



Policy, Finance and Development Committee	Tuesday, 16 March 2021	Matter for Information and Decision
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Report Title: **Section 106 Open Space, Sport and Recreation Contributions Update (March 2021)**

Report Author(s): **Emma Brackenbury (Planning Policy Officer)**

Purpose of Report:	<p>This report is to inform Members of the latest position regarding projects that could be funded through financial off site Section 106 Open Space, Sport and Recreation Contributions.</p> <p>Due to the changes to national legislation a new list of projects has been proposed and is attached to this report.</p>
Report Summary:	<p>This report builds on the Section 106 Open Space, Sport and Recreation Contributions report that was noted by Members at Policy, Finance, and Development Committee on 26 November 2019. It provides a new list of potential open space, sport and recreation infrastructure projects taking account of the changes to national legislation, which could be funded through Section 106 Contributions and reports on any projects that have been completed.</p> <p>All projects notified to Officers since the previous Committee meeting have been assessed by the Council's Section 106 Officer Working Group and those which comply with the three Community Infrastructure Levy (CIL) tests, have been added to the list.</p>
Recommendation(s):	<p>A. That the list of potential open space, sport and recreation infrastructure projects (as set out at Appendix 1) be agreed;</p> <p>B. The priority locations will be Uplands Park, Willow Park and Blaby Road Park, and the three town centres; and</p> <p>C. That the projects will be progressed in line with the Council's Capital Programme process.</p>
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Corporate Objectives:	Building, Protecting and Empowering Communities (CO1)

	Growing the Borough Economically (CO2) Providing Excellent Services (CO3)
Vision and Values:	Customer Focus (V5)
Report Implications:-	
Legal:	There are no implications arising from this report.
Financial:	The financial implications are contained in the report and stated any schemes which are approved will be added to the capital programme.
Corporate Risk Management:	Economy / Regeneration (CR9)
Equalities and Equalities Assessment (EA):	There are no implications arising from this report. EA not applicable.
Human Rights:	There are no implications arising from this report.
Health and Safety:	There are no implications arising from this report.
Statutory Officers' Comments:-	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	The report is satisfactory.
Consultees:	None.
Background Papers:	<ul style="list-style-type: none"> • Developer Contributions Supplementary Planning Document 2019
Appendices:	<ol style="list-style-type: none"> 1. Proposed Section 106 Concept Projects 2. Status of Current Section 106 Projects

1. Funding of Section 106 Projects

- 1.1 The Council has in place a Developer Contributions Supplementary Planning Document. This Supplementary Planning Document enables the Council to negotiate a range of financial contributions, including those towards off site infrastructure relating to open space, sport and recreation when granting planning permission for new housing developments of 11 or more dwellings, where provision is not made on site. The specific details of the financial contribution are set out in the Section 106 Agreement that accompanies the planning permission. The financial contribution normally includes both a capital and revenue element.
- 1.2 There are several key 'rules' that the Council must abide by when accruing and spending the financial contributions based on the Legislation relating to Section 106 Agreements:
- 1.2.1 The contribution(s) must be spent on infrastructure that is necessary to mitigate the impact of the new development; directly related to the development; and, reasonable in scale and kind;
 - 1.2.2 The Council should identify what the financial contribution will be spent on at the time of negotiating the Section 106 Agreement;

- 1.2.3 The Council must spend the financial contribution within the timeframe set out in the S106 Agreement (usually 5 years, unless otherwise stated).
- 1.3 In order to ensure that the Council meets these rules, a Section 106 Officer Working Group has been established and is tasked with regularly reviewing the Council's position to ensure that all matters relating to the pooling and spending of financial contributions is done so in accordance with the appropriate Legislation.
- 1.4 Unlike previous Legislation, the requirement that the Council can only 'pool' financial contributions arising from a maximum of 5 separate S106 Agreements towards a single item/project of open space, sport and recreation infrastructure has been removed by the Government in the most current Legislation. There are now no restrictions on the number of financial contributions that can be 'pooled' together. This allows the Council greater flexibility in terms of the number of S106 contributions that can be utilised to deliver a project and increases the Council's ability to fund larger projects through Section 106 monies. Previously, due to the pooling restrictions, only smaller items of infrastructure were funded by S106 contributions and the Council's previous project list reflected this. However, the revised concept project list now reflects the increased flexibility allowed for in Legislation. It means that the Council can seek to make a real difference to the community; its health and well-being and the spaces that it lives, works and plays in.

