

**MAIDSTONE BOROUGH COUNCIL**

**RECORD OF DECISION OF THE  
CABINET MEMBER FOR COMMUNITY AND LEISURE SERVICES**

Decision Made: 19 August 2011

**ALLOCATION OF S106 DEVELOPER CONTRIBUTION FROM LAND AT  
WATERSIDE, FAIRMEADOW. MA/05/0211**

**Issue for Decision**

To consider the proposed allocation of funds received as an offsite S106 developer contribution of £30,027.15 from the above named development.

**Decision Made**

That the £30,027.15 received as a S106 contribution from the development of the site on the former Land at Waterside, Fairmeadow, Maidstone development be allocated towards the total cost of £48,257 for the refurbishment of the toilets in Brenchley Gardens.

**Reasons for Decision**

A S106 contribution has two forms;

- the first an on-site contribution;
- the second, an off-site contribution.

The former involves incorporation of significant usable open space within the development design and/or installation of play facilities to a borough council agreed standard to benefit those who will occupy the development. There is currently a movement away from acceptance of such non-strategic methods of amenity provision, from which arise 'pocket handkerchief', low play value areas.

The latter is based on a situation whereby it is clear the developer is not able to incorporate a meaningful amenity space into the development and as a consequence is asked to make an off-site financial contribution. The proposed targeted spend for such contributions is submitted within a report such as the report of the Assistant Director of Environment and Regulatory Services.

The S106 Agreement for this development stipulates that the Council covenants that it will only expend the Landscape Contribution on the upgrading and landscaping of the area of Brenchley Gardens adjacent to the Land.

Officers have looked at the location of the development and have identified a suitable on site scheme to upgrade and improve Brenchley Gardens.

Therefore it is thought appropriate that the S106 developer contribution of £30,027.15 from the Land at Waterside, Fairmeadow, Maidstone be allocated to the following scheme:

That the contribution of £30,027.15 be used towards the refurbishment of the toilets in Brenchley Gardens. An issue which has long been identified with the toilets in the gardens is that they are too large, which encourages people to loiter in them. The proposal is to not only refurbish the toilets but also to greatly reduce their size, which will stop groups and individuals loitering. This will also enable additional storage to be created which will be used to store the seating used in the park during the band season. This has previously been stored in a shipping container in the gardens which looked unsightly and detracts from the beauty of the gardens. Whilst these works are taking place, the current mess room will be extended to enable the town centre team to be based in the park. This will have the added advantage of providing much more of a Council presence in the gardens. The total cost of the toilet refurbishment is £48,257, and this will be split three ways. With a contribution of £8,023 to come from a further S106 Developer contribution from development MA/07/0463, which is subject to an additional report. The final part of the funding will come from the Property section in the Council.

### **Alternatives considered and why rejected**

The money could be spent in a different way; however, this is not thought appropriate, as a range of schemes were considered and this scheme is felt to be the best use of resources. There has been an increase in visitors to the gardens since the improvement works and this is likely to continue once the improved Museum reopens.

Another alternative is to delay allocating the developer contribution. This is not recommended, as after a period of 5 years, the money would need to be paid back to the developer with accrued index-linked interest.

This would not benefit the residents of the Borough in any way or fulfill the reasoning behind writing an off-site contribution into the Heads of Terms of the S106 during the application process.

### **Background Papers**

Maidstone Borough Council Strategic Plan 2011-15  
Open Space Development Plan Document (2006)

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by any two Non-Executive Members to the Head of Change and Scrutiny by: <b>26 August 2011</b>
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