

Agenda Item No: 11
Report To: Cabinet
Date of Meeting: 13th July
Report Title: Newtown Works Deferred Contributions Proposed Expenditure
Report Author & Job Title: Lois Jarrett Head of Development, Strategic Sites and Design
Portfolio Holder Cllr. Clokie
Portfolio Holder for: Planning & Development



Summary: The Council has collected significant s106 funds through the operation of the deferred contributions mechanism at Newtown Works. The Head of Development, Strategic Sites and Design has delegated powers to decide which projects are prioritised for spend, however, in view of the sums involved it is requested that members review the submitted bids and the suggested breakdown of funding and indicate they are satisfied with the suggested split of funding. The report will explain the original s106 and compare the % of allocation of funding in that agreement with a suggested split of the deferred sum of £1.83m

Key Decision: YES

Significantly Affected Wards: None

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

- I. Endorse the proposed allocation of deferred payments received from the Newtown Development.**
- II. Give authority to the Director (Legal & Governance), Head of Development, Strategic Sites and Design, and the appropriate Heads of Service to complete all tasks and to execute and complete all documentation necessary to deliver the projects and give effect to the above recommendation.**

Policy Overview: The use of Section 106 agreements is an important cornerstone of council policy, helping to support and create well-balanced communities through the delivery of infrastructure. These are set out in the draft local plan, the Adopted Development Plan policy and the Council's Corporate Plan.

Financial Implications:	The Council has already received the £1.83m so expenditure of this in itself is not a risk. The submitted bids for funding equate to more than the collected sum: members decision will have a direct implication for which projects receive funding and go ahead
Legal Implications	All projects must be in accordance with the Newtown Works section 106 agreement to receive funding.
Equalities Impact Assessment	Not required
Other Material Implications:	None
Exempt from Publication:	NO
Background Papers:	Newtown Works Section 106 Agreement (05/01798/AS – DS54/0599), Principles of Deferred Contributions (Planning Committee 10 February 2009)
Contact:	Michael.Scapplehorn@ashford.gov.uk – Tel: (01233) 330202

Report Title: Newtown Works S106 deferred contributions

Introduction and Background

1. In February 2009, the Planning Committee resolved to adopt principles for the assessment of planning applications where the financial viability of the Development shows that it cannot afford to pay all the necessary Infrastructure Contributions, usually referred to as the “deferred contributions policy”. This has allowed the Council to be flexible in deferring some s106 infrastructure contributions to allow sites to come forward when market conditions would otherwise restrict development. This policy has been successfully used across several sites. Newtown Works (05/01798/AS) was one of these sites with deferred and pooled infrastructure contributions to help kick-start that development.

2. Planning permission was granted for the development of the Newtown works in June 2009 to provide 928 new residential units on which the section 106 was based. It was envisaged that these units would be mainly flats. The applicant submitted reserved matters in October 2009 for 108 mainly houses (09/1281/AS) and this was determined by Planning Committee in June 2011. On the back of strong house sales units at Newtown Works the GDV surpassed the assumed base sale figure of per dwelling and the Council has collected £1.83m in pooled contributions. The Newtown Works section 106 agreement had potential contributions in it of up to £5.7m so a decision now needs to be made on how the deferred money is allocated. The Head of Development, Strategic Sites and Design has delegated authority from the Planning Committee to make such a decision after consulting stakeholders, however, due to the scale of the contributions involved Management Team have considered and agrees the proposed allocation of funds and seek Cabinet endorsement.

