

Agenda Item No: 8
Report To: Cabinet
Date of Meeting: 15th June 2017
Report Title: Section 106 Annual Monitoring Report 2016/17
Report Author & Job Title: Michael Scaplehorn – Section 106 Technical Officer
Portfolio Holder Cllr Clokie
Portfolio Holder for: Planning & Development



Summary: The primary purpose of the report is to show transparently how contributions are being collected and applied in a proper way; that the monitoring of section 106 contribution remains robust. This report will reinforce the point that section 106 is an important resource stream and that officers are prepared for any legislative changes. The report includes details of new contributions negotiated; an accounts update, funds received from existing agreements, and update on projects being funded by section 106 obligations.

Key Decision: NO

Significantly Affected Wards: None directly

Recommendations: **The Cabinet is recommended to:-**

- I. Endorse this report, so it can be made available online to provide information to the public and provide a transparent record of s106 activity over the last financial year.**

Policy Overview: A range of community supports the delivery of high quality development as part of well-balanced communities and other infrastructure is a key part of the Council's policy ambition. These are set out in the draft local plan, the Adopted Development Plan policy and the Council's Corporate Plan.

Financial Implications: As the Borough grows so does the need for more and improved community infrastructure. Section 106 funding supporting this growth vital. It is important to have a robust section 106 monitoring system ensuring the availability of capital from section 106 agreements and that those contributions are collected and spent effectively on their intended purpose.

Equalities Impact Assessment

Spending of section 106 contributions is in line with adoption plan policy and local priorities. Decisions on expenditure involve working closely with many departments, local parishes and other organisations. Many contributions arise from site policies and development brief requirements that have been directly influenced by the wider community through design workshops and similar events.

Background Papers:

None

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Report Title: Section 106 Annual Monitoring Report

Purpose of the Report

1. This report updates Members on the financial contributions negotiated and secured in the financial year 2016/17 and the use and management of financial resources. The report provides details of new S106 agreements signed in the financial year and identifies the progress that has been made since the last report. There is a breakdown of payments received in this financial year, what the contributions are to be used for, and contributions currently held on account. The report also includes examples of projects delivered by the Council in the financial year and an update on national policy.

Section 106 Agreements negotiated 2016-17

2. Between 1 April 2016 and 31 March 2017, 18 planning permissions have been issued that have been subject to a section 106 agreement. The total projected financial contributions arising from these agreements are £114m; this large figure is a one-off due to the section 106 agreement at Chilmington Green being signed. The agreements also provide for 'payments in kind' in the forms of various works – mainly highway related and affordable housing as well as restrictions on land use.
3. The following points should be noted: if a planning permission is a not implemented, associated Section 106 benefits will not be paid. Also there is often a period of time between the issue of the planning permission and the payment of contributions as the timing of payments will be linked to the phasing of the development and when the need for the facility arises. Hence, payments received in a specific year will often be from an agreement signed in a previous year.

Financial Overview

| Overview | 16/17 | 15/16 | 5 Year Average |
|-----------------------------|--------|--------|----------------|
| Number of Agreements Signed | 18 | 13 | 24 |
| Value of Agreements Signed | £114m | £3.68m | 7.10m |
| Section 106 Money Spent | £2.66m | £1.81m | £3.30m |
| Payments Received | £4.23m | £3.79m | £3.19m |
| End of Year Balance | £8.59m | £6.88m | £3.58m |

4. The above table highlights the financial breakdown in the section 106 accounts for 2016/17 with a comparison of the year before. In summary:
- The number of section 106 agreements signed has picked up slightly; these include strategically important developments such as the Ashford Designer Outlet, the Commercial Quarter and Powergen. The signing of the Chilmington Green section 106 has meant that the value of the section 106 agreements signed has hugely increased and will distort all figures. Government policy has not changed meaning that the Council can't seek developer contributions on any development of less than 10 dwellings (unless in rural sites where the restriction is 5). The section 106 pooling restrictions (which restrict our ability to pool contributions for projects) have also influenced the Council's ability to collect contributions.
 - As the construction sector continues to grow and more housing developments reach 'trigger' points for payments, the council receives more section 106 payments to go towards projects. In 2016/17 there has been a small increase in payments received
 - The end of year total has increased on the previous year, this is due to a couple of reasons, firstly the council is holding on to some large KCC payments that needed to be transferred and this was not achieved in time. Secondly many contributions were received near the end of the financial year and have yet to be spent as projects take time to go from creation to completion.

