

Proposed 2023/24 Section106 Commuted Sums grants to support delivery of affordable homes	
Executive Summary	<p>Cabinet in February 2021 agreed to the establishment of an annual budget in the Capital Programme to provide grants, using section 106 capital receipts held by the council, to support Registered Providers to deliver new affordable homes.</p> <p>A budget of £500k in 2021/22 and £300k per annum 2022/23 - 2024/25 was established. No grants have yet been paid so this budget has been carried forward.</p> <p>This report now details the programme of grants for 2023/24 and seeks support to provide s106 grant totalling £1,186,000, which will provide 71 affordable homes (an average of less than £17k grant funding per home).</p>
Options considered	<p>The housing section 106 monies held can only be used to fund delivery of affordable homes.</p> <p>The option of retaining the monies for alternative future affordable housing schemes is rejected as this runs the risk of some of the current proposed affordable housing schemes not going ahead.</p> <p>Additionally, as some section 106 receipts have a time limit on their use, not using them risks needing to repay them.</p>
Consultation(s)	<p>Portfolio Holder for Housing and Peoples Services Finance team S106 Officer</p>
Recommendations	<p>That Cabinet support the granting of £1,186,000 of existing s106 housing monies in 2023/24 to support Registered Providers deliver new affordable housing schemes as detailed in the report.</p>
Reasons for recommendations	<p>To provide support for £1,186,000 grant funding to help deliver affordable homes</p>
Background papers	<p>Cabinet February 2021 - Use of s106 Commuted Sums to support delivery of affordable homes in North Norfolk Cabinet March 2022 - Proposed 2022/23 programme of Section106 Commuted Sums to support delivery of affordable homes in North Norfolk</p>
Wards affected	Holt, Stibbard, Coastal, Priory, Bacton, Suffield Park
Cabinet member(s)	Cllr Wendy Fredericks, Portfolio Holder Housing & Peoples Services
Contact Officer	Nicky Debbage, Housing Strategy & Delivery Manager, nicky.debbage@north-norfolk.gov.uk

Links to key documents:

Corporate Plan:	Meeting our Local Housing Need – specifically: <ul style="list-style-type: none"> - Supporting the delivery of more affordable housing, utilising partnership and external funding wherever possible. - Working with partners to deliver more rural exception sites
Medium Term Financial Strategy (MTFS)	NA
Council Policies & Strategies	Housing Strategy 2021-25

Corporate Governance:	
Is this a key decision	Yes
Has the public interest test been applied	NA
Details of any previous decision(s) on this matter	NA

1. Purpose of the report

This report details the proposed programme of housing enabling grants for 2023/24 and seeks support to provide s106 grant totalling £1,186,000 which will provide 71 affordable homes (an average of £16,704 grant funding per home).

2. Background - Section 106 commuted sums held by North Norfolk District Council

2.1 The council seeks developers to provide, as part of a market housing development, affordable homes on-site wherever possible. This ensures that affordable homes are delivered, integrated into market developments and that they are made available to Registered Providers at a price that is viable as affordable housing. However, occasionally there are reasons why on-site provision would not be appropriate and instead developers make a financial contribution, a s106 contribution or 'commuted sum', in lieu of the on-site provision of affordable homes. The other circumstance in which s106 receipt may be received is via uplift clauses. This is for larger scale developments where delivery of on-site affordable homes is demonstrated not to be viable at the time of Planning, but a review mechanism is included in the section 106 agreement. This review mechanism allows us to reassess viability based on actual costs and sales values and, where a profit above that expected in the original viability is achieved, to receive some of this 'excess' profit in s106 commuted sums.

- 2.2 The level of s106 commuted sums for housing currently held by NNDC is £2,450,606. Details of housing s106 monies are set out in Appendix A to this report. N.B. the council also currently holds £921k of non-housing s106 monies, which are held for a variety of uses such as parks, play areas, allotments, healthcare, etc., some of which are to be paid onto Parish or Town Councils.
- 2.3 The housing receipts were received in lieu of on-site provision of affordable housing and can only be used to help deliver affordable housing. In some cases the s106 includes a requirement for the receipts to be spent within 10 years or they should be returned to the developer. This includes some receipts from 2014, so plans to use s106 receipts to help deliver new affordable homes are needed. A budget of £500k for this activity was established in the 2021/22 capital programme, proposals for grants have been previously been presented to Cabinet but, as a result of delays to a number of development schemes, no s106 grants have so far been given.
- 2.4 This report now proposes to carry forward the 2021/22 and 2022/23 budgets and sets out specific recommendations to use £1,186,000 of the s106 receipts in 2023/24 as detailed below (and summarised in the table at paragraph 11.). The allocation of £1,186,000 of grants recommended in this report will leave £1,264,606 of s106 receipts to be used in future years. It should also be noted that we anticipate receipt of further s106 receipts shortly totally c.£425k.

