

Agenda Item No: 11

Report To: Cabinet

Date of Meeting: 12 July 2018

Report Title: S106 funding at Chilham Recreation Ground

Report Author & Job Title: Amanda Scott, Play and Open Spaces Project Officer

Portfolio Holder Cllr. Mike Bennett
Portfolio Holder for: Culture, Leisure, Environment and Heritage



Summary:	Chilham Parish Council have submitted a funding application for the use of S106 funds from local development for improvement works at Chilham Recreation Ground and Old Wives Lees Recreation Ground.
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Key Decision: NO

Significantly Affected Wards: Chilham

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

- I. Agree the release of S106 funding to support the local community of Chilham and Old Wives Lees for improvement works that are compatible with the relevant Borough strategies.**
- II. Agree that a funding agreement is implemented between Ashford Borough Council and Chilham Parish Council to ensure the funds are used appropriately.**

Policy Overview:

Financial Implications: The release of £185,871.74 to Chilham Parish Council in S106 funding collected by the Borough Council from the former Chilham Saw Mill development (Ref 12/00052/AS) for improvement works to Chilham and Old Wives Lees Recreation Grounds

Legal Implications Funding agreement with Chilham Parish Council to administer the agreed S106 funds.

Equalities Impact Assessment See Attached

**Other Material
Implications:**

Continued monitoring of the improvement works and funding agreement by Borough Council officers.

**Exempt from
Publication:**

NO

**Background
Papers:**

None

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Introduction and Background

1. S106 funding has been collected by the Borough Council from the former Chilham Saw Mill Development (Ref: 12/00052/AS) and is available for improvement works to Chilham and Old Wives Lees Recreation Grounds.
2. Chilham Recreation Ground, owned and run by Chilham Recreation Ground Trust (CRGT), has one football pitch, children's play area, car parking and tennis club with 2 courts. The tennis club has a programme of free training to local school children and open days to encourage further use of the facilities and support the local community. Old Wives Lees, owned and run by Chilham Parish Council, has an open space and play area.
3. Local consultation and analysis of facility conditions has been undertaken by the Parish Council and CRGT which resulted in a programme of works with costings being identified to improve the local facilities.
4. The ward member for Chilham, Cllr Stephen Dehnel has been consulted on the improvement proposals and is in support of distributing the S106 monies to fund this work.

Proposal/Current Position

5. The S106 obligations from the former Chilham Saw Mill development set out the following contributions which have now been collected from the developer.

Sport - £97,834.67

Play and Young People - £53,244.27

Informal/Natural Open Space - £34,812.80

The S106 obligations state the funding be spent on provisions in the rural areas.

6. Chilham Parish Council have applied to the Borough Council to spend the S106 contributions on the improvement works at Chilham Recreation Ground and Old Wives Lees Recreation Ground. Chilham Recreation Ground is the only area of publically accessible open space available to the local community of Chilham village. CRGT and Chilham Parish Council have sourced three quotations for each element of the improvement works.
7. It is proposed that the S106 contributions are spent in the following way:
Sport (Chilham Recreation Ground)
Pitch drainage works - £7,901
Supply and install a new Multi Use Games Area - £47,650
Creation of a 3rd tennis court - £58,512
Total - £114,063

Play and Young People

Chilham Recreation Ground – Relocation and upgrade of play area - £42,500

Old Wives Lees Play Area – Replace safety surfacing - £12,000

Total – £54,500

Informal/Natural Open Space (Chilham Recreation Ground)

New tarmac pathway to improve accessibility around the site - £15,650

Resurface car park - £4,240

New site furniture - £3,849

A new container for grounds maintenance equipment - £2,910

A replacement tractor for grass cutting and pitch maintenance - £8,500

Total - £35,149

8. Further funding has been obtained by Chilham Parish Council and CRGT from the Lawn Tennis Association and the Ward Members devolved budget to ensure the total amount required is available to fully complete the improvement works.
9. Chilham Parish Council and CRGT have agreed to a Funding Agreement with the Borough Council that will set out the terms and conditions for spending the contributions. Borough Council officers will undertake ongoing monitoring to ensure compliance with that agreement.
10. The proposed works are compatible with the Borough Council's adopted playing pitch and open space strategies (which incorporates play provision).
11. The improvements will benefit all members of the local community in Chilham and families in Old Wives Lees and encourage further participation in health and wellbeing activities.
12. The Approval to Spend S106 Monies form has been submitted to the S106 working group. In agreement with distributing the funds to these improvement works, the form has been signed off by representatives of Legal Services and Planning & Development, the Head of Culture and the Ward Member.

