

# Delegated Portfolio Holder Decision

Is the final decision on the recommendations in this report to be made via this function? **Yes**

## Developer Contribution to support low carbon initiatives.

<b>Final Decision-Maker</b>	Delegated Portfolio Holder Decision
<b>Portfolio Holder(s)</b>	Councillor Carol Mackonochie – Portfolio Holder for Communities and Wellbeing
<b>Lead Director</b>	Paul Taylor – Director of Change & Communities
<b>Head of Service</b>	Gary Stevenson – Head of Head of Housing, Health & Environment
<b>Lead Officer/Author</b>	Karin Grey – Sustainability Manager, James Cox Private Sector Housing Manager
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	All

### This report makes the following recommendations to the final decision-maker:

1. Release of s106 funding of £100,000 for low carbon initiatives and thereby support energy efficiency improvements in the Housing Stock within 3 miles radius of Fountains Retail Park in line with s106 conditions.
2. Note the transfer of Housing Assistance Reserve funds of £100,000 for energy efficiency improvements in remainder of Borough into the Housing Assistance Budget.
3. Enhance the existing energy efficiency programme available to private tenure households, by providing top up funding to ensure the low carbon measures of cavity and loft insulation can be complemented by an effective energy efficient heating system including those property's off the gas network.

### Explain how this report relates to the Corporate Priorities in the Five Year Plan:

- To support a 'Well Borough' and ensure we operate in a business-like way.

### Timetable

<b>Meeting</b>	<b>Date</b>
Discussion with Portfolio Holder	
Other committee(s)	N/A
Report published	31 January 2020
Decision due not before	10 February 2020

# Developer Contribution to support low carbon initiatives.

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report seeks approval for the release of Section 106 funding linked to the planning consent TW/10/01033/FULJ - The Fountains Retail Park, Dowding Way. The funding will be used to install low carbon measures in private tenure housing within 3 mile radius of the development.
- 1.2 The transfer of £100,000 from the Housing Assistance Reserve fund into the Housing Assistance Budget is approved to fund energy efficiency measures in the remainder of the Borough.

The work will be delivered as part of the existing Local Authority Flexible Eligibility scheme, which forms part of the government's Affordable Warmth programme and the new Southern Gas Network scheme to provide a mains gas connection to those property's off the gas network.

Tunbridge Wells Borough Council, for both schemes are working in partnership with Kent Energy Efficiency Partnership.

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## 2. INTRODUCTION AND BACKGROUND

- 2.1 This report relates to the developers contribution of £100,000 provided under a S106 agreement in connection with:

*Planning application TW/10/01033/FULJ - The Fountains Retail Park, Dowding Way, Royal Tunbridge Wells, Kent. Removal of condition 22 of TW/07/02381/FULMJ - Renewable energy measures to be installed at the retail park*

- 2.2 The S106 provides for the sum of £100,000 as a "Renewable Energy Contribution" to be applied "towards the investigation, evaluation, design or implementation of renewable energy or low carbon initiatives within a three mile radius of the Site". A 3 miles radius includes all of Tunbridge Wells (although south Forest Road is just on the edge), Rusthall (but not Langton Green), Pembury, Southborough and Bidborough. The area falls short of Matfield and Five Oak Green.
- 2.3 This funding was received from Marks & Spencer to enable carbon reduction measures to be installed elsewhere in the Borough to compensate for the additional emissions being produced by them as a result of not installing renewable energy on their North Farm site.
- 2.4 Improving the energy efficiency of the existing housing stock, specifically through low cost measures such as loft and cavity wall insulation, provides a significant

opportunity for carbon savings. Currently, the domestic sector comprises a third<sup>1</sup> of Kent's carbon emissions. The table below quantifies the carbon reductions achieved from various measures.

Installed Measure	Average installation costs	Detached	Carbon Savings (kgCO2/year) per property type			
			Semi Detached	Mid terrace	Bungalow	Flat
Cavity wall insulation	£466.00	1040	620	380	420	290
0mm to 270mm Loft Insulation	£340	920	550	490	790	NA
Solar Water Heating	£4-£5000		260			

Source: Energy Saving trust

2.5 Retrofitting homes with energy efficiency measures can help reduce the carbon emissions associated with poor thermal insulation. Such measures also help to lower household energy bills, support our drive to help those in fuel poverty and can have health benefits<sup>2</sup>. It is estimated by the Building Research Establishment that reducing excess cold in homes to an acceptable level would save the NHS nationally £848 million per annum<sup>3</sup>.

