

**FINANCIAL POLICY PANEL  
1 DECEMBER 2015**

**S106 UPDATE REPORT**

<u>Report of the:</u>	Director of Finance
<u>Contact:</u>	Lee Duffy, Lesley Shields
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
<u>Annexes/Appendices</u> (attached):	Annexe 1 – S106 Identified to fund Benches and Information Boards in Parks
<u>Other available papers</u> (not attached):	Leisure Committee report item 6 17/3/15- Poole Road Recreation Ground Multi Play Equipment. 2014/15 Capital Programme

**REPORT SUMMARY**

**This report provides an update on the funds held under Section 106 planning agreements.**

**RECOMMENDATION (S)**

- (1) That the Panel notes the current position on S106 funds held by the authority;**
- (2) Supports the use of S106 funds for the following schemes, Poole Road Recreation Ground Play Equipment (£18,000), Court Recreation Ground Parkour equipment (£10,900);**
- (3) Supports the allocation of S106 to the capital schemes for Parks Information Boards and Park Bench Replacement previously approved in 2014/15 capital programme.**

*Notes*

**1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy**

- 1.1 The Capital Strategy Statement was approved by the Council on 17 February 2015 as Appendix 11 to the Budget Report. Section 106 funding supports the achievement of Key Priorities in the Corporate Plan where investment can be funded from developer contributions.

**2 Current Position**

- 2.1 The Council currently holds funds from S106 agreements totalling approximately £3.7 million. From this balance around £2 million is committed

**FINANCIAL POLICY PANEL  
1 DECEMBER 2015**

within the capital programme for such items as affordable housing or earmarked for schemes awaiting further approval. Included within this balance is £219,000 that needs to be transferred to Surrey County Council and other organisations as they are responsible for utilising these funds.

2.2 Of the £1.5 million uncommitted £690,000 is being held for West Park community facilities.

2.3 The current position of Section 106 funds held as at the end of October 2015 is summarised below:-

	£'000	£'000
<b>Section 106 funds held as at 1 April 2015</b>		<b>3,526</b>
Section 106 Receipts received in 2015/16		312
Section 106 Payments Made in 2015/16		(154)
<b>Balance of S106 Funds held as 31 Oct 2015</b>		<b>3,684</b>
Less:		
Funds held due to SCC and other organisations	(219)	
Funds committed and approved for specific schemes in or before 2015/16	(1,939)	
		<b>(2,158)</b>
<b>Unallocated S106 funds as at 31 Oct 2015</b>		<b>1,526</b>

2.4 The unallocated funds can be broken down further with £859,000 earmarked against future expenditure awaiting further approval or requiring further negotiation with developer to amend terms of agreement.

	£'000	£'000
<b>Unallocated S106 funds as at 31 Oct 2015</b>		<b>1,526</b>
Funds awaiting further approval		(95)
<b>Available Uncommitted S106 Funds</b>		<b>1,431</b>
Horton Chapel-West Park and Hospital Cluster Site Contributions	(778)	
Affordable Housing	(60)	
68-72 Salisbury Road, Bellway Homes – for use on planting at front of the development	(2)	
TS Foxhounds – Use for footpaths on Longmead Estate (needs further approval)	(20)	
Monitoring Fee	(102)	
Earmarked Funds		(962)
<b>Available S106 Funds</b>		<b>469</b>

**FINANCIAL POLICY PANEL  
1 DECEMBER 2015**

**3 S106 Agreements with Expiry Dates**

- 3.1 Some developers' contributions are time limited. Under the terms of the S106 agreement, if the contribution has not been spent in line with the conditions applied in the agreement, the Council is liable to return the contribution to the developer. The Council currently holds balances on three S106 agreements that have reached their expiry dates totalling £6,380. They have been committed to projects in 2015/16 and will be spent by the end of this financial year.
- 3.2 The agreements written under the Developer Contribution Supplementary Planning Document (SPD) tend not to have time limits outlined within the legal agreements. This leaves a handful of contributions that have expiry dates. The table below shows the agreements that are within expiry dates and whether they have been earmarked for a specific project.

