

Cabinet Report



Report of Interim Head of Development & Regeneration

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To: CABINET

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S106 Request – Shrivenham Sports Pavilion

Recommendations

- (a) Cabinet is asked to approve funding to Shrivenham Parish Council on behalf of Viscountess Barrington Memorial Hall and Recreation Ground Trust in its capacity as the sole trustee of the Trust towards a new sports pavilion to be erected by the Trust on the Recreation Ground owned by the Trust and to create a budget of £378,537.80:
- (i) to delegate authority to the Interim Head of Development and Regeneration in consultation with the Head of Legal Services to:
- agree a funding agreement with Shrivenham Parish Council in its capacity as the sole trustee of the Trust to govern the terms of use of the S106 funding; the instalments in which the funding is paid; the timing of instalments; the conditions subject to which instalments are paid and to otherwise protect the interests of Vale of White Horse District Council as the provider of the funding
 - include Shrivenham Parish Council as a party to the funding agreement in its own right where necessary or desirable to facilitate the carrying out and completion of the new sports pavilion project by the Trust
 - approve the payment to Shrivenham Parish Council of £361,423.96 towards the new sports pavilion project subject to and in accordance with the funding agreement and
 - approve the payment to Shrivenham Parish Council of the portion of £17,113.84 recovered (minus legal costs) on completion of a Deed of Variation to repurpose a Changing Rooms Contribution received under Agreement 16V52 subject to and in accordance with the terms of the funding agreement.
- (b) To approve the payment of instalments three and four of the Sports and Leisure Contribution (Shrivenham recreation ground pavilion) as defined in clause 1.1.33 of S106 Agreement 16V30 and the Cricket Facilities Contribution, as defined in clause one of the Second Schedule of S106 Agreement 17V14 to the Shrivenham Sports Pavilion project:
- yet to be received by the council to Shrivenham Parish Council when received subject to and in accordance with the funding agreement to whichever value is the lower of the amount received by the council and the value of forward funding that Shrivenham Parish Council has not recovered by any other means;
 - to Shrivenham Parish Council subject to and in accordance with the funding agreement, on creation of a budget to the value stated above, with no requirement for a further S106 Application, report and decision.

Purpose of Report

1. We received an application on 20 October 2020 from Shrivenham Parish Council, sole trustee of the Viscountess Barrington Trust, to request a total of £378,537.80 in S106 funding. Together with additional funding sources amounting to £133,102.34 (detailed below), this funding will secure a pavilion for community use including indoor and outdoor sporting facilities for the local community. The table below indicates how the costs of the pavilion will be met from a variety of sources.

S106 Contributions	£378,537.80
Benefactor Donation	£100,000.00
Garfield Weston Grant	£15,000.00
Parish CIL Receipts	£9,934.65
Parish Council Reserves	£8,167.69
Total Project Cost	£511,640.14

2. This report seeks approval to fund the pavilion project and to ask cabinet to seek council approval to set up a budget to pay Shrivenham Parish Council, subject to a funding and legal agreement on the use of the funds, the requested sum of £378,537.80 from ten S106 contributions arising from the following developments:
3. Development: Land off Townsend Road
 Planning Ref: P15/V0663/O
 S106 Ref: 16V30
 Date of agreement: 6 April 2016
 Decision: Planning Committee

16V30	
Obligation	Definition
Sport and Leisure Contribution	The sum of £11,497 towards Shrivenham recreation ground pavilion

4. Development: Land off Colton Road Shrivenham
 Planning Ref: P14/V2757/FUL
 S106 Ref: 15V45
 Date of agreement: 25 August 2015
 Decision: Planning Committee

15V45	
Obligation	Definition
Clubhouse Contribution	The sum of £29,886 towards Shrivenham recreation ground pavilion
Indoor Sports Facilities Contribution	The sum of £68,660 towards the provision or improvement of indoor sports projects in the Parish
Parish Contribution	The sum of £31,350 towards community facilities within the Parish

5. Development: Land at Highworth Road
 Planning Ref: P13/V2490/FUL
 S106 Ref: 16V52
 Date of agreement: 22 June 2016
 Decision: Delegated

16V52	
Obligation	Definition
Indoor Sports Facilities Contribution	The sum of £35,571 towards the provision of indoor sports facilities in the Parish
Local Facilities Contribution	The sum of £17,500 towards improvements to Shrevenham Village Hall and/or provision of other local facilities in the Parish
Changing Rooms Contribution	The sum of £15,382 towards the provision of changing rooms at Shrevenham Village Hall*

*A Deed of Variation is being sought to repurpose the Changing Rooms Contribution towards the Shrevenham Sports Pavilion project.