The Section 106 Agreement & Consultation process

3. Any Pooled contributions received need spending in line with the relevant section 106 agreement; this means that any project needs to fit with any financial and geographical restrictions built into the section 106. In this case these are listed below:

Obligation	Organisation	Contribution unindexed	Contribution Indexed	Restrictions
Adult Education	KCC	£167,040	£187,410.73	Within 4 miles of the boundary of the site
Adult Social Services	KCC	£1,114,528.00	£1,250,446.05	Within 4 miles of the boundary of the site
Affordable	ABC	£2,700,000.00	£3,029,268.29	Within the borough

Housing Capital				
Cultural Facilities	ABC	£50,000	£56,097.56	St Marys/Stour Centre
Highway Works Contribution	KHS	£72,000	£80,780.49	Crowbridge road bridge works
Libraries and Arts Contribution	KCC	£210,656.00	£236,345.76	Additional libraries
Open Space Maintenance	ABC	£59,967.63	£67,280.76	Maintenance of public open space provided by monies from this site
Open Space Provision	ABC	£198,025.92	£222,175.42	Towards the purchase and/or laying out of off-site facilities in the vicinity of the site
Play Area Off Site	ABC	£159,597.44	£179,060.54	The provision of one off site local play area in the vicinity
Primary Care	PCT	£476,472.32	£534,578.70	Health care facility within 3 miles of the boundary of the site
Sports Facilities	ABC	£535,001.28	£600,245.34	A sports facility in the borough.

Table 1

4. Once the Council had received the deferred contributions, officers consulted all internal departments and external organisations for projects that fit within the restrictions above with a timescale of 3 weeks for response being given. One bid from the Primary Care Trust was received after this date and has not been considered.

Consultation Responses

5. The full list of consultation responses and bids can be found listed in Appendix A. The total value of bids put forward was around £5.07m, therefore a decision needs to be made on which projects get funding and which projects will not. Officers have reviewed the bids and have put together a suggested list of projects that seek to support local needs as well as helping the Council's strategic needs. The s106 working group was involved in and has helped to shape that process as indeed have Members via Away Day discussions.

Suggested S106 Breakdown

6. The table below shows the suggested breakdown for Section 106 projects to be supported by the monies; the ward member for Aylesford Green Cllr Alex Howard (where Newtown is located) has been consulted and is supportive of the approach.

The proposed allocation achieved the following:

- Supports an important social service care schemes for the Ashford community
- Local Play, Open Space and sports provision to serve new residents is prioritised
- KCC see its share of the available funding rise as a percentage of total funding available share.
- Affordable housing contribution drops as a percentage of available funding compared to the original agreement but this is in the context of the scheme already providing nearly 40% affordable homes which is in excess of the policy requirement.
- Sports Facilities contribution rises as a percentage creating the opportunity to fund priority projects to wider community benefit

Contribution	Proposal from deferred pot	Cost from deferred pot	% of deferred pot total
Social services	Braethorpe Community Hub	£503k	27
Affordable housing	A scheme to be determined	£442k	24
Sports Facilities	Bowls Club to Kingsnorth	£359k	30
	Swan Centre	£100k	
	Conningbrook	£90k	
Play spaces	Bulleid Place	£90k	5
Open spaces	Bulleid Place/ Newtown Green	£50k	11
	Memorial Gardens	£150k	
Arts	St Marys	£50k	3
	TOTAL	£1,834k	100

Table 2

7. Below is a short summary of each project recommended for approval:

Braethorpe Community Wellbeing Hub – Adult Social Services - £503,800.00

Community Wellbeing Hubs can deliver a range of services or forms of support e.g. health improvement, employability or deliver services focussed on a specific theme e.g. care for older people or those with mental health issues. Community Wellbeing Hubs most commonly operate out of buildings, from which multi-purpose, community-led services are delivered and often host other partners and access to public services. This co-location approach is an efficient and effective use of resources.

The Braethorpe Hub will be run and managed by the Shaw Trust (the building is owned by KCC). The project is to remodel the Braethorpe Hub to provide a modern welcoming and flexible community space, which can be used for a variety of purposes. The Braethorpe Hub will generate income to be sustainable, and ensure it will be there in years to come. A range of income sources will be required to cover all of the costs for looking after the building, and running the activities, e.g. grants, donations, hiring out space, delivering contracts, etc. The Braethorpe Hub under Shaw Trust's management will make use of good ideas and resources within the community and will be able to adapt to changing circumstances. It is envisaged that the Braethorpe Hub will act as a catalyst to develop local projects, activities and businesses.

