

Release of Section 106 funds to Brenchley and Matfield Parish Council for recreation ground improvements

Summary

Lead Member: Cllr Wendy Fitzsimmons

Lead Director: Paul Taylor

Head of Service: Gary Stevenson

Report Author: Peter Every

Classification: Public document (non-exempt)

Wards Affected: Brenchley and Matfield

Approval Timetable	Date
Portfolio Holder	20 January 2023
Report Published	27 January 2023
Decision Due not before	6 February 2023

Recommendations

Officer recommendation as supported by the Cabinet Member:

1. That £1,542.00 of developer contributions received through planning obligation 09/01264 at Wish Court, Matfield is allocated and released to Brenchley and Matfield Parish Council towards the ongoing improvements of Brenchley Recreation Ground, Market Heath, Brenchley.

1. Introduction and Background

- 1.1 Brenchley and Matfield Parish Council have submitted a request for the release Section 106 funds held by the Council from the development of Wish Court Matfield (09/01264) The description set out in the associated S106 agreement is for children's play space and the improvement of recreation facilities.
- 1.2 Contributions have been held by Tunbridge Wells Borough Council pending Brenchley and Matfield Parish Council identifying a suitable project to allocate the funds.
- 1.3 The funds applied for are the final drawdown of a larger sum applied for over the past three years to cover a number of projects.
- 1.4 As part of regular maintenance inspections and the annual ROSPA report a number of improvements have been identified to include the replacement of four stepping logs and the supply of new heavy duty hinges for the pedestrian gate.
- 1.5 The work will extend the life of the equipment and improve safety for park users saving the Parish Council the cost of full replacement.
- 1.6 Brenchley and Matfield Parish Council sought quotations and appointed the company offering the best value accepting the lowest quote.
- 1.7 The work has now been completed and Brenchley and Matfield Parish Council are seeking the release of £1542.00 of developer contributions relating to the development of Wish Court, Matfield. The total cost of the work is £1,883.64 with the remainder being met through Parish Council budgeted funds.

2. Options Considered

- 2.1 Do Nothing. The agreement is specific towards the use of the funding, failure to allocate the money will result in the funds being paid back to the developer. The expiry date for the funds is May 2023.
- 2.2 Agree. The project meets the terms of the S106 agreement and allocate the funds to Brenchley and Matfield Parish Council.

3. Preferred Option and Reason

- 3.1 The recommended and most durable option is to allocate the funds and contribute towards the project set out by Brenchley and Matfield Parish Council. This project will extend the life of the existing equipment in a safe and usable condition.

4. Consultation on Options

- 2.1 Brenchley and Matfield Parish Council regularly promotes projects via its social media presence and through the minutes of the relevant Parish Council meeting.

5. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The sum was collected to mitigate the impact of the development in compliance with CIL Regs. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms.; directly related to the development; and fairly and reasonably related in scale and kind to the development. These tests are set out as statutory tests in regulation 122 of The Community Infrastructure Levy Regulations (as amended by the 2011 and 2019 Regulations.

Tracey Wagstaff Senior Planning Lawyer Mid Kent Legal Services 08 12 2022

B. Finance and Other Resources

The Section 106 funds have been received and can be used for this purpose. The ongoing maintenance is the responsibility of the Parish Council.

Clare Hazard Accountancy Manager 23 November 2022.

C. Staffing

There are no staffing implications for Tunbridge Wells Borough Council.

Peter Every Parks and Sports Team Leader 17 November 2022

D. Risk Management

The project is being undertaken by Brenchley and Matfield Parish Council therefore no risk to Tunbridge Wells Borough Council.

Peter Every Parks and Sports Team Leader 17 November 2022

E. Environment (inc. Biodiversity) and Sustainability

This project relates to the repairs of existing play equipment to extend the lifespan of the equipment. The work will prevent further deterioration and early replacement. The works are outside of the scope of the borough council's carbon reduction commitment.

Peter Every Parks and Sports Team Leader 17 November 2022

F. Community Safety

No community safety issues identified.

Section 17, Crime and Disorder Act 1998

17(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Terry Hughes, Community Safety Manger 21 November 2022

G. Equalities

Decision-makers are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper could directly impact on end users. The Public Sector Equality Duty applies to Parish Councils. Brenchley and Matfield Parish Council will be responsible for demonstrating due regard to this in any works or development they carry out.

Sarah Lavallie Corporate Governance Officer 25 November 2022

Section 149, Equality Act 2010

149(1) A public authority must, in the exercise of its functions, have due regard to the need to –

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

H. Data Protection

No data protection issues.

Peter Every Parks and Sports Team Leader 25 November 2022

Article 5, General Data Protection Regulation 2016

1. Personal data shall be:

(a) processed lawfully, fairly and in a transparent manner in relation to the data subject;

(b) collected for specific, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;

(c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;

(d) accurate and, where necessary, kept up to date;

(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;

(f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

[Name, title and date of Data Protection Officer who signed off the report.]

I. Health and Safety

Identified repairs from the Royal Society for the Prevention of Accidents (ROSPA) maintenance inspections should be completed, to ensure that equipment is maintained to the right standard to reduce risks to the user.

Mike Catling Corporate Health and Safety Advisor 22 November 2022

J. Health and Wellbeing

Releasing these funds for playground repairs will support the increase of physical activity and outdoor play for children in the local area. This will provide parents and families with a safe outdoor space for their children.

Rebecca Bowers Health Improvement Team Leader 24 November 2022

1. Areas of deprivation: Will the proposal have an impact (positive or negative) on those living in areas of deprivation within the borough (40%

most deprived in the country). These are Sherwood, Southborough and High Brooms, Broadwater and Rusthall.

2. Healthier lifestyle opportunities: Will residents be more or less able to make healthier lifestyle choices such as physical activity (e.g. active travel, access to green spaces or access to leisure facilities), healthy eating (e.g. proximity or access to take away shops, allotments, food stores) and being smokefree

3. Social and Community networks: Will the proposal make it easier for people to interact with one another e.g. encouraging community engagement

4. Living and Working Conditions: does to proposal improve work or home environments, increase job, education or training opportunities, improve access to health services or housing

5. General Socioeconomic, cultural and environmental conditions: Are there any other factors that may impact the above