<b>S106 Ref</b>	<b>S106 Agreement</b>	<b>Restrictions</b>	<b>Cost £</b>	<b>Use</b>	<b>Deadline for Contribution</b>
45	Epsom Station	Monitoring Fee £10,000 per annum to be applied to the revenue budget on-going from 2013/14	4,097	Unallocated	17/07/2018
52	72-74 Temple Road	Open Space facilities in the vicinity of the development	6,498	Unallocated	20/03/2017
65	137 & 139 Chessington Road, Ewell	Provision and/or improvement of public open space in Epsom & Ewell	9,000	Unallocated	14/04/2018
<b>Total</b>			<b>19,595</b>		

**4 Current Uncommitted S106 Contributions Held over £10,000**

- 4.1 Of the £1,526,000 of uncommitted s106 funds the majority £1,329,000 is from large contributions (in excess of £10,000). The following significant contributions remain uncommitted against schemes. However, some funds have schemes earmarked against them but have yet to be formally approved.

**FINANCIAL POLICY PANEL**  
**1 DECEMBER 2015**

<b>S106 Ref</b>	<b>S106 Agreement</b>	<b>Restrictions</b>	<b>Contribution £</b>	<b>Current Status</b>
3	TS Foxhound, 1a Blenheim Road, Epsom	Improvements to the open space which adjoins the site and lies between Blenheim Road, Longmead Road and Hook Road	20,000	Officers are negotiating with the developer to agree the use of the contribution to renew paths on the Longmead Estate
32	Wilberforce Court, Heathcote Rd, Epsom	Various under SPD	18,961	No use currently identified
33	1 Depot Road	Open space and recreation in the vicinity of the development	20,000	Identified for Park Bench Replacement Programme
62	West Park	Community facilities, monitoring and environmental improvements	768,296	£693,639 Earmarked for Horton Chapel
63	Magistrates & County Court Site, The Parade	Green infrastructure within the borough	22,765	No use currently identified
81	Site Adjacent to Holmwood Close	Various under SPD	11,855	£2,551 identified for information boards in parks. No use currently identified for remainder
88	468 Chessington Road	Various under SPD	16,228	No use currently identified
98	429 Kingston Road	Various under SPD	13,500	£11,460 identified for information boards in parks. No use currently identified for remainder
100	2C Danetree Road West Ewell	Various under SPD	10,443	No use currently identified

**FINANCIAL POLICY PANEL  
1 DECEMBER 2015**

<b>S106 Ref</b>	<b>S106 Agreement</b>	<b>Restrictions</b>	<b>Contribution £</b>	<b>Current Status</b>
105	379 - 393 Kingston Road, Ewell	Various under SPD	32,831	£852 identified for information boards in parks. No use currently identified for remainder
110	Land rear of 23 Stoneleigh Broadway	Various under SPD	13,704	No use currently identified
122	The Lintons Centre, Lintons Lane	Various under SPD	184,090	No use currently identified
128	Pine Lodge, Horton Lane	Various under SPD	48,674	£3,598 identified for information boards in parks. No use currently identified for remainder
130	Acer House, 97- 101 East Street	Affordable Housing	60,000	Earmarked for affordable housing
	Hospital Cluster	Works to the Hospital Cluster site	88,228	Earmarked for Horton Chapel
<b>Total</b>			<b>1,329,575</b>	

**5 Poole Road Recreation Ground Play Equipment**

- 5.1 At its meeting on 17 March 2015, the Leisure Committee approved, in principle, to support a project to replace the multi-play equipment at Poole Road Recreation Ground. This project will serve to replace the oldest piece of play equipment in Poole Road Recreation Ground. The current piece of equipment has been decommissioned on the grounds of health & safety and will be replaced by a similar sized piece.

**FINANCIAL POLICY PANEL  
1 DECEMBER 2015**

5.2 This report seeks approval to fund this project from the following S106 funds.

Received	Address	Conditions	£	Previous use of s106
07/02/2010	7-9 Windmill Lane	Provision of open space facilities within EEBC	8,000.00	None used
08/04/2008	33A and 35 Cheam Road	Provision of open space facilities within EEBC	4,761.00	Flood works at Clarendon Park
31/10/2013	137-139 Chessington Road Ewell	Provision or improvement of public open space within EEBC	3,000.00	Playground equipment at Pemberley Chase
28/01/2014	379-393 Kingston Road Ewell	Parks, gardens & amenity green space	2,028.50	Gatley Playground
28/01/2014	379-393 Kingston Road Ewell	Parks, gardens & amenity green space	210.50	Gatley Playground
			<b>18,000</b>	

**6 Court Recreation Ground Parkour Equipment**

6.1 Following on from the success of the skate/BMX park projects, Officers have identified a piece of Parkour equipment they would like to locate in Court Recreation Ground. Parkour is a growing sport and has been successfully introduced in other Boroughs. Parkour Training Facilities cater for anyone over the age of 8 years old (ParkourUK recommended age for beginners) and therefore caters for a very large demographic that in some play areas is under catered for. S106 money is available to fund this project as it qualifies as an outdoor sports facility.