Affordable Housing Capital Contribution – Site to be determined - £442,000

The Affordable Housing contribution will be included in the affordable housing capital budget and is to be used when a suitable scheme comes forward. The contribution can be spent borough wide and any scheme that comes forward is subject to the necessary approvals (including Cabinet approval) and site investigations, if the scheme is unworkable than another affordable scheme will be sought.

SWAN Centre Changing Rooms – Sports Facilities - £100,000

The Swan Centre football changing rooms, clubroom and football pitches are licenced to Bromley Green FC. The club has 17 teams, mainly Junior, as well as Girls and Disability squads and serves approaching 300 players and their families. The changing and club rooms are in a serious state of disrepair and no longer fit for purpose or able to manage separation of adult, junior, female and disability teams causing health and safety issues.

S106 funding of circa £100,000 will provide the catalyst for Football Foundation (FF) funding of a minimum of 50% of the total project costs estimated at £350-£450k. The Kent County Football Association, FA and FF. Increased participation in a modern environment is the aim of the project.

Ashford Outdoors Bowls Club – Re-location to Kingsnorth Entrance Park – Sports Facilities - £359,000

Re-locating Ashford Outdoor Bowls Club will sustain their future and open up badly needed open space when they vacate their town centre site. Locating the club on the Entrance Park at Park Farm is supported by the Parish Council who envisages the club acting as an anchor occupant for a mix of facilities aimed in particular at the ageing population.

A combination of a new green and pavilion would be able to support other community indoor activities and act as a hub for increasing active lives. Particularly in the Over 60 age group.

Conningbrook – Sports Facilities - £90,000

In July 2016, urgent works were required to the Conningbrook Lakes Country Park; this work was required to allow safe access to the site via the roadway into the lake via the slipway. The work is split into three sections, 1) a new slipway for the water sport users as the old one was not fit for purpose, 2) an upgrade to the Access road

and 3) to provide changing facilities, storage and fencing repairs. Management Team agreed this on the second of June 2016 and Newtown funding was selected as a funding source

Bulleid Place & Newtown Green – Play Area - £90,000

Combined with funding provided from ABC Housing a project to replace the play area at Bulleid Place which has come to the end of its lifecycle and replace it with a brand new designed and built play area, alongside landscaping works. Alongside this the new play area and an adult outdoor gym would be provided.

Newtown Green would also have its young children's play area refurbished and some items replaced; this is seen as an opportunity to increase the play value offer within the same footprint.

Bulleid Place & Newtown Green – Open Space - £50,000

To complement the replacement and refurbishment of play parks at Bulleid Place & Newtown Green there are also landscaping and open space changes. At Bulleid Place, there is a plan to remove substantial hedging along the side of the sports ground to open out the space and make it more accessible and to carry out shrub and tree works to clear and tidy areas around the play area. At Newtown Green, the proposal is to remove the brick wall round the small parking area and bench to help prevent anti-social behaviour.

Memorial Gardens – Open Space & Maintenance - £150,000

To put the contribution towards a larger strategic pot for the improvement works at the Memorial Gardens. The existing bowls club site can form an important new green space alongside the memorial gardens to increase green space in the town centre. A 'green pathway' could be created from the station via the commercial quarter through the Gardens to the town centre.

While the other contributions sit comfortably within their intended definitions and geographical restrictions in the S106 this contribution would require an interpretation of the definition. The terms of the Open Space Provision Off Site in the agreement is that it should be in the 'vicinity' of the site. Memorial Gardens is around 1km away from Newtown Works. The section 106 agreement was agreed prior to Ashford Borough Council's public green spaces & water SPD that was adopted in 2012, this policy captures the importance of strategic open space of areas such as Memorial Gardens serving residents over a wider area which agreements prior to this including Newtown did not.