End of year balance (breakdown)

| End of year balance (breakdown) | | |
|--|---------------|---------------|
| Account | 16/17 | 15/16 |
| General S106 Account | £7.54m | £5.91m |
| Supplementary Planning Guidance (SPG6) Account | £1.02m | £0.96m |
| Total | £8.56m | £6.87m |

5. The general section 106 account is used to hold all section 106 contributions that are collected through section 106s & unilateral undertakings (excluding the SPG6 fund). This includes contributions towards open space, community halls & play areas. This account continues to grow as a) more section 106 contributions are collected and b) because there is a time lag between contributions collected and section 106 contributions fully expended.

6. Since 2009, the Council has operated a deferred contribution policy, where sites are unable to show that they are viable the Council has been willing to enter into negotiations to defer some of the policy and infrastructure requirements. This has allowed development to begin where sites would have stalled and as the economy has improved the Council has managed to collect contributions from some of these sites.
7. The SPG6 main fund contribution is used to pay back the forward funded work for the J10 Interim improvement scheme completed several years ago.. In recent years, this figure has been greatly reduced to less than a million and is likely to be paid off within the next financial year.

CIL & the Future of Section 106

8. As of April 2015 CIL, restrictions have been placed to limit the number of contributions councils can secure for particular infrastructure projects (maximum of 5) this was created to try to push councils into adopting CIL. The levy will come from the same 'economic headroom' from rising land values through development that currently funds section 106. The council is currently working on a CIL charging schedule as part of the work on the local plan and it is planned that it will be adopted at the same time.
9. As part of the Housing White Paper a paper reviewing the Community Infrastructure Levy titled 'A New Approach to Developer Contributions' was released, the paper took a comprehensive look at the operation of CIL and its relationship to section 106s. The paper highlighted many flaws in the current system and as such highlighted four options for the government to take. The government's decision on this matter will dictate what direction Ashford Borough Council takes with CIL & section 106.

Spending of Section 106 in 2016/17

10. Between 1st April 2016 and 31st March 2017, £2.66 million has been spent on a variety of projects and schemes in the borough. These projects include funding towards community facilities, improvements to open spaces, sports facilities, primary & secondary education, town centre, highway improvements, adult education and youth & community projects. Appendix C looks at this expenditure in more detail.

Risk Assessment

11. Failure to monitor section 106 agreements in an efficient and timely manner would lead to the possibility of Section 106 contributions being missed and infrastructure not being constructed at the correct time. If section 106 agreements were not monitored a drawback is that any payment collected or sent in by the developers may not be spent within the allotted time limit. This could lead to a scenario where the council is forced to pay back the contribution to the developers negating any benefit. It is important that any

section 106 contribution set out in the section 106 agreement be spent within the restrictions, failure to do so could lead to legal challenges.

Consultation

12. The section 106 working group, which meets quarterly, was created to monitor the collection and spending of section 106 contributions. The section 106 working group comprises of officers from planning, cultural, finance, legal & property. An audit form process is used to make sure the required steps are completed and specific approval given before the money is transferred.
13. Developments with deferred contribution clauses may require more input from members. As stated above in paragraph 6 the deferred contribution clause allows sites to progress where they might stall, as these contributions are collected a decision is needed on how to spend these contributions. The section 106 working group is designed to check that spend is within the section 106 restrictions and is not a group to decide how the contributions are prioritised. It is felt that members should make the key decision of how these contributions are spent.

Conclusion

14. It is vitally important that the council continue to monitor the collecting and spending of section 106 contributions to ensure that the necessary community, transport and other infrastructure is constructed and maintained to support the Borough's growth. The process of monitoring and spending section 106 contributions is always being adapted and improved to make sure that any problems or challenges that arise can be dealt with quickly and efficiently.
15. This report, and its conclusion has been discussed with the Portfolio Holder, Cllr Clokie, who concurs with the approach being taken in order to underpin achievement of high quality growth and supports the commitment to continuous improvement.

