

Release of S106 monies collected under planning applications: 14/506766 Mascalls Court Farm and 17/03480 Mascalls Farm

For Cabinet Member for Planning and Housing

Summary

- Lead Member:** Cllr Hugo Pound – Portfolio Holder for Housing and Planning
- Lead Director:** Lee Colyer – Director of Finance, Policy and Development (S151 Officer)
- Head of Service:** Carlos Hone – Head of Planning
- Report Author:** David Scully – Landscape and Biodiversity Officer
- Classification:** Public document (non-exempt)
- Wards Affected:** Paddock Wood.

Approval Timetable	
Cabinet Member	17 February 2023
Report Published	21 February 2023
Decision due not before	1 March 2023

Recommendations

Officer / Committee recommendations as supported by the Cabinet Member:

1. That the release of developer contributions to Paddock Wood Town Council from two developments at Paddock Wood in relation to mitigation for nearby green spaces be agreed as follows:

£3,000 as a “Woodland Contribution to be applied towards measures to mitigate increased recreational pressure on Strikes Woodland” collected pursuant to 14/506766 Mascalls Court Farm

£22,294.87 as a “Foal Hurst Wood contribution, towards the cost of the mitigation measures making improvements to Foal Hurst Wood” collected pursuant to 17/03480/FULL Mascalls Farm.

1. Introduction and Background

- 1.1 This report relates to two the planning applications for housing developments in Paddock Wood.
- 1.2 The first relates to development consented under application 14/506766: *“Hybrid Application - Erection of up to 375 dwellings, associated access, open space, landscaping, highways, foot and cycle paths, drainage, earthworks and a primary school. Part detailed: Phase 1 comprising of erection of 175 dwellings and associated access, highways, foot and cycle paths, landscape, drainage and open space proposals. Part Outline (Access not reserved): Later Phase(s) comprising of erection of up to 200 dwellings, highways, foot and cycle paths, open space, allotments and primary school, with matters relating to layout, scale, appearance and landscaping to be reserved. Mascalls Court Farm Mascalls Court Road Paddock Wood Tonbridge Kent TN12 6NB”*
- 1.3 The development is immediately adjacent to a publicly accessible block of woodland known as Strikes Woodland and the new development would inevitably result in additional recreational pressures on the woodland.
- 1.4 The contribution is identified in the S106 agreement as the *“Woodland Management Contribution”* and is defined as:

“means the sum of £3000 (three thousand pounds) index linked to be applied towards measures to mitigate increased recreational pressure on Strikes Woodland”.

- 1.5 The second relates to development consented under 17/03480 “Development of 309 new homes, including provision of affordable homes together with access, parking, landscaping and areas of open space. Land At Mascalls Farm Badsell Road Paddock Wood Tonbridge Kent”
- 1.6 The development is immediately adjacent to Foal Hurst Wood Local Nature Reserve which is a well used site for public access and nature conservation. The new development would inevitably result in additional recreational pressures on the site.
- 1.7 The contribution is identified in the S106 agreement as the “*Foal Hurst Wood Contribution*” and is defined as:
“means the sum of £20,634 (twenty thousand six hundred and thirty four pounds) to be paid to the Borough Council in accordance with the provisions of schedule 1 for the Foal Hurst Wood Contribution Purpose”.
- 1.8 The “*Foal Hurst Wood Contribution Purpose*” is also identified in the s106 agreement and is defined as:
“Means the use of the Foal Hurst Wood Contribution towards the cost of mitigation measures making improvements to Foal Hurst Wood”
- 1.9 Both Strikes Wood and Foal Hurst Wood are owned and managed by Paddock Wood Town Council. These contribution sums were agreed during the application process for both of the above applications through discussions with Paddock Wood Town Council and the developers.
- 1.10 Paddock Wood Town Council have proposed that in relation to Strikes Wood that new fencing would help mitigate the effects of the additional recreational pressure. They have provided a quotation for these works from Elm Fencing for £7075.00+VAT (Appendix A). Council officers consider that the specification and

cost are both reasonable and that the works will be effective. The cost greatly exceeds the S106 funds available but can be released as a contribution towards these works.

