

CANNOCK CHASE COUNCIL

COUNCIL

22 DECEMBER 2008

REPORT OF THE DIRECTOR OF ORGANISATIONAL IMPROVEMENT

TRANSFER OF SECTION 106 FUNDS TO BRIDGTOWN PARISH COUNCIL FOR THE FUTURE

DEVELOPMENT OF UNION STREET PLAY AREA, BRIDGTOWN

1. Purpose of Report

- 1.1 For Members to consider a request from Bridgtown Parish Council to transfer some Section 106 Funding from Cannock Chase District Council to the Parish Council.

2. Recommendations

- 2.1 That Council agrees to the request from Bridgtown Parish Council (via Cllr Kraujalis) to transfer to it both the approved S106 fund and the currently uncommitted sum as outlined in the Financial Implications of this report on those Terms and Conditions also detailed therein (total of £26,912).
- 2.2 That Council agrees that the uncommitted S106 sum of £13,282 is added in to the 2008-09 Capital programme, and grants permission to spend in respect of this sum.
- 2.3 That Council authorises the appropriate Legal Agreement to be drafted in line with any decision made at 2.1 above.

3. Conclusions and Reasons for the Recommendations

- 3.1 Cannock Chase Council demonstrates via its Parks Development Programme a commitment to investing significant funds to improve existing and build new play facilities. This request from Bridgtown Parish Council is to support this initiative by having appropriate funds transferred directly to it to be expended on refurbishments to the Union Street Play Area, subject to the conditions referred to in Section 2 below.

4. Key Issues

- 4.1 The Council's Section 106 Capital Programme (2008-09 to 2010-11) lists schemes approved but not yet detailed to Cabinet.
- 4.2 One such scheme is "Playground Refurbishment – Union Street" involving a sum of £13,630.

- 4.3 Cabinet held on 17 July 2008 subsequently received a Report of the Director of Service Improvement entitled Section 106 Environmental Schemes Capital Programme 2008-11. Within this report approval was requested for Permission to Spend for the project outlined in 4.2 above. This was granted.
- 4.4 There is also an uncommitted S106 agreement for £13,282 linked to the Union Street area which is currently not part of the Capital Programme nor does it currently have permission to spend.
- 4.6 At the September Council meeting, Cllr J. Kraujalis requested on behalf of Bridgtown Parish Council that consideration be given to the transfer of relevant S106 funds from the District to the Parish Council for the upgrade of the Union Street Play Area.
- 4.7 Bridgtown Parish Council has confirmed in correspondence dated 3 December 2008 from Janine Arm (Clerk) that the Parish Council would wish to take responsibility for upgrading the Union Street Play Area using the available S106 funds.
- 4.8 This report puts this issue before Members for consideration.

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Section 1

Background

Bridgtown Parish Council entered into a Counterpart Lease in respect of a Play Area situated at Union Street, Bridgtown on 14 March 1995. These arrangements involved a peppercorn rent for a period of 21 years, and that the Parish Council should develop, manage and maintain the premises so as to ensure a safe and pleasant environment for the persons using the same as a play area. Cannock Chase District Council is not responsible for maintenance of these facilities.

Cabinet on 17 July 2008 were asked in the Report of the Director of Service Improvement to note that ".....in the case of Union Street in Bridgtown, the Parish Council have indicated that they wish to opt out of their 21 year peppercorn rental agreement with the District Council. Effectively this would mean that the District Council would assume responsibility for the site including the play equipment on the site, if and when this happened."

However, no formal request to pursue this line of action has subsequently been received.

At the Council meeting held on 24 September 2008, Councillor J. T. Kraujalis raised a question with the Lead Cabinet Member for Children and Young People about the Union Street Play Area, indicating that Bridgtown Parish Council would wish to take responsibility for upgrading the facility utilising any related Section 106 Funding.

This was responded to in writing by the Portfolio Leader, detailing conditions which would apply should the funding be transferred as verbally requested. These are detailed in Section 2 below.

Bridgtown Parish Council has confirmed in correspondence dated 3 December 2008 from Janine Arm (Clerk) that the Parish Council would wish to take responsibility for upgrading the Union Street Play Area using the available S106 funds.