6. Development: Land to the East of Highworth Road
 Planning Ref: P13/V1810/O
 S106 Ref: 17V14
 Date of agreement: 17 April 2017
 Decision: Delegated

17V14	
Obligation	Definition
Memorial Hall Contribution	The sum of £105,480 for improvements to the Shrevenham Memorial Hall*

*Contribution repurposed in agreement between the Owner and the District Council

7. Development: Land at Longcot Road
 Planning Ref: P13/V1514/O
 S106 Ref: 16V03
 Date of agreement: 26 January 2016
 Decision: Planning Committee

16V03	
Obligation	Definition
Clubhouse/Pavilion Contribution	The sum of £21,771 to a clubhouse/pavilion in Shrevenham

8. Development: Land at Highworth Road
 Planning Ref: P12/V2582/FUL
 S106 Ref: 13V22
 Date of agreement: 03 May 2013
 Decision: Planning Committee

13V22	
Obligation	Definition
Leisure Contribution	The sum of £28,216 towards off site recreational facilities within the Parish

9. **Financial Procedure Rules:** The sum requested is in excess of £100,000. In accordance with the Constitution's Finance Procedure Rules (para 75 (c)) approval by council is required to create a budget and release the funds requested.
10. **S106 requested:** The sums for the s106 requested by Shrivenham Parish Council are set out in the tables below:
11. **106 16V30 - Development of Land off Townsend Road**

Infrastructure category	Amount in Agreement	Contributions Received (incl. Indexation)	Amount requested	Amount Previously Spent	Balance
Community Buildings	£11,497.00	Instalments one & two: £6,302.68 Instalments three & four not due	£6,302.68	£0	£0

12. **S106 15V45 - Development of Land off Colton Road Shrivenham**

Infrastructure category	Amount in Agreement	Contributions Received (incl. Indexation)	Amount requested	Amount Previously Spent	Balance
Community Buildings	£29,886.00	£31,420.33	£6,420.33	£25,000.00 Architect Fees for Clubhouse	£0
Indoor Sport	£68,660.00	£72,184.96	£72,184.96	£0	£0
Facilities	£31,350.00	£32,959.48	£32,959.48	£0	£0

13. **S106 16V52 - Development of Land at Highworth Road**

Infrastructure category	Amount in Agreement	Contributions Received (incl. Indexation)	Amount requested	Amount Previously Spent	Balance
Indoor Sport	£35,571.00	£39,575.89	£39,575.89	£0	£0
Community Buildings	£17,500.00	£19,470.30	£19,470.30	£0	£0
Community Buildings	£15,382.00	£17,113.84	£17,113.84	£0	£0

14. **S106 17V14 - Development of Land to the East of Highworth Road**

Infrastructure category	Amount in Agreement	Contributions Received (incl. Indexation)	Amount requested	Amount Previously Spent	Balance
Community Buildings	£105,480.00	£130,057.86	£130,057.86	£0	£0

15. **S106 16V03 - Development of Land at Longcot Road**

Infrastructure category	Amount in Agreement	Contributions Received (incl. Indexation)	Amount requested	Amount Previously Spent	Balance
Community Buildings	£21,771.00	£23,899.31	£23,899.31	£0	£0

16. **S106 13V22 - Development of Land at Highworth Road**

Infrastructure category	Amount in Agreement	Contributions Received (incl. Indexation)	Amount requested	Amount Previously Spent	Balance
Community Buildings	£28,216.00	£30,553.15	£30,553.15	£0	£0

17. **Contribution expiry:** the contributions have a spend by date calculated from receipt of the contributions, as detailed below:

S106 agreement	Infrastructure categories	Terms of expiry	Contribution receipt	Contribution expiry
16V30	Community Buildings	10 years from receipt	11 September 2018 (1st instalment) 6 November 2019 (2nd instalment)	11 September 2028 (1st instalment) 6 November 2029 (2nd instalment)
15V45	Community Buildings Indoor Sports Facilities	10 years from receipt – all categories	7 October 2016 (1 st Instalment – all categories) 13 July 2017 (2 nd instalment – all categories) 13 December 2017 (3 rd & 4 th instalments – all categories)	7 October 2026 (1 st Instalment – all categories) 13 July 2027 (2 nd instalment – all categories) 13 December 2027 (3 rd & 4 th instalments – all categories)

16V52	Indoor Sport Community Buildings Community Buildings	10 years from receipt – all categories	20 March 2020 – all categories	20 March 2030 – all categories
17V14	Community Buildings	10 years from receipt	23 January 2019	23 January 2029
16V03	Community Buildings	No spend by date	4 December 2018	N/A
13V22	Community Buildings	10 years from receipt	7 June 2017	7 June 2027

Corporate Objectives

18. The Vale of White Horse District Councils Corporate Priorities for the report include building healthy communities, working in partnership and working in an open and inclusive way.

