

URN: 22/278

Subject: Spending of Developer Contributions (Section 106/Section 111) on Open Space provision

Report to: Policy and Resources Committee – 6th December 2022

Report by: Sam Hubbard, Strategic Planning Manager

SUBJECT MATTER

Agreeing a process for spending developer contributions on open space provision

RECOMMENDATION

That Policy and Resources Committee approve the approach set out in the report to spending developer contributions towards open space.

1. Introduction

- 1.1. The Council has had planning policies in place for many years which require developers of new housing developments to provide new open space on-site or make financial contributions towards the provision of open space off-site. The most recent incarnation of that policy is Policy H4 in the Council's Local Plan Part 2 which is supported by the emerging Open Space Supplementary Planning Document.
- 1.2. Contributions for off-site provision have historically been pooled from a small number of developments to deliver improved open spaces in the localities of those developments. There have been no set procedures or protocols on how decisions on spending these contributions are made.
- 1.3. The Government is keen for greater transparency with regard to the collection and spending and now requires local planning authorities to publish the amount of money collected from developers and spent on infrastructure on an annual basis. The Planning Advisory Service recommended having established procedures and governance with scope for community engagement when it comes to spending developer contributions
<https://www.local.gov.uk/pas/topics/developer-contributions/improving-governance-developer-contributions-full-guidance> .
- 1.4. Given the above it is considered necessary to have an up to date transparent and fair process to determine how developer contributions towards open space are spent.

2. Proposed Process

- 2.1. It is proposed that the process runs alongside and feeds into the Council's capital programme where appropriate. This will allow for alignment with any capital funding from the general fund and other sources for open space improvements.
- 2.2. It is proposed to have a single 12-week window for inviting projects/bids for off-site open space improvements each year. It is proposed that this window takes place over July, August and September to give time to assess and consult on projects prior to finalising the capital programme. At the start of the window the amount of funds available (excluding allowances for ongoing repairs and maintenance) for each type of open space in each area will be updated and published on the Council's website. Details on any restraints on funding (as per the section 106 agreements from which the money was raised) will also be identified.
- 2.3. Projects/bids will be invited from Parish Councils, Ward Councillors, community groups, sport clubs and teams. Projects on Council-owned land submitted by third parties will need agreement from the Property and Asset team.
- 2.4. Projects/bids will be initially reviewed by the planning team to ensure they meet section 106 requirements. Eligible Projects/bids submitted will be consulted on for 21 days with:
 - Ward Members
 - Parish Councils where submission hasn't come from them.
- 2.5. Following consultation, eligible projects will be further reviewed by an officer group comprising officers from Planning and Property and Asset Teams, and finance. This will allow for consideration of projects alongside any projects that the Property and Asset Team have developed as a result of the Play Area Action Plan. Following this a report will be prepared on what bids/projects should be funded. Proposals for projects under £50,000 will be determined and signed off by the Strategic Director with responsibility for open spaces under existing delegations. Projects above this figure will be determined by the Policy and Resources Committee.
- 2.6. Reports and decisions will be made available online and spend will be reported annually as per legislative requirements.

3. Process for this year

- 3.1. The Property and Asset team have identified a number of urgent projects for improvements to open spaces as part of the play area action plan they have been working on. We are also aware of a number of projects Parish Councils are keen to progress. Therefore, rather than wait until July, it is proposed that a bid window is opened in January. A report on any projects to be funded would be considered in the spring.

4. Prioritisation

- 4.1. The emerging Open Space SPD sets out how contributions will be prioritised. Spending will be prioritised in line with the recommendations of the Open Space Needs Assessment (2022) the Playing Pitch Strategy (2022) and the Play Area Action Plan developed by Property and Asset team.

5. Maintenance Funds

- 5.1. Developer contributions collected under the new Policy H4 include an element to be reserved for funding the maintenance of the improved spaces (over a 20yr period). This varies by type of open space, but averages out at approximately 36% of the contribution.
- 5.2. Several section 106 agreements secured before Policy H4 was introduced allow for some of the funds to be spent on maintenance as well as capital improvements. These do not state the exact amount which should be spent on maintenance. It is proposed that the proportion of these contributions which are reserved for maintenance of the spaces is set dependent on the nature of the capital improvement being made.
- 5.3. Funds for maintenance associated with new capital projects will be transferred to a maintenance budget when funds are agreed for the capital projects on Council owned land. Where provision is to take place on private land or Parish Council land, the maintenance element will be transferred alongside the capital receipt, unless the Borough Council is to provide maintenance on behalf of the organisation.

6. Financial Implications

- 6.1. Some staff resource from the Strategic Planning team will be required to run the bid process. But focussing the bids to a single window should result in less staff time then dealing with ad-hoc requests.

7. Legal and Risk Implications

- 7.1. Section 106 contributions comprise legal covenants which dictate how the funds should be spent. It is therefore important that there is appropriate oversight of the spending of the money. The above process should help ensure this is achieved.

8. Conclusion

- 8.1. It is recommended that the above process is implemented.

9. Appendices

- 9.1. None

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Area for consideration	Comment
Monitoring Officer Consultation:	Via ELT
Section 151 Officer Consultation:	Via ELT
Existing Council Policies:	
Financial Implications (including VAT and tax):	See Section 3
Legal Implications (including human rights):	See Section 4
Risk Implications:	See Section 4
Equality Issues/EQIA assessment:	n/a

Crime & Disorder:	n/a
Every Child Matters:	n/a