

Council Report

Report of Head of Finance – Simon Hewings

Author: Janette Hinton-Smith

Telephone: 07917 088369

Textphone:

E-mail: janette.hinton-smith@southandvale.gov.uk

Wards affected: Chilton

Cabinet member responsible: Cllr Sue Caul (Affordable Housing, Infrastructure, Development and Governance)

E-mail: sue.caul@whitehorsedc.gov.uk

To: COUNCIL

Date: 13 December 2023

Section 106 (S106) Request – Chilton Parish Council – Play area / Recreation ground improvements.

Recommendations

1. To create a budget for £116,000 towards new play area equipment and recreation ground improvement at Chilton parish village play area project, to be funded by the S106 contributions set out in this report.
2. To delegate authority to the Head of Finance to approve the award to Chilton Parish Council of £116,000 in S106 funding towards the play area / recreation ground improvement project at Chilton parish active play area subject to and in accordance with the funding agreement.
3. To agree and enter into a funding agreement with Chilton Parish Council regarding the terms of use of the S106 funding; and to 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 provision.

Purpose of Report

1. To consider a request from Chilton Parish Council, to release funds of £116,295.07 from two S106 contributions towards play area / recreation ground improvement project at Chilton village active play area.
2. Chilton active play area is located adjacent to the village hall off Church Hill, Chilton, Oxon, OX11 0SH. This is a Chilton Parish Council owned and managed facility and once the new equipment is installed it will be the responsibility of the parish council to maintain.
3. The figures and relevant dates for the amount requested of **£116,295.07** are set out in the summary table below. In accordance with the Constitution of South Oxfordshire District Council and Vale of White Horse District Council – 6 October 2023 Financial procedure rules (para 75 (c) (Appendix Two)) for agreements of greater than £100,000 budgets, where section 106 or CIL agreements have not provided clear and unambiguous details on how the receipts are raised, must be approved by Council.

Agreement Ref.	Contribution towards (extracts from S106 agreement)	Amount in Agreement	Contributions Received (incl indexation)	Amount requested	Previously Allocated	Projected Balance
09V19	Equipped Activity Area Contribution to be used for the provision of an Equipped Activity Area for children aged 11 to 18	£155,000	£208,404.58 received on 24.11.14, spend within 10 years	£72,644.58	£135,760	£0
16V80	Recreation Ground Contribution - Towards improving the recreation ground facilities in the Parish	£39,855	£43,650.49 received on 06.08.19, spend within 10 years	£43,650.49	£0	£0

4. The overall project cost will be £128,771.00 the shortfall of £12,475.93 will be met by Chilton Parish Council as they have received a £5,000 grant from Magnox, £3,000 from Oxfordshire County Council Councillor Priority Fund and £4,475.93 will come from the parish council own reserves.

Corporate Objectives

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

Background

6. The project will enhance, refresh, improve and/or replace aging play equipment and outdoor facilities at the play area in Chilton village (known as the active play area). The new equipment and facilities will allow children from a range of ages, backgrounds, interests and disabilities to be able to play together. Two new accessible items of play equipment are a trampoline and roundabout.

There will be new flooring/safety matting throughout, and new path surfaces (replacing the grass) to make it accessible to users who may use a wheelchair or wheeled access, or maybe find grass more difficult to traverse. The current play area fence will stay in situ.

The current team tarmac area, where children can play as a larger team, will remain, and a second 'end' will be added (currently only one brick wall). The introduction of two 'ends' (one of them interactive) allows for a more balanced team game and symmetrical play area. One basketball net is staying, and the other removed as it is at a 90 degree angle to the tarmac area. The interactive equipment uses low power and energy efficient LEDs.

The introduction of a lined 'track' also means that other activities can take place at the same time and gives the area a different use.

In 2021 Chilton Parish Council established a Play Area working Committee. It comprised two current parish council members and four Chilton village parents. Eleven 'Expression of Interest' were sent to prospective parties, with the remit of being able to help drive, consult, design, project manage and install the play equipment for an inclusive cost. Three companies responded and after a criteria assessment and scoring methodology Jupiter Play was awarded the contract in early 2022.

In the summer 2022 two in person (at two different sites) and one online consultation events were organised by the play area working committee with Jupiter Play. This was to allow parents and children to express their needs and wants and for the committee and Jupiter to take feedback. These consultations were promoted via social media Facebook, Chilton Chronicle (every Chilton home receives), within the local school, and to users of the village hall such as Brownies/Scouts. Jupiter Play provided boards that included elements of play e.g. traversing, climbing, swing, hang, etc, with accompanying examples. These boards helped spark discussion about what children liked best. The results of the consultation survey, led to three designs being put forward. This did not include for a fully enclosed MUGA as the cost is high and they are not welcoming to girls as they find the enclosed spaces intimidating. However, Jupiter Play produced a fourth options of a fully enclosed MUGA but it would mean that other new equipment and refurbishments would not be possible.