Portfolio Holder's Views

16. To be reported at cabinet.

Contact and Email

17. Michael Scaplehorn (01233 330202)
18. Michael.Scaplehorn@ashford.gov.uk

Appendix A: Section 106 Agreements signed 2016/17

| Date Signed | Application | Description | Obligation Detail | Financial Contribution (£) |
|-------------|-------------|--|-----------------------------|----------------------------|
| 21/04/2016 | 16/00267/AS | Cedar House Farm, Canterbury Road | Open Space | 1,312.00 |
| | | Erection of detached dwelling with garage | Sub Total | 1,312.00 |
| <hr/> | | | | |
| 21/07/2016 | 16/00562/AS | Rimmel International Limited - 12 industrial units (B1c/B2/B8) | CS10 | To Be Confirmed (TBC) |
| | | 12 industrial units | Monitoring Fee | 1,000.00 |
| | | | Sub Total | 1,000.00 |
| <hr/> | | | | |
| 20/06/2016 | 14/01456/AS | Land adjoining 1 Willesborough Court, Blackwall Road South - 34 Dwellings | Healthcare | 34,272.00 |
| | | 34 Dwellings | Informal Green Space | 25,806.00 |
| | | | Library Services | 1,632.54 |
| | | | Outdoor Sports | 65,110.00 |
| | | | Play Area Space | 44,608.00 |
| | | | Primary School | 80,272.64 |
| | | | Secondary School | 80,233.20 |
| | | | Strategic Parks | 6,562.00 |
| | | | Sub Total | 338,496.38 |
| <hr/> | | | | |
| 09/09/2016 | 14/01402/AS | Ashford Designer Outlet | Access Enhancement Strategy | 185,500.00 |
| | | Extension of the Outlet | Planting scheme feasibility | 20,000.00 |
| | | | Best of Ashford | 15,600.00 |

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|------------|-------------|--|---------------------------|---------------------|
| | | | Bus Services | 2,300.00 |
| | | | Bus Stop and Highway | 70,000.00 |
| | | | Carbon Off-Setting | 63,500.00 |
| | | | Controlled Parking Zone | 15,000.00 |
| | | | Development Monitoring | 9,000.00 |
| | | | Shuttle Bus | 300,000.00 |
| | | | Town Centre Enhancement | 700,000.00 |
| | | | Ecological Work | 50,000.00 |
| | | | Sub Total | 1,430,900.00 |
| | | | | |
| 09/09/2016 | 15/01160/AS | Danemore, Beachy Path, Tenterden | Restriction on Occupancy | |
| | | Sheltered Housing | Sub Total | 0.00 |
| | | | | |
| 17/10/2016 | 16/00554/AS | Commercial Quarter | Highways Contribution | 200,000.00 |
| | | 6 storey office & other uses | Public Realm | 30,000.00 |
| | | | Bus Stop | 20,000.00 |
| | | | Sub Total | 250,000.00 |
| | | | | |
| 08/12/2016 | 14/01116/AS | Pluckley Brickworks, Station Road | Monitoring Fee | |
| | | 25 Dwellings | Adult Social Care | 1,939.50 |
| | | | Community Learning | 861.25 |
| | | | Libraries contribution | 5,584.25 |
| | | | Youth Services | 1,578.00 |
| | | | Secondary School | 58,995.00 |
| | | | Children's Play | 600.00 |
| | | | Outdoor Sports | 1,300.00 |
| | | | Extension to Village Hall | 54,144.50 |
| | | | Sub Total | 125,002.50 |

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|-------------|-------------|--|---------------------------------|-------------------|
| | | | | |
| 16/00795/AS | 16/00795/AS | Land North West of Smallhythe House | Affordable Housing Contribution | 237,500.00 |
| | | 36 Retirement living apartments | Library Services | 1,728.57 |
| | | | Monitoring Fee | 1,000.00 |
| | | | Sub Total | 240,228.27 |
| | | | | |
| 03/02/2017 | 16/01235/AS | South of 16 to 34 Calland | Restriction on Occupancy | |
| | | 4 Dwellings | Sub Total | 0.00 |
| | | | | |
| | | Land between Aldington Fresh Foods and Brockenhurst | | |
| 23/03/2017 | 16/01412/AS | | Monitoring Fee | 1,000.00 |
| | | 10 Dwellings | Libraries contribution | 480.02 |
| | | | Sub Total | 1,480.02 |
| | | | | |
| | | BP Travel Trades Services Limited, Orbital Park | | |
| 21/03/2017 | 16/00182/AS | | Section 278 | 23,572.93 |
| | | B8 to B1a | Sub Total | 23,572.93 |
| | | | | |
| 17/03/2017 | 16/00887/AS | Cineworld Imax, Eureka Leisure Park | Monitoring Fee | 1,000.00 |
| | | Eureka Leisure Park (New Imax) | Restriction on Occupation | |
| | | | Sub Total | 1,000.00 |
| | | | | |
| | | Plot 2, adjacent to the William Harvey Hospital, Kennington Road, Willesborough | | |
| 16/03/2017 | 16/01136/AS | | Monitoring Fee | 1,000.00 |
| | | Care Home | CS10 | (TBC) |
| | | | Sub Total | 1,000.00 |

