

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	2692
Author:	James Dymond
Department:	Communities
Contact:	Eddie Curry (Job Title: Head of Parks, Open Spaces and Investment Funding, Email: eddie.curry@nottinghamcity.gov.uk, Phone: 01158764982)
Subject:	Use of Section 106 Open Space funding in Areas 2 and 8
Total Value:	£156,219.32 (Type: Capital and Revenue)
Decision Being Taken:	1. To authorise the use of the section 106 open space contribution totalling £95,016.52 linked to the planning permission for Breconshire Dyeworks (ref 09/03300/POUT) towards the works in Basford ward detailed in the first table in Appendix 1;2. To authorise the use of the section 106 open space contribution totalling £61,202.80 linked to the planning permission for the Frontage, Queen Street (ref 15/01349/PFUL3) towards the works in Bridge ward detailed in the second table in Appendix 1;3. Delegate authority to the Director of Sport & Culture to issue and award tenders and sign orders for the above spend.4. Amend the capital programme to reflect the expenditure detailed.
Reasons for the Decision(s)	£95,016.52 of Section 106 funding was received by the Council from the Breconshire Dyeworks site in October 2015. The terms of the relevant agreement require the Council to use the monies towards the provision and/or enhancement of open space within the City of Nottingham £61,202.80 of Section 106 funding was received by the Council from the development at The Frontage, Queen Street in August 2016. The terms of the relevant agreement require the Council to use the monies towards the restoration of the Victoria Embankment Memorial Gardens. Further details on the proposed spend is set out in the attached briefing document.
Briefing notes documents:	Appendix 1 - Area 2 & 8 S106 DD Nov 2016 - finance.docx

Other Options Considered: Not to use the Section 106 funding: in each case, if the contributions are not used within 5 years, or not used for the purposes set out in the respective agreements, they would be liable to be reclaimed by the developer. For this reason, this option was rejected.

Background Papers: **None.**

Published Works:
1) Report to Basford and Bestwood Area Committee, 21 September 2016 - Use of Section 106 Funding on Parks and Open Spaces in Basford.
2) Report to Area 8 Committee, 14 September 2016 - Use of Section 106 Funding at Victoria Embankment and Meadows Recreation Ground.

Affected Wards: **Basford, Bridge**

Colleague / Councillor Interests: **None.**

Consultations:
Date: 14/09/2016
Area Committees: Area 2: Bestwood and Basford, Area 8: Clifton North, South and Bridge (from May 2012)
Basford and Bestwood Area Committee: 21 September 16.
Area 8 Committee: 14 September 16.
Both Area Committees endorsed the proposed applications of the section 106 contributions set out in this decision.
Those not consulted are not directly affected by the decision.

Crime and Disorder Implications: **All of the proposals in this report aim to improve parks and open spaces, make them more attractive, safer and more frequently used.**

Equality: **Please login to the system to view the EIA document: EIA - Area2&8 S106 DD Dec 2016.doc**

Social Value Considerations: **Not applicable - the value of this decision is below the Social Value Consideration threshold.**

Decision Type: **Portfolio Holder**

Subject to Call In:

Yes

Call In Expiry date:

30/12/2016

Advice Sought:

Legal, Finance, Procurement, Equality and Diversity

Legal Advice:

1. Recommendation 1 seeks authority to use section 106 monies linked to the Breconshire Dyeworks development (ref 09/03300/POUT) in improvement works at a nature reserve (including the creation of a pond), a park and two separate sets of allotments. As stated in "Reasons for the Decision", the relevant s106 agreement requires the Council to use the monies "towards the provision and/or enhancement of open space within the City of Nottingham".

2. The Government's Planning Policy Statement 8 (PPS8) at Annex 8 defines open space as "all open space of public value including not just land, but also inland bodies of water such as rivers, canals, lakes and reservoirs..." Annex A of PPS8 then illustrates the broad range of open spaces which are of public value by a list which includes allotments and natural and semi-natural urban green spaces including woodlands, urban forestry and grasslands. It is therefore considered that the proposed use of the section 106 contribution at Recommendation 1 is compatible with the terms of the agreement from which that contribution derives.

3. Recommendation 2 seeks authority to use section 106 monies linked to the Frontage development (ref 15/01349/PFUL3) on works at Victoria Embankment Memorial Gardens including statue restoration, creation of new paths and repairs to existing ones, planting and gate repairs. As stated in "Reasons for the Decision", the relevant s106 agreement requires the Council to use the monies towards the restoration of the Victoria Embankment Memorial Gardens and it is clear therefore that the decision is compatible with the terms of the agreement.

4. The decision is within the key responsibilities of the Portfolio Holder for Leisure and Culture and also within his financial threshold.

Advice provided by Judith Irwin (Senior Solicitor) on 08/11/2016.

Finance Advice:

This decision seeks approval to incur expenditure as follows:

£95,016.52 to be spent at Whitemoor Nature Reserve, Stockhill Park, Stockhill Park, Stockhill Circus allotments and Whitemoor & Bagthorpe allotments. The expenditure at these sites will be funded from Section 106 income received by the Council in December 2015, as a result of a condition on planning application approval reference 15/01349/PFUL. The project was approved at the Area 2 Basford & Bestwood Area Committee meeting on 21 September 2016.

£61,202.80 to be spent on the Victoria Embankment Memorial Gardens, funded from Section 106 income received by the Council in August 2016 as a result of a condition on planning application approval reference 09/0330/POUT. The project was approved at the Area 8 Committee meeting on 14 September 2016.

The Head of Parks, Open Spaces & Investment Funding will put in place monitoring arrangements to ensure the expenditure will be contained within the approved funding.

Advice provided by Maria Balchin (Finance Analyst) on 14/11/2016.

Procurement Advice:

<p>Should any procurement(s) be required as a result of the proposals set out within the report these should be carried out in conjunction with the Procurement Team and in line with Contract Procedure Rules and the Public Contracts Regulations.</p> <p>Advice provided by Sue Oliver (Category Manager - Procurement) on 03/11/2016.</p>

Equality and Diversity Advice:

<p>Continuous consultation with users will be paramount to ensure that the maximum usage is gained from the broadest groups within the cities communities.</p> <p>Advice provided by Adisa Djan (Equalities and Diversity Consultant) on 05/12/2016.</p>
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Signatures

David Trimble (Portfolio Holder for Leisure and Culture)
SIGNED and Dated: 20/12/2016
Andrew Vaughan (Corporate Director Commercial and Operations)
SIGNED and Dated: 20/12/2016