Implications and Risk Assessment

13. A key risk is cost of works increasing due to unforeseen circumstances. This risk has been mitigated by the Parish Council obtaining quotes from reputable experienced contractors.

Equalities Impact Assessment

14. Members are referred to the attached Assessment. The key issues arising are that the improvements to the children's play area and pathways/car parking will improve access for people with limited mobility to be able to enjoy the open space and facilities.

Consultation Planned or Undertaken

15. Consultation took place with the local community and ward member which highlighted the need for the works identified to be implemented.

Other Options Considered

16. There are no other requirements for capital improvement works on public open space within the ward of Chilham or Old Wives Lees.

Reasons for Supporting Option Recommended

17. Were the Borough Council not to recommend the release of the S106 funds to the Parish Council, the improvement works would be severely diminished in scope and the S106 funds would be required to be paid back to the developer.
18. By supporting this recommendation the Borough Council ensures the use of the S106 monies for appropriate improvement works that will benefit the local community and improve opportunities for a healthy and active lifestyle.

Next Steps in Process

19. Set up a Funding Agreement through the Borough Council's legal department.
20. Arrangement for payment of funds to Chilham Parish Council.
21. Ongoing monitoring of improvement works by officers in Culture to ensure compliance with the Funding Agreement.

Conclusion

22. Chilham Parish Council and CRGT's plans are a fantastic opportunity to make significant improvements to the public open space offer provided to the local community. These works will further encourage participation in health and wellbeing activities and use of the local facilities.

Portfolio Holder's Views

23. Working in partnership with Chilham Parish Council demonstrates Ashford Borough Council's commitment to relationship working with the rural villages to engender strong attractive communities in the Ashford Borough. I fully support the approach offered by this report and recommend the Council accepts the recommendations herein

Cllr Mike Bennett

Contact and Email

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Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Amanda Scott
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	12 th July 2018
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<ul style="list-style-type: none"> • Agree the release of S106 funding to support the local community of Chilham and Old Wives Lees for improvement works that are compatible with the relevant Borough strategies. • Works to be completed: Chilham Recreation Ground, pitch drainage works, supply and install a new Multi Use Games Area, creation of a 3rd tennis court, relocation and upgrade of play area, new tarmac pathway to improve accessibility around the site, resurface car park, new site furniture, a new container for grounds maintenance equipment, a replacement tractor for grass cutting and pitch maintenance Old Wives Lees Recreation Ground: replacement play area safety surfacing • Works will affect all users of both recreation grounds and will encourage further users from the local community to both sites. • The key issues arising are that the improvements to the children's play area and pathways/car parking will improve access for people with limited mobility to be able to enjoy the open space and facilities.
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	<ul style="list-style-type: none"> • Chilham Parish Recreation Ground Trust (CPRGT) have developed a project scheme based on researching requirements for local users and ensuring the continued growth of the tennis club within the local community. • CPRGT provided a report outlining this research and the resulting objectives for the improvement works.
Consultation: <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views 	<ul style="list-style-type: none"> • CPRGT have consulted with local users and the Tennis Club • The consultation has resulted in the belief that this is the best course of action to improve local facilities using local S106 funding. • The decision will have either no impact or a positive impact on people with different protected characteristics.

<p>across the protected characteristics?</p> <ul style="list-style-type: none"> • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	
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Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	MEDIUM	POSITIVE
Middle age	HIGH	POSITIVE
Young adult	HIGH	POSITIVE
Children	HIGH	POSITIVE
<u>DISABILITY</u> Physical	MEDIUM	POSITIVE
Mental	MEDIUM	POSITIVE
Sensory	LOW	NEUTRAL
<u>GENDER RE-ASSIGNMENT</u>	NONE	NEUTRAL
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	NONE	NEUTRAL
<u>PREGNANCY/MATERNITY</u>	NONE	NEUTRAL
<u>RACE</u>	NONE	NEUTRAL
<u>RELIGION OR BELIEF</u>	NONE	NEUTRAL
<u>SEX</u> Men	NONE	NEUTRAL
Women	NONE	NEUTRAL
<u>SEXUAL ORIENTATION</u>	NONE	NEUTRAL