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|------------|-------------|---|---------------------------|-------------------|
| 14/03/2017 | 15/00260/AS | Land rear of 11 to 22, Waltham Close | Monitoring Fee | 1,000.00 |
| | | 16 Dwellings | Primary School | 37,775.36 |
| | | | Secondary School | 37,756.80 |
| | | | Healthcare | 16,128.00 |
| | | | Allotments | 5,184.00 |
| | | | Children's Play | 20,992.00 |
| | | | Outdoor Sports Pitches | 30,640.00 |
| | | | Strategic Parks | 3,088.00 |
| | | | Libraries contribution | 768.32 |
| | | | Sub Total | 153,332.48 |
| <hr/> | | | | |
| 12/12/2016 | 16/00427/AS | Phase 1, Waterbrook Park, Waterbrook Avenue | Monitoring Fee | 1,000.00 |
| | | Car sales showdown, servicing workshops | CS10 | TBC |
| | | | Sub Total | 1,000.00 |
| <hr/> | | | | |
| 18/08/2016 | 12/01457/AS | Calleywell Lane | Monitoring Fee | 1,000.00 |
| | | 33 Unit Extra Care Development | CS10 | TBC |
| | | | Restriction on Occupation | |
| | | | Sub Total | 1,000.00 |
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| 24/11/2016 | 15/01671/AS | The former Powergen site, Victoria Road, Ashford | Monitoring Fee | 500.00 |
| | | 400 flats | Quality Monitoring | 18,000.00 |
| | | | Education | 275,002.00 |
| | | | Victoria Park | 270,002.00 |
| | | | Parking Contribution | 5,000.00 |

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|------------|-------------|----------------------------------|-----------------------------------|-------------------|
| | | | Sub Total | 568,504.00 |
| 06/03/2017 | 12/00400/AS | Land at Chilmington Green | Cemeteries | 800,000.00 |
| | | 5750 Dwellings | Deficit Grant to CMO | 3,350,000.00 |
| | | | Community Learning | 213,000.00 |
| | | | Archaeology | 95,000.00 |
| | | | Social Care | 272,000.00 |
| | | | Endowment | 4,381,500.00 |
| | | | Heritage | 60,000.00 |
| | | | Library Services | 900,000.00 |
| | | | Allotments | 1,236,250.00 |
| | | | Informal Green Space | 2,072,863.00 |
| | | | Primary Education | 22,500,000.00 |
| | | | Secondary Education | 22,500,000.00 |
| | | | Telecare Education | 26,450.00 |
| | | | Youth Services | 239,000.00 |
| | | | CMO start up | 150,000.00 |
| | | | Early Community Development | 250,000.00 |
| | | | Community Facilities 1 | 1,266,000.00 |
| | | | Children's Play | 2,585,143.00 |
| | | | Community Facilities 2 | 7,758,157.00 |
| | | | Community Facilities 3 | 5,152,127.00 |
| | | | Local Centre Hubs | 1,467,942.70 |
| | | | A2070 Works Costs | 29,291,850.00 |
| | | | Off-Site Pedestrian & Cycle Links | 532,000.00 |
| | | | Bus Services | 900,000.00 |
| | | | Off-Site Traffic Calming | 408,498.00 |
| | | | Regional Infrastructure Fund | 5,622,589.00 |

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|--|--------------------|-----------------------|
| | Public Art | 750,000.00 |
| | Quality Monitoring | 750,000.00 |
| | Monitoring Fee | 750,000.00 |
| | Sub Total | 116,280,369.70 |
| | - | |
| | Total | 119,418,198.28 |
| | | |
| | | |