2. Section 106 Concept Projects

- 2.1 So that S106 contributions can be sought, it is particularly important that the Council has in place a 'current' list of potential open space, sport and recreation infrastructure projects that can help to mitigate the impact of the new development, as well as improving the health and well-being of residents and visitors. This list will then be taken into account by the Planning Department when negotiating financial contributions with developers. In their negotiations, they will work with the developer to identify the most relevant infrastructure project(s) on the list that a financial contribution could relate to in order to mitigate the impact of the new development.
- 2.2 The previous list of Section 106 projects that were proposed to be funded through Section 106 contributions has been updated and the new list is attached at Appendix 1. This list has been agreed by the Section 106 Working Group and has been produced in collaboration with a number of Council departments. This new list proposes much larger concept projects that are either town and district centre based or park based.
- 2.3 It should be noted that should the new concept projects be agreed by Members, prior to any further work being undertaken, feasibility studies will be carried out and the outcomes reported to Members. The costings associated to the concept projects in Appendix 1 are informed estimates to give an idea of overall project costs only.
- 2.4 The feasibility work will work up definitive scheme design, highlight whether or not a scheme is feasible, ensure that the Council seeks the appropriate amount of S106 monies (both capital and revenue) towards a scheme and does not undertake any abortive work.
- 2.5 There is currently a small amount of Section 106 monies remaining left from previous projects that could be put towards funding the feasibility work of the schemes.
- 2.6 It is proposed that any new development located in one of the Borough's town or district centres and is eligible to pay a financial contribution will be used towards funding the town and district centres projects and all other new development providing contributions will go towards funding the park projects. This is in line with the updated Developer Contributions

Supplementary Planning Document. Where other funding streams are also available, for example through grants, these will be sought and added towards any available Section 106 funding.

- 2.7 It is important to clarify that once a project is added to the list, it cannot be delivered until the necessary funding has been identified in line with the process explained earlier. Due to this, it may take several years to fully accrue all of the funding required to deliver the project. Should an infrastructure project become more urgent during this period, then it may be removed from the list and considered through the Council's Capital Programme process.
- 2.8 It should also be noted that in addition to Appendix 1, the Council also has an Infrastructure Delivery Plan (IDP) that also has a list of strategic and larger local infrastructure projects. Also the Council's Playing Pitch Strategy (PPS) has a number of potential projects included. Whilst not all of these projects in the IDP and PPS will come forwards via S106 and not all relate to open space, sport and recreation, where they do they tend to form larger, more strategic projects that may require larger sums of money from various sources of funding.
- 2.9 For clarity, this report is seeking Member approval of the comprehensive list of potential concept projects, and approval of the priority list of projects. As per this report's recommendation, the priority list is - Uplands Park, Willow Park and Blaby Road Park, and the three town centres. This priority list of projects will form the basis of future S106 contribution negotiations until such a time as projects are delivered. If a project on the priority list is delivered, it will be replaced on the list by another project from the comprehensive concept list at that time.
- 2.10 Members are invited to suggest additional open space, sport and recreation or public realm infrastructure projects/schemes to add to the list at any time by email to planningpolicy@oadby-wigston.gov.uk. Any Member suggestion will then be considered by the Section 106 Officer Working Group to ensure that it meets the necessary rules associated with S106 funding. If it meets the rules it will be added to the list, for Member approval at the next relevant committee.

3. Current status of items/projects on the previous Projects list

- 3.1 Appendix 2 to this report summarises the current position in relation to items/projects that were contained on the previous version of the S106 Projects List.
- 3.2 The vast majority of the items that were listed in the previous S106 Projects list will form part of the concept projects mentioned in Appendix 1, however they won't necessarily be listed. If an item previously agreed does not form part of the new concept projects it will not be progressed unless specifically requested to do so by Members.

4. Conclusion and Way Forward

- 4.1 The previous pooling restrictions have generally meant that the Council, without the addition of further funding, has only been able to carry out small piecemeal projects, which whilst these bring improvements, has not allowed the Council to aspire to bring largescale positive changes and improvements to the Borough. The concept projects are not by any means the 'finished article', however they give a good indication of the type and scale of positive change that can be achieved through the use of S106 contributions.
- 4.2 In developing these projects, the Section 106 Working Group has looked at Parks and the town and district Centres in their entirety. By proposing to complete projects as comprehensive, all inclusive concepts for each Park or Town or District Centre, it creates a

vision for the types of improvements that can be built on over time. Additionally, by looking at larger projects and developing a concept, this will allow residents to really see tangible improvements to the parks, their facilities and public realm within the Borough.

- 4.3 Having a priority list of concept projects will not only focus S106 funding opportunities and negotiations, but will also focus expectations on S106 project delivery.