

**AREA COMMITTEE EAST (ACE) (Dales, Mapperley, St Ann's) – 11<sup>th</sup> September 2018**

<b>Title of paper:</b>	<b>Section 106 and other Capital Funding for Parks &amp; Open Spaces in Area 6</b>	
<b>Director(s)/ Corporate Director(s):</b>	Dave Halstead, Director of Neighbourhood Services Andy Vaughan, Corporate Director of Commercial & Operations	<b>Wards affected:</b> Mapperley St. Ann's Dales
<b>Report author(s) and contact details:</b>	James Dymond, Parks Development Manager 0115 876 4983	
<b>Other colleagues who have provided input:</b>	Martin Harris, Parks Technical Officer 0115 915 2796 Eddie Curry, Head of Parks, Open Spaces & Investment Funding 0115 876 4982	
<b>Date of consultation with Portfolio Holder(s) (if relevant)</b>	n/a	
<b>Relevant Council Plan Key Theme:</b>		
Strategic Regeneration and Development		<input type="checkbox"/>
Schools		<input type="checkbox"/>
Planning and Housing		<input type="checkbox"/>
Community Services		<input type="checkbox"/>
Energy, Sustainability and Customer		<input type="checkbox"/>
Jobs, Growth and Transport		<input type="checkbox"/>
Adults, Health and Community Sector		<input type="checkbox"/>
Children, Early Intervention and Early Years		<input type="checkbox"/>
Leisure and Culture		<input checked="" type="checkbox"/>
Resources and Neighbourhood Regeneration		<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>		
This report makes proposals for the spend of Section 106 open space monies and other capital funding in Area 6.		
<b>Recommendation(s):</b>		
<b>1</b>	That the Area Committee endorses the proposals at paragraph 2.1 of this report for the spend of Section 106 and other capital funding on parks and open spaces in Area 6.	

**1 REASONS FOR RECOMMENDATIONS**

- 1.1 £27,281.40 of Section 106 open space funding was received in August 2018 from two linked neighbouring developments at Albert Road development, Mapperley. (Planning refs: 13/01946/PFUL3 and 13/01909/PFUL3). (An earlier payment of £8,109.98 was received in 2016 and its use endorsed by Area Committee on 13<sup>th</sup> February 2018.)
- 1.2 Under the Section 106 agreement relating to these developments, the Council must use it "towards the provision and/or enhancement of open space within the boundaries of the Council's Area Committee East comprising the Dales, St Ann's and Mapperley wards and within which the Site is located."

- 1.3 A bid to Waste Recycling Environmental Ltd (WREN) for Coppice Recreation Ground is also planned for December 2018 with a decision expected in Spring 2019.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 The Parks and Open Spaces Investment Plans for each area of the City were endorsed by Area Committees in March 2018 and the following projects from those plans have been selected for use of the Section 106 funding detailed above.

<b>Site</b>	<b>Works</b>	<b>Proposed Funding</b>
Coppice Recreation Ground	Caunton Avenue Playground improvements and various other site works (details to be finalised via public consultation).	S106 open space monies from 13/01946/PFUL3 and 13/01909/PFUL3: £15,000.00 WREN bid to be submitted: £50,000.00
Various	Improvements and works to trees on parks and open spaces across Area 6	S106 open space monies from 13/01946/PFUL3 and 13/01909/PFUL3: £11,463.00
	<b>TOTALS</b>	<b>S106: £26,463.00</b>
		<b>WREN bid: £50,000.00</b>

## **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

- 3.1 To not carry out the improvement works detailed above – this would delay the Manifesto proposal to improve children’s play areas across the City and the Coppice Recreation Ground play area would continue to decline in quality.
- 3.2 To use the Section 106 funding for other purposes – however, it must be used on open space provision or enhancement in line with the wording in the legal agreement, as detailed above.

