



**Service Delivery  
Committee**

**Tuesday, 10 October  
2017**

**Matter for  
Information and  
Decision**

**Title: Section 106 Open Space, Sport and Recreation Contributions**

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## **1. Introduction**

This report is to inform Members of open space projects, identified by Officers, that could be funded through financial off site Section 106 Open Space, Sport and Recreation Contributions and details a new approach to the management of onsite open space provided through Section 106 Agreements.

## **2. Recommendation(s)**

It is recommended that Members:

- 2.1. note the list of attached Open Space, Sport and Recreation projects that could be funded through Section 106 contributions;
- 2.2. note that the developer, David Wilson Homes, will establish a management company to manage the open space provided within the Direction for Growth as opposed to the Council adopting the open space and carrying out the maintenance; and
- 2.3. agree that where it is possible and appropriate, a similar approach is to be taken in respect of maintenance of open space for other developments in the future.

## **3. Information**

- 3.1 Section 106 contributions for Open Space, Sport and Recreation within the Borough are provided by developers either as a physical contribution (for example as land), or as an offsite financial contribution, to mitigate the impact of development. Current national guidance, The Community Infrastructure Levy (CIL) Regulations (2010), relating to Section 106 policy, states that a Section 106 Contribution must be:
  - (a) Necessary to make the development acceptable in planning terms;
  - (b) Directly related to the development; and,
  - (c) Fairly and reasonably related in scale and kind to the development.
- 3.2 The Community Infrastructure Levy (CIL) in Regulation 123 has also placed a limit on the ability of Local Planning Authorities to pool no more than five S106 contributions towards a single project or item of infrastructure. Affordable housing is excluded from this regulation but otherwise, the limitation applies to all planning obligations entered into since 6 April 2010.
- 3.3 To ensure that monies received via a financial contribution benefit the residents of the development, or those directly impacted by the development, financial contributions will be sought for the settlement in which the development is proposed. For example, for development occurring in Wigston, the financial contribution will be sought for spending within Wigston.

- 3.4 When Section 106 Contributions for Open Space, Sport and Recreation are calculated they are done so in accordance with the Developer Contributions Supplementary Planning Document on the basis that the monies received will be split into Capital and Revenue elements. This split is approximately 40% capital and 60% revenue. The capital element, unless otherwise stated, has to be spent within five years of full receipt and the revenue element is usually up to 20 years. This ensures that any new asset can be maintained and the council is not left with an additional on-going cost burden.
- 3.5 A Section 106 Officer Working Group has been set up since January 2017 to monitor all Section 106 activity. It provides an opportunity for all relevant officers to discuss prospective and current in-progress Section 106 agreements and the needs of each settlement and resolve any potential issues. Section 106 activity is monitored and any outstanding financial contributions notified to the group and progressed. Going forward, it is the intention that when an application for a new development is received that would be eligible to provide Section 106 Open Space, Sport and Recreation contributions, the Officer Working Group will discuss the current projects in need of funding from the 'Section 106 Open Space, Sport and Recreation Working Projects List' and identify an appropriate project for funding. It will then be documented within the Section 106 agreement that the funding will be allocated to that project.
- 3.6 The Section 106 Officer Working Group will be responsible for producing and maintaining the Section 106 Open Space, Sport and Recreation Working Projects List based on compliant projects that are notified to the group. The Section 106 Officer Working Group will decide if a project fulfils the criteria to be funded by Section 106 monies and if agreed, the project will then be added to the Section 106 Open Space, Sport and Recreation Working Projects List. The list will be reported to the Service Delivery Committee on an annual basis.

#### **4. Section 106 Projects**

- 4.1 A list of Open Space, Sport and Recreation Projects for the Borough, which could be funded through Section 106 contributions, has been identified by Officers. This list is seen as a 'working list' to be added to as Officers identify or are notified of new requirements. The list is in no particular order of priority and funding will be allocated as and when suitable Section 106 contributions are sought and are allocated in line with the requirements detailed at paragraph 3.1. Relevant ward Members will be notified once the necessary monies have been assembled and before a scheme is brought forward.
- 4.2 However, where possible the installation of children's play equipment identified to be funded by Section 106 contributions will be carried out in the order of priority as approved by the relevant Committee, but this will be within the confines of spending the contribution as stated in the requirements detailed at paragraph 3.1.
- 4.3 Projects identified by Officers that could be funded through Section 106 Open Space, Sport and Recreation Contributions are:

#### **4.4 Park Projects**

Enhancements and new provision within the schemes include but are not limited to, new play equipment, new adult fitness equipment, new trees and new benches. The current list of park projects identified are:

##### **4.4.1 Oadby**

### **Ellis Park**

- Provision of new play equipment. Approximate estimated cost £45,000.
- Provision of new park trees. Approximate estimated cost £1,500.

### **Florence Wragg Way Play Area**

- Provision of new play equipment. Approximate estimated cost £45,000.
- Provision of park and street trees. Approximate estimated cost £1,500.

### **Iliffe Park**

- Provision of new park benches. Approximate estimated cost £1,350.

### **Uplands Park**

- Provision of new adult fitness equipment. Approximate estimated cost £20,000.
- Provision of new park benches. Approximate estimated cost £3,900.
- Provision of new park trees. Approximate estimated cost £750.

### **Brocks Hill Country Park**

- Provision of new play equipment. Approximate estimated cost £45,000

## **4.4.2 Wigston**

### **Carlton Drive Park**

- Provision of new football/basketball equipment for use at Carlton Drive Park. Approximate estimated cost £5,000.

### **Freer Park**

- Provision of new play equipment at Freer Park. Approximate estimated cost £45,000.