A second consultation took place in January 2023 again with Jupiter Play present; two in person at two different sites and online to look at four final designs (provided on boards), asking users to vote for their favourite, to provide feedback and say if anything was drastically not liked. Verbal feedback received on the day said how good the designs were and how it had really felt like a community involved project. In total approximately 120 responses were received. Option two received the most votes and with a few tweaks the final design has been achieved.

The redesign of both areas will increase its use. The reconditioned tarmac will level out the undulations, meaning that wheeled toy (roller skates, scooters, bikes) play, team games and interactive play, will be usable by those of all ages and abilities as well. By having an additional 'end' it will make team games even. The new 'end' is interactive, it will bring new challenges and a more modern feel, as children will be able to accurately get real time feedback (from hitting targets) as well as a modern twist with the targets illuminating. There will be the addition of different markings to the tarmac area.

The inclusion of wheelchair access to the play area and accessible items of play will give those who are less able bodied, the ability to play with their friends and siblings and be included. With the addition of seating, which was asked for by parents, carers and grandparents, they will be able to stay longer whilst looking after children.

7. Planning permission has been granted under planning application P23/V1203/FUL.
8. At the Cabinet meeting on 1 December 2023, Cabinet resolved to recommend to Council to create a budget for £116,000 towards new play area equipment and recreation ground improvement at Chilton parish village play area project, to be funded by the S106 contributions set out in this report.

Options

9. Chilton Parish Council are seeking S106 funds to use towards the refurbishment / update of the Chilton active play area located at the recreation ground. Facilities will be provided that cover a wide range of ages and abilities as well as a picnic table making it a destination play area and recreation ground. The Infrastructure Implementation and Funding Team have not received any competing applications for these funds. If the Council were to consider not awarding the requested S106 funds or to only award the use of one of the S106 contributions, then the project could not be delivered or would be significantly delayed whilst alternative funds is sought.

Financial Implications

10. The overall project cost will be £128,771.00 the shortfall of £12,475.93 will be met by Chilton Parish Council as they have received a £5,000 grant from Magnox, £3,000 from Oxfordshire County Council Councillor Priority Fund and £4,475.93 will come from the parish council own reserves.
11. No further funding is available from the district council towards this project, and it is under no obligation to meet any additional costs.

Legal Implications

12. Legal responded to say that the proposed use for the S106 contributions complies with the obligations in the S106 agreements.
13. As the funding requested is above £100,000, under the terms of the Constitution of South Oxfordshire District Council and Vale of White Horse District Council – 6 October 2023 Financial procedure rules (para 75 (c) (Appendix Two)) approval is required by full council. It is recommended that Council delegate authority to the Head of Finance to award the funding in accordance with the S106 agreement.
14. A legal funding agreement will be secured with Chilton Parish Council before the S106 funds are transferred, up to a maximum amount of £116,295.07. This will reduce risks to the Council regarding inappropriate use of the funds.
15. The award of S106 funds is not subject to the Subsidy Control rules as it is being passed to a public body for use in the exercise of their public functions as reflected in clause 7(a) of the Subsidy Control bill.

16. Chilton Parish Council has provided the conveyance document of 13 August 1973 showing that the land was purchased by Chilton Parish Council for £1,800.

Climate and ecological impact implications

17. As part of Chilton Parish Council's scoring matrix sustainability was one of the elements. Jupiter Play scored higher on their sustainability, than the other companies. Jupiter Play only work with ISO 14001 certified companies meaning all of their materials are sustainably sourced and the picnic table utilises recyclable material in its construction. The major element to the MUGA is the surfacing which is pre existing mitigating the environmental impact of laying a new foundation. The removed play equipment that is fit for purpose will be refurbished and installed at the Chilton Community play area.

18. Chilton Parish Council has decided not to add any more trees around the playing fields or play apparatus, as this would restrict more 'open play' of ball games or 'running around' as children.

19. The above has been shared with the Climate Action team who replied to say it was helpful that these implications have been taken into account during the project planning phase.

Procurement implications

20. This is a Council decision to award S106 funding and will not involve the Council in any decision to buy goods, services or works.

Equalities implications

21. The Councils Equality and Inclusivity officer commented that this is a well thought out project where people who will use the space have been consulted. Refreshing to see accessible play equipment and a picnic table with an extended end overhang for those in a wheelchair to be able to share the table space.

22. Chilton Parish Council have taken on board the comments from Jupiter Play not to have a full enclosed MUGA as these can be unwelcoming to girls as they find the enclosed spaces intimidating. This is reiterated in the 'Make Space for Girls' research report of 2023.

Risks

23. The project is only part funded by S106 contributions, totalling £116,295.07. The remaining funds required are £12,475.93 and Chilton Parish Council have shown where this funding has been obtained from.

