

**HUNTINGDONSHIRE DISTRICT COUNCIL**

<b>Title/Subject Matter:</b>	Oxmoor Action Plan for Open Space – Treatment of Section 106 Monies
<b>Meeting/Date:</b>	Overview and Scrutiny Panel (Finance and Performance) – 7 January 2016 Cabinet – 21 January 2016
<b>Executive Portfolio:</b>	Councillor Robin Carter – Operations & the Environment
<b>Report by:</b>	Interim Head of Service (Operations)
<b>Ward(s) affected:</b>	All Wards in Huntingdon

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**Executive Summary:**

1. The report sets out the background to a long standing dispute between Huntingdon Town Council (HTC) and this Council (HDC) over the treatment of Section 106 monies received from the sale of land for housing development at California Road. This highlights an inconsistency between the Cabinet report that approved HDC's commitment to the Oxmoor Action Plan for Open Space; the Supplementary Planning Agreement for California Road; and the capital scheme implemented to create Coneygear Park.
2. The report also includes a proposed way forward, see Section 3, to bring the dispute to a conclusion taking into account the financial commitments already made through the capital scheme implemented to create Coneygear Park. Based on the following allocation of Section 106 monies realised (£1.405m):
  - a) HDC is allocated £823k to meet the construction costs incurred on the construction of Coneygear Park subject to auditable records of expenditure.
  - b) HDC is allocated £100k in accordance with the supplementary planning agreement to work with HTC to create neighbourhood gardens that have been identified as a priority in the Needs Analysis of Open Space and Play for Huntingdon.
  - c) The balance from the Section 106 monies realised (£482k) is allocated £200k to HDC to support the continued employment of the Ranger approved as part of the January 2003 Cabinet report and £282k to HTC for the ongoing maintenance of Coneygear Park. The reduced sum for maintenance of Coneygear Park is proposed on the basis that £413k of additional resources have been invested in creating the park.

**Recommendation(s):**

1. Overview and Scrutiny are asked to consider and comment on the proposals set out in this report and to endorse the proposed way forward to Cabinet.
2. Cabinet is recommended to approve in principle the proposed way forward as detailed in Section 3 of the report to enable final negotiations with HTC to reach a settlement of this matter in order to bring it to a conclusion.

## 1. PURPOSE

- 1.1 The report sets out the background to a long standing dispute between Huntingdon Town Council (HTC) and this Council (HDC) over the treatment of Section 106 monies received from the sale of land for housing development at California Road. This highlights an inconsistency between the Cabinet report that approved HDC's commitment to the Oxmoor Action Plan for Open Space; the Supplementary Planning Agreement for California Road; and the capital scheme implemented to create Coneygear Park.
- 1.2 The report also includes a proposed way forward in Section 3 of the report to bring the dispute to a conclusion taking into account the financial commitments already made through the capital scheme implemented to create Coneygear Park.

## 2. BACKGROUND

- 2.1 **Cabinet Report:** The Oxmoor Action Plan was adopted as Interim Planning Guidance by the Cabinet on 9 January 2003. This followed an extensive programme of community involvement through a Planning for Real Exercise funded as part of the wider Single Regeneration Budget project for the area. This enabled the development of an action plan that as an essential component included for the provision of additional and improved play and recreational facilities, using the benefits gained from the development of new housing.
- 2.2 This action plan identified specifically for a new park on the open space at Coneygear Road; and proposed a network of neighbourhood gardens which are larger open spaces surrounded usually on more than two sides by housing; and doorstep greens which are the linear greens that typically front on to houses. These green spaces were to be developed in response to local needs and be the subject of negotiation with the local community. The sites were to be subsequently managed and maintained jointly by the community and local authority.
- 2.3 Consequently the report to the Cabinet additionally recommended the creation of a Ranger post to facilitate the development of the neighbourhood gardens and the doorstep greens.
- 2.4 The Cabinet were also recommended to progress the action plan before the proposed housing development to meet the aspirations of Oxmoor residents to include the following on a phased basis:
  - Creation of the basic infrastructure in to which various specific facilities could be inserted: pavements to the perimeter of the proposed park; safe crossing points into the park; gated fencing along the road boundaries to the park; surfaced footpaths with lighting; CCTV; drainage to prevent flooding; enclosed dog walking facilities; hedge maintenance works and tree planting; litter/dog bins and seats; and toilets.
  - Creation of the Ranger posts to facilitate the delivery of the action plan.
- 2.5 The financial implications reported to the Cabinet were that a sum of £755k would be available for the development of Coneygear Park, neighbourhood gardens and doorstep greens from the sale and development of open space in the area for housing and non-recreational usages. In addition, a sum of £46k was available for the Coneygear Park development as a result of a section 106