3. Grant Support for Affordable Housing

- 3.1 Delivering affordable homes viably is always a challenge for Registered Providers (RP), that position has worsened in the last two years with rapidly increasing material and labour costs but a government imposed cap on rent rises. The schemes outlined in this report are largely funded by borrowing by the RP against the future rental income from properties. Additionally, the schemes have been awarded Homes England grant funding. Homes England grant rates vary between schemes but typically general needs rented homes receive grant rates of around £45-70k per home, extra care attracts higher grant rates (£70-80k per home), and whilst shared ownership homes attract a lower grant rate (around £45k per home) this is relatively generous (after taking into account capital receipts from sales of shares). Borrowing and grant combined are very unlikely to cover the build costs of units and other forms of subsidy are required, RPs generally subsidise new homes from capital receipts (from sales of other assets or revenue surpluses from other homes). However, only so much 'internal' subsidy is possible and abnormal costs can threaten viability and mean developments may not go ahead.
- 3.2 North Norfolk is an especially challenging area to deliver affordable homes. Costs in the district are high, due to the rural location and a lack of developers / builders. Some additional costs are often associated with developing smaller rural sites, such as additional infrastructure, and economies of scale are not possible on these sites. There is an additional challenge in the East of the district where costs are not significantly lower but sales values (in the case of shared ownership homes) are relatively low and so are market rents (which are used as the benchmark to set affordable rents). In all parts of the district the Local Housing Allowance levels (which are set by government as the maximum level to which housing benefit can be

paid and which we use as the maximum rent that can be charged by an RP) are low, which again threatens viability of new homes.

- 3.3 The schemes below all require additional grant funding to ensure they are delivered and to give RPs confidence to continue to develop in the challenging environment in North Norfolk.

Hempstead Road Holt

- 3.4 This development of 51 homes was originally due to deliver 23 (45%) affordable homes. However, the developer, Hopkins Homes, successfully argued that viability meant that no affordable housing could be delivered on site via the s106 and developer contributions. Subsequently Flagship have agreed, with NNDC support, to purchase the 23 homes originally planned to be delivered as affordable from Hopkins. Flagship have some Homes England grant to support this purchase but require significant additional grant to be able to purchase all 23 homes and ensure they are affordable. Therefore NNDC propose to support the scheme with a combination of funds. Local Authority Housing Fund grant (government grant to help ease housing pressures) will help purchase seven homes. However, s106 grant will also be required to secure the 23 affordable homes (17 homes for rent and 6 homes for shared ownership). The council currently holds £721,645 of s106 commuted sums from an uplift clause agreement relating to previous Hopkins developments in Holt which could be used to support delivery of these 23 homes.
- 3.5 It is recommended that £660k of s106 funds be granted to Flagship in 2023/24 to deliver 23 affordable homes on this development (grant of £28,696 per home)

Swanton Novers Community Led Housing

- 3.6 Swanton Novers is a new Community Land Trust, a group of local residents who established the Trust (supported by NNDC) to deliver new affordable homes for local households. The CLT was formally established in August 2020 and have worked in partnership with Broadland Housing Association to bring forward plans to develop an Exception Housing Site.
- 3.7 The agreed model for the development will be that Broadland HA will act for Swanton Novers CLT. The CLT will own the land and thus retain community ownership and some control over homes. Broadland will take a long lease on the land and build, own and manage the new homes on the site.
- 3.8 A planning application for seven affordable rented homes has been submitted for the site, but has been delayed due to the need to find a nutrient neutrality solution for the site. Broadland believe they are now close to achieving this. This will add costs to what is already an expensive to build scheme – the standard of the homes will be high and, with only a small number of homes, economies of scale cannot be achieved. It is anticipated that homes will be completed by 2024//25.
- 3.9 Whilst there are no s106 commuted sums arising from developments in Swanton Novers, there are older s106 monies from Langham or receipts from shared equity sales in Wells that could now be used on this scheme.