St Mary's Arts Trust (Revelation Ashford) – Cultural Facilities - £50,000

To grow their high quality arts and cultural activity and programme, to become the go-to place for arts and culture, nurturing new local talent and advocating for the arts locally and in the region. To achieve this, the Trust aims to secure and relocate to premises in a strategic location in the town centre, providing a dedicated box office, public art gallery, cultural industry space for local business', office space and meeting rooms for the organisation, as well as build in some staffing capacity. The outcomes to delivering this project are:

- St Mary's Arts Trust becomes more ambitious and robust, delivering a sustainable centre of excellence for artistic, audience and organisational development.
- Supporting Town Centre development through a physical presence, increasing daytime footfall, and night-time economy.
- Providing economic vitality to the town by increasing cultural industry spaces, and new opportunities for the community to engage in creative activity.

Next Steps in Process

8. This report seeks Cabinet's endorsement of the allocation of the deferred payments received; these projects will still need to go through the necessary consultation process of the section 106 working. Many of these projects involving spending projects over £100,000 will be required to go back to cabinet individually for member sign off.

Conclusion

9. The council has done well to collect this amount of section 106 contribution from a site that was initially deemed unviable. It shows that the council's deferred contributions policy is working as it has allowed construction to start on site but is also flexible enough to still collect infrastructure contributions if there is an uplift in value.
10. The above split of section 106 funding has been proposed as it supports the needs of the local community around Newtown as well as helping to deliver high priority projects around the borough. Kent County Council had put in bids for two separate adult social services projects. While only one of these projects has been selected it should be noted that the percentage of the deferred contribution is more than the original in the section 106. The Primary Care Trust also made a substantial bid however; this was submitted after the deadline.
11. Appended to this report is a paper that outlines the process for spending s106 contributions for member's information.

Portfolio Holder's Views

12. Views to be given at the cabinet meeting.
- 13.

Contact and Email

14. Lois.Jarrett@ashford.gov.uk (01233 330246)
15. Michael.Scapplehorn@ashford.gov.uk (01233 330202)

Appendix A

Bids for Newtown S106 Funding

Kent County Council bids

Adult Social Services contribution

Autistic Spectrum Disorder Safe Accommodation - £639,000.00

A significant component of the enhanced care pathway is provision of short periods of intensive support in alternative accommodation when an individual in crisis is unable to remain in their existing accommodation due to potential harm their behaviour may present to themselves or others and does not meet the criteria for detention under the Mental Health Act. The purpose of Safe Accommodation will be to meet this need through provision of a community based service with an appropriate environment manage a crisis situation.

To purchase a 4 or 5 bedroom house that can be configured to provide two living spaces. Ideally at least one of these living spaces will be wheelchair accessible. KCC will identify a housing partner who will receive the funding to purchase and develop a property and contribute any additional funding as required, the partner will act as landlord and maintainer. A capital charge contract will be in place to ensure that the grant capital is returned to public funds when the property is no longer required.

Braethorpe Community Wellbeing Hub – £503,800.00

Community Wellbeing Hubs can deliver a range of services or forms of support e.g. health improvement, employability or deliver services focussed on a specific theme e.g. care for older people or those with mental health issues. Community Wellbeing Hubs most commonly operate out of buildings, from which multi-purpose, community-led services are delivered and often host other partners and access to public services. This co-location approach is an efficient and effective use of resources.

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Kent Highway Services (KHS)

Highway Works Contribution

Crowbridge Road bridge and adjacent junction signalisation works

KHS have been consulted and have confirmed that they would not be bidding for this contribution as they do not have any available funding to support this scheme.

Ashford Borough Council bids

Affordable Housing Capital Contribution

Halstow Way, Ashford

Housing are looking to construct a 20 unit scheme in South Ashford that Hastoe Housing Association have stated that they can't deliver. Housing have sought planning advice, conducted all preliminary surveys and are proceeding with a scheme valued at £3.3m. The scheme is 100% affordable and the scheme will look to start within the next 12-18 months.

