

THURSDAY, 28 SEPTEMBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR REGENERATION**RELEASE OF PLANNING OBLIGATION INCOME AND REVISED ALLOCATION PROCEDURE****EXEMPT INFORMATION**

None.

PURPOSE

To seek authorisation for the release of section 106 (s106) monies to fund appropriate projects and to establish a process for the efficient release of s106 monies in future.

RECOMMENDATIONS

- 1) Existing developer contribution monies as set out in the report (totalling approximately £52,675) are released to the appropriate project budgets.
- 2) The revised process for allocation of other existing (approximately £178,505) and future developer contribution monies is adopted.
- 3) The sum of £1,048 in account R6057 be released to the Gateways Project Phase 1 budget.

EXECUTIVE SUMMARY

Members may recall a previous report to Cabinet, dated 23 October 2014, which sought approval to release money collected under s106 agreements to contribute towards the delivery of infrastructure projects within Tamworth. Since then, additional contributions have been received which, when added to the existing unallocated contributions, total approximately £231,180 and this report seeks authorisation to release these funds to be spent on appropriate infrastructure projects.

It should be noted that contributions secured towards infrastructure that is provided or maintained by the county council (such as highways and education facilities) are usually required to be paid by the developer directly to the county council. This means that additional contributions will have been received towards infrastructure in Tamworth, but those are not included in this report as the county council is responsible for delivering the appropriate projects.

Existing planning obligations

The following contributions have been collected towards projects which have either already commenced or are ready to commence and so it is recommended that the funds are released to those projects.

Account code	Account Name	Amount	Project
R6069	11 Victoria Road	£3,016.00	Installation of directional signs, being fingerposts and totem signs, between Ventura Park Retail Park and Tamworth town centre through the Gateway Project

R6616	Unit 1 Ventura Park Links	£25,291.00	Installation of directional signs, being fingerposts and totem signs, between Ventura Park Retail Park and Tamworth town centre through the Gateway Project
R6369	Freasley Lane Walton Homes	£19,352.00	Improvements to the parking area, the provision of bins and seating and improved access arrangements at Kettlebrook Nature Reserve.
R6371	Linden Lea Hockley Road	£2,513.00	Provision ponds/scrapes and improving access within Town Wall Local Nature Reserve.
R6374	7 Quarry Hill	£503.00	Kettlebrook Local Nature Reserve tree works.
R6377	Land At Rear Of Coton Dairy	£2,000.00	Management of the Snakes Head fritillary meadow for the site at Broadsmeadow Local Nature Reserve.

The remaining monies have been collected towards projects which have yet to commence or which require additional work to establish. It is therefore recommended that these monies be released at a later date. The second element of this report proposes a new process for the efficient release of monies collected towards infrastructure projects. Should members approve the new process, it is recommended that the monies listed below be allocated via the new process at an appropriate time.

Account code	Account Name	Amount	Type of infrastructure
R6214	Glascote Farm, Barratt Homes	£19,293.86	Open space enhancement
R6226	26 Moor Lane	£509.00	Open space enhancement
R6228	1 Swift, Glascote	£507.00	Open space enhancement
R6357	Waterloo Re Chap/Cherry/Arden	£6,070.00	Open space enhancement
R6358	1 Bellingham	£1,011.00	Open space enhancement
R6359	6 & 7 Albert Road	£1,771.00	Open space enhancement
R6360	36 Whiting	£759.00	Open space enhancement
R6361	The Bungalow, 22 New St	£506.00	Open space enhancement
R6362	23 Holly Close	£506.00	Open space enhancement
R6363	25 Kettlebrook Road	£506.00	Open space enhancement
R6364	Land At Pennine Way	£25,291.00	Open space enhancement

R6365	166 Wigginton Road	£754.00	Open space enhancement
R6366	60-66 Dosthill Rd, Cameron Homes	£8,387.49	Open space enhancement
R6368	Cherry Tree Walk	£503.00	Open space enhancement
R6378	Rosedale 77c, Amington Road, Bolehall	£500.00	Open space enhancement
R6375	Bellway Homes, Anker Valley	£110,583.00	Sports and leisure

There is also an amount of £1,048.00 in account R6057 (58 Albert Road) which is listed as a leisure facilities contribution (cost centre PM4725), however this payment was miscoded and should have been under cost centre PM4720. At the 23 October 2014 Cabinet meeting, members approved the release of monies from account R6057 to the Gateways Project Phase 1 budget. As a result of the miscoding, the amount of £1,048.00 was not transferred and has remained in account R6057 until now. It is therefore recommended that the £1,048.00 is released to the Gateways Project Phase 1 budget in line with the previous Cabinet decision.