2.6 The Local Authority Flexible Eligibility scheme<sup>4</sup>, which forms part of the government's Affordable Warmth programme, supports residents who struggle to heat their home to a comfortable standard, or who have a specific condition which may make them more vulnerable to the effects of a cold home. Through this scheme the Local Authorities involved will also be able to aim to reduce fuel poverty and minimise the health risks associated with living in a cold home.

2.7 The s106 funding available will only be utilised within the 3 mile radius of the development, with the eligibility criteria and rules of the scheme being applied. The Council will work with KCC, its approved contractors and obligated energy suppliers as part of the Kent and Medway Strategic Energy Partnership existing retrofitting framework and energy referral scheme called Warm Homes. Through the Warm Homes scheme Local Authorities hope to utilise flexible eligibility alongside other local funding schemes where possible, to reduce the installation costs of low carbon measures for residents as much as possible.

2.8 Providing this additional funding will enable a more comprehensive approach to delivering low carbon measures. The flex scheme only allows for cavity wall and loft insulation, but using this proposed funding will allow a 'top up' to this scheme

<sup>1</sup> Kent Environment Strategy - A Strategy for Environment, Health & Economy - March 2016 Kent County Council, [https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0020/10676/KES\\_Final.pdf](https://www.kent.gov.uk/_data/assets/pdf_file/0020/10676/KES_Final.pdf)

<sup>2</sup> Delivering Affordable Warmth, A FUEL POVERTY STRATEGY FOR KENT, Kent Energy Efficiency Partnership, March 2016 <https://www.gravesham.gov.uk/home/housing/saving-money-on-your-bills/fuel-poverty-strategy-for-kent>

<sup>3</sup> The Kings Fund: Housing and Health Opportunities for sustainability and transformation partnerships March 2018

<sup>4</sup> Energy Company Obligation (ECO): Help to Heat Local Authority Flexible Eligibility Statement of Intent, Kent-wide scheme on behalf of the Kent and Medway Sustainable Energy Partnership, [https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0009/80397/kent-wide-scheme-warm-homes-assistance.PDF](https://www.kent.gov.uk/_data/assets/pdf_file/0009/80397/kent-wide-scheme-warm-homes-assistance.PDF)

<sup>5</sup> THE DOMESTIC PRIVATE RENTED PROPERTY MINIMUM STANDARD Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/794253/domestic-prs-minimum-standard.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/794253/domestic-prs-minimum-standard.pdf) guidance.pdf

to provide other measures such as an efficient heating system as appropriate and therefore support further reductions in carbon emissions from domestic premises.

- 2.9 The second aspect of this scheme will be to provide 'landlord assistance' to incentivise landlords to undertake required energy efficiency measures. This incentive is timely, because from April 2020 certain rented properties, those with a F and G Energy Performance Certificate rating are unable to be let, without either undertaking up to £3500 of energy efficiency works and/or registering an appropriate exception. The Energy Efficiency Regulations of 2019 introduced this £3,500 requirement.
- 2.10 F and G rated properties are the least energy efficient and therefore impose the most unnecessary costs upon tenants, NHS/social care and the wider economy. The environmental impact in terms of carbon dioxide is also significant.<sup>5</sup>
- 2.11 The s106 funding can only be used to support improvements to properties by installing low carbon measures within the 3 miles radius of the development. By transferring £100,000 from the Housing Reserve Account into the already approved Housing Assistance Budget enables the scheme to be offered to owner occupiers and landlords across the whole Borough. The proposed funding to be transferred comes from repaid assistance which was originally used to improve the housing stock.
- 2.12 By combining the funding streams into one budget, but using postcode data and relevant budget coding, the differentiation of the schemes can be achieved and monitored accordingly.
- 2.13 Importantly the top up funding and landlord assistance for the additional energy efficiency/low carbon measures e.g. an efficient heating system will be repayable on transfer or sale of the property and hence is available for re-use, ensuring ongoing improvements to the housing stock within the Borough.
- 2.14 Our primary priority is to provide low cost measures such as cavity wall insulation, if for any reason demand for such works is limited, it may be possible to also consider the harder to treat cavities and solid wall housing. Currently there is no financial support for this type of work. Solid wall insulation measures are significantly more costly (£13,000 for a typical semi detached house) and require greater expertise to ensure good quality installations. Given the costs it is not expected such works will be undertaken in any significant numbers.