Appendix B - Section 106 Contributions Received 2016/17

| Application Number | Description | Obligation Detail | Financial Contribution (£) |
|--------------------|-------------------|-------------------------------|----------------------------|
| 02/01565/AS | Repton Park | Open Space Commuted Sum | 309,654.02 |
| | | Secondary School Contribution | 937,199.78 |
| | | Sub Total | 1,246,853.80 |
| | Moat Field Meadow | Monitoring Fee | 2,484.30 |
| | | Sub Total | 2,484.30 |
| | Colefax | Open Space Commuted Sum | 20,666.35 |
| | | Sub Total | 20,666.35 |
| 05/01798/AS | Newtown Works | Deferred Contributions | 965,070.25 |
| | | Sub Total | 965,070.25 |
| 08/00396/AS | Charter House | CS10 | 12,023.70 |
| | | Monitoring Fee | 9,207.90 |
| | | Sub Total | 21,230.60 |
| 10/01663/AS | Warren Sites A&C | Deferred Contributions | 469,372.00 |
| | | Sub Total | 469,372.00 |
| 12/00052/AS | Chilham Saw Mills | Monitoring Fee | 1,750.00 |
| | | Libraries | 2,305.27 |
| | | Youth Services | 9,960.94 |
| | | Healthcare Contribution | 34,272.00 |

| | | |
|---|-------------------------------|-------------------|
| | Adult Social Services | 586.25 |
| | Children's & Young People | 52,480.00 |
| | Outdoor Sports | 76,600.00 |
| | Natural Green Space | 30,360.00 |
| | Sub Total | 208,314.00 |
| <hr/> | | |
| | Children's & Young People | 12,744.27 |
| | Outdoor Sports | 21,234.67 |
| | Natural Green Space | 4,452.80 |
| | Monitoring Fee | 2,000.00 |
| | Sub Total | 40,431.74 |
| <hr/> | | |
| Land Adjoining, Shepherds Meadow | CS10 | 25,378.47 |
| | Healthcare Contribution | 17,550.00 |
| | Monitoring Fee | 3,000.00 |
| | Quality Monitoring Fee | 6,000.00 |
| | Sub Total | 51,928.47 |
| <hr/> | | |
| Ashdown Court | Primary Contribution | 22,239.84 |
| | Secondary School Contribution | 20,366.40 |
| | Allotment | 648.00 |
| | Children's & Young People | 2,624.00 |
| | Monitoring Fee | 100.00 |
| | Sub Total | 45,798.00 |
| <hr/> | | |
| Essella Road | Children's & Young People | 27,192.00 |
| | Maintenance of Young Play | 18,641.00 |

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|----------------------|---------------------------|-------------------|
| | Voluntary Sector | 3,420.00 |
| | Primary Education | 158,459.00 |
| | Secondary Education | 145,111.00 |
| | Adult Education | 5,130.00 |
| | Adult Social Services | 34,229.00 |
| | Healthcare Contribution | 18,730.00 |
| | Library Facilities | 6,470.00 |
| | Youth Facilities. | 23,570.00 |
| | Monitoring Fee | 1,000.00 |
| | Sub Total | 441,952.00 |
| <hr/> | | |
| | Healthcare Contribution | 58,293.60 |
| | Strategic Parks | 13,500.00 |
| | Allotments | 22,663.38 |
| | Monitoring Fee | 1,000.00 |
| | Play Area | 91,772.69 |
| | Informal/Green space | 48,054.26 |
| | Outdoor Sports | 133,951.76 |
| | Sub Total | 369,236.00 |
| <hr/> | | |
| Railway Hotel | Allotments | 1,296.00 |
| | Children's & Young People | 5,248.00 |
| | Natural Green Space | 3,205.43 |
| | Strategic Parks | 772.00 |
| | Outdoor Sports | 7,687.00 |
| | Monitoring Fee | 481.29 |
| | Sub Total | 18,689.72 |