### **Grittar Close Play Area**

- Provision of new play equipment. Approximate estimated cost £8,000.

### **Horsewell Lane Park**

- Provision of new park benches. Approximate estimated cost £3,900.

### **Meadows Open Space**

- Provision of new park trees. Approximate estimated cost £1,000.

### **Willow Park**

- Provision of new adult fitness equipment. Approximate estimated cost £20,000.
- Provision of new park trees. Approximate estimated cost £750.
- Provision of new notice boards. Approximate estimated cost £5,550.
- Provision of new litter bins. Approximate estimated cost £4,500.

- Provision of new park benches. Approximate estimated cost £6,500.

#### 4.4.3 **South Wigston**

##### **Blaby Road Park**

- Provision of new adult fitness equipment. Approximate estimated cost £20,000.
- Provision of new park trees. Approximate estimated cost £750.
- Provision of new notice boards. Approximate estimated cost £5,550.
- Provision of new litter bins. Approximate estimated cost £4,500.

##### **Pochins Bridge Open Space**

- Provision of new adult fitness equipment. Approximate estimated cost £20,000.

##### **William Gunning Park**

- Provision of new adult fitness equipment. Approximate estimated cost £20,000
- Provision of new litter bins. Approximate estimated cost £2,250
- Provision of new park benches. Approximate estimated cost £2,600.
- Installation of new land drainage. Estimate not currently available.

#### 4.5 **Street Trees**

To provide additional street trees in areas of the Borough with poor tree coverage. Locations and suitable tree specimens will be confirmed by the Council's Arboricultural Officer, however current suggested locations are:

##### **Wigston**

- Launceston Road. Approximate estimated cost £1,000.
- Welford Road. Approximate estimated cost £1,600.

##### **South Wigston**

- Ervins Lock. Approximate estimated cost £1,600.

- 4.6 As mentioned earlier, all monies received via Section 106 Open Space, Sport and Recreation Contributions are split into capital and revenue elements as calculated from the formula in the Developer Contributions Supplementary Planning Document. Therefore, once work is completed on a project through the use of the Section 106 capital element, there is revenue available to ensure on-going maintenance of these projects for up to 20 years.

The projects will be resourced by a combination of in-house resources with a staggered timetable for delivery and/or external resources for the duration of the project funded by the capital element of S106 monies.

### **5. Management of Onsite Open Space provided within the Direction for Growth**

- 5.1 The Direction for Growth is a new development to be built by David Wilson Homes (DWH) between Newton Lane and Welford Road to the south east of Wigston. Phase One has been granted planning permission to build 450 homes and 2.5 hectares of employment land with Section 106 contributions providing amongst others, open

space, a community centre and education facilities.

- 5.2 The Direction for Growth (DfG) has a provision for onsite open space to be provided by the Developer through Section 106 Agreement. This includes a sports pitch provision, children's and young people's play facilities, allotments and informal amenity open space. The Section 106 details that the developer, (DWH), can choose either to retain the onsite open space and maintain this through a maintenance company to a schedule agreed with the Council or, as is traditional, transfer the open space to the Council and pay a maintenance fee to cover the cost of the maintenance over an agreed period of time, (usually twenty years). DWH has chosen that it will perform the maintenance. The establishment of a maintenance company is increasingly becoming developers preferred approach to dealing with open space across the Country.
- 5.3 The effect of this is that householders will be required to pay an annual maintenance fee and a maintenance company, Wigston Fields Management Company, will establish its own management regime and carry out all of the maintenance itself. The Borough Council will have no involvement in maintaining the open space within the development. This has the effect of reducing risk to the Council and eliminating the financial burden to the Council as it will not have to take on the maintenance of the open space in the longer term.

**Background Documents:**

Planning Obligations Supplementary Planning Document October 2015

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<b>Implications</b>   Section 106 Open Space, Sport and Recreation Contributions	
<b>Finance</b>	With the management company maintaining the open space within the development there will be less of a cost burden for the Council. Projects funded through Section 106 could reduce Council's capital expenditure.
<b>Stephen Hinds</b> (Director of Finance and Transformation)	
<b>Legal</b>	No significant legal implications.
<b>Anne Court</b> (Director of Services / Monitoring Officer)	
<b>Corporate Risk(s) (CR)</b>	<input checked="" type="checkbox"/> <b>Decreasing Financial Resources (CR1)</b>  With the management company maintaining the open space within the development there will be less of a cost burden for the Council. Projects funded through Section 106 could reduce Councils capital expenditure.
<b>Adrian Thorpe</b> (Head of Planning, Development and Regeneration)	<input checked="" type="checkbox"/> <b>Economy/Regeneration (CR9)</b>  There is potential regeneration benefit to the parks and open spaces within the Borough via Section 106 funding.
<b>Corporate Priorities (CP)</b>	<input checked="" type="checkbox"/> <b>Green &amp; Safe Places (CP4)</b>  There is potential regeneration benefit to the parks and open spaces within the Borough via Section 106 funding.
<b>Adrian Thorpe</b> (Head of Planning, Development and Regeneration)	
<b>Vision &amp; Values (V)</b>	<input checked="" type="checkbox"/> <b>Customer Focus (V5)</b>  The key objective of Section 106 funding is to mitigate impact as well as improve the Borough's open space.
<b>Adrian Thorpe</b> (Head of Planning, Development and Regeneration)	
<b>Equalities &amp; Equality Assessment(s) (EA)</b>	No significant equalities implications.
<b>Adrian Thorpe</b> (Head of Planning, Development and Regeneration)	<input checked="" type="checkbox"/> <b>Not Applicable (EA)</b>