

SUBJECT: Uploading S106 Capital Sums into 2024/25 Capital Budget

MEETING: Cabinet

DATE: 15th May 2024

DIVISION/WARDS AFFECTED: Caldicot, Magor with Undy, Abergavenny, Mardy

1. PURPOSE:

To authorise the uploading of capital sums from Section 106 Agreements received from the developments specified into the 2024/25 Capital Budget

2. RECOMMENDATIONS that:

- 2.1 a capital budget of £95,000 be created in 2024/25 to fund play area improvements at the Cas Troggi Open Space in Caldicot, and that this is funded by corresponding contributions of £69,120 from the Section 106 balances held by the council from the S106 Agreement in relation to the former White Hart Public House in Caldicot (Planning Ref: DC/2013/00796) and £25,880 from the Section 106 balances held by the council from the S106 Agreement in relation to the development of land east of Church Road, Caldicot (Planning Ref: DM/2018/00880).
- 2.2 a capital budget of £144,456 be created in 2024/25 to fund works at one or more of three beneficiary sites in Caldicot (Caldicot Greenway, Caldicot Castle Country Park, Caldicot Town Centre Regeneration Scheme), and that this is funded by a corresponding contribution of £144,456 held by the council from the S106 Agreement in relation to the development of land east of Church Road, Caldicot (Planning Ref: DM/2018/00880).
- 2.3 the decision on which beneficiary projects the £144,456 funding will be spent be delegated to the Chief Officer for Customer, Culture and Wellbeing in consultation with the Cabinet Member for Equalities and Engagement, this decision to be taken following consultation with the local Caldicot county council members and Caldicot Town Council.
- 2.4 a capital budget of £24,629 be created in 2024/25 to fund play area improvements at Rockfield Farm, Undy and that this is funded by a corresponding contribution of £24,629 from the Section 106 balances held by the council from the S106 Agreement relating to the development of land at Vinegar Hill, Undy (Parcel A) (Planning Ref: DM/2019/01937).
- 2.5 a capital budget of £13,422 be created in 2024/25 to fund advance planning works on land at Knollbury to establish increased recreation facilities for the Magor with Undy area and that this is funded by a corresponding contribution of £13,422 held by the council from the S106 Agreement relating to the development of land at Vinegar Hill, Undy (Planning Ref: DM/2019/01937).

- 2.6 the above amount (specified in para 2.5) be utilised to offset the costs of obtaining planning permission for the recreational use of land adjacent to Rose Cottage, Knollbury, Magor currently held on capital budget code 90847.
- 2.7 a capital budget of £120,000 be created in 2024/25 for play area improvements at Mardy Playing Field and that this is funded by a corresponding contribution of £120,000 from the Section 106 balances held by the council from the S106 Agreement in relation to the development of land at Deri Farm, Abergavenny (Planning Ref: DC/2014/01360).
- 2.8 when uploaded into the 2024/25 capital budget, the funding of £120,000 set out in para 2.7 above is transferred to the Llantilio Pertholey Community Council, as owners of the Mardy Playing Field, and that officers work closely with the community council to agree and implement a range of play area improvements.
- 2.9 A capital budget of £13,230 be created in 2024/25 for play area improvements at Bailey Park, Abergavenny and that this is funded by a corresponding contribution of £13,230 from Section 106 balances held by the council from the S106 Agreement for the development of land at The Hill, Abergavenny (Planning Ref: DC/2015/01585)

3. KEY ISSUES:

- 3.1 When new residential developments in the county are granted planning permission, this invariably involves the developer entering into a Section S106 Agreement to provide new or upgrade existing play areas, public open spaces and recreation sites. The S106 Agreements contain clauses specifying the areas or sites where the funding is to be used (the beneficiary sites) and the timescale in which the money has to be spent (the spend by dates).
- 3.2 The agreements are entered into under the provisions of Section 106 of the Town and Country Planning Act 1990 (Amended). These are legally binding agreements and contain contractual commitments for the council and for the owner or developer. In the case of the sites referred to in this report, the developers in each case have met their contractual obligations and the funding set out in Section 2 (recommendations) has all been received by the council.
- 3.3 It is proposed to spend this funding on the projects specified in the following paragraphs, beginning with para 3.5, so that the council can fulfil its legal obligations as set out in the respective S106 Agreements.
- 3.4 Members will be aware that in Wales, play is a statutory duty of local authorities and every three years councils have to undertake a detailed play sufficiency assessment, together with an annual review. The proposals outlined in this report relating to play are in line with the

council's adopted play sufficiency assessment. The council has also adopted in principle the Fields in Trust six-acre standard that contains guidance on outdoor play, but it has adopted a more strategic approach to developing playparks in recent years, to avoid a proliferation of small pocket parks, which provide very little in terms of play value.