- 3.10 It is recommended that £150k of s106 funds be granted to Broadland in 2023/24 to deliver seven homes on this 100% affordable rented development (grant of £21,429 per home)

Salthouse Exception Housing Scheme

- 3.11 This is a small Exception Housing Scheme on Purdy Street to be built on land previously owned by Norfolk County Council. This is an especially badly needed and high profile Exception Scheme as Salthouse is one of the parishes with the highest levels of Second and Holiday homes (48% as at April 2023). This is a small scheme in a visible location which requires high quality, well designed homes but does not benefit from economies of scale. The scheme will deliver five affordable rented homes, a Planning application has been submitted for these homes which we expect to be decided soon and for homes to complete in 204/25.
- 3.12 There are £46k of s106 commuted sums held from a previous development in Salthouse which have been informally promised to this development for some time. It is therefore recommended that these £46k of s106 funds be granted to Broadland in 2023/24 to deliver five affordable rented homes on this development (grant of £9,200 per home)

Exception Housing Scheme in Warham

- 3.13 This Exception Housing Scheme, on land east of Stiffkey Road in Warham, was originally planned as a Homes for Wells development. The scheme already has Planning Permission and is for 12 Affordable Rent homes. Homes for Wells had already had NNDC funding agreed to help deliver this scheme (a loan of £25k for pre-development costs and a further grant of £75k for development costs had been agreed – both from the Community Housing Fund). Flagship has now taken on this development from Homes for Wells who were unable to progress the scheme. Homes for Wells have repaid the pre-development loan now sale of the site to Flagship has taken place
- 3.14 The scheme will still use Homes for Wells local allocations policy (as this was part of the Planning Permission) but as the development is no longer community-led, Community Housing Funding is not appropriate. Whilst there are no s106 commuted sums arising from developments in Warham, there are older s106 monies from Langham or receipts from shared equity sales in Wells that could now be used on this scheme.
- 3.15 It is recommended that £100k of s106 funds be granted to Flagship in 2022/23 to deliver this 100% affordable development of 12 homes (grant of £8,333 per home)

Exceptions Housing Scheme in Walcott

- 3.16 This Exception Housing Scheme, on Ostend Road, Walcott, has Planning Permission for 16 affordable rent homes (plus 2 market homes). The homes proposed will be very energy efficient – built using Passivhaus principles. Originally the scheme was to be developed by a small independent builder and purchased by Flagship, However, Flagship will now deliver the scheme themselves and plan to submit an application to vary the scheme, taking away the market units to deliver a 100% affordable scheme and possibly increasing the number of homes from 18 to 20-23.

- 3.17 The high energy standards of the proposed homes means their cost is higher than standard homes and means they are unviable for Flagship without extra support. S106 monies can be used to provide top-up funding to Flagship to secure the affordable housing units. The level of s106 top up grant requested of £200k was £12,500 per home, a higher grant level reflecting the higher costs of this scheme associated with Passivhaus standards. However, if the number of units are increased to 23, this gives a unit grant rate of £8,696.
- 3.18 It is recommended that £200k of s106 funds be granted to Flagship in 2023/24 to deliver this 100% affordable development (grant of £12,500 – 8,696 per home, depending on final numbers)

Retention of a home agreed for disposal

- 3.19 Flagship dispose of a number of homes each year when they believe the homes are no longer viable as affordable housing. Most of these homes have low energy efficiency standards and often have other investment needs. 18 Flagship homes were disposed of in North Norfolk in 2022/23. NNDC officers work with Flagship to try to identify alternative solutions for these homes to stop them being sold on the open market. This has meant that some homes have been sold on to other housing organisations (e.g. Homes For Wells) to remain as rented homes, or sold to first time buyers on a shared ownership basis, or in one case sold to NNDC to use as Temporary Accommodation.
- 3.20 Flagship proposed to dispose of a 2-bed family house in one of the main towns. This was unusual as most disposals tend to be in village locations and have inherent investment needs (e.g. being built using non-traditional methods such as precast reinforced concrete, or not being on mains services). The property has major investment needs, however, if these could be funded then Flagship are willing to retain this home. This is the first property where such agreement has been reached.
- 3.21 It is recommended that £30k of s106 funds be granted to Flagship in 2023/24 to retain this property as an affordable rented home.

Grant cancelled or on hold

- 3.22 Previous Cabinet reports in 2021 and 2022 have recommended s106 support to other affordable housing schemes which are still likely to proceed and will continue to require financial support. The two schemes are the Extra Care Housing and general needs housing schemes in Stalham. These schemes received in principle Planning support but have been unable to be granted permission until nutrient neutrality mitigation can be identified. Cabinet had agreed that these schemes should be granted £300k for Extra Care (to deliver a 100% affordable development of 66 homes) and £150k for the general needs scheme (to deliver a 100% affordable development of 40 homes). If these scheme proceed there will still be sufficient s106 monies available to support them and a further report will be brought to Cabinet to approve the grant funding.
- 3.23 Cabinet had also previously agreed to support a Flagship scheme in Catfield with £200k to help deliver 18 affordable homes. Unfortunately this site will no longer go ahead as the land has been withdrawn.