Sports Facilities Off-Site Contribution

SWAN Centre Changing Rooms - £100,000

The Swan Centre football changing rooms, clubroom and football pitches are licenced to Bromley Green FC. The club has 17 teams, mainly Junior, as well as Girls and Disability squads and serves approaching 300 players and their families. The changing and club rooms are in a serious state of disrepair and no longer fit for purpose or able to manage separation of adult, junior, female and disability teams causing health and safety issues.

S106 funding of circa £100,000 will provide the catalyst for Football Foundation (FF) funding of a minimum of 50% of the total project costs estimated at £350-£450k. Additional significant fund raising is being carried out by a sub-committee of the club. The project is already supported by the KCFA, FA and FF and inputted to their online project framework. The applicant would be the Council. Increased participation in a modern environment is the aim of the project.

Ashford Outdoor Bowls Club – Re-location to Kingsnorth Entrance Park - £509,000

Re-locating Ashford Outdoor Bowls Club will sustain their future and open up badly needed open space when they vacate their town centre site. Locating the club on the Entrance Park is supported by the Parish Council who envisages the club acting as an anchor occupant for a mix of facilities aimed in particular at the ageing population.

A Pavilion able to support other community indoor activities and act as a hub for increasing active lives would support a new green. Particularly in the Over 60 age group.

Play Area Contribution Off Site

Bullied Place & Newtown Green - £90,000

Combined with funding provided from ABC Housing a project to replace the play area at Bullied Place which has come to the end of its lifecycle and replace it with a brand new designed and built play area, alongside landscaping works. Alongside this the new play area and an adult outdoor gym would be provided.

Newtown Green would also have its young children's play area refurbished and some items replaced; this is seen as an opportunity to increase the play value offer within the same footprint.

Open Space Maintenance Contribution Off Site & Open Space Provision Off Site

Bullied Place & Newtown Green - £50,000

To compliment the replacement and refurbishment of play parks at Bullied Place & Newtown Green there are also landscaping and open space changes. At Bullied Place there is a plan to remove substantial hedging along the side of the sports ground to open out the space and make it more accessible and to carry out shrub and tree works to clear and tidy areas around the play area. At Newtown Green the proposal is to remove the brick wall round the small parking area and bench to help prevent anti-social behaviour.

St Mary's Arts Trust (Revelation Ashford). - £50,000

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Primary Care Trust

Willesborough Medical Centre - £476,472.32 – submitted after the deadline

The practice proposes to remove the flat roof that occupies a central part of the building and re-roof this area to incorporate it into the first floor area. As part of this extension the introduction of a DDA compliant passenger lift from the waiting room below access will be provided to four additional rooms including an upstairs patient waiting area.

As part of the overall redevelopment plan for the surgery an existing clinical room on the first floor will be utilised to accommodate an expansion of the attached pharmacy to reflect the increase in footfall from the increased list size. This pharmacy has a current patient utilisation of by 70% of the practice patients.

In recognising the increased numbers of patients accessing the building the practice propose to purchase a plot of land at the far end of their existing care park to provide an increase in parking spaces that is relative to the higher practice population figures. The practice has negotiated an options agreement to purchase this land.

The proposal would cost in the region of £350k (estimated and to be confirmed) and be broken down as follows (all estimated costs at present)

- Roof over existing atrium and flat roof area - £110k
- Strip out existing and form new rooms - £65k
- Internal alteration to existing rooms - £35k
- Form new lift shaft and installation - £70k
- Extend existing car park - £35k
- Fit out costs - £20k
- Professional and planning fees - £15k

Appendix B

Process of Expenditure & Delegation

Standard Section 106 Obligation

A section 106 Agreement is a legal agreement between Local Authorities and developers/landowners and is required when it is considered that a development will have significant community and other impacts on the local area that can't be moderated by means of a condition attached to a planning decision. The Planning Committee mainly approves the heads of terms for section 106 agreements although some schemes are dealt with under delegated powers. The Head of Development, Strategic Sites and Design has delegated authority to make minor changes to such Heads of Terms, to negotiate the terms of the agreement, in consultation with the Director of Law and Governance and to agree minor expenditure of sums. More major expenditure is agreed by either Management Team or Cabinet depending on the sums involved as part of wider project approval (see below). She also has authority to agree a split of any pooled contributions where there are competing bids.

