

Report for Resolution

Report to Executive
5th April 2006

Report of Director of Development

Subject Spending proposals for Section 106 contributions

Purpose

To authorise expenditure of Section 106 commuted sums for play provision and affordable housing.

Recommendation

Approval is sought to the following discretionary expenditures, which amount to approximately £615,000:

- £16,445 for improvements to play provision in Pilling Park;
- £15,000 for improvements to Ketts Cave play area;
- £12,623 for improvements to Heigham Street play area;
- £12,640 for improvements Wilberforce Road play area
- £5,530 for improvements to Heath Road play area;
- £422,482 for provision of 28 rented units of affordable housing on the Chapelfield development;
- £130,000 for provision of 8 rented units of affordable housing on the Fishergate development.

Financial Consequences

There are no financial consequences for the City Council's budgets from the proposed expenditure plans within this report, as the monies have already been received from developers under S.106 agreements.

Corporate Objective/Service Plan Priority

The report helps the following corporate objectives to be met:

- promotion of sustainable economic development
- protection and enhancement of the built and natural environments;
- striving for sufficient, good quality, affordable housing with choice and accessibility;
- to make Norwich an exemplar of a modern European 'liveable' city.

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Background Documents

Supplementary Planning Guidance (Norwich City Council):

- Provision of Affordable Housing, September 2002;
- Open Space and Play Provision, September 2004
- Transportation Contributions, December 2002

Report

Background

1. The planning system aims to ensure that the impact of new development on local services and facilities (such as the need for additional play space, educational facilities, and transportation improvements) is addressed as part of the planning process. This is achieved through the system of planning obligations, under Section 106 of the Town and Country Planning Act 1990.
2. Planning obligations or 'Section 106 agreements' are legal agreements negotiated by the local planning authority with the developer (or landowner) of a proposed development. They identify the specific local facilities, services or improvements necessary to make the development acceptable in planning terms. Where it is not possible to provide such facilities on-site, Section 106 agreements can specify that developers make financial contributions, or 'commuted sums', to the local authority to enable it to provide the required facilities / services outside the site.
3. Planning Applications Committee agrees the main issues to be covered by a Section 106 agreement as part of the consideration of the relevant planning application. Planning permission in such cases is agreed in principle subject to the completion of the detailed Section 106 agreement.
4. Any developer contributions, or 'commuted sums', received by the City Council are managed by it, in accordance with District Audit guidelines. The Council then uses these sums to provide or improve the required facilities or services.
5. The County Council also receives commuted sums for services it provides, such as education and libraries, and is responsible for their management and expenditure. These payments are made directly to the County Council.
6. The Government has been considering changes to the current system of negotiation in order to improve certainty for developers and to improve the efficiency of the development process. Sections 46 and 47 of the Planning and Compulsory Purchase Act 2004 provide new powers to make regulations to implement changes to the planning obligations system. The Government is currently consulting on the proposed introduction of Planning Gain Supplements which if enacted would reform the Section 106 system. A report setting out the Council's response to this consultation was approved by Executive on 15th February.

Monitoring Arrangements

7. Under the present system the Council receives financial contributions from developers through the Section 106 process. A financial income and expenditure monitoring process is in place to deal with this, which meets Audit Commission guidelines. Expenditure of some Section 106 commuted sums can only take place once authorised by Executive. This authorisation normally takes place annually (the most recent report to Executive seeking authorisation was in December 2004).

8. Since the last report to Executive, 2 new posts have been created to assist with the monitoring (and spending) of Section 106 contributions.
 - A new post of Planning Obligations Officer has been established to monitor developments that generate Section 106 contributions, to keep the S.106 database up to date and to invoice developers when contributions are due. This is a part-time post (2 days per week). The current postholder has been in place since September and is proving crucial in updating the database records and enabling the chasing-up of contributions.
 - A new post has been established in the Housing Development Team – Housing Strategy and Enabling Manager – to maximise the provision of affordable housing across the City, including on market sites where an affordable housing contribution is required. This post is revenue funded from Section 106 contributions for affordable housing, and was approved by Executive on 7th December 2005.