4. Corporate Plan Objectives

The proposals in this report will help to ensure delivery of around 71 affordable homes which help meet the Corporate Plan objective “Meeting our local housing need” and the specific priorities “Supporting the delivery of more affordable housing, utilising partnership and external funding wherever possible” and “Working with partners to deliver more rural exception sites”.

5. Financial and Resource Implications

The s106 monies are held by NNDC in lieu of on-site provision of affordable homes and are ‘earmarked’ or ‘ring-fenced’ funds that can only be used for this purpose – not to support any other NNDC activity. Additionally, some of the receipts have time limits on when they must be used by from the date of their receipt, and failure to use them in-time could mean they must be returned to the developer. Therefore, plans to spend these receipts to deliver affordable homes represents effective financial planning.

6. Legal Implications

Section 106 of the Town and Country Planning Act 1990 (as amended), allows the Planning Authority to apply obligations as a mechanism to make a development proposal acceptable in planning terms. Securing affordable housing is one of those obligations and can be in the form of commuted sums in lieu of on-site provision of affordable homes. These s106 commuted sums can then only be used for the purpose for which they were provided. In some cases the s106 monies have conditions relating to when and where the funds must be used. Typically the wording requires that the monies are used within 10 years of receipt and best endeavours to use in the arising parish, then the surrounding areas, then anywhere in NNDC.

Funding agreements will need to be entered into by the Registered Providers to receive the recommended s106 grant monies. These Funding Agreements will require that NNDC has nominations rights in perpetuity to the affordable homes and that, if ever the grant-funded homes are disposed of, then the grant monies would be repaid to NNDC.

7. Risks

The key risks and mitigations associated with this report are:

- The specified developments do not go ahead - mitigated by using a Funding Agreement with monies to paid at key stages in the development process, i.e. post Planning permission being granted and repaid should the project not go ahead.
- The use of the s106 monies leaves limited funding to support future affordable housing delivery – mitigated as the recommendations in this report total £1,186,000k, leaving £1,264,606 of existing s106 monies available, with more commuted sums expected to be receive this financial year.
- The risk of not planning appropriate use of the s106 monies is that no use is identified within the timescales set in the s106 agreement and the money has to be repaid.

8. Net ZeroTarget

The homes that will be enabled by the grant proposed in this report will be owned by Registered Provider partners so will have no direct implications for the Council's net zero strategy. The new homes to be built will be to high energy efficiency and environmental standards minimising the impact on the overall 'community' emissions.

9. Equality, Diversity & Inclusion

The new homes delivered will be used to house those on the Council's housing list. There are not considered to be any negative impacts on EDI.

10. Community Safety issues

No direct implications

11. Conclusion and Recommendations

The proposals in this report help deliver the Corporate Plan objective "Meeting our local housing need". The report recommends the use of £1,186k of the existing s106 monies held specifically to deliver affordable homes. In total the s106 enabling grant provision being recommended is as follows:

Scheme	No. of homes	S106 Grant £
Hopkins Hempstead Road	23	£660,000
Swanton Novers	7	£150,000
Salthouse	5	£46,000
Warham	12	£100,000
Walcott	23	£200,000
Retain home agreed for disposal	1	£30,000
TOTAL	71	£1,186,000
Total s106 housing commuted sums held		£2,450,606
s106 housing commuted sums remaining after recommended grants		£1.264,606

Appendix A

Source of Section 106 Affordable Housing funds held by NNDC

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Scheme	Date	£
Wood Farm Barns, Helhoughton	2014	£15,000
Former Langham Glass site, Langham	2014	£500,000
Jonas Farm Barns, Roughton	2016	£69,250
McCarthy & Stone scheme, Holt Road, Cromer	2016	£3,801
Swan Homes - Pyes Close, Blakeney	2017-18	£150,000
Bard Hill Barns, Salthouse	2018	£46,000
Norwich Road, North Walsham (uplift clause)	2019	£689,560
NNDC receipt from sale of shared equity homes, Wells & Cromer	2020, 2021 & 2022	£255,350
Three sites in Holt (uplift clause)	2021	£721,645
TOTAL		£2,450,606