Background

19. Shrivenham Parish Council is the sole trustee of the Viscountess Barrington Trust (the Trust). The Trust proposes to construct a sports pavilion on behalf of the Parish Council on the Recreation ground adjacent to the Memorial Hall in Shrivenham.
20. At the heart of the village, the Memorial Hall is a Grade II listed building constructed in 1925 in the Arts and Crafts style and the main hall, modelled on Westminster Hall, is unique in Oxfordshire if not in the country. The hall facilitates a wide range of community uses, acting as a venue for clubs and societies and a home for a full range of sporting activities. In addition, the hall regularly hosts weddings and parties, allowing the Trust to supplement its income for the maintenance of the 90-year old building.
21. Since 2014 planning permission has been granted for over 800 new houses in the village which is expected to double the size of the community. Approximately 50 per cent of these new homes are now complete, creating demand that the Memorial Hall no longer has the capacity to accommodate.
22. The Memorial Hall is the home for Shrivenham Cricket Club during the summer months, who use the facilities for changing, storage of equipment and provision of the traditional “cricket teas”. The growth in population has caused this usage to clash with the increasing demands of other community groups. Inevitably, avoiding such conflicts has significantly compromised income generation which is crucial for the maintenance of the building.
23. Consequently, the facilities for cricket at the hall are becoming notably inferior to those offered by competing clubs. In 2016 an application by the Cricket Club to join the Cherwell League was turned down on account of its condition, resulting in a dramatic impact on the club’s finances. With continued population growth in the village, these difficulties will be exacerbated and the need for alternative facilities will become critical.

24. In order to ensure that the Memorial Hall and recreation ground remain at the heart of the community into the future, the Trust instigated a project to develop a new sports pavilion, to be located at the recreation ground. The building is intended to house all the sporting and exercise activities currently accommodated in the Memorial Hall, freeing up much needed space for other community purposes.
25. The proposed building has been designed to Sport England standards by Architects A'Bear & Ball with flexible usage in mind, providing space for a range of indoor sports activities including table tennis, pilates, judo, yoga, soft tennis, indoor cricket and short mat bowls as well as providing outdoor sport changing rooms for the cricket club and facilities for the disabled. The main hall of the new pavilion will also be suitable for non-sporting activities requiring a larger, lighter environment e.g. Scouts, Girl Guides, thus providing additional capacity for community activities.

Options

26. Policy CSH2 of the emerging Shrivenham Neighbourhood Plan was developed following extensive community consultation on the provision of recreational facilities in the village.

Principle	To retain all that people like about living in Shrivenham	
Objective	SCSH2	To encourage the provision of recreational facilities for all age groups and all abilities.
Policy CSH2: Memorial Hall Proposals to enhance and improve the facilities at the Memorial Hall and to provide suitable additional facilities on the Recreation Ground will be strongly supported.		

27. Paragraph 4.9.3 of the Plan (excerpt below) identifies the evidence that supports this policy and the community consultation that was undertaken.

4.9.3 Evidence for these policies was obtained from Village Plan 2009 and 2015 follow-up survey and Village Fete Survey in Appendices 7, 8 and 9. In addition a recurring theme throughout Community Life interviews (refer to Appendix 19) was the need for more mid-sized and affordable meeting rooms. Proposals to expand and enhance the facilities within the Memorial Hall and around the Recreation Ground will be actively encouraged. Developer contributions will be used to support necessary investment.

28. The Cricket Club and Bowls Club identified a need for capital investment for changing and other facilities. The original concept to extend Shrivenham Memorial Hall to incorporate such facilities was considered unviable due to the buildings listed status. As an alternative, the development of a sports pavilion was identified as a means of meeting the demand for facilities and freeing up space in the Memorial Hall for community uses and the proposal overwhelmingly supported by respondents to the Village Sports Festival consultation held in April 2019.