6.2 Quotes have been received for £10,900 including a contingency. Officers have identified the funding from the following contribution, and ongoing maintenance of the equipment can be met within existing resources.

Received	Address	Conditions	Balance Currently Held £	Previous use of s106
29/09/2015	Pine Lodge, Horton Lane	Provision of open space-outdoor sports facilities within EEBC	27,652.09	None previously used

**FINANCIAL POLICY PANEL  
1 DECEMBER 2015**

**7 Allocation of S106 Funding to Previously Approved Capital Schemes**

7.1 In the 2014/15 capital programme two schemes were approved subject to S106 funding becoming available:

- **Parks Bench Replacement Programme (£26,000)** - Officers identified a need to start a replacement programme of park benches. It is proposed to place two new benches in each of our 26 parks.
- **Replacement of Parks Boards - Improvement to Onsite Visitor Information (£43,000)** – To improve visitor information in seven of our high profile parks. The project is to include providing signs to identify the park and welcome visitors, renewed artwork to provide an informative park map, lockable noticeboards which can be used by Friends Groups and the Council and renewed byelaw signs.

7.2 S106 Funding has now been identified. Officers are seeking Members approval to apply the S106 contributions outlined in Annex 1 of this report to the above two schemes.

7.3 Members may wish to review the two projects to ensure that the combination of benches and boards still match the organisations objectives and priorities.

**8 Financial and Manpower Implications**

8.1 Section 106 receipts provide an opportunity for additional investment. There may be no budget impact on new schemes so long as schemes funded do not result in additional on-going running costs. Some may even reduce future maintenance liabilities.

8.2 The relevant policy committee will need to ensure that there are no additional resource implications for new schemes that would have an adverse impact on budgets for other services.

8.3 **Chief Finance Officer's comments:** All financial implications are reflected in the body of this report.

**9 Legal Implications (including implications for matters relating to equality)**

9.1 Agreement under Section 106 of the Town and Country Planning Act 1990 comprises an agreement often associated with the grant of planning permission which confers a benefit to the community, e.g. where a housing development is to be permitted, the applicant or developer agrees to build or pay for a new school or additional leisure facilities for the community.

**FINANCIAL POLICY PANEL  
1 DECEMBER 2015**

9.2 Section 106 states:

- (1) *A local planning authority may enter into an agreement with any person interested in land in their area for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement.*
- (2) *Any such agreement may contain such incidental and consequential provisions (including financial ones) as appear to the local planning authority to be necessary or expedient for the purposes of the agreement.*
- (3) *An agreement made under this section with any person interested in land may be enforced by the local planning authority against persons deriving title under that person in respect of that land as if the local planning authority were possessed of adjacent land and as if the agreement had been expressed to be made for the benefit of such land.*
- (4) *Nothing in this section or in any agreement made under it shall be construed (a) as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by any Minister or authority under this Act so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Secretary of State as to the provisions to be included in such a plan; or (b) as requiring the exercise of any such powers otherwise than as mentioned in paragraph (a)*

9.3 **Monitoring Officer's comments:** No additional comment

## **10 Risk Assessment**

- 10.1 This report forms part of on-going work on s106 planning agreements that will lead to better management of expenditure funded from these monies.
- 10.2 The main risks at present are that investment funded from agreements is not properly prioritised, that investment is not made in a timely manner or that receipts are not claimed against agreements.

## **11 Conclusion and Recommendations**

- 11.1 The report gives details of the current position of S106 funding and seeks support for S106 funding to be applied to the following projects:
  - works to Poole Road recreation Ground play equipment.
  - works to Court Recreation Ground Parkour equipment.
  - Replacement of two benches in each of the 26 parks. The project forms part of the 2014/15 Capital Programme, but up until now has been unfunded.



**FINANCIAL POLICY PANEL  
1 DECEMBER 2015**

- Replacement of information boards in seven high profile parks. The project forms part of the 2014/15 Capital Programme, but up until now has been unfunded.
- Officers will continue to prioritise the investigation of opportunities to apply time-barred funds within the deadline and conditions of the agreement as appropriate.

**WARD(S) AFFECTED: All**