

# Cabinet Report

Report of Head of Finance – Simon Hewings

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Wards affected: Kingston Bagpuize with Southmoor

Cabinet member responsible: Councillor Judy Roberts

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To: Cabinet

Date: 19 January 2022

## **S106 Request – Kingston Bagpuize with Southmoor Parish Council – Replacement sports pavilion, The Sports Field, Kingston Bagpuize**

### **Recommendations**

That Cabinet recommends to Council:

- (a) to create a further budget for £596,757.66 towards a replacement sports pavilion at The Sports Field, Kingston Bagpuize from the accumulated section 106 contributions set out in this report;
- (b) subject to Council creating the above budget, to authorise the Head of Finance, in consultation with the Head of Legal and Democratic to:
  - (i) agree and enter into a funding agreement with Kingston Bagpuize with Southmoor Parish Council regarding 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 by undertaking legal and financial due diligence including being satisfied that the funding is lawful and compliant with subsidy control provisions;
  - (ii) approve the payment to Kingston Bagpuize with Southmoor Parish Council of up to £596,757.66 towards a replacement sports pavilion at The Sports Field, Kingston Bagpuize subject to and in accordance with the funding agreement.

## Purpose of Report

1. We have received an application for funds from Kingston Bagpuize with Southmoor Parish Council, for a total sum of £596,757.66 towards replacing their existing sports pavilion. The sum is to be taken from eight contributions secured under S106, from legal agreements linked to five developments.
2. The pavilion site is located on the southern-eastern edge of Kingston Bagpuize and Southmoor, south of the A415. The sports ground consists of a cricket pitch and square, four football pitches of various sizes and practice nets. The existing pavilion covers an area of 140sqm.
3. The Contributions used are set out in appendix one.
4. The actual figures are summarised in the table below.

Agreement Ref.	Contribution towards: (extracts from S106 agreement)	Clear and Unambiguous? Y/N	Amount in Agreement	Contributions Received (incl indexation)	Amount requested	Previously Allocated	Projected Balance
<b>13V18</b> Reason code OUT	Facilities for Kingston Football Club in the vicinity (10 mile radius of the site)	N	£33,337	£34,539.54 received on 16.03.15, spend within 10 years	£7,489.26	£27,050.28	£0
<b>13V18</b> Reason code OUT	Facilities for Kingston Cricket Club in the vicinity (10 mile radius of the site)	N	£23,328	£24,169.49 received on 07.07.15, spend within 10 years	£11,301.49	£12,868.00	£0
<b>13V32</b> Reason code PC	Towards sports, recreation and youth facilities within the Parish	N	£150,000	£154,678.40 received on 17.12.14, spend within 10 years	£134,784.62	£19,893.78	£0
<b>14V71</b>	Towards the provision of a sports pavilion on Kingston Bagpuize with Southmoor Sports Pitch Land	Y	£400,000	£406,410.52 received on 20.04.18, spend within 10 years	£406,410.52	£0	£0
<b>16V11</b> Reason code OUT	Towards cricket pitch provision in the Parish	N	£4,554	£5,003.06 received on 05.12.18, spend within 10 years	£5,003.06	£0	£0

<b>16V11</b> Reason code OUT	Towards the provision or enhancement of football pitches in the Parish	N	£12,415	£13,639.22 received on 05.12.18, spend within 10 years	£13,639.22	£0	£0
<b>16V15</b> Reason code OUT	Towards the provision of football pitches at Kingston Bagpuize with Southmoor	N	£11,639	£12,174.54 received on 26.08.17, spend within 10 years	£12,174.54	£0	£0
<b>16V15</b> Reason code OUT	Towards the provision of cricket pitches at Kingston Bagpuize with Southmoor	N	£5,693	£5,954.95 received on 26.08.17, spend within 10 years	£5,954.95	£0	£0

