



AGENDA ITEM 5(d)

CABINET 18th March 2014

Report of: Assistant Director Community Services/ Assistant Director Planning

Relevant Managing Director: Managing Directors (People & Places/Transformation)

Relevant Portfolio Holders: Councillor D. Sudworth/ Councillor M. Forshaw

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SUBJECT: USE OF SECTION 106 MONIES IN BICKERSTAFFE & ORMSKIRK

Wards affected: Bickerstaffe & Derby

1.0 PURPOSE OF THE REPORT

- 1.1 To consider the proposal from Bickerstaffe Parish Council regarding Section 106 monies received by housing developers for the enhancement of public open space and recreation provision to be used within the Bickerstaffe Ward.
- 1.2 To consider the proposals from Ward Councillors regarding the use of Section 106 monies received by the Council, from housing developers, for the enhancement of public open space and recreation provision within the Derby and Knowsley Wards.

2.0 RECOMMENDATIONS

- 2.1 That the proposed project to provide new play equipment on Bickerstaffe village field adjacent to the Primary School on Hall Lane be approved and the Section 106 commuted sum of £11,819 generated in the Bickerstaffe area be made available for this project.
- 2.2 That the proposed project to provide improvement to open space provision at Westhead playing fields including play equipment for older children, shrub planting and the creation of a wooded area (to include access footpath), be approved and the Section 106 commuted sum of £60,000 generated in the Ormskirk area be made available for the project

- 2.3 That the proposal for improvements to Nursery Avenue open space to include tree planting and seating be approved and the Section 106 commuted sum of £5,000 generated in the Ormskirk area be made available for this project.
 - 2.4 That the proposal for improvements to access and drainage to Thompson Avenue playing field be approved and the Section 106 commuted sum of £5,000 generated in the Ormskirk Area be made available for this project.
 - 2.5 That the proposal for a new footpath around the Churchfields site in Ormskirk be approved and the Section 106 commuted sum of £25,000 generated in the Ormskirk Area be made available for this project.
 - 2.6 That the proposal for improvements to Hurlston Brook bank in Coronation Park, around the area adjacent to the sluice gate and provide information signage to the wild flower meadow area be approved and the Section 106 commuted sum of £10,000 generated in the Ormskirk area be made available for this project.
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3.0 BACKGROUND

- 3.1 Members will recall that under policy LE.13 of the local plan, developers must provide open space facilities as part of housing developments. Where developments are less than 20 dwellings or on sites where it is not reasonable to expect a developer to provide on-site facilities, and where there is a deficiency of open space, the Council can require a commuted sum for the provision of new or the enhancement of existing areas of public open space within its area.
- 3.2 In accordance with the decision of the Planning Committee held on January 10th 2002 the views of the relevant Parish Council/ward councillors are sought in respect of the potential use of this money.
- 3.3 In February 2011, Members agreed that applications/proposals for the use of S106 funding would first be scrutinised by an Officer Working Group to ensure that proposals are compliant with the related S106 agreements and that the proposals are sustainable, supported by planning policy and strategies adopted and approved by the Council. It was also agreed that Parish Councils and ward councillors would be consulted about what funds are available and invited to suggest proposals as to how this funding could be best utilised in line with the requirements of the related S106 agreements and planning policy.

4.0 CURRENT POSITION

- 4.1 Following consultation with Bickerstaffe Parish Council there is one new proposal put forward for consideration for existing Section 106 funding in the Bickerstaffe Ward.
- 4.2 Following consultation with Ward Councillors there are currently five new proposals put forward for consideration for existing Section 106 funding in the Ormskirk Area.
- 4.3 The proposals are set out in Section 6 of this report. The funding can only be used in accordance with the terms of the related Section 106 agreements for the provision of new and/or the enhancement of existing areas of public open space within the localities.
- 4.4 The items identified below in 6.1, 6.2 and 6.3 have all been considered by the officer 106 working group, in addition the Assistant Director Planning offers the view that the proposed use of monies is in accordance with the terms of the related Section 106 agreements for the provision of new and/or the enhancement of existing areas of public open space within the localities.
- 4.5 The remaining projects identified at items 6.4, 6.5 and 6.6 for considerations by Cabinet have not been part of the usual process for approval, see section 3.3.

5.0 ISSUES

- 5.1 The proposals are in keeping with the aims of the Borough Council Play Policy and Cultural Strategy.
- 5.2 The Assistant Director Planning has indicated in relation to options 6.5 and 6.6, although the legal agreements relating to the developments in the Derby Ward may allow the use of the s106 funding in adjacent areas this should only really be considered when existing areas in the Derby Ward have benefited from the funding available. The reason for this being that the planning policy justification for requiring developers to enter into a s106 Agreement is the fact that the Council has identified quantitative and/or qualitative deficiency of public open space (POS) within the ward in which the development is located. The s106 contribution is therefore required by the Council in order to address the identified POS deficiency created by those developments.
- 5.3 The principal open space areas in Derby Ward have received funding last year or are proposed to be allocated funding as part of the recommendations in this report. The Assistant Director of Planning is content with the proposals given that funding has been allocated to all the principal open space areas in Derby Ward and that Ward Councillors have presented the proposals following consultation with residents.