payment from the Kings Ripton Road housing development. It was recommended to the Cabinet that £300k of the total £801k be allocated for the development of Coneygear Park. The remaining £501k would be used as a fund to generate an annual revenue sum of £33.4k for a period of seventeen years, including for the funding of the Ranger post.

- 2.6 **Supplemental Planning Agreement:** The Planning Agreement and the Supplemental Planning Agreement (both dated 7 December 2009) are for the development of housing on land at California Road that was in the ownership of Cambridgeshire County Council and Huntingdonshire Regional College. This confirms the development of the Coneygear Park, neighbourhood gardens and doorstep greens in accordance with the Interim Policy Guidance approved by the Cabinet in January 2003 and the action plan approved by the Cabinet on 22 April 2005. Specifically the Supplemental Planning Agreement requires Section 106 payments from the landowners (Cambridgeshire County Council and Huntingdonshire Regional College) of £1.035m against the following profile of expenditure:

	2003/04	2004/05	2005/06	2006/07	Total
Coneygear Park - Construction	10,000		390,000	10,000	410,000
Coneygear Park - Maintenance			501,000		501,000
Doorstep Greens & Neighbourhood Gardens				100,000	100,000
<b>Total</b>					<b>1,011,000</b>

**Note:** the Supplementary Planning Agreement include an inconsistency between the stated Section 106 sum of £1.035m and the profile of expenditure in the document of £1.011m.

- 2.7 The Planning Agreement and the Supplemental Planning Agreement (both dated 7 December 2009) are inconsistent with the Cabinet report approved in January 2003, and the consequence is that Huntingdon Town Council have robustly challenged that the £501k for maintenance should be paid over to the Town Council. This it is argued is in accordance with the Planning Agreement.
- 2.8 However, reverting solely back to the Supplementary Planning Agreement would be inconsistent with the Cabinet report of January 2003 that approved a Ranger post to be funded as part of the Section 106 payments realised from the sale of the land for housing at California Road. From a further report to Cabinet in February 2005 it can be confirmed that this Ranger Post was approved for recruitment to be temporarily funded directly by the Council until the Section 106 payments were secured.
- 2.9 Only the CCC land has been sold and developed realising £1,404,718 in Section 106 monies, (Inc. indexation). The Projects and Assets Manager has confirmed that the £1,404,718 went into the budget for the Heart of Oxmoor Capital Scheme. This is inconsistent with the sum in the Supplementary Planning Agreement and the profile of spend on Coneygear Park from this budget has been £981,200, (£822,800 net of grants and contributions). The budgetary control spreadsheet provided by the Projects and Assets Manager also does not show a draw-down of £501k in revenue contributions for the

maintenance of Coneygear Park and the funding of a Ranger post agreed in the Cabinet Report of January 2003.

### 3. OPTIONS CONSIDERED

3.1 **Proposed Way Forward:** Effectively the Council has received £1.405m in Section 106 payments from the sale of the County's land at California Road and it is proposed it should be allocated as follows:

	<b>Supplementary Planning Agreement Commitment</b>	<b>Allocation to HDC</b>	<b>Allocation to HTC</b>	<b>Total</b>
Construction of Coneygear Park	410,000	823,000	0	823,000
Maintenance of Coneygear Park	501,000	200,000	282,000	482,000
Doorstep Greens & Neighbourhood Gardens	100,000	100,000	0	100,000
<b>Total</b>	<b>1,011,000</b>	<b>1,123,000</b>	<b>282,000</b>	<b>1,405,000</b>