Section 106 contributions received

9. There is over £4.3m generated by Section 106 agreements currently held in suspense accounts by the City Council. The expenditure of the majority of this money is non-discretionary and will be spent on specific items, or has already been committed. The purpose of this report is to agree the expenditure of Section 106 funds where there is discretion about their spending (the 2 main areas where specific authorisation is required are play / open space provision, and provision of off-site affordable housing, which are addressed in paragraphs 14 -24 below). However an update for the non-discretionary funds is set out below for information.
10. Over £1.2m is available for spending on the maintenance of play and open space. Maintenance contributions are intended to be for the replacement of equipment over a 15 year period in areas where the Council has already spent commuted sums on play provision, so there is little discretion about the spending of this money.
11. Over £360,000 is available for spending on transportation improvements, most of which are specific to particular development schemes or have previously been committed. The only contribution, which is discretionary and not yet committed, is a sum of approximately £1000 to be spent on measures to improve sustainable transport, in line with Local Plan policy TRA11 and the Transportation Contributions Supplementary Planning Guidance. It is proposed to retain this money until further such funds are received and then to consider how it is to be spent. This will be included in a future report to Executive.
12. Over £1.3m is held in suspense accounts for the construction of the St Anne's Wharf bridge and specific works on Riverside.
13. Other relatively small sums are held in suspense accounts for spending on woodland maintenance (approximately £34,000), provision of stretches of the riverside walk (approx. £10000), landscaping of specific sites (approx. £20,000), and archaeological works (approx. £12,000). Again, these sums are non-discretionary.

Proposed Expenditure on Play and Open Space Provision

14. There is approximately £133,000 currently available for spending on play and open space provision. The table at Appendix 1 sets out spending proposals for approximately £62,000 of the available contributions, to improve play provision at a number of existing play areas: Heath Road, Pilling Park, Ketts Cave, Heigham Street and Wilberforce Road. These proposals reflect the Supplementary Planning Guidance (SPG) on play, which provides guidance on where new facilities should be located in relation to the originating development. The general principle is that commuted sums should be spent on provision of an alternative site within easy walking distance of the originating development.
15. The remaining approximately £71,000 can be divided into 2 parts. Approximately £49,000 relates to the first phase of play contributions from the redevelopment of the Norfolk and Norwich Hospital site. Following consultation with Green Spaces team, it is proposed to retain this contribution until further contributions are received from subsequent phases of this scheme (due very soon), which can then be spent on play provision in that area – on Jenny Lind play area and an upgrade of Eagle Walk play area.
16. It is also proposed to retain a sum of £22,772 from accounts NX 9075 (Bussey's development on Quayside) and NX 9205 (Fishergate) to improve play provision in the Northern City Centre area. This area currently has a low level of both open space and play provision. Its largest open space is the Gildencroft Park which will be improved using previously committed S.106 spending, but which serves only part of the wider, densely built-up area. The Council has recently embarked on the production of an Area Action Plan for the Northern City Centre under the new planning legislation, to stimulate regeneration of this area. A public consultation on the issues and options for the area is programmed for early summer. This will seek public input into a number key issues including location of new and/or improved open space and play space. The S.106 contributions retained for this area are likely to be supplemented by additional contributions as indicated in Appendix 3.
17. Appendix 2 sets out progress on the proposed spending for play and open space agreed previously at Executive, for information. Progress has or is being made on most of these schemes.
18. Appendix 3 sets out schemes which are likely to generate Section 106 funding for play provision in the relatively near future, showing approximate contributions due. Generally these are schemes that are currently under construction or complete. Please note that the final amount eventually received may be higher than that shown in the table due to interest on late payments for example.
19. Appendix 3 shows that almost £600,000 of developer contributions for play and open space are expected in the City Centre alone, from developments including the Norwich and Norfolk Hospital redevelopment, Reid's Mill, and the former brewery site on King Street. A similar level of developer contributions is expected from developments in the rest of the city, including the Havers Road redevelopment, the former Pointer's Abbatoir redevelopment, and development of land off Fifer's Lane.

Proposed Expenditure on Affordable Housing

20. In the last report to Executive on Section 106 expenditure (15th December 2004), members approved a sum of £552,482 to be spent on provision of 28 rented units of affordable housing on the Chapelfield development site. The Housing Service now wishes to review this decision given the potential availability of Housing Corporation funding for sites in the City. It is now proposed that the contributions that were approved by Executive in December 2004 to be spent solely on Chapelfield are now split between the Chapelfield development and the Fishergate development. This will result in £422,482 being invested in the Chapelfield development and £130,000 in the Fishergate development. Circle Anglia Housing Group has bid to the Housing Corporation on both of these schemes. This split will maximise the chances of bringing this Housing Corporation funding into the City. In the case of the Chapelfield development, the proposed Section 106 funding will enable the provision of social rented dwellings there (as opposed to shared ownership dwellings if that money was not available). In the case of the Fishergate development, the proposed Section 106 funding will enable the provision of eight social rented dwellings (as opposed to seven shared ownership dwellings if that money was not available). The revised proposal is set out below:

Site	Spending proposals	Funding	Account ref
Chapelfield development	28 rented units (15 x 2-bed flats, and 13 x 1-bed flats).	£422,482	NX 9074 (36-58 Ber Street)
Fishergate	8 rented units (1 x 3-bedroom house, 2 x 2-bedroom houses, 3 x 2-bedroom flats and 1 x 1-bedroom flat). One of these units will be a much-needed wheelchair accessible ground floor flat.	£130,000	NX 9083 (1-3 Earlham Road)

21. The Council will have full nomination rights for applicants on the Common Housing Register to these properties. The Chapelfield and Fishergate schemes will provide 36 new units of quality built, accessible, affordable housing in the city centre area. Both schemes are scheduled for completion in 2006/07 and funding will be released to the Registered Social Landlords upon receipt of the Certificate of Completion.
22. Progress has been made on the other affordable housing scheme approved at Executive in December 2004 (to provide 14 affordable rented units on the Plumstead Road estate) although the Section 106 contributions of £66,431 have not been spent yet. This scheme now has planning approval and is likely to be implemented during 2006/07.
23. There is currently an additional £23,000 approx. held in suspense accounts for affordable housing (this represents the interest on the money allocated to the Chapelfield development referred to above). As we expect to receive significant Section 106 contributions for affordable housing within the next year (see below), it is proposed to retain this money and combine it with future funds. The expenditure of these Section 106 contributions will be the subject of a future report to Executive.

24. Members previously requested that they would like an indication of the scale of Section 106 funding likely to be generated by development schemes in the relatively near future. Commuted sums for affordable housing are expected in the near future, from schemes that include the redevelopment of Reid's Mill on King Street (£500,000 due from this scheme).

Conclusions

25. The Council has a legal obligation to spend the commuted sums currently held in suspense accounts in accordance with the relevant Section 106 agreements. The Executive's approval is sought for the following schemes which relate to play / open space and affordable housing. This will enable work to begin on the proposed schemes at the earliest possible opportunity.

26. Approval is sought to the following discretionary expenditures:

- £16,445 for improvements to play provision in Pilling Park;
- £15,000 for improvements to Ketts Cave play area;
- £12,623 for improvements to Heigham Street play area;
- £12,640 for improvements Wilberforce Road play area
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- £422,482 for provision of 28 rented units of affordable housing on the Chapelfield development;
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27. Given the scale of contributions 'in the pipeline', it is proposed to monitor contributions received over the next 6 months with a view to taking an further report to Members during the year to authorise spending of additional S.106 funds.

Appendix 1: Proposed S.106 expenditure on play provision

Play Area (and play sector)	Proposal	S.106 Funding	Account reference	Play sector	Comments
Heath Road Play area (sector 11)	Upgrade provision - replace / install new equipment capable of withstanding additional usage from increased numbers of children.	£5530	NX 9097 (Leopard PH)	11	Likely timescale for implementation: during 2006/07 financial year
Ketts Cave Play Area (sector 5)	Upgrade play equipment	£15000	NX 9220 (St James's Meadow)	14	This will build upon previous work to improve this play area (upgrade of safety surfacing). Likely timescale for implementation: during 2006/07 financial year
Heigham Street play area (sector 9)	Upgrade play provision	£12,623	NX 9202 (50-52 Westwick Street)	14	Although located in adjacent play sector (Sector 9), this play area is near Westwick Street (and the SPD provides for such an instance). Likely timescale for implementation: during 2006/07 financial year.
Pilling Park (sector 15)	Upgrade provision: new fencing and teenage equipment.	£10915 £5530 Total £16445	NX 9204 (Cremorne Lane) NX 9206 (Former Cavalier hotel)	19 15	This will build upon previous improvements to Pilling Park. Likely timescale for implementation: during 2006/07 financial year
Wilberforce Road play area (sector 8)	Upgrade of play equipment.	4345 3555 4740 Total £12640	NX 9216 (Scarnell Road) NX 9208 (adj Scarnell Road) NX 9221 (Earlham Green Lane)	8 8 8	Likely timescale for implementation: during 2006/07 financial year

TOTAL SPENDING PROPOSED: £62,238

Appendix 2: Progress on previously authorised expenditure for play and open space