## Corporate Objectives

5. Building healthy communities, working in partnership and working in an open and inclusive way.

## Background

6. The site is located on the southern-eastern edge of Kingston Bagpuize and Southmoor, south of the A415. The current sports pavilion is a WW2 era flight hut from RAF Abingdon which had been re-erected at the current site many years ago. The sports ground consists of a cricket pitch and square, practice nets and four football pitches of various sizes to accommodate the various levels of football from junior and youth up to full adult size. The existing pavilion covers an area of 140sqm and is used principally by Kingston Bagpuize Cricket Club and Kingston Colts Football Club.
7. The sports pavilion is run down and leaking so presents a maintenance burden that the two sports clubs using the facility are no longer able to bear. Using the developers' contributions, Kingston Bagpuize with Southmoor Parish Council will build a new sports pavilion, inviting the two sports clubs to become tenants, initially for a peppercorn rent. The parish council will insure and maintain the asset.
8. Kingston Bagpuize Cricket Club (KBCC) have used the site for over 70 years, therefore are well established in the village and this particular location. The club allows several hundred people the opportunity to learn, play or watch cricket, including a large number of children. KBCC runs two senior teams in the Cherwell Cricket League, a T20 team in the Downs League and a Sunday friendly team. It runs teams in Oxfordshire County Cricket competitions at all junior age groups from U10 to U15 and runs All Stars programmes each year for 6-8 year olds. Coaching by qualified ECB coaches is provided to all Juniors. The club is a keen supporter of girls' and women's cricket and from a sport, health and fitness aspect, is considered to be a valuable asset to the village and the surrounding area.
9. Kingston Colts Football Club (KCFC) is a village club that has FA Chartered status, run by parents for the enjoyment and development of its members. The club have seven

teams playing in both the Oxford Mail youth leagues. As the youth teams have aged the club is now fielding teams in the adult North Berks League.

10. To assist the parish council to develop their proposals £22,401.90 of developers' s106 contributions have already been spent or allocated towards professional and technical help to steer the project. This included the production of a design and access statement to support the planning application through the process.
11. Planning permission has been granted under planning application P20/V1225/FUL.

## **Options**

12. The applicant is seeking funds to develop the scheme as consented under the above planning reference. The Infrastructure and Development Team have not received any competing applications for these funds. The alternative options would be for the Council to consider only part funding, or not funding the project. Both these options have been discounted as they would put the delivery of this project at serious risk of not proceeding, given the overall cost, or being subject to significant delay whilst alternative funds are sought.

## **Climate and ecological impact implications**

13. The Corporate Energy Officer has noted that, whilst it is clear that the design includes some energy saving measures, it in the main only meets the standards required by current building regulations. Given the substantial funding being requested in this case, and the Corporate Plan priority on climate change, it has been requested that we consider requiring higher energy and carbon saving standards from buildings funded by S106 funds controlled by the council. Examples would include; Insulation levels above those required by building regulations, triple glazing, low carbon heating system, water saving appliances, solar energy, electric vehicle charge point, bicycle racks and enhanced biodiversity on site.
14. Current local plan policies do not require measures set out above so the district council cannot enforce that the applicant to incorporate such measures using planning powers, nor are there any constraints imposed by the legal agreements.
15. The fitting of bike racks and underfloor heating is planned. Other environmental measures would not be possible within the current budget allocated for these works.

## **Financial Implications**

16. The total anticipated cost of the project is approximately £635,000.00 (which includes contingency fund of £15k).
17. The table below shows that £659,077.84 has been identified as potentially benefitting the football and cricket clubs. £22,401.90 has already been allocated in fees for the new pavilion (see paragraph 10). £39,918.28 has also been spent on funding cricket and football club projects not related to the pavilion project (but in accordance with their S106 agreements), details listed below.