Other Implications

24. No further impacts or implications identified.

Conclusion

25. The redesign of both areas will increase its use and bring added benefit with up to date play equipment, the inclusion of wheelchair access paths and accessible items of play

contributing to an inclusive theme and the addition of seating makes it a more pleasant experience. The reconditioned tarmac area offers space for wheeled toys and the new interactive end wall is very modern with illuminating target.

26. The proposed project conforms to the spending parameters of the S106 agreements and is a suitable use of the funds.

27. The risks identified have been shown to be manageable within reasonable tolerances, and through appropriate funding mechanisms.

28. The alternative options of either not funding or only part funding the project have been discounted.

29. It is therefore recommended that the S106 funds identified be awarded subject to the necessary funding agreement.

Background Papers

- None

Financial contributions:

Development: Land to the South of Chilton Field, Avon Road, Chilton

Planning Ref: P05/V1086/O

S106 Ref: 09V19

Date of agreement: 13 November 2009

Obligation: "Equipped Activity Area Contribution" means the sum of one hundred and fifty five thousand pounds (£155,000) to be used for the provision of an Equipped Activity Area in the event that the Owner does not install such equipment and more particularly described in clause 4 of the Second Schedule (see below).

Expiry Date: 24 November 2024

Planning Decision: Delegated decision

Development: Land to north of Manor Close, Chilton OX11 0SS

Planning Ref: P16/V1243/O

S106 Ref: 16V80

Date of agreement: 21 October 2016

Obligation: "Recreation Ground Contribution" means the sum of thirty nine thousand eight hundred and fifty five pounds (£39,855) to be paid to the District Council to be used towards improving the recreation ground facilities within the Parish

Expiry Date: 6 August 2029

Planning Decision: Committee decision

Planning Ref: P05/V1086/O - S106 Ref: 09V19 - Clause 4 of Second Schedule:

4.0 EQUIPPED ACTIVITY AREA

- 4.1 Subject to paragraph 4.2 of this Schedule not to cause or permit the Commencement of Development until a scheme to provide the Equipped Activity Area has been agreed with the Council such agreement not to be unreasonably withheld or delayed and for the avoidance of doubt the Owner shall not be obliged under this Agreement to supply equipment, materials and/or labour amounting to more than the total value of one hundred and fifty five thousand pounds (£155,000) in relation to the Equipped Activity Area .
- 4.2 In the event that it is agreed by the Council in consultation with the Parish and notified in writing to the Owner before the intended date of Commencement of Development (as notified to the Council in accordance with clause 10.2 of the main body of this Agreement) that the Equipped Activity Area is to be provided by the Parish the Owner shall not cause or permit the Occupation of the one hundredth (100th) Dwelling for General Market Housing until the Equipped Activity Area Contribution has been paid to the Council and upon the said notification in writing being sent to the Owner, paragraphs 4.1 and 4.3 of this Schedule shall cease to exist and shall be of no further effect
- 4.3 In default of written notification to the Owner of the Parish Council's decision by the deadline referred to in paragraph 4.2 above or in the event that it is agreed by the Council in consultation with the Parish that the Equipped Activity Area is to be provided and installed by the Owner and the Owner is notified of the same in writing the Owner shall not cause or permit the Occupation of the one hundredth (100th) Dwelling for General Market Housing until the Equipped Activity Area is equipped as agreed in writing with the Council
- 4.4 Not to cause or permit the Occupation of the one hundred and fiftieth (150th) Dwelling for General Market Housing until the Equipped Activity Area Commuted Sum has been paid to the Council

Constitution October 2023

Section 106 and community infrastructure levy (CIL) income and related expenditure

Page 224-225 Constitution of South Oxfordshire District Council and Vale of White Horse District Council – 6 October 2023 Financial procedure rules

73. The head of planning shall be responsible for negotiating and gaining the relevant approval for section 106 agreements. Receipt of a section 106 or CIL income does not confer the power to spend. Appropriate budgets must be created in accordance with the financial procedure rules to give heads of service authority to incur expenditure on schemes funded from section 106 or CIL income. Part 2 of this constitution sets out delegations to the heads of service relating to the community infrastructure levy.

74. For section 106 or CIL agreements that provide clear and unambiguous details on how the receipts raised must be used, where that agreement has been approved by the Planning Committee and over which further discretion cannot be applied then the head of finance can approve the creation of the relevant revenue or capital budget.

75. For all other section 106 and CIL agreements where contributions are received by the council a budget for the spending of the receipt must be created as follows:

- (a) For agreements of up to £20,000 budgets can be approved by the head of finance.
- (b) For agreements greater than £20,000 up to £100,000 budgets can be approved by the relevant Cabinet member in consultation with the Cabinet member for finance.
- (c) For agreements of greater than £100,000 budgets must be approved by Council.