**Notes:**

- a) HDC is allocated £823k to meet the construction costs incurred on the construction of Coneygear Park subject to auditable records of expenditure.
- b) HDC is allocated £100k in accordance with the supplementary planning agreement to work with HTC to create neighbourhood gardens that have been identified as a priority in the Needs Analysis of Open Space and Play for Huntingdon.
- c) The balance from the Section 106 monies realised (£482k) is allocated £200k to HDC to support the continued employment of the Ranger approved as part of the January 2003 Cabinet report and £282k to HTC for the ongoing maintenance of Coneygear Park. The reduced sum from maintenance of Coneygear Park is proposed on the basis that £413k of additional resources have been invested in creating the park.

3.2 This is a compromise but it does provide HTC with a sum for the on-going maintenance of Coneygear Park and also enables HDC to recover the upfront construction costs for Coneygear Park that have been incurred; and the costs for the Ranger post in accordance with the Cabinet report of January 2003.

#### **4. COMMENTS OF OVERVIEW & SCRUTINY PANEL**

- 4.1 On 10 November 2015 the Overview and Scrutiny Panel scrutinised the Needs Analysis of Open Space and Play in Huntingdon and the proposed way forward is consistent with the recommendations from the needs analysis regarding existing and future provision of open space in the town.
- 4.2 The comments of the Overview & Scrutiny Panel (Finance and Performance) following its meeting on the 7th January 2016 will be circulated subsequent to the publication of the Cabinet agenda.

#### **5. KEY IMPACTS/RISKS**

- 5.1 The proposed way forward is effectively a risk mitigation strategy in respect to the long standing dispute between Huntingdon Town Council (HTC) and this Council (HDC) over the treatment of Section 106 monies received from the sale of land for housing development at California Road.

#### **6. TIMETABLE FOR IMPLEMENTATION**

- 6.1 Following Cabinet endorsement for the proposed way forward it is recommended to set one month for negotiations with HTC to conclude an agreement.

#### **7. LINK TO THE CORPORATE PLAN**

- 7.1 The intent of the Oxmoor Action Plan for Open Space was consistent with the Corporate Plan objective of '*enhancing our built and green environment*' but the report highlights shortcomings in the implementation of the Oxmoor Action Plan for Open Space and it is now appropriate to resolve the issues that have consequently occurred.

#### **8. CONSULTATION**

- 8.1 No consultation has been conducted with HTC regarding the proposed way forward at this stage however this will be subject to negotiation with HTC when approved in principle.

#### **9. LEGAL IMPLICATIONS**

- 9.1 The report confirms the following inconsistencies in the operating practices of the Council that could create legal liabilities and/or be considered to be operating practices that do not comply with the Constitution:
- a) The Supplementary Planning Agreement when drafted was not consistent with the Cabinet report approved in January 2003 that set out the planning guidance for the development of open space in Oxmoor.
  - b) The capital scheme implemented to create Coneygear Park has committed expenditure above the level agreed and there are no further reports to approve the additional expenditure. Please see Section 11 below which sets out action taken to prevent a recurrence of such issues.

#### **10. RESOURCE IMPLICATIONS**

- 10.1 The resource implications of this report are set out in Section 3 of the report as part of the proposed way forward.

## **11. OTHER IMPLICATIONS**

- 11.1 There has been a subsequent enhancement of project management and budgetary monitoring arrangements for capital schemes to mitigate against such inconsistencies occurring again.

## **12 REASONS FOR THE RECOMMENDED DECISIONS**

- 12.1 To resolve a long standing dispute with HTC over the treatment of Section 106 monies received in respect of housing development at California Road and to ensure the remaining monies are targeted at clearly identified priorities from the Needs Analysis of Open Space and Play in Huntingdon.

## **13. LIST OF APPENDICES INCLUDED**

- 13.1 Appendix 1 - Comments of the Overview & Scrutiny Panel (Finance and Performance) from its meeting on the 7th January 2016 – to be circulated subsequent to the publication of the Cabinet agenda.

## **BACKGROUND PAPERS**

None.

## **CONTACT OFFICER**

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