## **4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

- 4.1 Section 106 agreement reference 13/01946/PFUL3 (former Lorna Court, Mary Court, the Croft and Mayholme, Albert Road, Alexandra Park), specified that the open space contribution should be used:  
“towards the provision and / or enhancement of open space within the boundaries of the Council’s Area Committee East comprising the Dales, St Ann’s and Mapperley wards and within which the Site is located”.
- 4.2 The original agreed sum was £32,543.14 with the payments due in instalments uplifted for inflation. The full contribution has now been received, totalling £35,391.38.

This is comprised of £8,109.98 received in May 2016 and £27,281.40 received in August 2018. These sums must be spent by 11/05/2021 (£8,109.98) and 13/07/2023 (£27,281.40) respectively. The agreement contains a clause allowing for 3% of the contribution, not exceeding £4,000, to be ‘top-sliced’ from the receipt for the administration and monitoring of the agreement. This clause has been applied to the sum received in August, therefore £818.40 will be put towards the costs of monitoring and £26,463 is available to commit to the two projects identified.

4.3 The meeting of Area Committee East on 13<sup>th</sup> February 2018 endorsed the allocation of the first instalment (£8,109.98) to Colwick Country Park. This report proposes to allocate the final payment of £26,463 as follows:

- £15,000 – part-funding of Caunton Avenue Playground (improvements & other site works to be finalised via public consultation), together with £50k anticipated from a WREN bid to be made in December 2018;
- £11,463 - Improvements and works to trees on parks and open spaces across Area 6.

When formally agreed, the Capital Programme will be amended to reflect these projects and funding packages.

Tom Straw – Senior Account (Capital Programmes), Sarah Baker – Commercial Business Partner (Projects)  
30<sup>th</sup> August 2018

## **5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

- 5.1 The Section 106 agreement detailed at paragraph 9.1 of this report related to two residential developments at Albert Road, Alexandra Park. The agreement obliged the developer to pay open space monies totalling £32,544.14 (index linked) in two unequal instalments, due on or before first occupation of the respective developments under planning references 13/01909/PFUL3 and 13/01946/PFUL.
- 5.2 As stated above, the agreement obliged the Council to apply the open space contribution "*towards the provision and/or enhancement of open space within the boundaries of the Council's Area Committee East comprising the Dales, St Ann's and Mapperley wards and within which the Site is located.*" The purposes set out at paragraph 2.1 are consistent with this obligation.
- 5.3 If the open space contribution is not applied in accordance with the agreement, or if it remains unspent or uncommitted for expenditure in accordance with the agreement five years after receipt, on demand by the developer the Council will become liable to repay it.
- 5.4 Under the terms of the Council's Constitution, Area Committee has a consultative role in relation to the spending of section 106 monies in its local area, with the decision as to authorisation of funds being for the relevant Portfolio Holder (PH for Culture and Leisure in the case of open space monies).
- 5.5 The decision also seeks support for the allocation of anticipated grant monies from a WREN application due to be made in December 2018. Grants may be made by WREN from its Community Fund for amenity projects within 10 miles of a GCC Environment landfill site in WREN's operating area. In the case of Coppice Recreation Ground, that site is Eastcroft. The primary intent of the project must be the protection of the environment, and provision, maintenance or improvement of a public park, or another public amenity.
- 5.6 In the case of all grant applications approved by WREN, the Council will be required to enter into an agreement restricting the purpose to which the monies are put, delivery of progress reports, maintenance of records of income derived and provision

of documentation and expenditure details to WREN as the project is implemented. The agreement will also typically contain obligations relating to the project being accessible to the public for a minimum period, and in the event that the project is not ultimately implemented, the return of the funding to WREN.

Judith Irwin, Senior Solicitor, 29<sup>th</sup> August 2018

**6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISION RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE) (AREA COMMITTEE REPORTS ONLY)**

6.1 n/a

**7 EQUALITY IMPACT ASSESSMENT**

7.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because there is no change to policy or functions which would require assessment.

**8 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

8.1 None.

**9 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

9.1 Section 106 agreement between Nottingham City Council and ASRA Housing Association Limited dated 29th October 2013 linked to developments at (1) former Lorna Court, May Court and the Croft (planning ref 13/01909/PFUL3) and Mayholme (planning ref 13/01946/PFUL3) both at Albert Road, Alexandra Park, Nottingham;