- 3.5 The play area at Cas Troggi (also known as the Hall Park Open Space) in Caldicot was installed back in the 1960s/70s. When the council commissioned an independent play value assessment of 110 sites in the county in 2019, the Cas Troggi site was ranked as "poor", scoring a mere 15 out of a possible 84 points. It is proposed to replace the play equipment and enclose the play area, using the funding identified in recommendation 2.1 of this report. The works were scheduled to start in December 2023 but have been delayed due to the wet conditions on site. The footpaths around the play area have been improved and resurfaced, using Active Travel funding in advance of the play equipment installation and landscape improvements have been made to the wider open space at Cas Troggi, utilising Welsh Government green infrastructure funding.
- 3.6 The £144,456 referred to in para 2.2 is the remaining balance of the offsite recreation contribution from the Church Road (east) development site. It is proposed that this sum is held in the capital budget and utilised towards one or more of the three remaining beneficiary sites, namely Caldicot Greenway, Caldicot Castle & Country Park and Caldicot Town Centre Regeneration, and that a decision on the allocation of this funding is delegated to the relevant Chief Officer and Cabinet Member.
- 3.7 The sum of £24,629 (para 2.4) will be used to carry out improvements to the play area at Rockfield Farm, as specified in the S106 Agreement.
- 3.8 The £13,422 referred to in paras 2.5 and 2.6 is the remaining balance of offsite recreation funding received from the Vinegar Hill development and is to be used to offset the current overspend in the capital budget as a result of expenditure incurred on plans and surveys undertaken to support the submission of a planning application for the Knollbury site. It is proposed to utilise this sum to offset the overspend and cover the costs of submitting a formal planning application.
- 3.9 When planning permission for the Deri Farm development north of Abergavenny was granted, there was limited space available on site to provide a new neighbourhood play area, so provision was made for an offsite contribution to improve the existing play area at Mardy Playing Field, which is a short walk away from the new development. The £120,000 (referred to in paras 2.7 and 2.8) will be sufficient to cover the costs of a substantial upgrade of the existing play facilities. As Mardy Playing Field is not owned by this council, officers will work with the site

owners (Llantilio Pertholey Community Council) to make sure that the play area improvements are carried out. In addition to the play area contribution, separate contributions were included in the S106 Agreement to improve footpaths in the area between the new houses, Llantilio Pertholey Primary School and the Mardy Playing Field. Those improvements have now been implemented.

- 3.10 The sum of £13,230 (para 2.9) will be used to carry out improvements to the play area and surfacing at Bailey Park.

4. INTEGRATED IMPACT ASSESSMENT (INCORPORATING EQUALITIES, FUTURE GENERATIONS, WELSH LANGUAGE AND SOCIO ECONOMIC DUTY)

The Integrated Impact Assessment is attached at Appendix 2. This highlights the positive impacts of play and outdoor recreation on children/young people, families and communities.

5. OPTIONS APPRAISAL

In reality, there are no options to appraise – the funding referred to in this report has been given for specific purposes as specified in Section 106 Agreements, under which the council has a contractual obligation.

6. EVALUATION CRITERIA

Progress will be monitored in October 2024 to assess progress with the various projects referred to in this report.

7. REASON

This is a continuation of the council's continued investment, sometimes in partnership with town and community councils and other bodies, in recreation and play to achieve significant community benefits, but there needs to be an approved budget in place to cover the costs incurred.

8. RESOURCE IMPLICATIONS

There are no additional resource implications, as the expenditure involved will be covered by Section 106 balances.

9. CONSULTEES

Cabinet

Local Members

Senior Leadership Team

Chief Officer – Customer, Culture and Wellbeing

10. BACKGROUND PAPERS

- 10.1 Section 106 Agreement dated 8th January 2019 between MCC and Worthy Developments in relation to White Hart Public House
- 10.2 Section 106 Agreement dated 17th April 2019 between MCC, Harvington Properties & Others in relation to Church Road Caldicot
- 10.3 Section 106 Agreement dated 16th June 2022 between MCC and Vistry Homes in relation to land at Vinegar Hill, Undy
- 10.4 Section 106 Agreement dated 19th January 2018 between MCC and Persimmon Homes Ltd and Others in relation to land at Deri Farm, Abergavenny
- 10.5 Section 106 Agreement dated 28th September 2016 between MCC, Edenstone Homes and Coleg Gwent in relation to land at The Hill, Abergavenny

Extracts showing the council's legal obligations contained in the above Section 106 Agreements are set out in Appendix A to this report.