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### 3. AVAILABLE OPTIONS

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<sup>5</sup> THE DOMESTIC PRIVATE RENTED PROPERTY MINIMUM STANDARD

Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/794253/domestic-prs-minimum-standard.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/794253/domestic-prs-minimum-standard.pdf) guidance.pdf

- 3.1 Agreement is now required for the release of the s106 funding of £100,000 to be incorporated into the Housing Assistance Budget for use towards improving the low carbon measures in households within the 3 mile radius of the development.
- 3.2 Approve the transfer of £100,000 from the of Housing Assistance Reserve funds of £100,000 for energy efficiency improvements in remainder of Borough into the Housing Assistance Budget.
- 3.3 The agreement for this S106 funding ends 10<sup>th</sup> August 2020. Not utilising the funding would mean returning it to developer. This would be a lost opportunity to deliver carbon savings and energy efficiency measures in the housing stock, with these measures also helping to lower energy bills and support those in fuel poverty.
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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Release of s106 funding and the transfer of monies from the Housing Assistance Reserve account to top up the flex scheme will enable more households to participate in the scheme and improve the energy efficiency of their home. This will not only meet the low carbon requirement of this s106 agreement by reducing greenhouse gas emissions, but will also improve the living environment for the residents and potentially reduce their fuel bills.
- 4.2 There is currently very limited support available for those living in fuel poverty who are not on benefits. Some limited funding is available via winter warmth for clients over 60 who have a health related condition. The intention is to target this funding to residents who struggle to heat their home to a comfortable standard, or who have a specific condition which may make them vulnerable to the effects of a cold home. The scheme is to assist households to reduce fuel poverty and minimise the health risks associated with living in a cold home.
- 4.3 Providing financial assistance to landlords enables the most energy inefficient properties to be improved by making available repayable financial assistance. Going forward and thinking of the April 2020 deadline for F and G properties, the Council would be more willing to take enforcement action if we felt that landlords had been given every opportunity to improve their home and were still failing to do so.
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#### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 It was recognised by the Kent & Medway Sustainable Energy Partnership (KMSEP) and the Kent Energy Efficiency Partnership that there is a gap in funding provision. As a member of these partnerships it was recognised we had an opportunity to provide some additional funding in our borough and we will continue to explore future funding opportunities with KMSEP.
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## 6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 Following approval the scheme will be promoted via existing channels of communications.

- This includes the approved contractor appointed by KCC and the KMSEP for the Flex scheme sending letters to relevant properties but critically no cold calling.
- Marketing through our website and communications channels such as the Local magazine.
- Landlord forums organised by the private sector housing team.

6.2 The scheme will also be promoted as part of the existing housing assistance programme, as set out on the Councils website.

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## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Legal</b> including Human Rights Act	<p>Section 106 planning obligation agreements provide a mechanism for collecting contributions from developers through the planning process. Section 106 contributions may only be used for the purpose specified in the agreement. The proposed use for the contributions in this instance are in accordance with the terms of the relevant agreement and the funding can be utilised as proposed. Under the terms of this agreement if the funding is not utilised before 10th August 2020 it will have to be returned to the developer.</p> <p>Any necessary agreements or contracts required in order to deliver the schemes must be in accordance with the Council's Contract Procedure Rules and should be in a form approved by the Legal Services Manager.</p>	Keith Trowell, Team Leader (Corporate Governance), MKLS
<b>Finance</b> and other resources	<p>In conjunction with the Delegated Portfolio Holder Decision a capital programme application is required to release funding into the Housing Assistance Budget.</p> <p>S106 - £100,000 towards the flex scheme</p>	