Section 2

Details of Matters to be Considered

The core matter for consideration is the request to transfer Section 106 funds to Bridgtown Parish Council.

Following the September 2008 Council meeting, the letter sent to Cllr. Kraujalis by the Portfolio Leader outlined three draft conditions which would require adhering to in order for the Section 106 monies to be transferred to the Parish Council:

- 1 All Section 106 funds are used to provide new play equipment and / or a new surface for the play area; the money is not to be used for maintenance or repairs of existing equipment.
- 2 The Parish Council would consult the local community on the use of the Section 106 funds to upgrade the play area.
- 3 The Parish Council would provide a costed design plan to the District Council which demonstrates how these Section 106 funds will be used and a timetable for the improvements to take place.

Section 3

Contribution to CHASE

The new play facilities outlined throughout the report will further support the aim of the Council to develop a healthier and more active community. These facilities will enable greater use by local residents and local schools and colleges.

In particular one of the Council's objectives is to increase participation in sports and recreation facilities by an additional 1% each year.

These facilities will enhance the development of physical and social skills through play for children and young people, and thus their potential for development.

Culture is sustained and developed through the provision of opportunity for expression, and participation in developing and challenging communities.

Supporting Healthier Communities, Housing and Older People and improved access to good quality open space will have a positive impact on mental health leading to improved community health and well being.

Section 4

Financial Implications

Council on 27 February 2008 included a Section 106 Capital Commitment of £13,630 for Playground Refurbishment – Union Street.

Cabinet on 17 July 2008 granted Permission to Spend for this scheme.

There is also another uncommitted S106 account for the upgrade of the play area at Union Street which has an amount of £13,282. Clearly this latter sum is neither in the Approved Capital Programme nor has Permission to Spend yet been granted against this money.

Section 5

Human Resource Implications

There are no additional Human Resource implications arising from this report.

Section 6

Legal Implications

The sum of £13,630 was received by the Council under the terms of a Section 106 Agreement relating to the site of Church Works in Park Street. The Agreement provides that the sum is a contribution towards improving POS in the vicinity of the site. The Council is able to use its well being powers under Section 2 of the Local Government Act 2000 to transfer the money to the Bridgtown Parish Council to enable them to carry out work to improve the play area in Union Street. It will be necessary for a legal

agreement to be entered into between the Council and the Parish Council which will include safeguards to ensure that this Council is not held liable for not complying with the terms of the Section 106 Agreement, e.g. that any scheme is approved by this Council, quotes will be obtained and if necessary an indemnity is provided by the Parish Council.

Section 7

Section 17 (Crime Prevention)

Where planning applications may be required or pending, consultation is required with the appropriate Architectural Liaison Officer from Staffordshire Police.

Section 8

Human Rights Act Implications

Where there may be pending Planning Applications it is imperative that the Council adheres to its policies and ensures that all applicants and others entitled to address the Planning Control Committee have a "fair hearing" as required under Article 6 of the Human Rights Act 1998.

Section 9

Data Protection Act Implications

There are no identified implications in respect of the Data Protection Act.

Section 10

Risk Management Implications

All anticipated risks identified in connection with this proposal have been assessed.

The Legal Agreement to be entered into concerning a transfer of funds will provide requirements to safeguard Cannock Chase District Council's position relating to the provision of refurbished facilities, thus minimising the risk to full and appropriate delivery of the terms of the original S106 agreements.

Delivery via this third party would negate the requirement for time resource of Council staff, save for any advisory/supervisory capacity which may become part of the Legal Agreement.

Section 11

Equality and Diversity Implications

New or upgraded facilities as detailed in this report are public facilities, the success of which can be measured by their popularity of use and the ease of access for all sections of the community.

Section 12

Other Options Considered

The other option is to retain the relevant Section 106 monies identified within the report for the play area refurbishment work, as referred to in the Cabinet report of 17 July 2008, to be arranged directly by officers of C.C.D.C. Under the current lease, the Parish Council is responsible for maintaining the premises. This funding is not to be used for maintenance.

Section 13

List of Background Papers

Counterpart Lease.

Letter response to Cllr. Kraujalis.

Letter from Bridgtown Parish Council dated 3 December 2008.

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