29. Shrivenham ward councillors have supported the project from its inception, along with the council's allocation of £25,000.00 in S106 funding to enable design and planning work to be undertaken. The proposal has also been supported by a significant contribution, generously donated by a benefactor to the cricket club. In addition, Legal and General, developers of 'Land to the east of Highworth Road', generously released a substantial amount of S106 funding earlier than they had been obligated to do, in order to support the project and in recognition of the benefit to the local community.
30. There have been no other proposals for the use of the S106 contributions and the terms of the S106 Agreements do not allow the contributions to be expended outside the Parish of Shrivenham. Whilst it may be possible to expend the various contributions on smaller scale projects, the new pavilion building is expected to present better opportunities for the expanding population of Shrivenham.
31. Six candidates were invited to a single stage selective tender conducted in accordance with procedures set out in JCT Practice Note 6. Five submissions were received. The recommended tenderer provided the lowest tender and value for money.
32. Shrivenham Parish Council is the sole trustee of the Viscountess Barrington Trust. The pavilion will be owned by Shrivenham Parish Council and managed by the Trust. Councillors are not individual Trustees but have a collective responsibility for the operation of the Trust.
33. The project will be overseen by a Steering Group reporting to the Shrivenham Parish Council. Once complete, the sports pavilion will be managed under the existing Trust structure. The Hall Manager's responsibilities will be extended to include the new building (involving but not limited to facilities management, maintenance and security). The Deputy Caretaker's responsibilities will be extended to cover day to day cleaning and organisation of the new building. Bookings and payments for the building will be managed using existing systems. Increased staff and utilities costs are anticipated and will be incorporated into the Trust's 2022/23 budget. Once the sports pavilion is fully operational it is expected to generate the income required to cover these costs on an ongoing basis.
34. Planning permission for the project has been granted. The application reference is P18/V2964/FUL.

Financial Implications

35. The financial implications of this request can be accommodated by the secured S106 contributions.
36. Shrivenham Parish Council are forward funding up to £35,216.18 towards the build costs. A Deed of Variation is being sought to repurpose the Changing Rooms Contribution secured under S106 Agreement 16V52 and as such, Shrivenham Parish Council are expected to recover a portion of this S106 funding (minus legal costs). The table on the following page shows a breakdown of the portion forward funded by Shrivenham Parish Council.

16V52 Changing Rooms Contribution	£17,113.84
Parish CIL Receipts	£9,934.65
Parish Council Reserves	£8,167.69
Total Forward Funding:	£35,216.18

37. In order for Shrivenham Parish Council to recover the remaining forward funded monies, it is requested that the decision includes S106 funding yet to be received and detailed below (S106 anticipated), under the exceptional circumstances that the parishes forward funding amounts to less than ten per cent of the overall project cost and that the development funding triggers are expected to be met within the next year.

- S106 monies will be recovered to the value of no more than that received by the Council nor the value of forward funding that Shrivenham Parish Council have not recovered by any other means
- the S106 monies will be released to Shrivenham Parish Council, on creation of a budget to the value stated above, with no requirement for a further S106 application, report and decision
- the terms of release and use of the s106 monies to be agreed in a funding and legal agreement.

38. Shrivenham Parish Council agree to forward fund the project at its own risk, in the event that the S106 funding does not come forward.

S106 anticipated

39. Development: Land off Townsend Road

Planning Ref: P15/V0663/O

S106 Ref: 16V30

Date of agreement: 6 April 2016

Decision: Planning Committee

16V30			
Infrastructure Category	Obligation	Definition	Contributions Secured
Community Buildings	Sport and Leisure Contribution	The sum of £11,497 towards Shrivenham recreation ground pavilion	Instalment 3: £2,874.25 Index Linked due on 25th Occupation Instalment 4: £2,874.25 Index Linked due on 50th Occupation

40. Development: Land to the East of Highworth Road
 Planning Ref: P13/V1810/O
 S106 Ref: 17V14
 Date of agreement: 17 April 2017
 Decision: Delegated

17V14			
Infrastructure Category	Obligation	Definition	Contributions Secured
Outdoor Sport	Cricket Facilities Contribution	The sum of £14,973.60 towards improvements to the existing facility adjoining the Site	£14,973.60

Legal Implications

41. A legal funding agreement is required between the council and Shrivenham Parish Council, as the sole trustee of the Viscountess Barrington Trust, to ensure the S106 funds are used to cover the costs of this project and satisfy the need for the facility to deliver the identified purposes.