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|------------------------------------|---------------------------|------------------|
| Highworth Grammar School | Allotments | 1,620.00 |
| | Children's & Young People | 6,560.00 |
| | Informal/Green space | 3,795.00 |
| | Outdoor Sports | 9,575.00 |
| | Strategic Parks | 965.00 |
| | Sub Total | 22,515.00 |
| <hr/> | | |
| Old Clockhouse Green | Allotments | 1,665.03 |
| | Natural Green Space | 3,795.00 |
| | Strategic Parks | 965.00 |
| | Outdoor Sports | 9,710.09 |
| | Children's & Young People | 6,605.03 |
| | Sub Total | 22,740.15 |
| <hr/> | | |
| Land Adjacent 2 Hillyfields | Allotments | 324.00 |
| | Outdoor Sports | 1,915.00 |
| | Strategic Parks | 193.00 |
| | Natural Green Space | 759.00 |
| | Children's & Young People | 1,312.00 |
| | Sub Total | 4,503.00 |
| <hr/> | | |
| 32 Sayers Road | Allotment | 324.00 |
| | Outdoor Sports | 1,915.00 |
| | Strategic Parks | 193.00 |
| | Natural Green Space | 759.00 |
| | Children's & Young People | 1,312.00 |
| | Sub Total | 4,503.00 |

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|--|-----------------------------|-------------------|
| Tenterden 1 | Quality Monitoring Fee | 8,918.92 |
| | Sub Total | 8,918.92 |
| Shadoxhurst Garage, Woodchurch Road | Adult Social Services | 1,425.79 |
| | Community Learning | 633.14 |
| | Allotments | 6,315.84 |
| | Children's & Young People | 25,575.25 |
| | Informal/Green space | 14,795.44 |
| | Outdoor Sports | 37,271.83 |
| | Libraries Contribution | 2,144.94 |
| | Primary Schools | 43,390.62 |
| | Secondary Schools | 93,573.51 |
| | Strategic Parks | 3,762.21 |
| | CS10 | 13,329.74 |
| | Youth Services | 491.44 |
| | Healthcare Contribution | 14,983.78 |
| | Monitoring Fee | 2,009.99 |
| | Sub Total | 259,703.52 |
| Chilmington Green | Public Art | 50,000.00 |
| | Primary School One | 150,000.00 |
| | Archaeological Archive | 40,000.00 |
| | Archaeological Contribution | 15,000.00 |
| | Heritage Interpretation | 60,000.00 |
| | Highways - Travel plan | 1,000.00 |
| | Sub Total | 316,000.00 |

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|--------------|-------------------|
| Total | £4,540,911 |
|--------------|-------------------|

Appendix C – S106 Project Update 2016/17

As was stated in the main report, £3.3m of section 106 funding has been spent by the county & borough council in 2016/17 on a variety of different projects. Kent County Council has received around £705k towards the funding of new schools, extension to existing schools and other services such as libraries and adult social services, section 106 funding went towards the funding of the local primary care trust.

Affordable Housing

Affordable housing is a hugely important mechanism within section 106 agreements, by either the developer or RSLs constructing them, land provided to construct affordable housing or off-site capital contributions. In 2016/17, there were 162 affordable housing completions across a variety of sites, examples of which are below.



Spires St Michael's, Tenterden



Quarry House (1)



Belgic Court



Quarry House (2)

Kestrel Park

As reported in the previous year's monitoring report a new park has been created, working alongside the TCV, local parish council and ward members to ensure support and long-term management. The park is now completed and the park is to open in June.



Repton Park

Repton Park Community Centre – budget circa £2m

The Repton Community Centre or 'Repton Connect' as it will be known is currently under construction. The Community Centre facilities will have a multi-use games area and will be able to host clubs, educational courses, cooking workshops and social events. Work has begun on site and it is expected that a completed building will be handed over to the newly formed trust around autumn this year.



Park Farm

Sports and Leisure scheme – Bridgefield

Creation of a community park and play area including a community orchard and nature conservation area. The proposed development is to be constructed in a two-phased approach with the nature conservation area being proposed as part of phase two. The play area is to cater for all age groups, to provide a play experience that is different yet complimentary to what is in the local area. The concept of the play area and designed equipment promotes the three themes of the Iron Age, Nature and Water. The play area will include amongst other play equipment a bespoke tower with two zip wires, trampolines, swings, carved farm animals and small and full size play tractor. The scheme was by planning committee and preliminary and archaeological works have begun on site.



Kingsnorth MUGA

Another project fully funded by Section 106 contributions was the creation of a new MUGA for the new residents at Kingsnorth.

