

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

2713

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:

Allocation of Citywide Open Space Section 106 Funding

Total Value:

£130,700.98 (Type: Capital and Revenue)

Decision Being Taken:

1. To authorise the use of the section 106 open space contribution totalling £21,997.59 linked to the planning permission for Byron Works, 106-110 Lower Parliament Street (ref 10/00489/PFUL3) towards work at Wollaton Park as detailed in the table attached.
2. To authorise the use of the section 106 open space contribution totalling £10,468.90 linked to the planning permission for Express Buildings, 17-25 Upper Parliament Street (ref 14/00580/PFUL3) towards work at Wollaton Park as detailed in the table attached.
3. To authorise the use of the section 106 open space contribution totalling £64,411.89 linked to the planning permission for Minerva House (ref 12/03487/PFUL3) towards work at Wollaton Park as detailed in the table attached.
4. To authorise the use of the section 106 open space contribution totalling £33,822.60 linked to the planning permission for 171a Castle Boulevard (ref 13/00865/PFUL3) towards work at Lenton Recreation Ground and Grove Road as detailed in the table attached.
5. That the Corporate Director for Communities in exercise of the Area Committee Executive Powers under delegation 82(b) approves use of the above Section 106 funding.
6. Delegate authority to the Director of Sport & Culture to issue and award tenders and sign orders for the above spend.
7. Amend the capital programme to reflect the expenditure detailed.

**Reasons for the Decision(s)** In relation to decision 1, £21,997.59 of Section 106 funding was received by the Council from the development at Byron Works, Lower Parliament Street in July 2014. The terms of the relevant agreement require the Council to use the monies towards "the provision and/or enhancement of open space in the City of Nottingham."

In relation to decision 2, £10,468.90 of Section 106 funding was received by the Council from the development at Express Buildings, 17-25 Upper Parliament Street, in June 2014. The terms of the relevant agreement require the Council to use the monies towards "the provision and/or enhancement of open space in the City of Nottingham."

In relation to decision 3, £64,411.89 of Section 106 funding was received by the Council from the development at Minerva House in May 2015. The terms of the relevant agreement require the Council to use the monies towards "the provision or enhancement of open space in the City of Nottingham."

In relation to decision 4, £33,822.60 of Section 106 funding was received by the Council from the development at 171a Castle Boulevard 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 in the City of Nottingham."

In relation to Decision 5, because of the timescales for the proposed projects, a decision is required prior to the next meetings of the relevant Area Committees which are due to be held on 27 February 2017 (Wollaton and Lenton Abbey) and 22 February 2017 (Arboretum, Dunkirk and Lenton, Radford and Park). In those circumstances the Corporate Director for Commercial and Operations is requested to exercise his delegated power to enable the decision to be implemented in a timely manner. In accordance with the exercise of this delegated power, this matter will be formally reported to the next meetings of the two Area Committees.

**Briefing notes documents:** Citywide use Open Space S106 background (Dec 2016).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.

**Background Papers:** None

**Published Works:** None

**Affected Wards:** Dunkirk and Lenton, Wollaton West

**Colleague / Councillor Interests:** None

**Consultations:** Date: 22/11/2016  
Ward Councillors: David Trimble, Merlita Bryan, Steve Battlemuch

The proposals were discussed with Cllr Battlemuch and Cllr Trimble on 22 November 2016 and they both support the proposals. The Chair of the Arboretum, Dunkirk and Lenton, Radford and Park Area Committee (Cllr Bryan) was consulted on 20th December 2016 and supports the proposals.

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:**

EIA not required. Reasons: There is no proposal for new or changing policies / services / functions or financial decisions that would have a major impact on services.

**Social Value Considerations:**

Not applicable as the projects are below the EU threshold.

**Decision Type:**

Portfolio Holder

**Subject to Call In:**

Yes

**Call In Expiry date:**

27/01/2017

**Advice Sought:**

Legal, Finance, Procurement

**Legal Advice:**

1. Decisions 1-4 involve the application of section 106 open space contributions towards identified projects. In each case, the proposed spend is compatible with the Council's obligations contained in the relevant agreement.

2. Decisions 1-4, 6 and 7 are for the Portfolio Holder for Leisure and Culture to determine, and it is considered that under the Council's Constitution, they are matters which come within his remit.

3. Decision 5 is for the Corporate Director for Communities to determine. Under the Council's Constitution, an Area Committee in whose area section 106 monies are proposed to be spent is a consultee in the decision as to that expenditure. Under delegation 82(b) the Corporate Director for Communities may exercise an Area Committee function where a decision is required before the next meeting of the Area Committee, subject to consultation with the Committee's Chair and to report for information to the next available meeting. The last paragraph of "Reasons for the Decision(s)" refers to the timescales for the proposed projects, and "Consultations" refers to the consultation with the relevant Area Committee Chairs Cllr Steve Battlemuch (Wollaton and Lenton Area Committee) and Cllr Merlita Bryan (Arboretum Dunkirk and Lenton, Radford and Park Area Committee) which have already taken place. In those circumstances it appears that the pre-decision requirements for the exercise of delegation 82(b) have been met. Advice provided by Judith Irwin (Senior Solicitor) on 13/01/2017.

**Finance Advice:**

Nottingham City Council has section 106 contributions to fund the projects as follows:

1) Section 106 receipts / references; 10/00489/PFUL3 (£21,997.59), 14/00580/PFUL3 (£10,468.90) and 12/03487/PFUL3 (£64,411.89) are uncommitted section 106 receipts and available for work at Wollaton Park.

2) Section 106 receipt 13/00865/PFUL3 (£33,822.60), has an uncommitted balance of £24,555.47. The remaining £9,267.13 is to be funded from other section 106 receipts. Funding the £33,822.60 works at Lenton Recreation Ground and Grove Road from Section 106.

The Head of Parks, Open Spaces and Investment Funding will put appropriate measures in place to ensure compliance to the funding conditions. Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 06/12/2016.

**Procurement Advice:**

Provided that any spend arising out of this report is spent in accordance with Public Contract Regulations and Contract Procedure Rules there are no significant issues with the recommendations set out in the report. Advice provided by Sue Oliver (Category Manager - Procurement) on 15/12/2016.

**Signatures**

David Trimble (Portfolio Holder for Leisure and Culture)
SIGNED and Dated: 17/01/2017
Andrew Vaughan (Corporate Director Commercial and Operations)
SIGNED and Dated: 17/01/2017