42. The terms of the funding agreement should include:

- The facilities must conform to Sport England & England Cricket Board (ECB) Standards;
- Agreement for the use of the facilities including community use, indoor and outdoor sports and facilities as secured and in compliance with the s106 agreements;
- A copy of the build contract signed by Shrivenham Parish Council and the selected contractor;
- Limitation of the Councils liability in its release of funding towards the project in the event of building contract failure or contractor insolvency, and
- Recommendation for Shrivenham Parish Council to seek independent legal advice in response to the agreement.

Risks

S106 Spending Parameters

43. The project falls within the spending parameters identified in the S106 agreements with the exception of:

- The Changing Rooms (Community Buildings) Contribution secured under Agreement 16V52.

Mitigation: The terms of the 16V52 Agreement do not allow contributions to be repurposed and will require a Deed of Variation to do so. In consultation, the Owner, Persimmon Wessex, has agreed in principle to repurpose towards the project and a Deed of Variation will be instructed.

- The Memorial Hall Contribution secured under Agreement 17V14.

Mitigation: A change of purpose for this fund has been agreed between Legal and General Homes Limited and the Council in accordance with the District Councils obligations under the terms of the Agreement. There is no further risk identified in this respect.

Funding gap

44. A total funding gap of £25,281.53 is identified. Shrivvenham Parish Council are contributing £8,167.69 to the project total from its reserves and expect to bridge the remaining gap of £17,113.84 in the repurposing of funds under Agreement 16V52, as outlined in the section above.

Mitigation: Shrivvenham Parish Council have agreed to bridge the full funding gap of £25,281.53 in the event that the Deed is not executed.

Tender expiry

45. The tender provided to Shrivvenham Parish Council has expired and an extension negotiated on the basis that an instruction to proceed is issued by 15 December 2020; conditional on constructional works starting in spring 2021. The selected tender is discounted and significantly reduced in comparison with competing tenders and the cost of building materials is expected to rise in early 2021. As such, successful delivery of the project is at a time critical point.

Mitigation: In response, Shrivvenham Parish Council have proposed to issue a letter of intent to the selected tender PJE Builders by 15 December 2020, expressing:

- intent to award the contract and permitting pre-contract expenditure for building materials at a capped figure
- intent to sign contracts no later than 1 March 2021 and an on-site start date of 1 April 2021.

46. At an extraordinary Parish Council meeting held on 19 October 2020, Shrivvenham Parish Council agreed to accept the risk involved in signing the Letter of Intent before the S106 application is fully approved by the council.

47. Timely execution of the funding and legal agreement will be a critical element in releasing the necessary funds to Shrivvenham Parish Council in time to meet the first payment instalment expected 1 May 2021.

VAT payments

48. VAT is not included in the identified project costs. Shrivvenham Parish Council reserves are not able to meet this additional cost, at an assumed rate of 20 per cent of the total project value.

Mitigation: Payment certificates will be issued by the contractor monthly, paid in instalments, with VAT being paid quarterly. Shrivvenham Parish Council have expressed that cash flow management is expected to negate the risk. It is

recommended that Shrivenham Parish Council seek expert advice on VAT payments for new buildings to confirm this.

Building contract

49. S106 funding could be at risk if the building contract fails or the building contractor becomes insolvent.

Mitigation: Legal funding agreement to limit the Councils liability in its release of funding towards the project.

Other implications

50. No further impacts or implications identified.

Conclusion

51. Shrivenham Memorial Hall is of insufficient size and structure to cater for the needs of an expanding village. The building is not able to provide additional space for changing and showering facilities due to its listed status.

52. The proposed project will provide accessible sporting and community facilities in this central village location, for the local community. With agreement to repurpose the identified funds, the request to help fund the building of these new facilities accords to the spending parameters of the S106 Agreements and is a suitable use of the funds.

53. In consideration of the above factors and once the council is satisfied that the risks identified in this report can be mitigated, it is recommended that a budget is created of £378,537.80 which allocates £361,423.96 towards the Shrivenham Sports Pavilion project and the funds be released to Shrivenham Parish Council. It is recommended that a further £17,113.84 (minus legal costs) be released on execution of a Deed of Variation to repurpose the Changing Rooms Contribution received under Agreement 16V52. This may be paid retrospectively.

54. It is also recommended that the remaining instalments of the Sport and Leisure Contribution towards Shrivenham recreation ground pavilion secured under S106 Agreement 16V30, and the Cricket Facilities Contribution secured under S106 Agreement 17V14 are released to Shrivenham Parish Council to the value of no more than that received by the Council nor the value of forward funding that Shrivenham Parish Council have not recovered by any other means.