	<p>within 3 miles of the development.</p> <p>Release of reserve funds of £100,000 to support the measures across the rest of the Borough.</p> <p>The benefits of this scheme is that as funding is provided in the form of a loan it is repaid on transfer or sale of the property, thereby ensuring continued improvements to energy efficiency measures across the Borough.</p>	
<b>Staffing establishment</b>	This scheme will be delivered through the existing Flex scheme and private sector housing team in partnership with KCC.	
<b>Risk management</b>	<p>The agreement for this S106 funding ends 10th August 2020. Not utilising the funding would mean returning it to developer.</p> <p>This would be a lost opportunity to deliver carbon savings and energy efficiency measures in the housing stock, with these measures also helping to lower energy bills and support those in fuel poverty.</p>	<p>James Cox Private Sector Housing Manager 07/08/2019</p>
<b>Data Protection</b>	To determine eligibility, personal information is collected in line with the General Data Protection Regulation (GDPR) as part of the Affordable Warmth and Local Authority Flexible Eligibility scheme. <sup>6</sup>	
<b>Environment and sustainability</b>	<p>Kent is committed to reducing greenhouse gas emissions by 34% by 2020 and 60% by 2030 from a 2005 baseline. Retrofitting homes with energy efficiency measures will directly contribute towards meeting the carbon reduction target.</p> <p>This outcome will support the council to address its obligations under: Section 40, National Environment and Rural Communities Act 2006: “40(1) Every public authority must, in exercising its functions have regard so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”</p>	Karin Grey
<b>Community safety</b>	There are no anticipated community safety implications.	

<sup>6</sup> Warm Homes privacy notice - <https://www.kent.gov.uk/about-the-council/contact-us/access-to-information/gdpr-privacy-notices/environment,-planning-and-enforcement/warm-homes-privacy-notice>

<b>Health and Safety</b>	<p>There are no anticipated health and safety issues.</p> <p>This scheme will work with the already approved contractors and obligated energy suppliers as part of the KMSEP's existing retrofitting framework and energy referral scheme part of Warm Homes.</p>	
<b>Health and wellbeing</b>	<p>Living in fuel poverty has a negative impact on health and well being. Aligning the environmental and health benefits of reducing fuel poverty and improving the thermal efficiency of the existing housing stock brings multiple health and environmental gains.</p>	
<b>Equalities</b>	<p>The aim of the scheme is to improve the energy efficiency of homes and is specifically aimed at those in fuel poverty or less able to pay for energy efficiency improvements and those with disabilities or chronic illnesses. The scheme also assists tenants to obtain improvements within rented accommodation. Each of the schemes aims will make a makes a positive contribution.</p> <p>There are specified criteria as part of the Flex scheme that have to be adhered to, as set out by the Department for Business, Energy and Industrial Strategy.</p>	

## 8. REPORT APPENDICES

The following document is to be published with and forms part of the report:

- None.

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## 9. BACKGROUND PAPERS

- Capital Application Programme Form To enhance the existing energy efficiency schemes currently available to residents in the Borough.  
<https://democracy.tunbridgewells.gov.uk/meetings/documents/s45868/13%20Appendix%20E%20-%20Capital%20application%20-%20Housing%20Renewal%20Advances.pdf>
- Kent Environment Strategy - A Strategy for Environment, Health & Economy - March 2016 Kent County Council,  
[https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0020/10676/KES\\_Final.pdf](https://www.kent.gov.uk/_data/assets/pdf_file/0020/10676/KES_Final.pdf)



- Delivering Affordable Warmth, A FUEL POVERTY STRATEGY FOR KENT, Kent Energy Efficiency Partnership, March 2016  
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- Energy Company Obligation (ECO): Help to Heat Local Authority Flexible Eligibility Statement of Intent, Kent-wide scheme on behalf of the Kent and Medway Sustainable Energy Partnership,  
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- Warm Homes privacy notice - <https://www.kent.gov.uk/about-the-council/contact-us/access-to-information/gdpr-privacy-notices/environment,-planning-and-enforcement/warm-homes-privacy-notice>