Scheme	Date authorised by Exec	S.106 funding agreed by Exec	Account ref	Progress
Upgrade of equipment at Castle Green	Nov. 2003	£10,225	NX 9028	Complete
Segregation of toddler and junior provision at Jubilee Park	Nov. 2003	£3949	NX 9015	Delay but equipment has now been ordered.
Upgrade of safety surfacing at Kett's Cave play area	Nov. 2003	£1927	NX 9024	Complete
Improvements to toddler play area at Belvoir Street	Nov. 2003	£3089	NX 4204	Complete
Improvements to Gildencroft and Wensum parks	Dec. 2004	£61,309	NX 9073	Works to Wensum Park complete. Gildencroft proposals currently being developed. Work likely in 2006/07 financial year.
Environmental enhancements to land under St Crispin's flyover at Magdalen Street (west side): The S.106 funding will be spent on the creation of a seating / garden area, with an element of interactive lighting as children's play.	Dec. 2004	£40,950	NX 9040 NX 9060	Part of a scheme costing £290,000. Progress to date: capital funding for overall scheme approved in principle in May 2005; Liveable Cities funding approved Sept. 2005; project mandate approved in October 2005. Expectation is that work will be carried out in 2006/07 financial year).
King Street area play and open space improvements	Combination of Nov.2003 and Dec. 2004	£124,025	NX 9026 NX 9050 NX 9060 NX 9061	Minimal spend to date but the Council is currently assessing options for improving open space provision in this area. This will be informed by the Open Space audit and Green Spaces strategy in 2006-

				2007.
St George's play area, St George's Street	Dec. 2004	£5,918	NX 9086	Complete
Marion Road play area	Dec. 2004	£9,036	NX 9041	Complete.
Pointer's Field	Dec. 2004	£15,608	NX 9054	In progress
Pilling Park	Dec. 2004 (& previously at Nov 03)	£43,713	NX 9080 NX 9087 NX 9037	Complete
Sewell Park	Dec. 2004	£16,221	NX 9070 NX 9077 NX 9082	Part spent to date on new play equipment at Sewell Park.
Bendish Way Threescore	Dec. 2004	£36,394	NX 9055 NX 6201	Nothing spent to date. The intention is to add to next year's spending (approx. £12000 is expected from current development at Bendish Way).
Atkinson Close improvements	Combination Nov. 2003 and Dec. 2004	£58,041	NX 9056 NX 9057	Nothing spent to date.
Chapel Break Play area	Dec. 04	£12,374	NX 9084	Part-spent on new junior equipment.
Bowthorpe area play areas	Dec. 04	£42,713	NX 9072	Part spent
Sector 9 improvements	Dec. 04	£52,389	NX 9076 NX 9029	Lengthy consultation process as there are 5 play areas in Bowthorpe area.

Appendix 3: Section 106 commuted sums expected for play provision (Feb.2006)

City Centre area

Planning Appn Ref	Proposal	Approx amount due for play provision	Current status of site
2002/0261/F	Unit 3 Baltic Wharf, Mountergate: erection of 18 residential units.	£21,460	Under construction
2000/0320/F	Chapelfield redevelopment	£39,500	Under construction
2002/1229/F	St Andrew's Car Park site redevelopment ('St Benet's Quay')	£28,985	Under construction
2000/0721/F	1-8 Quayside: redevelopment to provide 22 residential units and one shop.	£17,985	Under construction
2000/0884/F	Norfolk and Norwich Hospital redevelopment	£292,000 approx still outstanding (£47,593 already paid)	Under construction
2003/0051	122 Magdalen Street: redevelopment of site to provide block of 11 residential units	£5,270	Now complete
03/00020/F	Land between Greyfriars Rd and Rose Lane: redevelopment to provide 130 residential units, and offices.	£42,300	Under construction
2001/1002	Former brewery site, King St (King's Quarters'): redevelopment to provide 119 residential units and 2 shops. (NX 9207)	£53,144	Nearing completion
04/00274/F	Reid's Mill redevelopment, King Street	£77,350	Under construction
04/2001/0864/F	Normans Blg / Steppings lane (NX 9049)	£9,992	Now complete
04/01020/F	Former Ironworks site, Oak Street ('Appleyards Mill')	£9,086	Under construction

Outer area

Planning Appn Ref	Proposal	Approx amount due for play provision	Current status of site
2002/0574	Land off Atkinson Close: erection of 35 houses	£38,325	Complete Contributions now due.
2001/0589	Bendish Way (site V5): redevelopment to provide 21 houses.	£11,800	Complete
2003/0191	Havers Road redevelopment:	£116,467	Under construction
2000/0565/F	Land off Fifer's Lane: erection of 223 dwellings, & open space	£145,604	Almost complete
2001/0061/D	Former Pointer's Abbatoir: erection of 78 dwellings	£70,000	Money now due
2002/0400/F	Clarence Harbour PH redevelopment	£15,283	Complete
4/2004/0014/F	Three Score Village (NX 9093)	£92000	Under construction
2002/0730	Chapel Break	£66941	Complete. Contributions now due.
2002/0574	Atkinson Close	£38325	Complete, Contributions now due