11. AUTHOR & CONTACT DETAILS:

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APPENDIX A

Extracts from relevant Section 106 Agreements

Cas Troggi Play Area - Paras. 2.1, 2.2, 3.4 and 3.5

Section 106 Agreement dated 8th January 2019 between MCC and Worthy Developments – in particular Clause 1.1, Schedule 3 as follows:

An offsite open space/play contribution in the sum of £69,120 to be used for improvements to the Hall Park Open Space, as this is the closest public open space to the application site

Caldicot Greenway, Country Park and Town Centre Redevelopment

Paras 2.2, 2.3 and 3.6

Section 106 Agreement dated 17th April 2019 between MCC, Harvington Properties & Others – in particular Clause 7.1 of Schedule 1 and Clauses 1.1 and 1.2 of Schedule 3 as follows:

7.1 to pay a sum of £1,566 indexed in respect of each Market Dwelling constructed at the Development (the “Off-Site Recreation Contribution”) to be used by the Council to support and develop off-site recreational facilities in the vicinity of the Development, which shall include one or more of the following: the Caldicot Greenway Scheme; Caldicot Castle Country Park; Hall Park Open Space; and the Caldicot Town Centre Regeneration Project.

1.1 Where the council receives any financial contribution from the Owner in respect of any obligations in this Agreement, the Council shall use the financial contribution only for the purpose for which it was paid.

1.2 In the event that any financial contribution received from the Owner in respect of any obligations contained in this Agreement has not been spent or committed for expenditure by the Council within 5 years from the date of receipt the Council shall refund to the Owner any part which has not been spent or committed for expenditure, together with any accrued interest.

Rockfield Farm Play Area - Paras 2.4 and 3.7

Section 106 Agreement dated 16th June 2022 between MCC and Vistry Homes – in particular Clause 3 of Schedule 1 and Clauses 1.1 and 1.2 of Schedule 2 as follows:

3. On or before the Commencement Date to pay to the Council the sum of £23,235 in relation to the play provision towards the cost of providing, expanding or improving a centralised play facility at the existing Rockfield Farm site

Note: the amount received is £24,629 because the contribution was index linked

1.1 I Not to use any part of the Contributions other than for the purposes for which it was paid (whether by the Council or another party

1.2 In the event that any of the Contributions have not been spent or Committed for expenditure by the Council within 5 years following the date of receipt of the Contribution the Council shall refund to the

Owner any part of the Contributions which have not been spent or committed for expenditure, together with accrued interest.

Knollbury Recreation Site – Paras 2.5, 2.6 and 3.8

Section 106 Agreement dated 16th June 2022 between MCC and Vistry Homes – in particular Clause 4 of Schedule 3, as follows:

4.0 On or before the Commencement Date to pay to the Council the following sums in relation to the offsite recreation contributions

- a. £3,292 per Private Dwelling*
- b. £2,469 per Affordable Housing Unit*

to be used for the provision or enhancement of recreation/community facilities at the Three Fields site and on land in Knollbury (or the wider local area) to establish increased community recreation facilities there.

Note: the amount of offsite recreation funding received from this development was £235,542 – 222,120 of which was used to part fund the capital costs of the new Community Hub on the Three Fields Site, which leaves a remaining balance of £13,422 to be spent on preparations for the new recreation site at Knollbury

Mardy Playing Field and Play Area – Paras 2.7, 2.8 and 3.9

Section 106 Agreement dated 19th January 2018 between MCC and Persimmon Homes Ltd and Others – in particular Clauses 1 and 2.2 of Schedule 2, as follows:

- 1. The sum of £120,000 towards improving the existing Local Equipped Area for Play (LEAP) at Mardy Recreation Ground*
- 2.2 The Council agrees with the Landowner to use the Contribution only for improving the LEAP at Mardy Recreation Ground and for no other purpose.*

Bailey Park Play Area – Paras 2.9 and 3.10

Section 106 Agreement dated 28th September 2016 between MCC, Edenstone Homes and Coleg Gwent – in particular Clause 2.1 in Schedule 2, as follows:

- 2.1 The developer will pay £13,230 to be applied towards children's play provision*