6.0 PROPOSALS

- 6.1 It is proposed to provide new and improved play equipment on Bickerstaffe village field and the Section 106 commuted sum of £11,819 generated from the Ormskirk Area be made available for this project.

- 6.2 It is proposed to provide improvement to open space provision at Westhead playing fields including play equipment for older children, shrub planting and the creation of a wooded area (to include access footpath) and the Section 106 commuted sum of £60,000 generated from the Ormskirk Area be made available for the project.
- 6.3 It is proposed for improvements to be made to Nursery Avenue open space, to include tree planting and seating and the Section 106 commuted sum of £5,000 generated from the Ormskirk Area be made available for this project.
- 6.4 It is proposed for improvements to access and drainage to Thompson Avenue playing field be approved and the Section 106 commuted sum of £5,000 generated in the Ormskirk Area be made available for this project.
- 6.5 It is proposed that a new footpath around the Churchfields site in Ormskirk be approved and the Section 106 commuted sum of £25,000 generated in the Ormskirk Area be made available for this project.
- 6.6 It is proposed for improvements to Hurlston Brook bank in Coronation Park, around the area adjacent to the sluice gate and provide information signage to the wild flower meadow area be approved and the Section 106 commuted sum of £10,000 generated in the Ormskirk area be made available for this project.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 7.1 The projects will support the Council's strategic aims in respect of improving access to quality facilities, providing facilities to improve the health and quality of life of the community, and ensuring access to a wide age range.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 8.1 The estimated total capital cost of the proposals mentioned in section 6 will be £116,819 which can be covered by the Section 106 funds currently available. Once completed the Bickerstaffe project will be maintained by Bickerstaffe Parish Council. The projects in Derby and Knowsley Ward will be included in the Council maintenance schedules.

9.0 RISK ASSESSMENT

- 9.1 Section 106 funds need to be spent in accordance with the terms of the related planning agreements and in accordance with the statutory criteria and relevant policies. Failure to do so could leave the decision open to challenge and may result in the monies being repayable to the developer. This risk can be mitigated by assessing all project proposals prior to allocation of funds to assure compliance, and working in partnership with the applicants to ensure criteria is adhered to. The use of S106 monies has been under significantly greater scrutiny by developers, the press and the wider public with a number of Freedom of Information requests relating to how much money the Council has received, from which developments and how that money has been spent.

- 9.2 Prior to the installation of play equipment and any associated groundwork improvements it is an important and valued part of the process to consult with the communities likely to be affected by such a project. To proceed without local majority support may result in future repercussions from the local community to the Council / Parish Council.
- 9.3 It is the responsibility for Parish Councils to consult with their local communities in respect of Section 106 proposals within their Parish.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix 1 to this report, the results of which have been taken into account in the recommendations contained within this report.

Appendices

1. Equality Impact Assessment

Date: 05/02/2014

Completed by : P.F.Campbell.

<p>1.</p>	<p>Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people: <i>People of different ages – including young and older people</i> <i>People with a disability;</i> <i>People of different races/ethnicities/ nationalities;</i> <i>Men; Women; People of different religions/beliefs;</i> <i>People of different sexual orientations;</i> <i>People who are or have identified as transgender;</i> <i>People who are married or in a civil partnership;</i> <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i> <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p>Use of Section 106 monies in the way proposed will improve access to open space facilities for all members of the community therefore the decision to support these projects will not disadvantage or have a disproportionately negative effect on the above groups of people</p>
<p>2.</p>	<p>What sources of information have you used to come to this decision?</p>	<p>Consultation with Bickerstaffe Parish Council and Council Ward Members on local requirements, and assessment by Section106 Working Group (Public Open Space).</p>
<p>3.</p>	<p>How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p>Proposals for these schemes were received following consultation with Bickerstaffe Parish Council and Ward Councillors.</p>
<p>4.</p>	<p><i>Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:-</i> <i>Eliminate discrimination, harassment and victimisation;</i> <i>Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people);</i> <i>Foster good relations between people who share a protected characteristic and those who do not share it.</i></p>	<p>Consideration of the needs of all the community will be considered as part of the design process, therefore support for the scheme can only help our ability to meet our duties under the Equality Act 2010</p>
<p>5.</p>	<p>What actions will you take to address any issues raised in your answers above</p>	<p>Regular liaison with Bickerstaffe Parish Council and Ward Councillors throughout the design and implementation process will allow all issues to be considered.</p>