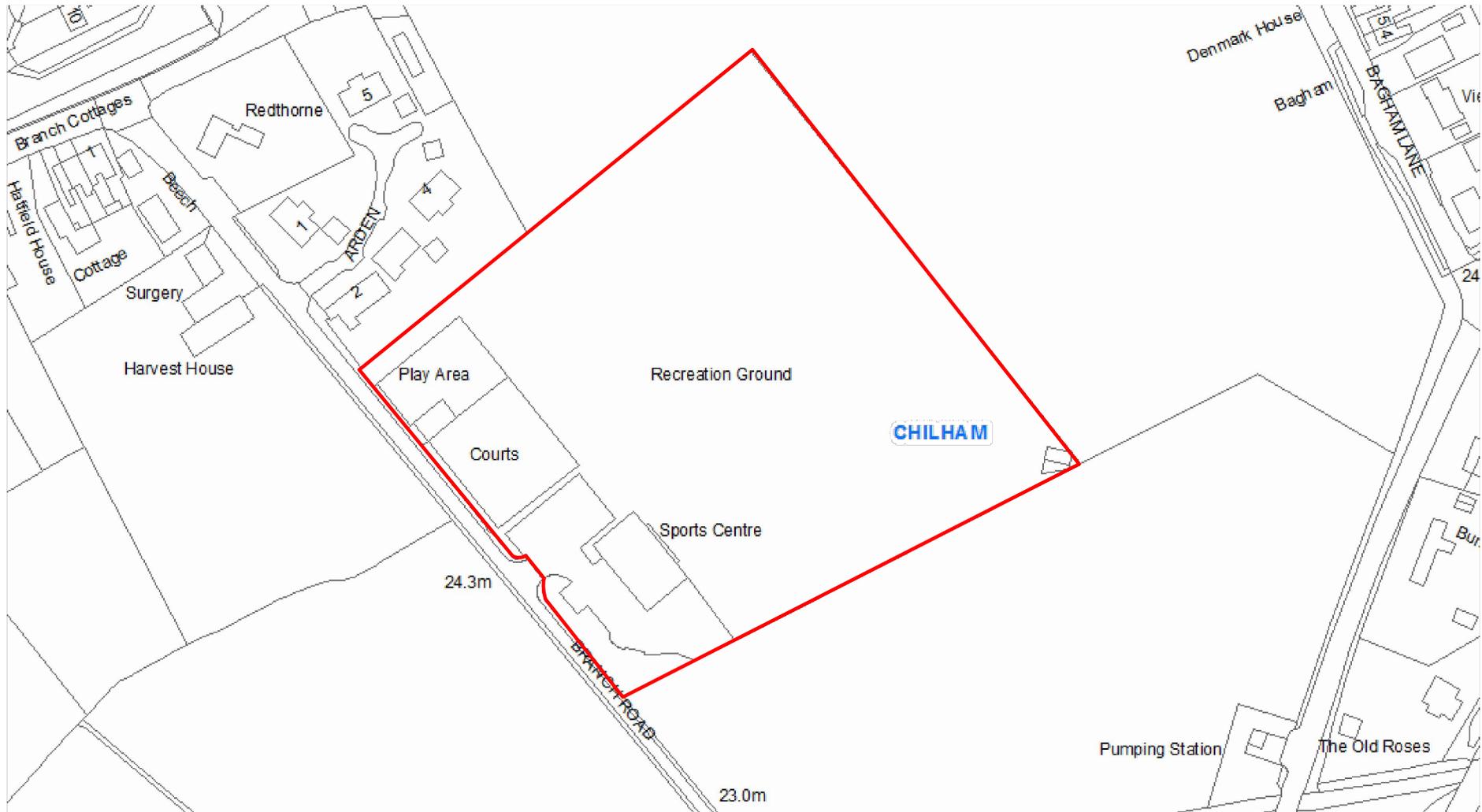
Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	N/A
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Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's Essential Guide , alongside fuller PSED Technical Guidance .	
Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	YES
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	YES
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	YES

<p>Conclusion:</p> <ul style="list-style-type: none"> • Consider how due regard has been had to the equality duty, from start to finish. • There should be no unlawful discrimination arising from the decision (see guidance above). • Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. • How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<ul style="list-style-type: none"> • Due regard has been made to the equality duty, from start to finish of the consultation and scoping process by CPRGT • There will be no unlawful discrimination arising from the decision • The proposal meets the aims of the equality duty as all sections of the community including those with protected characteristics will benefit from the enhancements to both recreation grounds, and in particular from improved access allowing people of limited mobility to enjoy the leisure facilities. • Monitoring of the decision and its implementation will be undertaken and reported on by Council Officers during the completion of the projects onsite.
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	<p><i>The council's revised policy register will assist services to meet this</i></p>
EIA completion date:	04/07/2018

Chilham Recreation Ground



Old Wives Lees Recreation Ground