New sports pitch maintenance equipment and storage shed £18,415.85  
Three new sets of wheeled goals £6,344.85

Ground maintenance equipment £2,289.58  
 Total: **£27,050.28 (Football club facilities)**  
 New equipment £2,770.00  
 Wicket roller £10,098.00  
 Total: **£12,868.00 (Cricket club facilities)**

S106 Ref	Secured £	Terms	Paid by Developer £	Spent to Date (on pavilion in bold) £	Remaining £
13V18	33,337.00	Football Club - facilities for Kingston FC	34,539.54	27,050.28	7,489.26
13V18	23,328.00	Cricket Club - facilities for Kingston CC	24,169.49	12,868.00	11,301.49
13V32	150,000.00	Sports, recreation and youth facilities within the Parish.	154,678.40	<b>19,893.78</b>	134,784.62
14V71	400,000.00	Pavilion contribution	406,410.52	-	406,410.52
16V11	2,283.00	Clubhouse Contribution	2,508.12	<b>2,508.12</b>	-
16V11	12,415.00	Football Pitch Contribution	13,639.22	-	13,639.22
16V11	4,554.00	Cricket Pitch Contribution	5,003.06	-	5,003.06
16V15	11,639.00	Football Pitch Contribution	12,174.54	-	12,174.54
16V15	5,693.00	Cricket Pitch Contribution	5,954.95	-	5,954.95
				£39,918.28 (not pavilion spend)	
			<b>£659,077.84</b>	<b>£22,401.90</b>	<b>£596,757.66</b>

18. Kingston Bagpuize with Southmoor Parish Council are understanding of the requirement to fund the shortfall from their reserves (approx. £38,000 needed to make up to £635,000) and the possibility of needing to add to their proposed contingency of £15,000 (2.4% of total anticipated cost). There is a possibility of using Community Infrastructure Levy (CIL) receipts (of which the parish council are holding £60k+). No further funding is available from the district council towards this project and it is under no obligation to meet any additional costs should the parish council not be able to meet these directly.

## Legal Implications

19. The project will utilise eight contributions from five legal agreements. The wording of each agreement either refers to:

- A1). Facilities for Kingston Football Club in the vicinity (10 mile radius of the site)
- A2). Facilities for Kingston Cricket Club in the vicinity (10 mile radius of the site)
- B). Towards sports, recreation and youth facilities within the Parish
- C). Towards the provision of a sports pavilion on Kingston Bagpuize with Southmoor Sports Pitch Land
- D1). Towards cricket pitch provision in the Parish
- D2). Towards the provision or enhancement of football pitches in the Parish
- E1). Towards the provision of football pitches at Kingston Bagpuize with Southmoor
- E2). Towards the provision of cricket pitches at Kingston Bagpuize with Southmoor

20. The wording of A1, A2, B and C is unambiguous, the wording for D1, D2, E1 and E2 less so, as not directly mentioning the pavilion or 'facilities', however the football and cricket clubs will clearly benefit from these facilities and will see a benefit to the contributions being utilised for the pavilion.
21. The Parish Clerk has provided evidence that Kingston Bagpuize with Southmoor Parish Council hold a 125 year lease with the landowner, expiring 05 December 2143.
22. A legal agreement will be secured with Kingston Bagpuize with Southmoor Parish Council before any payment, up to a maximum amount of £596,757.66 is paid. This will reduce risks to the Council regarding inappropriate use of the funds. A maximum amount of £596,757.66 will be paid by Council to Kingston Bagpuize with Southmoor Parish Council, subject to completion of building regulations and certificates issued.

The terms of the legal agreement should include that;

- i. A qualified surveyor must be appointed to review a specification for the building and inspect during construction
- ii. A copy of the build contract signed by Kingston Bagpuize with Southmoor Parish Council and the selected contractor is supplied
- iii. Recommendation for Kingston Bagpuize with Southmoor Parish Council to seek independent legal advice in response to the agreement
- iv. Limitation of the Councils liability in its release of funding towards the project in the event of building contract failure or contractor insolvency

## **Risks**

23. There is a funding gap. If successful in this funding application, Kingston Bagpuize with Southmoor Parish Council will have been awarded just under 94% of the total costs. The parish council are aware of the need to cover a 6% shortfall and are considering options (including use of CIL) and have provided evidence that they hold sufficient funds to do so.
24. S106 funding could be at risk if the building contract fails or the building contractor becomes insolvent. The funding agreement will limit the district council's liability in its release of funding towards the project.
25. The wording for legal agreements 16V11 and 16V15 are ambiguous, as not directly mentioning the pavilion or 'facilities', only 'pitches' and/or 'pitch provision' however the football and cricket clubs will clearly benefit from these facilities and will see a benefit to the contributions being utilised for the pavilion.