Proposed process for the allocation of developer contributions

The current process requires Cabinet approval to release monies collected through developer contributions to be spent on appropriate infrastructure projects. This was an appropriate approach when contributions could be collected towards broad types of infrastructure and there was a decision to be made on what infrastructure projects the monies should be spent on; however this is no longer the case.

The Community Infrastructure Levy Regulations 2010 (as amended) set out new restrictions on the pooling of contributions collected through planning obligations. These restrictions came into force on 06 April 2015 and require that no more than five obligations can be entered into where they would provide for the funding or provision of an infrastructure project or type of infrastructure.

The result of these regulations is that the specific infrastructure project any financial obligation is to be spent on should now be set out within the legal agreement. This removes the requirement for a decision to be made on what received monies should be spent on as the Council is required to spend the money in accordance with the legal agreement. Responsibility for the wording of planning obligations is delegated to the Corporate Director Growth, Assets & Environment, Head of Managed Growth, Regeneration & Development and Development Control Manager in accordance with Part 3 of the Tamworth Borough Council Constitution.

It is therefore considered that the current method of releasing collected financial obligations to the relevant projects is not the most efficient, and that a more streamlined approach could be implemented to make more efficient use of resources. It is recommended that Cabinet delegate authority for the release of monies collected in connection with developer contributions into the relevant project budgets to the Corporate Director Growth, Assets & Environment (the director) and the relevant portfolio holder.

Under the proposed system, on receipt of a relevant developer contribution, a request will be sent by the planning service to the director and relevant portfolio holder setting out details of the amount and project to which the money is to be allocated. Upon receipt of authorisation from both the director and relevant portfolio holder, the money will be immediately released to the relevant budget holder who will be required to provide notice to the planning service

when the money has been spent.

In the event that the director and relevant portfolio holder are unable to agree on the allocation of any contribution, or consider that there is any other reason why they should not make a decision, they shall request that the planning service refer the decision to Cabinet. No specific criteria have been suggested to determine when a decision should be referred to Cabinet and this will instead be left to the discretion of the director and relevant portfolio holder.

OPTIONS CONSIDERED

Options for spending the collected s106 monies are limited to the scope of the projects set out in the legal agreements that required the financial contributions. The only alternative therefore is to not spend the monies on the specified projects and instead to return the contributions to the developers.

The alternative option to implementing the revised allocation process is to keep the current process in place and require all monies to be released by Cabinet. As stated in the report, this is considered to be less efficient than the revised process and so it is recommended that the revised process be adopted.

RESOURCE IMPLICATIONS

There are no further resource implications above those currently identified within the service area.

The Unit 1 Ventura funds of £25,291 was allocated as part of the £50k S106 contribution in the 2016/17 budget and has been spent as part of the phase 2 costs. A budget of £26,800 remains from previous years approved Gateways funding – partially funded from the S106 balances with S106 funding of £22k still to be identified/allocated.

LEGAL/RISK IMPLICATIONS BACKGROUND

As noted in the report, the collected monies can only be spent in accordance with the relevant legal agreement between the developer/landowner and the Council. The legal agreements for the identified monies, and any future monies received, will be checked to ensure the monies are spent in accordance with the conditions of the agreements.

SUSTAINABILITY IMPLICATIONS

The collected monies will assist in delivering infrastructure that is needed to allow sustainable growth within the Borough.

BACKGROUND INFORMATION

The Council has recently submitted for examination a Community Infrastructure Levy (CIL) Draft Charging Schedule. If the Charging Schedule passes examination, and is subsequently adopted by the Council, contributions towards infrastructure projects will begin to be collected through CIL. Whilst contributions would still be able to be collected through the use of s106 agreements, the two methods should not be used to collect contributions to the same item or type of infrastructure. As a result, if the Council were to adopt the CIL, the use of s106 agreements would be scaled back accordingly.

The 23 October 2014 Cabinet report advised members that, as money collected through CIL is pooled to be spent on items on the Council's Regulation 123 list, a new process will need to be put in place upon adoption of CIL for determining priorities for spending the collected monies and allocating monies to specific infrastructure projects. No further progress has been made on developing a procedure since the 23 October 2014 meeting and it is not proposed to resume work on this until the outcome of the CIL examination is known.

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

Report to Cabinet, "Community Infrastructure Levy and Planning Obligations " 23 October 2014.

APPENDICES

None.

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