

Report of the Portfolio Holder for Environment and Climate Change**Allocation of Section 106 Funds****1. Purpose of Report**

To seek approval for Section 106 Open Space contributions to be used to fund improvements to the Parks and Open Spaces and for the capital schemes to be included in the capital programme for the relevant year/s.

2. Recommendation

Cabinet is asked to RESOLVE that the parks and open spaces improvement scheme for Smithurst Road Open Space and Local Nature Reserve in Giltbrook be approved and added to the Capital Programme for 2025/26 with the cost of £141,700 being funded by an allocation from Section 106 contributions.

3. Detail

Section 106 developer contribution funds have now been received by the Council for improvements within Parks and Open Spaces. The development, funding level and the associated improvement to the relevant open space is shown below:

Development	Section 106 Funding	Site Identified for improvement
08/00526/FUL Land At Halls Lane Giltbrook	£141,700	<u>Smithurst Road Open Space and Local Nature Reserve, Giltbrook:</u> <ul style="list-style-type: none">• Refurbishment of the play area on Smithurst Road, incorporating accessible surfacing and inclusive play equipment.• Drainage works and path surfacing improvements.• Seating, bins and refreshed signage• Habitat and planting works.

While there are no strict limitations on how Section 106 funding can be used, it must be allocated to sites identified within the relevant Section 106 agreements. Once completed, these improvements will enhance the Borough's open spaces and play areas for all users and support the priorities set out in the Play Strategy.

4. Key Decision

This report is not a key decision as defined under Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

5. Updates from Scrutiny

Not applicable.

6. Financial Implications

The comments from the Deputy Chief Executive and Section 151 Officer were as follows:

Although the respective Section 106 agreement receipts will provide the necessary funding for the parks and open spaces improvements, the Capital Programme for 2025/26 does not currently include this scheme.

If approved, the improvements scheme at the Smithurst Road Open Space and Local Nature Reserve, Giltbrook, will be added to the Capital Programme 2025/26, with the cost of £141,700 being funded by an allocation from Section 106 contributions.

7. Legal Implications

The comments from the Head of Legal Services were as follows:

Section 106 of the 1990 Town & Country Planning Act (as amended) allows Local Planning Authorities to require developers to enter into Legal Agreements to provide measures to mitigate the impact of their development. These Agreements are known as Section 106 Agreements. The planning obligations contained within them either require the developer to deliver on-site mitigation or to make a financial contribution to enable the Council to provide appropriate mitigating measures. By law, these planning obligations can only be required where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and in kind to the development. Payments can be made in the form of a capital or revenue contribution, as a lump sum or phased payments, due on defined dates or triggered as the development progresses. Local planning authorities are required to use the funding in accordance with the terms of the individual Section 106 agreement and if not spent by the date specified in the agreement must be returned to the developer.

8. Human Resources Implications

Not applicable.

9. Union Comments

Not applicable.

10. Climate Change Implications

Not applicable.

11. Data Protection Compliance Implications

This report does not contain any OFFICIAL(SENSITIVE) information and there are no Data Protection issues in relation to this report.

12. Equality Impact Assessment

Not applicable.

13. Background Papers

Nil.