Once the Council collects a section 106 contribution the process for expenditure begins. On some occasions an agreement with KCC is made where they may collect their own contribution; KCC will confirm (via e-mail) the amount collected and project it will be spent on. If ABC has collected the contribution on behalf of another organisation (Kent County Council, Kent Highway Services or Primary Care Trust) than the process is the same. These organisations also have their internal procedures to spend public money.

If the contribution is to be spent by ABC (or a parish council) than the process is different. To begin with, the Council has set expenditure limits as follows

- £0 - £9,999 Service Manager agreement (Management Team or Cabinet not required) following the agreement of the s106 monitoring group and Head of Development, Strategic Sites and Design agreeing expenditure is in line with the terms of the agreement.
- £10,000 - £99,999 Management Team Approval (Cabinet approval not required) ditto
- £100,000 and over Cabinet Approval required. Ditto

What officers can spend these contributions on is restricted by the Section 106 agreement. Sometimes this is very specific about a project; in other cases the spend must be on types of community provision i.e. play spaces within a geographical location. Where possible officers will seek to spend this as close to the development site as possible, to ensure local benefit. As part of the process officers are required to fill out '*Approval to Spend S106 Funding*' form this requires the officer to explain the project how it will be funded and any potential issues. As part of the process the ward member and relevant portfolio holders are consulted and their approval is always required. It is also good practice to consult relevant stakeholders where possible. The Section 106 working group is an internal group made up of officers that meet quarterly to discuss forthcoming projects and check on the progress of running projects, while officers only meet quarterly they are in regular communication with each other.

Once a project has been approved, updates are provided to officers and the working group.

Deferred Contributions

The deferred contribution is different to the above as while there are projects built into the section 106 the money received can be spent flexibly. Once the contribution has been collected the Head of Development, Strategic Sites and Design invites bids from all those that originally bid for contributions in the S106. If the bids exceed the collected contribution then a decision needs to be made. Firstly the bids are taken to the Section 106 working group to make sure that they fit the restrictions of the agreement, in this case due to the size of the contribution it was felt that Management Team and Cabinet needed to be involved in the final decision.

Appendix C

S106 Spending Proposal Form

Approval to Spend S106 Monies

Project Sponsor:.....

(The Project Sponsor is responsible for the completion and submission of this form)

		STAGE
Title and short summary of project (refer to any background papers such as previous reports to MT, committee etc and maintenance implications for Council)		1(a)
S106 agreement reference/address from which money is sought including amount (indicate where deficit funding is coming from) DC codes/Legal code/Planning	Plan Ref: Legal Ref: DC Code: Date Money Received in S106 Account Amount: Project Code (If known):	1(b)
Date of discussion(s) at S106 sub-group and summary of main issues (complies with terms of s106 agreement or Developer agreement obtained to variation) + (complies with terms of planning permission or needs further planning approvals)		1(c)
Sign off by a representative of the Head of Legal Services	Name/date:	2a
Sign off by a representative of the Head of Planning and Development	Name/date:	2b
Sign off by Service Manager	Name/date:	2c
Sign off by Service)	Name/date:	3(b)

Management Team date and summary of main issues (required for all projects)		3(a)
Cabinet/Council date and summary of main issues (Mandatory for all schemes over £50K)		3(b) If needed
Project code and Date of transfer (give reference and date)		5

CC (completed form) Project Sponsor, Legal, Planning, Finance