1.11 Mitigation proposed for Foal Hurst Wood includes replacement of pedestrian sleeper bridges, improvements to the ditch next to the car park and resurfacing of the car park. It is considered that these works fall within the definitions of the S106 and taken together they exceed the S106 funds available but can be released as a contribution towards these works.

1.12 The cost of the works evidenced by the following information from Paddock Wood Town Council (Appendix B):

Invoice VR Landscape Ltd 16/06/22	
Replace two sleeper bridges	£2,849.00
Quotation VR Landscape Ltd 09/11/22	
Drainage works to car park	£2,219.99
Quotation VR Landscape Ltd 12/10/22	
Resurfacing car park	£29,880.00

1.13 These works total £34,948.99.

2. Options considered

2.1 Option 1: Do nothing - the money will have to be repaid and consequently no mitigation will take place to these important green spaces.

2.2 Option 2: Agree a scheme with the Paddock Wood Town Council that accords with the s106 agreement and the decision of the Planning Committee.

- 2.3 Option 3: Other options include seeking alternative locations or works for green space mitigation measure. No other options are currently available and such a scheme might not accord with the terms of the s106 or the decision of the Planning Committee.

3. Preferred Option and Reason

- 3.1 The preferred option is Option 2, *“agree a scheme with the Paddock Wood Town Council that accords with the s106 agreement and the decision of the Planning Committee”*
- 3.2 This option is favourable due to its compliance with the S106 and Committee Report and because it can be implemented and thereby ensure mitigation for the effects of the development. Paddock Wood Town Council have provided invoices and quotations for the works from contractors that they are happy with and the proposals are in accordance with the s106 agreement.

4. Consultation on Options

- 4.1 The planning application to which the sum relates was the subject of public consultation and comment and was resolved by Planning Committee.

5. Recommendation

- 5.1 The recommendation to the Cabinet Member is to release developer contributions to the following developer contributions:

£3,000 as a “Woodland Contribution to be applied towards measures to mitigate increased recreational pressure on Strikes Woodland” collected pursuant to 14/506766 Mascalls Court Farm

£22,294.87 as a “Foal Hurst Wood contribution, towards the cost of the mitigation measures making improvements to Foal Hurst Wood” collected pursuant to 17/03480/FULL Mascalls Farm.

- 5.2 The money to be released to Paddock Wood Town Council for the purpose of providing mitigation of recreational pressures on Strikes Wood and Foal Hurst Wood.

6. Implementation

- 6.1 The payment will be made to the Common Conservators and the Landscape and Biodiversity Officer will monitor progress to ensure the compliance with the s106 agreement.

7. Appendices and Background Documents

Appendices:

- Appendix A: Quotation for Strikes Wood
- Appendix B: Invoices and quotations for Foal Hurst Wood

8. Cross Cutting Issues

A. Legal (including the Human Rights Act)

Planning obligation agreements provide a mechanism for collecting contributions from developers through the planning process. Such contributions may only be used for the purpose specified in the agreement.

Any release of funds should be subject to the conditions set out in the relevant planning agreement being met in full.

Any necessary agreements or contracts entered into on release of the contributions must be in accordance with the Council's Contract Procedure Rules and should be in a form approved by the Head of the Mid Kent Legal Partnership

There are no issues regarding the Human Rights Act.

Tracey Wagstaff
Senior Planning Lawyer MKLS
08/02/2023

B. Finance and Other Resources

No financial issues

Jane Fineman
Head of Finance, Procurement & Parking
17/02/2023

C. Staffing

No Implications
David Scully
Landscape and Biodiversity Officer
03/02/2023

D. Risk Management

No Implications

David Scully

Landscape and Biodiversity Officer

03/02/2023

E. Environment (inc. Biodiversity) and Sustainability

The proposal will help with the proper management of important wildlife sites.

David Scully

Landscape and Biodiversity Officer

03/02/2023

F. Community Safety

No Implications

David Scully

Landscape and Biodiversity Officer

03/02/2023

G. Equalities

No Implications

David Scully

Landscape and Biodiversity Officer

03/02/2023

H. Data Protection

No Implications

David Scully

Landscape and Biodiversity Officer

03/02/2023

I. Health and Safety

No Implications

David Scully

Landscape and Biodiversity Officer

03/02/2023

J. Health and Wellbeing

No Implications

David Scully

Landscape and Biodiversity Officer

03/02/2023