

Report to: **Lead Cabinet Member for Transport and Environment**

Date: **21 December 2015**

By: **Director of Communities, Economy & Transport**

Title of report: **Energy Recovery Facility, Newhaven – S106 Financial Contributions and Other Projects in Newhaven**

Purpose of report: **To note the spending of Newhaven Energy Recovery Facility S106 monies. To agree to the setting up of a partnership board and to delegate authority to the Director of Communities, Economy & Transport to approve/reject submitted projects in Newhaven that have been recommended by the board.**

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**RECOMMENDATIONS:** The Lead Member is recommended to:

- (1) Note the expenditure of Newhaven Energy Recovery Facility S106 Monies;**
  - (2) Agree to the setting up of a partnership board, to be managed by the County Council, that will recommend projects to be funded in Newhaven; and**
  - (3) Agree to delegate authority to the Director of Communities, Economy & Transport to appoint the members of the board and to approve or reject submitted projects recommended by the board.**
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## **1. Background Information**

1.1 Planning Committee resolved on 7 November 2007 to grant planning permission for the Newhaven Energy Recovery Facility (ERF) subject to the completion of a procedure that required a S106 Legal Agreement to be secured covering, amongst other things, a compensatory environmental resource for the landscape impact of the proposal by a substantial financial contribution to “off-site strategic tree planting and associated landscape works within the urban fringe and public open spaces within Newhaven”. Estimates were made at the time that about £335,000 of works could be achieved in the urban fringe and open spaces in Newhaven, and about £565,000 of works at Riverside Park. The Legal Agreement was completed on 9 November 2007 and includes a requirement for a contribution by the applicant (Veolia) of £900,000 for the compensatory environmental resource. The Agreement includes the requirement to repay to the developer any unspent monies after 8 years from the date of the payment being made to the County Council. This effectively means that all the works must be allocated by September 2016.

1.2 The County Council has developed and implemented extensive planting proposals to meet the objectives of the Section 106 Agreement. It has consulted widely on these proposals, including with Newhaven Town Council, South Heighton Parish Council, Piddinghoe Parish Council, Lewes District Council and the South Downs National Park Authority. To date, the County Council has spent approximately £390,000 in the urban fringe and open spaces in purchasing land, carrying out landscape works and securing 5 years of maintenance to ensure that the planting achieves its objective of softening the visual impact of the ERF. The areas planted are shown on the plan in Appendix 1. The County Council has not been able to plant in some areas as it was unable to reach agreement with the relevant landowner to do so. These are also shown on the plan in Appendix 1. The County Council is currently commissioning landscape works in Riverside Park, which have been discussed and agreed with key stakeholders. The cost of these works will be approximately £115,000 and will begin to be implemented during 2015-16.

1.3 It is considered that the totality of the works outlined in 1.2 above represents all reasonable endeavours by the County Council to fulfil the requirements of the Section 106 Legal Agreement. The original estimates (set out in paragraph 1.1 above) were based on only an initial assessment for works at Riverside Park. Further investigation at the Park has clarified a more limited nature and extent for the works which could be undertaken and comply with the planning purposes of the obligation within the S106 Agreement. This means that the total cost of all the compensatory environmental resource works, including longer-term maintenance, is approximately £505,000. This leaves an estimated £425,000 compared with the original contribution (including interest) which is likely to be returned to the applicant under the terms of the Legal Agreement.

1.4 On the completion of the allocation of monies for the compensatory environmental resource, Veolia, inter alia, has agreed a claw-back of an equivalent sum to that to be returned, to be used to fund local community projects in Newhaven. Arrangements now need to be set up to administer these funds.

## **2 Supporting Information**

2.1 There are a number of projects put forward by the local community in Newhaven that have not been able to be funded by the Section 106 monies because they did not meet the specific purposes of the Section 106 obligation. In order to ensure an appropriate and transparent approach to delivering suitable projects, it is proposed that a board of key stakeholders is established to identify appropriate criteria for the allocation of the monies, and to apply the criteria to recommend which projects should be funded. It is likely that the board should comprise representatives from the County Council, Newhaven Town Council, South Heighton Parish Council, Piddinghoe Parish Council, Lewes District Council, Brighton & Hove City Council (as the County Council's partner in the Integrated Waste Management Services Contract) and Veolia.

2.2 It is proposed that the Director of Communities, Economy and Transport be given delegated authority to agree membership of the board from the key stakeholder groups. It is further proposed that the Director ultimately determines which submitted projects should be approved for funding.

## **3. Conclusion and Reason for Recommendation**

3.1 The expenditure of the Newhaven ERF S106 monies should be noted including the requirement for the return of the unspent allocation. Following the arrangements for an equivalent sum to be used to fund other projects in Newhaven, it is proposed that the Director of Communities, Economy and Transport agrees membership of a board formed from key stakeholder groups, and that the Director determines which submitted projects should be approved for funding recommended by the board.

3.2 The Lead Member is therefore recommended to agree to the setting up of a partnership board, to be managed by the County Council that will recommend projects to be funded in Newhaven. Also, to agree to delegate authority to the Director of Communities, Economy & Transport to appoint the members of the board and to approve or reject submitted projects recommended by the board.

### **RUPERT CLUBB**

**Director of Communities, Economy and Transport**

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### LOCAL MEMBERS

Councillors Butler and Charlton

### BACKGROUND DOCUMENTS

None