## **Other implications**

26. No further impacts or implications identified.

## **Conclusion**

27. A new sports pavilion will provide modern facilities which will encourage the active participation in sporting activity at the site. In turn it is anticipated that the new facility

will allow Kingston Bagpuize Cricket Club and Kingston Colts Football Club to thrive and provide sporting opportunities fit for the expanding parish.

28. The request for funding s106 funding towards this project has been evidenced to meet the requirements of spend, contained within the s106 agreements identified against this proposed project.
29. The risks identified have been shown to be manageable within reasonable tolerances, and through appropriate funding mechanisms.
30. The alternative options of either not funding or only part funding the project have been discounted.
31. It is therefore recommended that the s106 budget identified be allocated, and distributed subject to the agreement on the necessary funding agreement.

### Financial contributions

**Development:** Land west of Witney Road Kingston Bagpuize

**Planning Ref:** P12/V1836/O

**S106 Ref:** 13V18

**Date of agreement:** 11 April 2013

**Decision:** Planning Committee

**Obligation:** “the Football Club Contribution” means the sum of thirty three thousand, three hundred and thirty seven Pounds (£33,337.00) to be paid by the Owner to the Council to be used towards facilities for Kingston Football Club in the Vicinity” (defined as within ten miles of the site).

**Obligation:** “the Cricket Club Contribution” means the sum of twenty three thousand, three hundred and twenty eight pounds (£23,328) to be paid by the Owner to the Council to be used towards facilities for Kingston Cricket Club in the Vicinity” (defined as within ten miles of the site).

**Development:** Land off Draycott Road, Southmoor, Oxfordshire, OX13 5NG

**Planning Ref:** P12/V2653/FUL (delegated decision)

**S106 Ref:** 13V32

**Date of agreement:** 24 May 2013

**Obligation:** The “Sport and Recreational Contribution” is defined as ‘the sum of one hundred and fifty thousand pounds (£150,000) to be paid to the council to be used towards sports, recreation and youth facilities within the Parish’.

**Development:** Sports Ground Abingdon Road Kingston Bagpuize

**Planning Ref:** P13/V1827/FUL (delegated decision)

**S106 Ref:** 14V71

**Date of agreement:** 17 October 2014

**Obligation:** The “Pavilion Contribution” is defined as ‘the sum of four hundred thousand pounds (£400,000) to be paid to the Council towards the provision of a sports pavilion on Kingston Bagpuize with Southmoor Sports Pitch Land’.

**Development:** Land at Fallowfields Faringdon Road Southmoor

**Planning Ref:** P15/V0251/O (committee decision)

**Case Officer:** Adrian Butler

**S106 Ref:** 16V11

**Date of agreement:** 18 February 2016

**Obligation:** The “Cricket Pitch Contribution” is defined as ‘the sum of four thousand five hundred and fifty four pounds (£4,554) Index-Linked, to be used towards cricket pitch provision in the Parish’.

**Obligation:** The “Football Pitch Contribution” is defined as ‘the sum of twelve thousand four hundred and fifteen pounds (£12,415) Index-Linked, to be used towards the provision or enhancement of football pitches in the Parish’.

**Development:** Land off Field Close

**Planning Ref:** P15/V1795/FUL

**S106 Ref:** 16V15

**Date of agreement:** 8 March 2016



**Obligation:** The “Cricket Pitch Contribution” is defined as ‘the sum of five thousand six hundred and ninety three (£5,693) Index-Linked, to be used towards the provision of cricket pitches at Kingston Bagpuize with Southmoor’.

**Obligation:** The “Football Pitch Contribution” is defined as ‘the sum of eleven thousand six hundred and thirty nine pounds (£11,639) Index-Linked, to be used towards the provision of football pitches at Kingston Bagpuize with Southmoor’.