product directly benefiting the council's residents.

Appendix

- 1 Affordable Housing Section106 Commuted Sums Grant Policy

Background Papers

- [Existing S106 application process](#) (available on the council's website)